

Loan Modifications

Foreclosure consultants generally offer to stop foreclosure on homes and/or assist homeowners in restructuring their mortgage. Some companies may imply that they have an affiliation with a mortgage lender or with a government agency when they really do not. Generally, mortgage companies will only deal with the borrower on any issue related to the loan.

Many foreclosure rescue and loan modification companies attempt to persuade foreclosure victims to pay fees up front, turn over their deed to a third party, or move out of their home in return for payment of the overdue amount on the loan. Scammers also direct homeowners not to speak with their lawyer or mortgage company while the loan modification process takes place. This is not good advice to follow.

Some complaints allege that these companies misrepresent their ability to stop foreclosure, that they fail to perform services as promised, and that they deny requests for refunds based on non-performance.

Companies performing loan modifications must be registered with the Department of Real Estate. To check on a license visit www.dre.ca.gov. Lawyers can offer loan modifications as long as they are operating under the scope of their license as providing a general legal service. According to the Department of Real Estate, lawyers need a license to operate as a loan modification company.

Paying in Advance:

On October 11, 2009, Governor Schwarznegger signed [Senate Bill 94 \(Calderon\)](#) that prohibits any person, including real estate licensees and lawyers, from demanding, charging, or collecting an advance fee from a consumer for loan modification or mortgage loan forbearance services. CA Civil Code Section 2944.6(c) subjects a natural person to maximum fine of \$10,000 and a business entity to a maximum fine of \$50,000.

Because the law is not retroactive, advance fees paid pursuant to a proper and lawful advance fee agreement before October 11, 2009 are not affected by Senate Bill 94. But after that date, as state above, no further advance fees can be collected-- even if the agreement states otherwise.