

**Office of the  
Attorney General**

**Foreclosure Prevention and  
Foreclosure Scams:  
How to Tell the Difference**



**OCTOBER 2009**

**LAWRENCE WASDEN**  
Attorney General  
700 West State Street  
Boise, ID 83720-0010  
[www.ag.idaho.gov](http://www.ag.idaho.gov)



**State of Idaho  
Office of Attorney General  
Lawrence Wasden**

Dear Fellow Idahoan:

Your home is probably your most valuable asset. As such, it is important to know how you can protect your home from loss due to foreclosure or deceptive business practices.

Today there are many legitimate loan modification programs available to help you keep your home. Unfortunately, fraudulent foreclosure rescue scams have invaded our state, offering empty promises and stealing the dream of home ownership. My office prepared this manual to provide useful information about legitimate loan modification programs, warn you about fraudulent rescue schemes and help you tell the difference.

Idaho and federal laws offer some protections against these financially devastating rescue schemes. However, prevention remains the best strategy for combating unlawful activities, and you can best protect yourself by understanding your rights and obligations as a homeowner.

If you are having financial difficulties and are at risk of foreclosure, I encourage you first to contact your loan servicer's home retention department to discuss your specific circumstances. The worst thing you can do when facing foreclosure is to do nothing. If your monthly payments are unaffordable, and your servicer is unwilling to modify your loan terms, contact a housing counselor immediately.

The Appendices to this manual include resources for finding information and assistance and a glossary of terms commonly used in the mortgage industry. Appendix E includes an example hardship letter that you can reference if you need to write one to your servicer. In addition to contacting a private attorney to discuss any available legal remedies, you can report deceptive mortgage rescue schemes and deceptive mortgage advertising to my Consumer Protection Division. Complaint forms are available on my website at [www.ag.idaho.gov](http://www.ag.idaho.gov) or by calling (208) 334-2424 or, toll free in Idaho, (800) 432-3545.

Sincerely,

LAWRENCE G. WASDEN  
Attorney General

# Table of Contents

<b>FORECLOSURE PREVENTION .....</b>	<b>1</b>
MORTGAGE SERVICERS .....	1
HOUSING COUNSELORS .....	1
HOPE NOW .....	2
<i>Homeownership Preservation Foundation .....</i>	<i>2</i>
<i>National Foreclosure Mitigation Counseling Program .....</i>	<i>3</i>
<b>IDAHO'S FORECLOSURE PROCESS .....</b>	<b>4</b>
NON-JUDICIAL FORECLOSURE .....	4
<i>Notice of Default .....</i>	<i>4</i>
<i>Cure of Default .....</i>	<i>4</i>
<i>Notice of Sale .....</i>	<i>4</i>
<i>Sale Process .....</i>	<i>4</i>
JUDICIAL FORECLOSURE .....	5
<i>Foreclosure Stripping .....</i>	<i>5</i>
<b>FEDERAL FORECLOSURE PREVENTION PROGRAMS .....</b>	<b>5</b>
MAKING HOME AFFORDABLE PROGRAM .....	5
HOME AFFORDABLE REFINANCE PROGRAM .....	6
HOME AFFORDABLE MODIFICATION PROGRAM .....	6
FHA HOME AFFORDABLE MODIFICATION PROGRAM .....	7
FORECLOSURE ALTERNATIVES PROGRAM .....	8
HOME PRICE DECLINE PROTECTION INCENTIVES .....	8
HOPE FOR HOMEOWNERS PROGRAM & HELPING FAMILIES SAVE THEIR HOMES ACT .....	9
<b>OTHER LENDER MODIFICATION PROGRAMS .....</b>	<b>9</b>
BANK OF AMERICA (COUNTRYWIDE FINANCIAL) SETTLEMENT .....	9
CITIGROUP & CITIMORTGAGE .....	10
JPMORGAN CHASE & CO. (WASHINGTON MUTUAL & EMC MORTGAGE CORP.) .....	10
INDYMAC FEDERAL BANK (DOWNEY SAVINGS & LOAN, PFF BANK & TRUST, AND CITIGROUP) .....	10
<b>NEGOTIATING A LOAN WORKOUT PLAN .....</b>	<b>11</b>
DETERMINING WHO TO CONTACT .....	11
<i>What to Do When Your Servicer Won't Help You .....</i>	<i>11</i>
LOAN WORKOUT OPTIONS .....	11
BEFORE MEETING WITH A HOUSING COUNSELOR .....	12
WHAT TO EXPECT FROM A HOUSING COUNSELOR .....	13
<b>MORTGAGE PAYMENT RELIEF FOR MILITARY PERSONNEL .....</b>	<b>14</b>
<b>BANKRUPTCY .....</b>	<b>14</b>
IMPORTANT BENEFITS OF BANKRUPTCY .....	15
TALK TO AN ATTORNEY .....	15
<b>TAX CONSEQUENCES OF FORECLOSURE .....</b>	<b>15</b>
THE MORTGAGE FORGIVENESS DEBT RELIEF ACT .....	15
<b>LIFE AFTER FORECLOSURE .....</b>	<b>16</b>
TAKE CARE OF YOURSELF .....	16
<i>Suicide Prevention Hotlines .....</i>	<i>16</i>
<i>Other Mental Health Resources .....</i>	<i>16</i>
<i>Military and Veterans Resources: .....</i>	<i>16</i>
<i>Covering the Basics .....</i>	<i>17</i>

