

July 24, 2009

The Honorable Timothy F. Geithner
United States Secretary of the Treasury
Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

The Honorable Secretary Shaun Donovan
United States Housing and Urban Development
451 7th Street, S.W.
Washington, D.C. 20410

Dear Secretary Geithner and Secretary Donovan:

We want to thank members of your respective staffs for taking the time to meet with us last Thursday, July 16th, to discuss federal and state efforts to address mortgage fraud and the foreclosures that are devastating families and communities in our states and across the country.

We commend you for convening a meeting with loan servicers on July 28, 2009. We believe that this meeting can be an important step toward improving what has been, so far, an inadequate effort by mortgage servicers to modify loans so borrowers can stay in their homes.

Virtually every day, we see firsthand the many problems caused by the failure of loan servicers to complete loan modifications on realistic terms with responsible but struggling homeowners. Servicers' efforts have fallen short in three basic respects:

(1) Many servicers have failed to implement timely, consistent, clear, and accessible procedures for considering and approving loan modifications.

(2) The modifications for those who make it through the process are often not significant enough to avert foreclosures and invite later failure.

(3) Although all give lip service to the concept of modification to avoid foreclosure, in practice, many lenders do not consider a homeowner for modification until a default has occurred. Even when a reset or adjustment is imminent and will clearly cause a default, anticipatory action is not taken and the homeowner's credit is ruined.

Based on our experiences, we have some suggestions in advance of your meeting that we believe will contribute to achieving meaningful improvement in the loan modification effort. In particular, we suggest that the Departments of Treasury and Housing and Urban Development:

1. Not count towards servicers' commitments or include in calculations of a re-default rate any modifications that do not lower borrowers' monthly payments. Modifications that result in a higher payment due to capitalization of arrearages and fees are unlikely to be a solution for borrowers.
2. In order to move borrowers into sustainable mortgages, servicers must begin to forgive fees and, when appropriate, reduce principal and not just reduce interest rates and extend terms. Throughout this crisis, servicers have responded by taking half steps in hopes of an imminent or near term recovery in the housing market. It is time to recognize the reality of the situation, accept losses and move on. This is particularly true for Payment Option ARMS, many of which will require a reduction in principal in order to achieve a sustainable modification.
3. Require that lenders/servicers provide a uniform, web-based application for borrowers seeking loan modifications. Many consumers may not know who holds their mortgage or they have both first and second mortgages. A simple, uniform form and uniform modification document requirements will make the process easier for both consumers and servicers. If possible, the consumer should be allowed to upload any required document directly to the web-based application.
4. Eliminate "back of the line" treatment. We have received numerous reports that consumers' applications are rejected when documents are lost by the servicer or applications are incomplete. Consumers should never lose their place in line because of servicers' errors and they should be given a designated period of time to complete their applications.
5. Insist that, within the next three months, servicers provide the staffing, training, and technology to ensure that consumers are not met with long waits or conflicting answers. Consumers should not have to wait more than 30 minutes to reach a staff person who can process their modification request and they should receive a decision on a modification request within 60 days of submitting completed paperwork to the servicer. If the loan modification is offered, the consumer should be allowed a minimum of 20 days to accept or reject it.
6. In order to streamline the process for considering modifications, consider types of loans and/or borrower characteristics for which wholesale modifications would be appropriate.
7. Require accurate and timely data from servicer/lenders in order to benchmark the progress of loan modifications and foreclosures.
8. In order to deal with the problem of servicers losing documents that borrowers submit, require servicers to send the consumer an electronic or paper receipt within one day of receiving each document submitted by the borrower. If the borrower sent the documents electronically or by fax, the date of receipt shall be considered the date the consumer sent the document. If the consumer mailed the document, the date of receipt shall be considered 5 business days from the postmark date. The receipt may be posted on the web-based application.

As a direct result of the lack of response from servicers to desperate homeowners, we in law enforcement are confronting rapidly growing criminal activity in the area of foreclosure rescue scams.

We will be happy to talk with you about any of these suggestions and stand ready to assist in any way in the Administration's effort to help homeowners and communities avoid unnecessary foreclosures.

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Sincerely,



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Arizona Attorney General



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Rob McKenna
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cc: Michael S. Barr
Assistant Secretary for Financial Institutions