



LOAN MODIFICATION SCAMS

Produced and distributed as a public service by
the Texas Young Lawyers Association and the State Bar of Texas

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This handbook is intended to provide general guidance only. It is not a substitute for the advice of a lawyer.



As the number of foreclosures grows, many thieves are swindling money from homeowners by preying upon fears of losing a home. Mortgage loan modification scams are schemes to take your money, often by making a false promise of saving you from foreclosure.

The FBI describes mortgage fraud as one of the fastest-growing white-collar crimes in America, prompting the Federal Trade Commission, or FTC, to issue rules to protect homeowners. These scams are robbing thousands of families of not just their homes, but their life savings. If you are seeking help from “foreclosure consultants,” “mortgage consultants,” “foreclosure services,” “foreclosure rescue agencies,” or “loan modification companies,” beware! Arm yourself with information that will help you separate legitimate organizations from criminals. This knowledge will help you protect your home and family.



TYPES OF SCAMS

Lease-Back or Repurchase Scams – Companies will promise to pay off your delinquent mortgage, repair your credit, and possibly pay off credit cards and other debt. However, in exchange, they require you to sign a deed (sometimes referred to as a quitclaim deed) “temporarily” transferring your house to a “third-party investor.” You will be told that you can stay in your home as a renter and buy your home back when your financial situation improves. **The scam: Signing away your house gives the scammer control of your house.** After you sign the deed to your house, the “temporary” new owner can evict you or take out a new mortgage on your home. That new mortgage can make it impossible for you to buy back your house. And once you sign away your home, the “temporary” owner doesn’t have to let you buy it back—even if you can and want to. Even though foreclosure may be the most difficult financial hardship you’ll face, it is important to approach it carefully. Do not sign anything you don’t understand and seek expert help to avoid a potential foreclosure scam.

Refinance Scams – If you’re looking to refinance, it can be hard to differentiate the legitimate offers from the bogus ones. From advertising mortgage “relief” plans to promising rock-bottom mortgage rates for a nominal fee, scammers use numerous angles to get vulnerable struggling homeowners to fall prey to their mortgage refinance scams. **The scam: The scammer has you sign a “foreclosure rescue” loan document that is actually a deed-transfer document.** The scammer tells you the documents are for a refinance loan that will bring the mortgage current but hidden in the fine print is language that gives away ownership of your home—the “loan documents” actually transfer your deed (sometimes referred to as a quitclaim deed) to the scammer. Once the deed is transferred, you might receive an eviction notice. At that point, it is often too late to do anything about the deed transfer and you have lost your home. If you’re interested in refinancing or modifying your loan, contact your lender first to see what options they can provide.

Partial-Interest Bankruptcy Scams – Companies will promise to save your home from foreclosure if you (1) give a partial interest in your home to one or more persons and make mortgage payments to the company instead of to your mortgage lender. **The scam: The scammer keeps your money instead of using it to pay your mortgage and each person who holds a partial interest in your home files for bankruptcy, one after the other, without your knowledge.** Every new bankruptcy filed causes the bankruptcy court to issue a “stay” order that stops foreclosure temporarily. But these stays don’t forgive your mortgage or let you stop making mortgage payments. Because the scammers keep your money instead of paying the mortgage company, you fall further behind in what you owe to the mortgage company even though you think you are making timely payments on your mortgage. Once the bankruptcy stay orders run out, you are further behind on your mortgage, and you have lost all the money that you paid to the scammers. Any time you stop making payments on your mortgage, you could lose your home or damage your credit rating. A new FTC rule requires that a company tell you of this any time that company recommends that you stop paying your mortgage.

Internet and Phone Scams – Some scam lenders convince you to apply for a low-interest mortgage on the phone or over the internet. The companies ask that you send them your Social Security number, bank account numbers, and other financial information and your “application” will be immediately approved. **The scam: The scammer just wants to steal your identity or drain your bank accounts.** You have lost control of your private information and possibly been robbed of your money. Sadly, your home is still at risk of foreclosure.

Phantom Help Scams – Companies falsely claiming to be affiliated with government and government housing assistance programs will claim to negotiate with a mortgage lender or servicer to obtain a government loan modification, short sale, or other relief from foreclosure in exchange for a fee. **The scam: The scammer runs off with your up-front fee or charges outrageous fees for performing light paperwork or making occasional phone calls that you could have easily made yourself.** In the end, you are worse off than before. If the scammer’s “help” doesn’t get your mortgage modified or refinanced, you might be left with no time to save your home or get help from a legitimate service.



RED FLAGS

Potential signs of a loan scam:

Someone asks for a fee in advance to work with your lender to modify, refinance, or reinstate your mortgage. No legitimate organization that works with borrowers to avoid foreclosure will ever ask for money upfront. Scammers may pocket your money and do little or nothing to help you save your home from foreclosure. The FTC prohibits a loan-modification service from collecting a fee until you have signed an agreement with your mortgage lender or servicer to modify your mortgage.

