

Mortgage-modification pitches may carry big risk

By Jim Wasserman Tuesday, Feb. 03, 2009

They leaflet endangered neighborhoods and plant signs at shopping centers. Increasingly they're pitching on TV. Desperate for a loan modification, they ask? Call now.

For thousands now struggling with mortgages there's a more important question: Whom can you trust?

Diane Mathews of Sacramento surrendered to a phone pitch a few months ago. She paid a firm \$3,500 upfront to intervene with her loan servicer about a risky mortgage.

"They said we were on a list of people with bad loans and they wanted to help us. I was skeptical, but they hounded us. They literally hounded us," she said months later, still in the same bad predicament.

"I finally relented," said Mathews. "I felt desperate."

Thousands of Californians, and Sacramento-area residents in particular, will sympathize.

As soon as they default on a mortgage – or before – the calls begin. Often, the firms seek \$1,500 to \$4,000 upfront to help them out of jams with housing-boom loans.

Nationally, there's been an explosion of questionable companies getting into the game, government authorities say, and rising numbers of consumer complaints. This, they note, is for services that consumers can do themselves or get free from nonprofit loan counselors approved by the U.S. Department of Housing and Urban Development.

"It's similar to after a hurricane hits," said Tom Pool, spokesman for the California Department of Real Estate. "The bogus contractors come and collect money

for repairs and don't do anything. These people are on their last dollar, anyway, and these loan-modification companies are having them draw on their credit cards with false promises."

"We have a lot more consumers coming to us having paid \$1,500 to \$2,000 to a firm that was clearly committing to things that were beyond their scope of authority," confirmed Martha Lucey, president of Fresno-based By Design Financial Solutions. The nonprofit loan counselor has 11 California offices, including one in North Highlands, that offer free help with loan modifications.

Pool said DRE has shifted staffers to investigate 250 cases of loan-modification offenses. Many involve former real estate agents. It also has filed a growing number of cease and desist orders statewide.

California Deputy Attorney General Angela Rosenau said she has worked almost entirely on loan-modification scams since fall 2007. She is blunt with consumer advice.

"In terms of somebody that's trying to do a loan modification, they themselves are in the best position to be able to do that. It's not very likely that a third party is going to be in much better position to make that happen.

"And paying them to do it is not necessarily going to advance your cause much more," she said.

DRE's Pool said the bottom line is loan modifications are entirely in the hands of lenders, not third parties.

"Some lenders are more aggressive in allowing loan modifications and others aren't ramped up or staffed to handle the number of requests so they go un-

answered," he said.

Indeed, the difficulties struggling borrowers are having in dealing with lenders makes a perfect ad pitch for third-party intervention. Borrowers continually complain that lenders are unresponsive before they default, sometimes lose their paperwork and make them endure long waits on the phone. It's little wonder they seek help.

For those who believe they can't do it themselves, there are safe options. There are attorneys, firms cleared by DRE and legitimate operators who play by the rules and get clients by word of mouth.

Experts say a request for advance fees is always the first alarm bell that consumers should heed.

Pool said many firms – sometimes out of ignorance, sometimes with intent to defraud borrowers – illegally ask for upfront fees.

The DRE says this is what borrowers should know:

- If your lender has issued a notice of default against you (after you missed numerous payments) loan-modification companies cannot collect an advance fee, even if they have a real estate license.
- Lawyers are exempt and can charge an upfront fee if they are rendering legal services and operating under the scope of their licenses.
- If you haven't yet received a notice of default you can be charged an advance fee. But:
 - The firm must provide an agreement for you to sign that explains what services will be performed, when they will be performed and what they will cost.
 - And before you sign it, that agreement must have been sent to the Depart-

ment of Real Estate for review and permission to collect upfront fees. Those fees must then be held in a trust account and only be spent on agreed-upon services.

Some in California believe all that's too complicated.

Last month, state Sen. Ron Calderon, D-Montebello, introduced legislation, Senate Bill 94, to ban upfront fees altogether. Calderon is chair of the Senate Banking, Finance and Insurance Committee.

In a statement accompanying the introduction, he said, "Borrowers facing financial ruin are misplacing their trust in so-called consultants" who often leave clients worse off.

The bill must pass the Senate and Assembly and be signed by Gov. Arnold Schwarzenegger before the end of 2010 to become law.

In the meantime, it's buyer beware, say regulators.

"To the extent that it's a solicitation by an attorney or someone in the real estate business," said Rosenau, "check with the California Bar Association or the Department of Real Estate to be sure it's a licensed individual with a clean record. It never hurts to check with the Better Business Bureau," she added.

Mathews wishes she had.

After she paid her \$3,500 last year, months went by and nothing happened. She called DRE and learned her helpers had lost their real estate license.

She didn't want to believe it, she said, recalling sincere promises of a principal reduction and waiver of prepayment penalties. She also remembered the desperation those promises played on.

"It felt like, 'What can I do?'"



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For more information, call (916) 453-8400 or visit our website at mutualhousing.com.

BUYERS BEWARE

When dealing with foreclosure and loan modification offers, be wary of this kind of language:

- Stop forecloser now
 - We guarantee to stop you from foreclosure
 - Keep your home. We know your home is scheduled to be sold. No problem.
 - We have special relationships with many banks that can speed up case approvals.
 - We can save your home. Guaranteed. Free consultation.
 - We stop foreclosures every day. Our team of professionals can stop yours this week.

 - Here are some things companies do or say that should raise red flags:
 - Guarantees to stop the foreclosure process – no matter your situation.
 - Instructs you not to contact your lender, lawyer or credit or housing counselor.
 - Collects a fee before providing any services.
 - Tells you to make your mortgage payments to them rather than your lender.
- Source: Federal Trade Commission*

Here are some places that will help you with a loan modification without a fee:

- NeighborWorks Homeownership Center, Sacramento Region: (916) 452-5336; nwsac.org
- NeighborWorks America and Home Ownership Preservation Foundation national hot line: (888) 995-HOPE (4673).
- Home Loan Counseling Center of Sacramento: (916) 646-2005; hicc.net
- ByDesign Financial Solutions, Sacramento (formerly Consumer Dredit Counseling Service): (800) 750-2227; bydesignsolutions.org
- Sacramento Mutual Housing Association: (916) 453-8400, ext. 43. Staffers can accommodate those who speak Russian, Hmong, Vietnamese and Mien.