

**Loan Modification Mortgage Scam
&
Update on Recent Fed Announcements**

A Consumer receives a letter from GMAC stating they will settle their 2nd trust deed for pennies on the dollar. In every case these letters stipulate amounts just under \$10,000. The consumer, excited that they are finally getting somewhere with their loan modification, jumps on the letter, calls the special hot line number and arranges to wire transfer the specified monies to take advantage of this incredible offer. The only problem? The letter is not really from GMAC but has all the trappings of a real phone number and a live person on the other end. The money? Oh, it has been routed through to the Cayman Islands banking system somewhere never to be found or returned. Monies under \$10,000 float underneath the Fed radar.

This is just one example how professional scam artists have infiltrated the system by some breach or compromise of records, trying to take advantage of an already serious and tragic housing situation.

Negotiating directly with a lender could prove fatal for your mortgage!

It has already been reported that one lender agreed to take 20-30 cents on the dollar for a 2nd trust deed, but then charged off the remaining unpaid difference, selling it to a collection company who in turn began attempting to collect the balance that was supposedly forgiven.

The consumer who is in trouble with their mortgage has three choices if they are experiencing some kind of hardship.

- 1) Loan Modification - lender (s) agrees to modify the interest rate, the term (years) and in some rare cases the principal of the loan**
- 2) Short Sale – lender (s) agrees to cooperate with homeowner attempting to sell their home and take less on their loan payoff than what is due when the property sells (value of home is less than the pay-offs)**

3) Foreclosure – homeowner takes no action and simply lets the lender take the property through the foreclosure process

The most recent Fannie/Freddie publications now state if you have a short sale you will be required to wait two years to reapply for a new mortgage. If you experience a foreclosure you will be required to wait 5 years. That is one of the reasons a short sale is much more desirable than a foreclosure.

Secondly, a bankruptcy will only postpone, not eliminate the lenders right to foreclose for non-payment. While a BK may be appropriate for other debt incurred in trying to work through this trouble, or for some other reason, it is best to consult a qualified BK attorney. (note: a lender will not generally negotiate with any consumer who is currently in a BK. Also there is mixed opinion by attorneys, when a BK is necessary, on if it is better to do it before a loan modification or after a loan modification)

The very best solution to the troubled housing industry and those struggling to keep their homes, is the *Loan Modification* which does not reflect negatively on your credit like a short sale or foreclosure. The problem here, again, is two-fold. Lenders, many of whom got the consumer in this mess, are now saying: “trust us to help you out of this”....right.....with whom benefitting the most???

Secondly, e-mails, radio and print ads, mailers and tv commercials are all hawking the Loan Modification and even dropping the “A” word....”attorney” to give their pitch legitimacy. Correctly, an attorney is mandatory in this process, but not with Fast Freddie who gets paid for simply turning in the paperwork requested. He is a salesman...remember when everyone during the hay day of low rates were shopping and simply asking “what’s your rate and fees” and whoever quoted the best got the loan? I wonder if more counsel from a Certified Mortgage Planner would have been of some value there? You have the same thing here, just another product. If the person packaging and structuring your modification does not have years of experience in the mortgage business and thus able to understand income, debt, ratios, loan terms, interest rate movements and re-structuring based on hardship, you may have a less than desirable experience. Additionally, by working directly with the lender yourself instead of a professionally

licensed third party such as ourselves, which includes attorneys to hold the lender to RESPA compliance and reviews any contract offers, you stand the risk of accidentally disqualifying yourself due to the ever changing rules and software applications being put in place as we speak. One of the largest lenders in the country has just put in place software that runs a quick income and debt scenario and based on that immediate result, either moves you forward or rejects your application. If that same application and paperwork had been put together by a professional, understanding the rules and guidelines, your application would most likely have been treated differently before it got that far and possibly some solutions applied to bring it into compliance with the model software. Lenders are not going to let the public know these ever-changing rules for fear of someone trying to abuse the system, or have an advantage. However, this impedes the process and keeps the consumer confused.