IMPROVING YOUR FINANCIAL SITUATION .....	17
AVOIDING FUTURE FINANCIAL PITFALLS .....	17
<b>MORTGAGE RESCUE SCHEMES .....</b>	<b>18</b>
DECEPTIVE ADVERTISEMENTS .....	19
LOAN MODIFICATION NEGOTIATORS .....	20
BAIT AND SWITCH.....	20
TENANT/BUY-BACK SCHEME .....	21
MORTGAGE ELIMINATION SCHEMES .....	21
<b>IDAHO MORTGAGE FRAUD LAWS.....</b>	<b>21</b>
IDAHO CONSUMER FORECLOSURE PROTECTION ACT .....	21
IDAHO CONSUMER PROTECTION ACT AND RULES .....	21
<i>The Attorney General's Enforcement Authority.....</i>	<i>22</i>
<i>Idaho Code § 48-608: Private Consumer Rights.....</i>	<i>22</i>
IDAHO RESIDENTIAL MORTGAGE PRACTICES ACT .....	23
WHO REGULATES MY SERVICER? .....	23
<b>OTHER FEDERAL MORTGAGE FRAUD LAWS.....</b>	<b>23</b>
THE FRAUD ENFORCEMENT AND RECOVERY ACT (FERA) .....	23
THE HELPING FAMILIES SAVE THEIR HOME ACT .....	23
<b>FREQUENTLY ASKED QUESTIONS.....</b>	<b>25</b>
<b>APPENDIX A.....</b>	<b>29</b>
RESOURCES .....	29
<i>Bankruptcy.....</i>	<i>29</i>
<i>Consumer Advocacy.....</i>	<i>29</i>
<i>Consumer Credit.....</i>	<i>29</i>
<i>Consumer Education.....</i>	<i>30</i>
<i>Legal Assistance.....</i>	<i>30</i>
<i>Mortgage Financing .....</i>	<i>31</i>
<i>Mortgage Insurers.....</i>	<i>31</i>
<i>Government Agencies .....</i>	<i>31</i>
<i>Senior Citizens .....</i>	<i>32</i>
<b>APPENDIX B.....</b>	<b>33</b>
GLOSSARY OF MORTGAGE TERMS.....	33
<b>APPENDIX C.....</b>	<b>38</b>
IMPORTANT DOCUMENTS .....	38
<i>Mortgage Loan Documents (alphabetical order) .....</i>	<i>38</i>
<i>Financial Documents (alphabetical order).....</i>	<i>38</i>
<i>Other Relevant Documents (alphabetical order).....</i>	<i>38</i>
<b>APPENDIX D.....</b>	<b>39</b>
COMMUNICATION LOG .....	39
<b>APPENDIX E.....</b>	<b>40</b>
EXAMPLE HARDSHIP LETTER .....	40

## **FORECLOSURE PREVENTION**

The most important thing you can do if you are facing foreclosure is to take action to prevent the foreclosure. If you are delinquent in your mortgage payments or if you have received a notice of foreclosure, you must take immediate action. Ignoring the problem will not make it go away. In fact, the longer you ignore the notices from your mortgage servicer, the more likely you will lose your home.

