Common Mortgage Servicer Violations in Loan Modifications

Mortgage servicing companies sometimes make serious errors when processing loan modification requests.

Mortgage servicers handle loan modification applications from homeowners. Unfortunately, servicers sometimes make serious errors when processing modification requests. These mistakes can cause many problems for a homeowner, like missing out on getting the loan modified or even a wrongful foreclosure.

Below are some common problems that servicers perpetrate in the loan modification process, including:

- not processing your loss mitigation application promptly
- telling you that you have to be in default to qualify for a modification
- requiring you to resubmit information that you already sent to the servicer
- using incorrect income information in processing the net present value or making another calculation error
- failing to convert a trial modification into a permanent modification, and
- failing to honor a modification agreement after a servicing transfer.

Failing to Process the Application in a Timely Manner

Many homeowners have experienced lengthy delays when waiting for the servicer to decide whether to grant a loan modification. In some cases, the servicer doesn't tell the homeowners that they're missing documents necessary for the loan modification decision. In others, the servicer simply doesn't get around to reviewing the request promptly.

Federal mortgage servicing laws, effective January 10, 2014, aim to reduce these delays. Under these laws, when a servicer receives a loan modification application from a homeowner 45 days or more before a foreclosure sale, it must:

- review the application
- determine if the application is complete or incomplete, and
- notify the borrower within five days stating that the application is complete or incomplete. (If incomplete, the servicer must describe the information needed to complete the application.)

If the servicer receives a complete application more than 37 days before a foreclosure sale, it must review the application and determine if the borrower qualifies for a loan modification within 30 days. However, the servicer generally doesn't have to look at multiple loss mitigation applications from you. But if you bring the loan current after applying for loss mitigation, you may apply again.

Telling Homeowners They Have To Be In Default

During the foreclosure crisis and Great Recession, servicers commonly told homeowners that they couldn't get a modification unless they were late in payments. Sometimes—though not very often—servicers still make this statement. This comment is almost always incorrect.

For most modification programs, you may be either behind in payments or merely in danger of falling behind (called being in danger of "imminent default") on your mortgage payments.

Requiring a Homeowner to Resubmit Information

In some cases, servicers ask homeowners to submit and then resubmit information when applying for a loan modification. One common scenario involves income verification documents—like pay stubs and bank statements—which can quickly become outdated in the servicer's eyes. If the servicer doesn't look at your submitted documents promptly, the paperwork expires. The servicer will then ask you to resubmit your items.

Also, servicers sometimes ask borrowers to resubmit documentation after documents get lost. If your paperwork goes missing, you should resubmit the duplicate information that the servicer requests. But be sure to keep a record of when you sent it, who you sent it to, and send it by some method you can track.

Using Incorrect Income Information In Processing the Net Present Value (NPV) or Making Another Calculation Error

Sometimes, a servicer makes an error in a calculation when evaluating a borrower for a loan modification, which leads to an improper denial.

What Is an NPV Calculation?

When a servicer evaluates a borrower for a loan modification, it looks at financial information about the borrower, the current terms of the loan, and the fair market value of the property. It then sometimes makes a comparison between:

- the estimated cash flow the investor will receive if the loan is modified, and
- the investor’s cash flow if the loan is foreclosed.

If the investor would be better off financially after a foreclosure rather than a modification—called "net present value" or "NPV" negative— then the servicer doesn't have to modify the loan. Sometimes, however, servicers make a mistake when calculating the NPV.

Under federal law, if a trial or permanent loan modification is denied because of an NPV calculation, the servicer must include the inputs used in the NPV calculation in the denial notice.

Other Calculations Involved in a Loan Modification

Other kinds of miscalculations can lead to a modification error. For example, in 2018, Wells Fargo admitted that due to a computer glitch, it failed to give modifications to almost 900

mortgage-loan borrowers—even though they qualified for one. The bank eventually carried out foreclosures on around 500 of those homeowners.

Failing to Convert a Trial Modification into a Permanent Modification

Many loan modifications start with a three-month trial period plan. So long as you make three on-time payments during this period, the modification is supposed to become permanent—assuming you still meet the eligibility criteria.

When a servicer promises to modify an eligible loan, homeowners who live up to their end of the bargain expect the servicer to keep their word. But sometimes, homeowners who've made their trial payments can't get the servicer to make the modification permanent.

Not Reviewing an Application or Failing to Honor a Modification Agreement After a Servicing Transfer

Servicing transfers often happen in the mortgage industry. In some cases, the new servicer fails to review an already submitted loss mitigation application or fails to honor a modification agreement with the previous servicer.

Under federal law, if a complete loss mitigation application is pending at the time of a servicing transfer but hasn't been evaluated, the new servicer has to review the application within 30 days of the transfer date. Also, a servicing transfer shouldn't affect a borrower's ability to accept or reject a loss mitigation option offered by the prior servicer. If a new servicer comes into the picture and the time frame for accepting or rejecting a loss mitigation option offered by the old servicer hasn't expired as of the transfer date, the new servicer must allow the borrower to accept or reject the offer during the unexpired balance of the applicable time period.

Caution

Servicers that commit any of the violations mentioned in this article could cause you to:

- incur increased fees and costs
- lose your savings in a fruitless attempt to get a loan modification
- be wrongfully foreclosed upon, or
- miss out on the opportunity to pursue other alternatives to foreclosure, like a short sale or deed in lieu of foreclosure.