Conclusion: Whether you think you can negotiate/gamble with someone who has 4 aces against your pair of 4's, may be less important than what I am going to tell you now. Regardless, you must use a real estate attorney experienced in loan modifications to review and give you counsel on any agreement the lender asks you to sign. The lenders in many cases are counting on you simply being mesmerized about any relief, and without legal representation probably not know how to negotiate the best terms of your modification. This is critical.

Lastly, I must briefly comment on the recent Fed's announcements and proposed actions this last week of November 9th, 2008. It was very confusing. In essence they announced to the public, just be late for 90 days on your mortgage and you may have some success in getting some attention with your mortgage troubles. (or you could believe any politician that says they will give you something else for free) Their announcements were confusing and contradicting at best.

The Feds actively manage HUD/VA and Fannie Mae and Freddie Mac, less than 1/3 of the troubled mortgages in this country. Chase, Citibank and B of A/Countrywide represent about 1.4 trillion in trouble mortgages. Neither of the two groups have any coordination or synergistic plan. That is another reason the Loan Modification process has bogged down.

While the Banks are considering a modification they are quietly behind the scenes banging on the Fed's desk negotiating a better deal for subsidies on these troubled loans. One lender's case loan of bad loans had grown exponentially (sub prime) and an employee stated they were not allowed any overtime and they were not hiring any additional staff to try and keep up. The real problem here, is in the normal "loss mitigation" department. (separate from the legal department and employees assigned to our files we submit) The average employees in this department have been working in customer service and do not know the questions to ask, the way to say what they should say, and are virtually non-skilled in this area. The next time you call customer service and are transferred to another country, explain your problem and see how they solve it.

What will the qualifying terms actually be? Is it 31% of gross income? Maybe 34%, or as the Feds/FDIC say, 38% of the gross income that will be the PITI debt ratio? And is it gross income or net income? Also, does it include other mortgage debt, like a 2nd, to be included? No one is clear. You know why? THEY DON'T KNOW THEMSELVES! They are not mortgage lenders, they are politicians and appointees and they are receiving mixed advice on solutions to the problem and the translations are numerous. You must be an expert in the mortgage field to find or offer an appropriate solution, and a well thought out Loan Modification plan could be effective in turning around the entire housing problem in 90-120 days.

One of the biggest "tricks" I have seen here is how the words themselves, "loan modification" is used and what the public understands them to mean. Though I defined the terms simply above, the naïve consumer understands "loan or principal reduction" from the terms "loan modification". The Feds model, which they hope to exemplify to the major banks and servicing companies is not a "loan reduction". Their plan is to qualify a consumer on 38% of their income (again, we do not know for sure how they interpret this totally) at 90% of the current value of their home. In many cases that may be tens of thousands or hundreds of thousands of dollars less than what is owed. No problem, the remainder of the mortgage difference will simply accrue no interest but remain as a lien on the property to be paid back on the next refinance or sale of property. I don't have a problem with this, only the way it is NOT being disclosed publicly by the lenders in

their negotiations. That is another big reason I do not trust lenders to negotiate the terms of ANY loan modification with a consumer directly without the aid of a licensed professional and attorney. Remember, do not accept or sign ANYTHING the lender sends you without the counsel of an experienced attorney.

I will continue to monitor the markets, the Banks, Fed announcements and the numerous sources that provide me updated information in this extraordinary time in order to give you my best recommendations and mortgage expertise.

If you or someone you know has a hardship and is experiencing trouble with their mortgage situation, please call or have them call me immediately. I will personally evaluate their circumstances and give my best opinion on if they are a qualified candidate for a Loan Modification. With the help of our office and our affiliate relationship's bank of attorneys who specialize in loan modifications, I believe a homeowner has the best chance of success during these times. Again, don't attempt to negotiate with your lender on your own, regardless of what they may tell you. Your house may be on death row, and you have one shot for a "not guilty" verdict. My number is 949-428-3099.

don parsons