

## **Loan Modification Scams – What to Know**

The recent economic and loss of jobs combined with the national foreclosure crisis has left many homeowners looking for a loan modification as a solution to keep their home or reduce financial burden. Many homeowners have relied on loan modification or foreclosure rescue companies for help – only to realize that they’ve been scammed. The information that follows should help you avoid becoming a victim of loan modification scams.

**Section 1:** Common Scams

**Section 2:** Warning Signs

**Section 3:** How to Report a Loan Modification Scam

**Section 4:** Trusted Organizations

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### **Section 1: Common Scams and what they may look or sound like.**

#### **Phony Counseling or Foreclosure Rescue Scams**

The Scam Artist poses as a counselor and tells you he can negotiate a deal with your lender to modify your loan or save your house – if you pay him a fee first. Requesting a fee is a red flag and you should distance yourself from further conversations. HUD approved counseling agencies offer help with foreclosure and modifications for free.

The fee may be called a processing or administrative fee. The scammer may even tell you **not** to contact your lender, lawyer, or housing counselor – that he will handle all the details.

He may even insist that you make all mortgage payments directly to him while he negotiates with your lender.

Once you pay the fee, or a few mortgage payments, the scammer disappears with your money.

#### **Fake “Government” Modification Programs**

Some scammers may claim to be affiliated with, or approved by, the government, or they may ask you to pay high, up-front fees to “qualify” for government mortgage modification programs.

The scammer’s company name and website may sound like a real government agency, but the website may end with .com or .net instead of .gov.

You may also see terms like “federal,” “HAMP,” “MHA,” “HARP” or other words related to official U.S. government programs.

Contact your lender first. Your lender will be able to tell you if you qualify for any government programs to prevent foreclosure or modify your loans **AND** you don’t have to pay to benefit from these programs!

## **Forensic Loan Audit**

The scammer, who may call himself a forensic loan auditor or mortgage loan auditor, offers to review your mortgage loan documents to determine whether your lender complied with state and federal mortgage lending laws.

The scammer will usually require that you pay a fee to start the process.

The scammer may say that you can use the audit report to avoid foreclosure, accelerate your loan modification process, reduce your loan principal, or even cancel your loan.

## **Bait-and-Switch**

The scam artist convinces you to sign documents for a “new loan modification” that will make your existing mortgage current.

*THIS IS A TRICK!!!*

You actually just signed documents that surrender the title or deed of your home to the scam artist in return for a “rescue” loan.

## **Rent-to-Own or Leaseback Scheme**

A scammer urges you to surrender the title or deed of your home as part of a deal that will let you stay in your home as a renter and then buy it back in a few years.

He may tell you that surrendering the title will permit a borrower with a better credit rating to get new financing and keep you from losing your home.

The scammer may have **NO** intention of ever selling the home back to you.

The terms of these deals usually make buying back your home **IMPOSSIBLE**. Worse, when the new borrower defaults on the loan, you’ll be evicted.

### **Variations of Scheme**

1. The scammer raises your rent over time to the point that you can’t afford it. After missing several rent payments, you are evicted, leaving the “rescuer” free to sell your house.
2. The scammer offers to find a buyer for your home, but only if you sign over the deed and move out. The scammer promises to pay you some of the profit when the home sells. But the scammer simply rents out your home and keeps the profits while your lender proceeds with the foreclosure. You lose your home and are still responsible for the unpaid mortgage, because transferring the deed does not affect your mortgage obligation.

## **Short Sale Scam**

Scammers, sometimes called “short sale negotiators” or “short sale processors,” may promise to expedite a short sale and usually require you to pay a fee, which is illegal in many states.

Some scammers may even include surcharges or hidden fees before the transaction closes, which is also illegal in many states. The scammer may also misrepresent the value of the home to the lender.

A short sale may be a legitimate option for a homeowner in default or a homeowner who is current yet the value of the home has fallen – if the lender agrees to a short sale.

But homeowners should only work with a licensed real estate professional or licensed real estate attorney since the law requires that the person be properly licensed to negotiate the short sale with your lender.

Homeowners should verify licenses with their state licensing agencies.

## **Bankruptcy to Avoid Foreclosure**

The scammer may promise to negotiate with your lender or get refinancing on your behalf if you pay a fee up front.