You are not alone. Millions of homeowners face possible foreclosure due to increases in adjustable interest rates, decreasing home values, rising unemployment and a sagging economy.

To help address the increase in foreclosures, mortgage servicers have developed internal programs to streamline the loan modification process and provide homeowners with options other than foreclosure. The federal government offers financial incentives to lenders to encourage them to modify more loans and to provide relief to homeowners who are unable to refinance their high-risk loans. Agencies also are educating homeowners about their rights and have established a network of housing counselors to assist homeowners in addressing delinquencies and pending foreclosures.

While not every home can be saved from foreclosure, if you act quickly and responsibly, you may avoid this devastating result. If you have questions relating to your specific situation, contact your loan servicer, your lender, a housing counselor, an attorney or a trusted financial advisor.

## **MORTGAGE SERVICERS**

In many cases, after a mortgage is finalized, it is sold to a third-party investor, which pays a mortgage servicing company to manage or “service” the loan. The servicer does not own the loan but has substantial authority to act on behalf of the investor. The servicer bills you, collects your payments, pays the property taxes, and handles complaints. The servicer can negotiate with you, although, in most situations, the servicer cannot approve a mortgage modification without the investor’s approval.

When you need to contact someone about a problem with your loan or to negotiate a workout agreement, always start with the servicer or the company to which you make your monthly payments. Look on your monthly billing statement for a toll-free telephone number (sometimes printed on the back) or for a website address. Call the servicer and ask to speak with someone about available mortgage modification programs.

If you need help identifying your servicer or finding the servicer’s contact information, you can search the Mortgage Electronic Registration System (MERS). It identifies the servicer of any loan registered on the MERS© System. You can search it at [www.mersinc.org](http://www.mersinc.org). Complete contact information for the System is included in Appendix A.

Use the “communication log” in Appendix D to keep track of every conversation you have with your servicer or with a housing counselor.

## **HOUSING COUNSELORS**

Housing counselors can be very helpful in advising how you can avoid foreclosure. In some instances, the counselor bridges the communication gap between you, the lender, the servicer, the insurer and others.

If you use a housing counselor, contact one who is approved by the United States Department of Housing and Urban Development (HUD). Do not select a counselor from an Internet ad or by calling a number listed on an ad that came in the mail.

Speak with a trusted financial advisor or a housing counselor immediately if you are having difficulties reaching a workout plan with your servicer or if you have questions about the workout or foreclosure process.

## **HOPE NOW**

HOPE NOW is an alliance of counselors, mortgage companies, investors and others involved in the mortgage market. The purpose of this alliance is to identify distressed homeowners and help them stay in their homes. The HOPE NOW website, [www.hopenow.com](http://www.hopenow.com), provides information about homeownership and other financial issues.

## **Homeownership Preservation Foundation**

The Homeownership Preservation Foundation is a network of HUD-approved housing counselors who are trained to help you set up an action plan to address your specific situation. You can access this free service by calling (888) 995-HOPE. The hotline is staffed 7 days a week, 24 hours a day, and Spanish-speaking counselors are available.

The Foundation also offers online counseling through its website at [www.995hope.org](http://www.995hope.org).

