

Expectations

- While you can obtain your own loan modification, it is usually time-consuming and tedious. You must be persistent with your mortgage lender. When possible, communication with your lender should be in writing. If you talk on the phone to a representative of your lender, be sure to document the name of the person you spoke with, the date and time of your conversation, the phone number, and all information you received.
- A successful loan modification could take several months, so be sure to return all requested information and documentation to your mortgage lender in a timely manner. Maintain a file of all documents received and all delivery receipts.
- Your lender may request that you have your home appraised by a licensed real estate appraiser or evaluated by a licensed real estate broker.
- Once you receive the final loan modification paperwork, you can also expect that the initial loan modification will be for a trial period of usually a few months. After you have made all scheduled payments on time, your trial period will end and your loan modification will become permanent. If you were considering selling your home, you would have to wait for your loan modification to become permanent. Have a real estate attorney or real estate broker review the terms of your loan modification prior to listing your home for sale.

II. LAWS SURROUNDING LOAN MODIFICATIONS

- In October 2009, Governor Arnold Schwarzenegger signed Senate Bill 94 (Calderon) which prohibits any person, including real estate agents, mortgage brokers, and lawyers, from demanding, charging, or collecting an advance fee for loan modification services prior to the completion of those services. If you are approached by any person requiring upfront fees for loan modification services, do not pay them.

- Effective January 31, 2011, the Federal Trade Commission issued a rule with nationwide effect that bans providers of Mortgage Assistance Relief Services (“MARS”), which includes residential mortgage foreclosure rescue, loan modification, short sale, and deed-in-lieu of foreclosure services from requesting or collecting fees or other consideration from a homeowner until the consumer has executed a written agreement with the loan holder or servicer incorporating the offer of mortgage relief the provider obtained from the loan holder or servicer. The rule also mandates that providers of MARS disclose to consumers the total cost of the services, that they have no connection to any government program or agency, and that homeowners are free to reject any offer from the lender or servicer with no requirement to pay a fee to the MARS provider. The rule also bars providers of MARS from distributing false or misleading information, and from advising consumers to stop communicating with their home loan lenders or servicers.

- Effective July 2013, the Homeowners Bill of Rights (“HBOR”) was enacted to give borrowers and homeowners facing foreclosures various statutory protections. For instance, the law prevents “dual-tracking,” which occurs when a mortgage lender or servicer proceeds with the foreclosure process at the same time that they consider a homeowner’s loan modification application. The HBOR also requires servicers to assign an applicant with a single point of contact to utilize throughout the application process. If a loan modification is denied, the HBOR requires the servicer to identify the reasons for the denial in writing, and give the applicant a chance to appeal the denial before proceeding with the foreclosure. If you have been denied a loan modification, consult an attorney to ensure you were afforded all of the protections under the HBOR.