Instead of contacting your lender or refinancing your loan, he pockets the fees and files bankruptcy in your name – sometimes without your knowledge.

A bankruptcy filing often stops a home foreclosure, but only temporarily. Filing bankruptcy stops any collection and foreclosure while the bankruptcy court administers the case. But eventually you must start paying your mortgage, or the lender will be able to foreclose.

You could lose the money you paid to the scammer and your home. Worse, a bankruptcy stays on your credit report for 10 years, which makes it difficult to obtain credit, buy a home, get life insurance or even get a job.

## Section 2: Warning Signs

1. **A company/person asks for a fee in advance to work with your lender to modify, refinance or reinstate your mortgage.** They may pocket your money and do little or nothing to help you save your home from foreclosure.
2. **A company/person guarantees they can stop a foreclosure or get your loan modified.** Nobody can make this guarantee to stop foreclosure or modify your loan. Legitimate, trustworthy HUD-approved counseling agencies will only promise they will try their very best to help you.
3. **A company/person advises you to stop paying your mortgage company and pay them instead.** Despite what a scammer will tell you, you should never send a mortgage payment to anyone other than your mortgage lender. The minute you have trouble making your monthly mortgage payment, contact your mortgage lender.
4. **A company pressures you to sign over the deed to your home or sign any paperwork that you haven't had a chance to read, and you don't fully understand.** A legitimate housing counselor would never pressure you to sign a document before you had a chance to read and understand it.
5. **A company claims to offer "government-approved" or "official government" loans modifications.** They 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 any government programs to prevent foreclosure. And, remember, you do not have to pay to benefit from government-backed loan modification programs.
6. **A company/person you don't know asks you to release personal financial information online or over the phone.** You should only give this type of information to companies that you know and trust, like your mortgage lender or a HUD-approved counseling agency.

## Section 3: How to Report a Loan Modification Scam

Please take action by doing any or all of the following:

1. Call the Homeowner's Hope Hotline: 1-888-995-HOPE (4673) *Assistant is available in 20 languages upon request.*
2. File a complaint online through the Loan Scam Prevention Network.
3. Call the Federal Trade Commission (FTC) at 877-FTC-HELP (1-877-382-4357) or submit your complaint online in English or Spanish.
4. You can contact your state Attorney General or another local authority in your state.

## **Section 4: Trusted Organizations**

- Federal Deposit Insurance Corporation
- U.S. Department of the Treasury
- Federal Trade Commission
- U.S. Department of Housing and Urban Development
- U.S. Department of Justice
- National Coalition for Asian Pacific American Community Development
- National Council of La Raza
- National Fair Housing Alliance
- National Foreclosure Mitigation Counseling Agencies
- National Urban League
- HOPE Now Alliance
- Homeownership Preservation Foundation: HomeFree USA
- National Association of Realtors<sup>®</sup>
- Fannie Mae
- Freddie Mac
- Lawyer's Committee for Civil Rights Under Law
- NeighborWorks<sup>®</sup> America

# FTC Facts

## For Consumers



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## Mortgage Assistance Relief Scams: *Another Potential Stress for Homeowners in Distress*

The possibility of losing your home to foreclosure can be terrifying. The reality that scam artists are preying on desperate homeowners is equally frightening. Many companies say they can get a change to your loan that will reduce your monthly mortgage payment or take other steps to save your home. Some claim that nearly all their customers get successful results and even offer a money-back guarantee. Others say they're affiliated with the government or your lender and still others promise the help of attorneys or real estate experts.

Unfortunately, many companies use half-truths and even outright lies to sell their services. They promise relief, but don't deliver. In fact, many of these companies leave their homeowner customers in worse financial shape.

The Federal Trade Commission (FTC), the nation's consumer protection agency, has a Rule in place to protect homeowners. The Mortgage Assistance Relief Services (MARS) Rule makes it illegal for companies

to collect any fees until a homeowner has actually received an offer of relief from his or her lender and accepted it. That means even if you agree to have a company help you, you don't have to pay until it gets you the result you want.



If you're struggling to make mortgage payments or facing foreclosure, the FTC wants you to know how to recognize a mortgage assistance relief scam and exercise your rights under the new Rule. And even if the foreclosure process has already begun, the FTC and its law enforcement partners want you to know that legitimate options are available to help save your home.