Idaho housing counselors who are members of the HUD network include the following (visit [www.995hope.org](http://www.995hope.org) or [www.hud.gov](http://www.hud.gov) for the most current lists):

### **CCCS of Northern Idaho, Inc.**

1113 Main St.  
Lewiston, ID 83501  
(800) 556-0127  
[www.cccsnid.org](http://www.cccsnid.org)

### **Community Action Partnership**

124 New Sixth St.  
Lewiston, ID 83501  
(800) 326-4843  
[www.communityactionpartnership.org](http://www.communityactionpartnership.org)

### **Consumer Credit Counseling Services**

1801 Lincoln Wy., Ste. 6  
Coeur d'Alene, ID 83814  
(800) 308-2227  
[www.moneymanagement.org](http://www.moneymanagement.org)

### **Eastern Idaho Community Action Partnership**

357 Constitution Wy.  
Idaho Falls, ID 83405  
(208) 522-5391  
[www.eicap.org](http://www.eicap.org)

### **Idaho Housing and Finance Association**

565 W. Myrtle  
PO Box 7899  
Boise, ID 83702-7899  
(877) 888-3135  
[www.ihfa.org](http://www.ihfa.org)

**Idaho Partners for Home Buyer Education, Inc.**

565 W. Myrtle St.  
PO Box 7585  
Boise, ID 83707-7585  
(877) 888-3135  
[www.ihfa.org](http://www.ihfa.org)

**Pocatello Neighborhood Housing Services, Inc.**

206 N. Arthur  
PO Box 1146  
Pocatello, ID 83204  
(208) 232-9468 x105  
[www.pnhs.org](http://www.pnhs.org)

**Neighborhood Housing Services Inc.**

1401 Shoreline Dr.  
PO Box 8223  
Boise, ID 83707  
(208) 343-4065 x107  
[www.nhsid.org](http://www.nhsid.org)

**National Foreclosure Mitigation Counseling Program**

Idaho housing counselors who are funded through the National Foreclosure Mitigation Counseling Program are trained to help you understand your options under the federal Homeowner Affordability and Stability Plan (HASP). If you want to know whether you are eligible under HASP, you can contact a non-profit counseling agency at no cost to you. You don't need a referral from a servicer.

If the counselor determines that you are eligible for a loan modification or refinance under HASP, the non-profit counselor will help you prepare and submit the required paperwork to the servicer. The non-profit counselor will do this free or at a very low cost. For complete information about the National Foreclosure Mitigation Counseling Program and to find resources to help you avoid foreclosure, visit [www.nwconsumer.org](http://www.nwconsumer.org) or [www.findaforeclosurecounselor.org](http://www.findaforeclosurecounselor.org).

Non-profit housing counselors in Idaho who are funded through the National Foreclosure Mitigation Counseling Program include:

**Community Action Partnership**

124 New Sixth St.  
Lewiston, ID 83501  
(208) 746-3351  
[www.communityactionpartnership.org](http://www.communityactionpartnership.org)

**Money Management International**

1801 Lincoln Way, Ste. 6  
Coeur d'Alene, ID 83814  
(208) 762-2271  
[www.moneymanagement.org](http://www.moneymanagement.org)

**Idaho Housing and Finance Association**

565 W. Myrtle  
Boise, ID 83707  
(208) 331-4882  
[www.ihfa.org](http://www.ihfa.org)

**Neighborhood Housing Services, Inc.**

1401 Shoreline Dr.  
Boise, ID 83707  
(208) 343-4065  
[www.nhsid.org](http://www.nhsid.org)

**Pocatello Neighborhood Housing  
Services, Inc.**  
206 N. Arthur  
Pocatello, ID 83204  
(208) 232-9468  
[www.pnhs.org](http://www.pnhs.org)

## **IDAHO'S FORECLOSURE PROCESS**

### **NON-JUDICIAL FORECLOSURE**

The primary method of foreclosure in Idaho does not involve any court action. Instead, most Idaho foreclosures are completed through a notice process. An uncontested, non-judicial foreclosure takes about 150 days to complete. If you contest the foreclosure or file for bankruptcy, this timetable may be extended.

#### **Notice of Default**

The foreclosure process begins when the lender mails a notice of default to you. The lender also files a notice of default with the county recorder. Once the default notice is recorded, the lender can schedule and advertise the foreclosure sale.

