



Consumer Advisory

Avoiding Mortgage Modification Scams and Foreclosure Rescue Scams

Homeowners struggling to make payments on their mortgages and other debts should beware of con artists and scams that promise to save their homes and eliminate their debts.

These so-called foreclosure or mortgage consultants often use public notices or lists of distressed borrowers purchased from private companies to find their targets. They may offer to “prevent” foreclosures or “rescue” desperate homeowners from foreclosure through advertising, e-mail, phone calls, or in person.

Financially troubled homeowners can avoid foreclosure prevention scams by working with housing counselors approved by the U.S. Department of Housing and Urban Development (HUD). Assistance from HUD-approved housing counselors is free, and homeowners can reach them by calling 1-888-995-HOPE (4673) or visiting makinghomeaffordable.gov.

This consumer advisory describes common foreclosure scams, suggests ways homeowners can avoid those scams, and outlines new federal rules to protect homeowners from such schemes. This advisory also lists 10 warning signs homeowners can use to identify foreclosure scams.

Common Types of Scams

Examples of scams related to mortgage modification and foreclosure prevention include:

- **Foreclosure rescue and refinance fraud.** Scam artists offer to act as intermediaries between

homeowners and lenders and to negotiate repayment plans or loan modifications. They may even “guarantee” to save your home from foreclosure. They tell you to make mortgage payments directly to them so they can forward payments to your lender. In reality, they may pocket your money and leave you in worse shape on your loan.

- **Fake “government” modification programs.** Scam artists create Web sites that mimic federal Web sites and use business names similar to those used by government agencies. They may use “federal,” “TARP,” or other words, acronyms, and abbreviations commonly associated with official government programs. These tactics are designed to fool you into thinking they are approved by, or affiliated with, the federal government.

• **Leaseback and rent-to-buy schemes.** Con artists entice you to transfer the title of your home to them with promises of new and better financing. They say you can rent your home and eventually buy it back. But, if you do not comply with the terms of the rent-to-buy agreement, you can lose your money and your home. The agreement may be written in a way that makes it very hard to comply. In fact, the con artists have no intention of ever selling your home back to you. They want your home and your money.

- **Bankruptcy scams.** Scam artists may claim bankruptcy will solve your problems. But filing for bankruptcy is rarely a permanent solution to prevent foreclosure. Filing for bankruptcy



brings an “automatic stay” into effect that stops any collection and foreclosure action while the bankruptcy court administers the case. Eventually, you must make payments on your mortgage, or the lender has the right to foreclose. In addition, bankruptcy lowers your credit score and remains on your credit report for 10 years.

- **Debt-elimination schemes.** Scam artists use illegitimate legal arguments to persuade you that they can “eliminate” your debt and that you are not obligated to pay back your mortgage. They make inaccurate claims about applicable laws and finance, such as “secret laws” that allow you to erase your debts or that imply that banks do not have the authority to lend money.

How to Protect Yourself From Mortgage Modification and Foreclosure Rescue Scams

You must proceed with caution when dealing with anyone offering to help you modify your mortgage

Always maintain personal contact with your lender and mortgage servicer.

or rescue you from foreclosure. Remember, you can seek assistance from a HUD-approved housing counselor at no cost, and you can work with your lender directly.

The following tips can help you avoid scams involving mortgage modification and foreclosure.

- **Contact your lender or mortgage servicer.** Talk with an agent in the loss-mitigation department about mortgage modification options and other alternatives to foreclosure.
- **Ask a legitimate housing or financial counselor for help.** HUD-approved housing counselors are available at 1-888-995-HOPE (4673) or makinghomeaffordable.gov. They do not charge a fee for this assistance.
- **Make all mortgage payments directly to your lender or mortgage servicer.** Do not trust anyone to make mortgage payments for you. Do not stop making your payments.
- **Know what you are signing.** Read and understand every document that you sign. Never rely solely on an oral explanation of a document. Make sure that you read and understand every aspect of a document. Otherwise, the document may obligate you to terms you do not want, and it may convey ownership of your home to someone else. Never sign documents with blank spaces that can be filled in later. Never sign a document that contains errors or false statements, even if someone promises to correct them. If you do not understand a document, seek advice from a lawyer or financial counselor you trust.
- **Do not sign over your deed without consulting a trusted expert.** Foreclosure scams often involve the transfer of homeownership to a third party. Never agree to a title transfer before considering advice from your lawyer, financial adviser, credit counselor, or another independent person you can trust. When you sign over your deed, you lose your rights to your home and any equity you have, but you remain obligated to satisfy the terms of the mortgage.
- **Get promises in writing.** Do not accept oral promises and agreements involving your home, because they usually are not legally binding. Protect your rights with a written document or a contract signed by the person making the promise. Keep copies of all contracts that you sign. Never sign anything that you don't understand and agree to.
- **Report suspicious activity to relevant federal agencies and to your state and local consumer protection agencies.** Reporting con artists and suspicious schemes helps prevent others from becoming victims. If your complaint or question involves a national bank and you cannot resolve it directly with the bank, contact the OCC's Customer Assistance Group by visiting helpwithmybank.gov. You can also submit complaints to the Federal Trade Commission (FTC) at ftccomplaintassistant.gov.