### HOW THE SCAMS WORK

Fraudsters use a variety of tactics to find homeowners in distress. Some sift through public foreclosure notices in newspapers and on the internet or through public files at local government offices, and then send personalized letters to homeowners. Others take a broader approach through ads on the internet, on television or radio, or in newspapers; posters on telephone poles, median strips, and at bus stops; or

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flyers, business cards, or people at your front door. The scam artists use simple – but potentially deceptive – messages, like:

*“Stop foreclosure now!”*

*“Get a loan modification!”*

*“Over 90% of our customers get results.”*

*“We have special relationships with banks that can speed up the approval process.”*

*“100% Money Back Guarantee.”*

*“Keep Your Home. We know your home is scheduled to be sold. No Problem!”*

Once they have your attention, they use a variety of tactics to get your money. By knowing how their scams work, the FTC says you’ll be better able to defend against fraud.

### ***Phony Counseling or Phantom Help***

The scam artists tell you that if you pay them a fee, they’ll negotiate a deal with your lender to reduce your mortgage payments or to save your home. They may claim to be attorneys or represent a law firm. They may tell you not to contact your lender, lawyer, or credit counselor. They promise to handle all the details once you pay them a fee. Then they stop returning your calls and take off with your money.

Sometimes, phony counselors insist you make your mortgage payments directly to them while they negotiate with the lender. They may collect a few months of payments – and then disappear.

### ***The “Forensic Audit”***

In exchange for an upfront fee, so-called forensic loan “auditors,” mortgage loan “auditors,” or foreclosure prevention “auditors” offer to have an attorney or other expert review your mortgage documents to determine if your lender complied with the law.

The “auditors” say you can use their report to avoid foreclosure, speed the loan modification process, reduce what you owe, or even cancel your loan. In fact, there’s no evidence that forensic loan audits will help you get a loan modification or any other mortgage relief.

### ***Rent-to-Buy Schemes***

Con artists who use the rent-to-buy scheme tell you to surrender the title to your house as part of a deal that allows you to stay there as a renter and buy it back later. They say that surrendering the title will let a borrower with a better credit rating get new financing and prevent the loss of the home. But the terms of these deals usually are so expensive that buying back your home becomes impossible. You lose the house and the scam artist walks off with the money you put into it. Worse, when the new borrower defaults on the loan, you’re the one who’s evicted.

In a variation, the scam artist raises the rent over time so you can’t afford it. After missing several rent payments, you’re evicted, leaving the “rescuer” free to sell the house.

In a similar equity-skimming scam, fraudsters offer to find a buyer for your home, but only if you sign over the deed and move out. They promise to pay you a portion of the profit when the home sells. Once you transfer the deed, they simply rent out the home and pocket the proceeds while your lender goes ahead with the foreclosure. The result: You lose your home – and you’re still responsible for the unpaid mortgage because transferring the deed does nothing to transfer what you owe on the mortgage.

### ***Bait-and-Switch***

In a bait-and-switch scam, con artists give you papers they claim you need to sign to get another loan to make your mortgage current. But buried in the stack is a document that surrenders the title to your house to the scammers in exchange for a “rescue” loan.

## KNOW YOUR RIGHTS

The FTC's MARS Rule gives you rights – and sets out requirements for people who sell mortgage assistance relief services:

**You don't have to pay any money until the company delivers the results you want.** It's illegal for a company to charge you a penny until:

- 1 it's given you a written offer for a loan modification or other relief from your lender; and
- 2 you accept the offer. The company also must give you a document from your lender showing the changes to your loan if you decide to accept your lender's offer. And the company must clearly tell you the total fee it will charge you for its services.

### Companies must disclose key information.

The Rule requires companies to spell out important information in their advertisements and telemarketing calls, including that:

- They're not associated with the government, and their services have not been approved by the government or your lender;
- Your lender may not agree to change your loan;
- If a company tells you to stop paying your mortgage, it also has to warn you that doing so could result in your losing your home and damaging your credit.
- Companies can't tell you to stop talking to your lender. You should always feel free to contact your lender directly to see whether they can offer you additional options. Companies that tell you otherwise are breaking the law.