#### **Cure of Default**

You have at least 115 days after the filing of the notice to "cure" the default and stop the foreclosure. To do so, you must pay the lender the total amount due, including the lender's costs. In certain situations, the lender may allow you to stop the foreclosure up to the public sale date.

#### **Notice of Sale**

**Notice to Borrower.** At least 120 days before the sale date, a notice of sale must be mailed to you and personally served on the occupant of the property. The notice includes: (a) the names of the trustee, lender and borrower; (b) a description of the property; (c) all default information; (d) the amount owed; and (e) the date, time and location of the sale.

**Publication of Notice.** The lender also must publish the notice of sale in a local newspaper once a week for four weeks. The final publication must occur at least 30 days before the sale date.

#### **Sale Process**

**Trustee Sale.** The trustee conducts the sale. The trustee may postpone the sale up to 30 days by public announcement at the originally scheduled sale. The trustee also can reschedule the sale. If the sale is rescheduled, a new notice of sale must be published and sent to you. The trustee sale is at the date, time and place contained in the notice of sale or rescheduled sale.

**Bidding.** Any person may bid at the foreclosure sale. The trustee transfers ownership of the property to the winning bidder after receiving full payment. Once payment is received, the winning bidder is entitled to possession of the property within 10 days after the sale.

**No Redemption Rights.** Idaho foreclosures conducted out of court do not grant you a right to reclaim the property after the sale.

**Deficiency Judgment.** Within 90 days after the sale, a lender may file a deficiency action against you to recover the difference between the debt you owe and the amount obtained at the sale.

## **JUDICIAL FORECLOSURE**

A lender also can foreclose through a court proceeding in which the judge issues a final judgment of foreclosure. If the deed of trust prevents the lender from selling the property without a court order, or if the property exceeds 40 acres, the lender generally must proceed with a judicial foreclosure.

The lender files a complaint along with a “lis pendens,” a recorded document that provides public notice that the property is the subject of a legal action. After a judgment is entered by the court, the property is sold at a public sale. You have 180 days to redeem the property if it is less than 20 acres. If the property is 20 acres or more, the redemption period is 365 days.

### **Foreclosure Stripping**

A borrower whose home is foreclosed is not entitled to retain any property that is affixed to the home. Even if the borrower paid for and installed a new fence, deck, furnace or bathtub, the borrower cannot disassemble the item and remove it from the property. Once the property reverts to the lender or is sold to the new owner, the former homeowner has no claim over the home and risks criminal and civil penalties if any property is removed or damaged.

## **FEDERAL FORECLOSURE PREVENTION PROGRAMS**

### **MAKING HOME AFFORDABLE PROGRAM**

In 2009, the federal government introduced Making Home Affordable, a plan to stabilize the housing market and help homeowners reduce their monthly mortgage payments. Making Home Affordable includes two programs, the Home Affordable Refinance Program and the Home Affordable Modification Program.

Servicers must sign contracts with the federal government to participate in Making Home Affordable. Most of the larger servicers, such as Saxon Mortgage, Bank of America (formerly Countrywide Home Loans), Aurora Loan Services and JPMorgan Chase, participate in the plan. For specific information about these programs, visit [www.makinghomeaffordable.gov](http://www.makinghomeaffordable.gov).

Free help is available, so there is no need to pay for assistance through the Making Home Affordable plan. Free help is available. Call a housing counselor at (888) 995-HOPE and visit

[www.makinghomeaffordable.com](http://www.makinghomeaffordable.com) for resources, including a “modification evaluator” and a “payment reduction estimator.”

