



**DEPARTMENT OF JUSTICE
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Consumer Protection Unit

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Mortgage Loan Modification Services Act

MORTGAGE LOAN MODIFICATION SERVICES ADVISORY FOR CONSUMERS

Consumers who are having trouble making their mortgage payments may wish to consider the services of a mortgage loan modification services provider. These businesses can be for-profit or non-profit enterprises. You may see advertisements on television, in the newspapers, on pop-up internet ads, or you may receive mail or even phone calls directly from businesses advertising these services. Businesses providing mortgage loan modification services for a fee in Delaware must be licensed if they do not fall within an exception to the law, such as being a barred Delaware attorney. Protect yourself from paying too much for too little by understanding your options and rights.

Some businesses offering mortgage loan modification services try to negotiate with your mortgage lender/servicer to obtain a change in the terms of your existing mortgage loan, whether it be for a loan modification, a forbearance agreement, principal or interest rate reduction, or for federally sponsored modifications such as HAMP/HARP. If you agree to enter into a relationship with these mortgage modification service providers, you will often be asked to remit an up-front or advance fee for these services. **You should not send these businesses any money or fees in advance.** Under Delaware law, these businesses may not solicit, collect or

attempt to collect any fees or other compensation from consumers before an offer for a modification of the loan terms is actually received from the lender/servicer.

Consumers should be aware that negotiating with your lender/servicer for a modification of the terms of your mortgage loan can be done on your own – you are not required to work with a third party in order to apply for or receive a loan modification or other change in the terms of your mortgage loan. Additionally, assistance in negotiating with your mortgage lender/servicer is available through HUD-approved housing counseling agencies for **FREE!**

There are currently eight (8) such HUD-approved housing counseling agencies in Delaware. You may refer to the link on the Mortgage Loan Modification Services webpage for a complete list of all agencies and their contact information. The Attorney General strongly encourages any consumer who is having difficulty in making their monthly mortgage payments to contact a housing counselor for guidance.

Additionally, we have created a unique department that handles consumers with pre-foreclosure inquiries—the Office of Foreclosure Prevention. This Office assists consumers who are facing foreclosure but whose lender/servicer has not yet filed a foreclosure action against them in the courts. They provide a range of assistance to consumers and can often assist consumers with contacting their lender/servicer. You may contact the Office of Foreclosures Commission at 1-800-220-5424 or you may submit a complaint regarding a servicer at <https://attorneygeneral.delaware.gov/fraud/cmu/complaint>

If you consider engaging a mortgage loan modification service provider, be smart. Here are some tips to help consumers protect themselves from mortgage rescue scams:

- Make sure the provider is registered in Delaware by checking our Licensed Providers list, or by contacting the Consumer Protection Unit of the Office of the Attorney General at (800) 220-5424;
- Check with the Better Business Bureau to see if other consumers have made complaints about the provider;
- Avoid businesses using high pressure sales tactics;
- Many trade associations set standards for members. Ask about a provider's membership in trade associations;
- Ask about and understand the fees. You are not required to pay any up-front or advance fees for these services. And, remember that you should not pay any fees to the provider unless you receive a written offer from your lender/servicer that includes the modification terms that were obtained for you by the provider, or if you reject the offer that is made.
- Get and review all agreements and contracts **before you sign**. Remember you are entitled to receive the full and final contract at least 24 hours in advance before signing it. Never sign any document unless you understand what it says. Don't rely on what someone else tells you it says, read and understand it yourself.

Under the Act, a contract between a mortgage loan modification service provider and a consumer must comply with all of the following requirements:

- Be in writing in at least 12-point type;
- Be sent to the consumer in its final version at least 24 hours in advance;
- Be dated, initialed, and signed by the provider and the individual;
- Include the name of the individual and the address where the individual resides;
- Disclose the exact nature of the modification services to be provided;
- Disclose the total amount and terms of compensation to be received by the provider;
- Disclose that the individual may cancel the agreement at any time without penalty as provided in §2406C(e) and including a separate, detachable page designated “NOTICE OF CANCELLATION” containing the name and address of the provider for the use of the homeowner;

KNOW YOUR RIGHTS UNDER THE LAW

Before entering into a contract with a mortgage loan modification service provider, know and understand the rights you have as a consumer under the law. Here’s a summary of your rights:

- A provider cannot charge you for mortgage loan modification services until a contract is signed **and** your lender/servicer has made you an offer to modify your mortgage loan that contain the terms obtained by the provider.
- A consumer can terminate a contract with a provider at will and without penalty by completing the “NOTICE OF CANCELLATION” form required to be attached to the contract.
- A contract with a provider who is not registered in Delaware is voidable. Alert the Consumer Protection Unit of the Attorney General’s Office at (800) 220-5424 if you think that a provider you have dealt with might have violated the provisions of the Act.
- Remedies for violation of the Act include administrative or civil action by the Attorney General and fines.

There is a wealth of information about mortgage loan modification services from consumer advocates and government agencies. The link below will help you understand the industry and make informed decisions.

www.fha.gov