Someone guarantees that he or she can stop a foreclosure or get your loan modified. Because every borrower, every loan, and every mortgage company is different, nobody can guarantee that your foreclosure will be stopped or that your loan will be modified. Legitimate, trustworthy counseling agencies approved by the Department of Housing and Urban Development, or HUD, will promise only that they will try their very best to help you. If someone guarantees that your loan will be modified if you pay a fee, watch out!

Someone advises you to stop paying your mortgage company and pay someone else instead. Despite what a scammer will tell you, never send a mortgage payment to anyone other than your mortgage lender. The minute you have trouble making your monthly payment, contact your mortgage lender. Also watch out for companies that recommend that you cut off contact with your lender or with counselors who may have been helping you.

Someone pressures you to sign over the deed to your home or sign paperwork that you haven't had a chance to read and fully understand. A legitimate counselor would never pressure you to sign a document before you had a chance to read and understand it. Don't believe promises that aren't put in writing, and make sure not to sign a document that has blank lines or spaces.

Someone claims to offer “government-approved” or “official government” loan modifications. These people may be scam artists posing as legitimate organizations approved by, or affiliated with, the government. Contact your mortgage lender first. Your lender can tell you whether you qualify for government programs to prevent foreclosure. And, remember, you don’t have to pay to benefit from government-backed loan-modification programs.

Someone you don’t know asks you to release personal financial information online or over the phone. You should give this type of information only to companies that you know and trust, like your mortgage lender or a HUD-approved counseling agency.

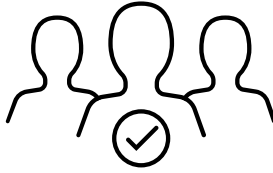
SELF HELP

To protect yourself from getting scammed, the first step is to contact your lender or mortgage-loan servicer and try to negotiate a payment plan. If that doesn’t work, make sure to work with reputable nonprofit housing or financial counselors by contacting your local Better Business Bureau.

Make sure to review nationwide scam reports. You can do this at the Prevent Loan Scams website, a project of the Lawyers’ Committee for Civil Rights Under Law, at **preventloanscams.org**. If you think you’ve been a victim of a scam, you can also hire a lawyer to contact the company. A lawyer may be able to get your money back by writing a demand letter or by making a phone call. **It may be too late to get back any money paid to the scammer or to get back your ownership interest in your home. Everyone’s situation is different, so contact a local lawyer to determine what your options are.** The Texas Lawyer Referral & Information Service can help you locate a lawyer in your area. Learn more at **texasbar.com/LRIS** or by calling 800-252-9690 (Toll Free) from 8:30 a.m. to 4:30 p.m. CT Monday through Friday.

If you can't obtain a lawyer, consider representing yourself in small claims court. Small claims court, known as justice court in Texas, is the real "People's Court." Justice courts provide an informal, uncomplicated proceeding to resolve small disputes that don't involve enough money to warrant the expense of formal litigation. The Texas Young Lawyers Association's *How to Sue in Justice Court* publication provides an overview of the general process used to file, obtain judgment, and collect a small claims court judgment. The general overview in the TYLA guide should never be used exclusively – readers should also consult their local court for court-specific rules or procedures.

For an online version of the publication, go to texasbar.com/resources under "Civil Court." To request a print copy of the pamphlet, email pamphlets@texasbar.com or call 800-204-2222, ext. 1800.



REPORT THE SCAMMERS

When people know what types of activities are scams, scammers can't make money, and their scams stop. Your help in reporting attempted scams is essential to protect yourself and other homeowners from these criminals. Always report suspicious activity. The Texas Attorney General's Office Consumer Protection Division investigates complaints related to loan or mortgage scams. Find more information and a form to file a complaint at **texasattorneygeneral.gov** and search for "Loan and Mortgage Scams."

Ways to Report Foreclosure Scams

Federal Trade Commission

reportfraud.ftc.gov or call 877-FTC-HELP (877-382-4357) toll free.

Office of the Texas Attorney General Consumer Protection Department

texasattorneygeneral.gov/consumer-protection or call **800-621-0508** toll free.

Federal Bureau of Investigation

Contact information for local offices can be found at **fbi.gov/contactus**.



GET FREE HELP

Government-sponsored Mortgage Modification and Refinance Programs

Making Home Affordable
makinghomeaffordable.gov

HOPE for Homeowners (H4H)
benefits.gov/benefit/4589
800-CALL-FHA or 800-225-5342

Foreclosure Mitigation Assistance and Counseling

FDIC Consumer Resource Center
fdic.gov/resources/consumers/index.html
877-ASKFDIC or 877-275-3342

U.S. Department of Housing and Urban Development
hud.gov
800-569-4287

Homeownership Preservation Foundation
995hope.org
888-995-HOPE (4673)

NeighborWorks America
neighborworks.org/home

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This pamphlet and other free legal resources can be found online at
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