## **HOME AFFORDABLE REFINANCE PROGRAM**

The Home Affordable Refinance Program allows homeowners with loans owned or guaranteed by Fannie Mae or Freddie Mac an opportunity to refinance into more affordable monthly payments. This program is meant to benefit you if you are current on your mortgage payments, but the value of your home has decreased and you would like to have a lower interest rate. To qualify for the program, you must meet the following eligibility requirements:

- Own and occupy a one to four unit home;
- Have a loan owned or securitized by Fannie Mae or Freddie Mac;
- Be current on your mortgage payments;
- Owe less on your first mortgage than the current value of your home (a loan-to-value ratio of 125% or less);
- Have income sufficient to make the new mortgage payments; and
- Realize an improvement in the long-term affordability or stability of your loan.

Some exceptions to the above requirements exist, so, if you are thinking about refinancing, you should speak to a lender about the details of the program. To find out if your loan is owned or securitized by Fannie Mae or Freddie Mac, you can contact the companies as follows:

### **Fannie Mae**

- (800) 7FANNIE (8 a.m. to 8 p.m. EST)
- [www.fanniemae.com](http://www.fanniemae.com)

### **Freddie Mac**

- (800) FREDDIE (8 a.m. to 8 p.m. EST)
- [www.freddiemac.com](http://www.freddiemac.com)

Refinancing will not reduce the principal amount you owe to the lender and, for the most part, you cannot obtain additional cash to pay off other debts. However, by reducing your interest rate to a fixed rate, you reduce your monthly payment and reduce the amount you have to pay over the life of the loan.

If you want to refinance your loan through the Home Affordable Refinance program, call your mortgage servicer and ask about the application process. Additionally, if your loan is owned or securitized by Fannie Mae, you can apply with any Fannie Mae-approved lender, which includes most major banks and mortgage brokers. The program expires on June 10, 2010.

## **HOME AFFORDABLE MODIFICATION PROGRAM**

The Home Affordable Modification Program commits \$75 billion to help homeowners avoid possible foreclosure. The program helps if you are struggling to pay your mortgage or are already delinquent. Mortgage companies are under no obligation to comply with the program.

However, the federal government offers financial incentives to encourage participation, and most of the larger mortgage servicers now participate in the program. For a complete list of lenders that have signed participation contracts with Department of Treasury, visit [www.makinghomeaffordable.gov](http://www.makinghomeaffordable.gov).

Eligibility requirements include:

- Owning and occupying a one to four unit property; and
- Having a mortgage:
  - With unpaid principal balance equal to or less than \$729,750;
  - That originated on or before January 1, 2009;
  - With a payment exceeding 31% of your gross monthly income; and
  - With an unaffordable payment because of a change in income or expenses.

Contact your servicer for details about these requirements. Most conventional loans, including prime, subprime and adjustable loans are eligible for a Home Affordable Modification.

Many servicers have postponed foreclosure sales on mortgages meeting the minimum eligibility criteria for a Home Affordable Modification in order to evaluate the loans. However, if your home is scheduled for foreclosure or if you are seriously delinquent, you should contact your servicer immediately. You also should speak with a housing counselor.

You must provide documentation of your income, expenses and hardship to demonstrate why you can no longer afford your current payments. Assuming you qualify for the program, the goal is to reduce your monthly payment to 31% of your gross monthly income. The lender can reduce your interest rate to as low as 2% or, if an interest rate reduction is insufficient, the lender can extend your repayment period to 40 years, agree to let you stop making payments or make reduced payments for a specified period of time, or forgive part of your debt. Balloon payments are allowed under this program.

If the interest rate is below the market rate, after five years, your interest rate will increase 1% each year until it reaches the rate cap. The cap is equal to the prevailing market rate published by Freddie Mac on the date the modification is finalized.

Second mortgages also qualify for the Home Affordable Modification program. The interest rate on a second mortgage is reduced to 1% if the monthly payments include interest and principal. The interest rate for interest-only second mortgages is reduced to 2%.

The program expires on December 31, 2012.

## **FHA HOME AFFORDABLE MODIFICATION PROGRAM**

If you have an FHA loan, you may be able to reduce your monthly mortgage payments significantly through the FHA-Home Affordable Modification Program (FHA-HAMP). The program permanently reduces your monthly payment through the use of an interest-free subordinate mortgage, which defers repayment of the original mortgage principal. Payments on

the subordinate mortgage do not begin until the first mortgage is paid off. To determine if you qualify, contact your loan servicer or HUD's National Servicing Center at (888)297-8685.