If a company doesn't follow these rules, it could be trying to scam you.

## GETTING HELP FROM A LAWYER

Some lawyers may offer to help you get a loan modification or other mortgage relief. Under the

MARS Rule, lawyers can require you to pay an upfront fee, but only if:

- They're licensed to practice law in the state where you live or your house is located;
- They're providing you with real legal services;
- They're complying with state ethics requirements for attorneys; and
- They place the money in a client trust account, withdraw fees only as they complete actual legal services, and notify you of each withdrawal.

Unfortunately, some people advertising mortgage assistance relief services falsely claim to be getting you help from lawyers. So before you hire someone who claims to be an attorney or claims to work with attorneys, do your homework:

- Get the name of each attorney who'll be helping you, the state or states where the attorney is licensed, and the attorney's license number in each state. Your state has a licensing organization – or "bar" – that monitors attorney conduct. Call your state bar or check its website to see if an attorney you're thinking of hiring has gotten into trouble. The National Organization of Bar Counsel has links to your state bar: [www.nobc.org/Bar\\_Associations\\_and\\_Disciplinary\\_Authorities.aspx](http://www.nobc.org/Bar_Associations_and_Disciplinary_Authorities.aspx)
- Ask relatives, friends, and others you trust for the name of an attorney with a proven record of getting help for homeowners facing foreclosure.
- Beware of attorneys who make bold promises or try to pressure you into hiring them.

## WARNING SIGNS

If you're looking for a loan modification or other help to save your home, avoid any business that:

- guarantees to get you a loan modification or stop the foreclosure process – no matter what your circumstances;
- tells you not to contact your lender, lawyer, or housing counselor;

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- claims that all or most of its customers get loan modifications or mortgage relief;
- asks for an upfront fee before providing you with any services (unless it's a lawyer you've checked out thoroughly);
- accepts payment only by cashier's check or wire transfer;
- encourages you to lease your home so you can buy it back over time;
- tells you to make your mortgage payments directly to it, rather than your lender;
- tells you to transfer your property deed or title to it;
- offers to buy your house for cash for much lower than the selling price of similar houses in your neighborhood; or
- pressures you to sign papers you haven't had a chance to read thoroughly or that you don't understand.

### WHERE TO FIND LEGITIMATE HELP

If you're having trouble paying your mortgage or have gotten a foreclosure notice, contact your lender immediately. You may be able to negotiate a new repayment schedule.

Other foreclosure prevention options, including reinstatement and forbearance, are explained in *Mortgage Payments Sending You Reeling? Here's What to Do*, a publication from the FTC. Find it at [ftc.gov/yourhome](https://www.ftc.gov/yourhome).

You also may contact a credit counselor through the Homeownership Preservation Foundation (HPF),

a nonprofit organization that operates the national 24/7 toll-free hotline (1.888.995.HOPE) with free, bilingual, personalized assistance to help at-risk homeowners avoid foreclosure. HPF is a member of the HOPE NOW Alliance of mortgage servicers, mortgage market participants and counselors. More information about HOPE NOW is at [hopenow.com](https://www.hopenow.com).

### Report Fraud

If you think you've been the victim of foreclosure fraud, contact the Federal Trade Commission, [ftc.gov](https://www.ftc.gov), or your state Attorney General's office, [naag.org](https://www.naag.org) or the Better Business Bureau, [bbb.org](https://www.bbb.org).

### For More Information

To learn more about mortgages and other credit-related issues, visit [ftc.gov/credit](https://www.ftc.gov/credit) and [MyMoney.gov](https://www.MyMoney.gov), the U.S. government's portal to financial education.

The FTC works to prevent fraudulent, deceptive and unfair business practices in the marketplace and to provide information to help consumers spot, stop and avoid them. To file a complaint or get free information on consumer issues, visit [ftc.gov](https://www.ftc.gov) or call toll-free, 1-877-FTC-HELP (1-877-382-4357); TTY: 1-866-653-4261. Watch a new video, *How to File a Complaint*, at [ftc.gov/video](https://www.ftc.gov/video) to learn more. The FTC enters consumer complaints into the Consumer Sentinel Network, a secure online database and investigative tool used by hundreds of civil and criminal law enforcement agencies in the U.S. and abroad.

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