- Visit the following Web sites for more information:

- helpwithmybank.gov
- makinghomeaffordable.gov
- consumerfinance.gov
- consumeraction.gov
- nw.org

New Federal Rules to Protect Homeowners Working With Foreclosure Rescue Companies

Homeowners should seek assistance from HUD-approved counselors or work directly with their mortgage lenders. However, new rules issued by the FTC in 2010 protect homeowners seeking assistance from a company or person providing mortgage modification assistance and foreclosure relief. These new rules ban advance fees, require clear disclosures, and prohibit false or misleading claims.

Advance fee ban. Providers are generally banned from collecting fees until the provider gives consumers two documents: (1) a written loan modification offer from a lender or servicer that is acceptable to the consumer and (2) a written document from the lender or servicer that describes the key changes to the mortgage that would result if the consumer accepts the offer. If the loan modification is a trial modification, the provider may not collect a fee if it does not disclose that the modification is temporary and the consumer may not qualify for permanent relief. The provider must also remind the consumer of the option to reject the offer without any charge.

Disclosures. Any provider offering foreclosure rescue assistance must disclose the following:

- The amount of any fees associated with the service;
- That the provider is not associated with the government, and that its services have not been approved by the government or the homeowner's lender;
- That the lender or servicer may not agree to change the homeowner's loan;
- That the homeowner may stop doing business with the provider of the mortgage relief service

at any time, that the homeowner may accept or reject any offer that the company obtains from the lender or servicer, and, if the consumer rejects the offer, that the homeowner does not have to pay the company's fee; and

- If the provider tells a homeowner to stop making mortgage payments, the provider must also inform the homeowner that the consumer's home could be lost and the consumer's credit rating damaged as a result.

Prohibited claims. New rules prohibit foreclosure rescue providers from making false or misleading claims about their services, including:

- The likelihood that the homeowner will get the promised results;
- The time it will take to obtain these results;
- The provider's affiliation with government or private entities;
- The homeowner's obligation to make mortgage payments and meet other mortgage obligations;
- The terms of the homeowner's mortgage loan, including the amount owed;
- The provider's refund and cancellation policies;
- Whether the provider performed the services promised;
- Whether the provider will provide legal representation to the homeowner;
- The availability or cost of alternatives to for-profit mortgage assistance relief services offered by the provider;
- The amount of money the homeowner will save by using the provider's services; and
- The cost of the services.

The new rules require foreclosure rescue providers to have reliable evidence for any claims they make about the benefits, performance, or effectiveness of their services. Additionally, the rules bar anyone from instructing homeowners to stop communicating with the homeowner's lender or servicer.

For more information about the new rules, visit ftc.gov/opa/2010/11/mars.shtm.

10 Warning Signs of Mortgage Modification and Foreclosure Rescue Scams

1

“Pay us \$1,000, and we’ll save your home.”

Some legitimate housing counselors may charge small fees, but fees that amount to thousands of dollars are likely a sign of potential fraud. Companies cannot collect fees until you have a written, acceptable offer from your lender or servicer and a written description of the key changes to your mortgage.

2

“I guarantee I will save your home—trust me.”

Beware of guarantees that a person or company can stop foreclosure and allow you to remain in your house. Unrealistic promises are a sign that the person making them will not consider your particular circumstances and is unlikely to provide services that will actually help you. Providers must give you realistic evidence for any claims they make.

3

“Sign over your home, and we’ll let you stay in it.”

Beware of anyone offering to make mortgage payments for you and rent your home back to you in exchange for the title to your home. Signing over the deed to a person gives that person the power to evict you, to raise your rent, or to sell your house. Although you will no longer own your home, you still will be legally responsible for paying the mortgage.

4

“Stop paying your mortgage.”

Do not trust anyone who tells you to stop making payments to your lender or servicer, even if the person promises to make payments for you. If a company tells you this, it must also tell you that you may lose your home and damage your credit rating.

5

“If your lender calls, don’t talk to him or her.”

Companies are legally barred from telling you to stop communicating with your lender or servicer. Advice like this is a good sign of a scam.

6

“Your lender never had the legal authority to make a loan.”

Do not listen to anyone who claims that “secret laws” can erase your debt and have your mortgage contract declared invalid. You are being conned if someone claims that you are not obligated to pay your mortgage.

7

“Just sign this now; we’ll fill in the blanks later.”

Take the time to read and understand anything you sign. Never let anyone else fill out paperwork for you. Don’t let anyone pressure you into signing anything that you don’t agree with or understand.

8

“Call 1-800-Fed-Loan.”

Beware of providers that imitate official federal programs. Providers of mortgage relief services must tell you in their communications with you that they are not affiliated with the government. Keep in mind that assistance from a HUD-approved housing counselor is free and available by calling 1-888-995-HOPE (4673) or visiting makinghomeaffordable.gov. And, you can always work directly with your lender or mortgage servicer.

9

“File for bankruptcy, and you can keep your home.”

Filing for bankruptcy stops foreclosure only temporarily. If you do not make your mortgage payments, the bankruptcy court will eventually allow your lender to foreclose. Beware that a scam artist can file for bankruptcy in your name, without your knowledge, to temporarily stop foreclosure and give you the impression that he or she has negotiated a new payment agreement with your lender on your behalf.

10

“Why haven’t you replied to our offer? Do you want to live on the streets?”

High-pressure tactics signal trouble. If someone pressures you to work with him or her to stop foreclosure, do not work with that person. Legitimate housing counselors do not conduct business that way.