## **FORECLOSURE ALTERNATIVES PROGRAM**

The Foreclosure Alternative Program is an incentive program designed to encourage short sales and deeds-in-lieu of foreclosure when a borrower is eligible for a modification, but is unable to complete the modification plan. Foreclosure Alternatives is intended to minimize the negative effects of costly foreclosures. The program includes financial incentives for servicers, borrowers, and investors.

**Eligibility Requirements.** You must meet the eligibility requirements for the Home Affordable Modification program, but you do not qualify for a modification or are unable to complete the modification plan during the trial period.

**Relocation Payment & Fees.** You may receive \$1,500 to assist in relocating. Servicers may not charge you a fee to participate in the program. Realtors are entitled to their commission and reimbursement of selling costs.

**Property Valuation.** The servicer may use two methods for determining the value of a property: (a) an appraisal that conforms to the Uniform Standards of Professional Appraisal Practice (USPAP); or (b) a Broker Price Opinion obtained within 120 days of the short sale agreement.

**Marketing Duration.** You have at least 90 days to market and sell your property through an experienced, licensed realtor. The maximum marketing duration is one year. Marketing may run concurrently with the foreclosure process.

**Junior Liens & Debts.** All second mortgages and junior liens must be eliminated before the property is sold.

**Deed in Lieu.** The servicer has the option to include in the short sale agreement a requirement that you deed the property to the servicer. You are granted a release from the debt if the property does not sell within 90 days (or whatever period the agreement provides). Additionally, you are allowed 30 days to vacate the property.

**Expiration.** This program expires on December 31, 2012.

## **HOME PRICE DECLINE PROTECTION INCENTIVES**

The Home Price Decline Protection Incentives program encourages servicers to modify mortgages in neighborhoods where housing prices have declined substantially. The federal government will pay up to \$10 billion in incentives to encourage servicers, lenders and investors to agree to modify additional mortgages and help protect vulnerable communities from further decline in home prices.

## **HOPE FOR HOMEOWNERS PROGRAM & HELPING FAMILIES SAVE THEIR HOMES ACT**

The Helping Families Save Their Homes Act of 2009 amended the National Housing Act to improve the HOPE for Homeowners Program. The HOPE program helps if you are at risk of defaulting on your mortgage. If you qualify, the new Act requires mortgage servicers to offer you access to the HOPE program as a modification option. Under the program, servicers reduce the principal balance of the mortgage to 93% of the home's current value. If eligible, you can refinance your high-risk loans into loans that are both affordable and sustainable.

**Eligibility Requirements.** To participate in the HOPE for Homeowners Program, you must:

- Have an FHA-insured mortgage that originated on or before January 1, 2008;
- Occupy the home and not own a second home;
- Be unable to pay your mortgage at present;
- Have made at least six payments;
- Have current payments that exceed 31% of your monthly income as of March 2008; and
- Not have a criminal record that includes a fraud conviction in the last 10 years.

**Application Process.** Your lender must participate in the program and you must apply through the lender.

**Expiration.** The program expires on September 30, 2011.

For current information about the HOPE for Homeowners Program, please visit [www.hopenow.com](http://www.hopenow.com), [www.fha.gov](http://www.fha.gov) or [www.hud.gov](http://www.hud.gov).

## **OTHER LENDER MODIFICATION PROGRAMS**

### **BANK OF AMERICA (COUNTRYWIDE FINANCIAL) SETTLEMENT**

The Attorney General and the Idaho Department of Finance entered into a settlement agreement with Countrywide Financial Corporation, now Bank of America, in which it agreed to change its lending practices, modify mortgages for eligible Idaho homeowners and pay restitution to Idaho borrowers who lost their homes. Implementation of the settlement is ongoing through June 30, 2012. The settlement includes the following provisions that can benefit current Bank of America customers:

**Loan Modifications.** Eligibility for a loan modification requires the following:

- You must have received a qualifying subprime or Pay Option ARM before December 13, 2007;
- You must be at least 60 days delinquent on your loan or likely to become delinquent in the near future;
- Your loan-to-value ratio must be 75% or higher;

- Your property must be residential property;
- You must occupy your property; and
- You must be able to afford to make the payments under the modified mortgage.

**Relocation Assistance Program.** You may receive a cash payment from Bank of America, if you agree to vacate the property shortly after foreclosure. Contact Bank of America to determine if you qualify for this program.

## **CITIGROUP & CITIMORTGAGE**

**Homeowner Unemployment Assist Program.** This program is designed to assist you in keeping your home if you are unemployed. It temporarily reduces your monthly payment. To be eligible you must:

- Have a first mortgage that CitiMortgage, Inc., owns and services;
- Be unemployed involuntarily and temporarily;
- Be 60 or more days delinquent or in foreclosure;
- Have sufficient funds to pay the reduced payment;
- Have a loan that conforms to “government sponsored enterprise limits,” currently set at a maximum of \$625,500 to \$729,750, depending upon where you live;
- Meet all insurer or guaranty requirements; and
- Be ineligible to participate in federal modification programs.

The program expires on March 1, 2011.

## **JPMORGAN CHASE & CO. (WASHINGTON MUTUAL & EMC MORTGAGE CORP.)**

If you have a Chase-owned adjustable rate mortgage, including subprime and pay-option ARMs, you may qualify for a loan modification that lowers your monthly payments to achieve a 31% to 40% debt-to-income ratio. The program expires in 2011. For additional information, visit [www.chase.com](http://www.chase.com).

## **INDYMAC FEDERAL BANK (DOWNEY SAVINGS & LOAN, PFF BANK & TRUST, AND CITIGROUP)**

You may be eligible for this program if your loan is owned or securitized and serviced by IndyMac, and you are at least 60 days delinquent. The program is intended to reduce your monthly payment to a 38% debt-to-income ratio. As of the publication date of this brochure, the program had no expiration date. For additional information, visit [www.fdic.gov](http://www.fdic.gov).

## NEGOTIATING A LOAN WORKOUT PLAN

### DETERMINING WHO TO CONTACT

Mortgage loans are often sold several times after they are finalized. This makes it difficult to know who to contact when you are having trouble paying your loan. Start with your servicer, which has authority to negotiate a workout agreement on behalf of the investor. If you have received delinquency notices from your servicer, call the telephone number included in the notices.

Most loan servicers have loss mitigation or home retention departments that specialize in assisting borrowers with loan modifications. When you call your servicer, ask to speak with one of these departments.

### What to Do When Your Servicer Won't Help You

If you provided your servicer with all of the information needed to approve or deny your requested modification, yet the servicer fails to communicate its final decision, you should contact the following resources, depending on the type of loan you have.

- 1. FHA-Insured Mortgage Loans.** Your servicer is required to follow FHA servicing guidelines and regulations. If the servicer is uncooperative with you, call FHA's National Servicing Center at (888) 297-8685. Have your 13-digit FHA case number from your loan settlement statement available when you call.
- 2. VA-Insured Loans.** Your servicer is required to notify the VA when your loan is in default. The VA will contact you to discuss your financial situation and help you decide what action to take. A VA financial counselor also can help you maintain contact with your servicer and intercede on your behalf to negotiate a modification with your servicer. If you need to contact a VA financial counselor about your loan, call (877) 827-3702. Additional information regarding VA home loans is available at [www.homeloans.va.gov](http://www.homeloans.va.gov).
- 3. Conventional Loans.** First, consult with a local housing counselor by calling the Homeowners Hope Hotline at (888) 995-HOPE. If you are unable to speak with a counselor in your area or if your servicer is Bank of America (formerly Countrywide Home Loans), you can contact the Attorney General's Consumer Protection Division at (208) 334-2424 for assistance. The Attorney General's housing counselor can help facilitate communication between you and your servicer.

### LOAN WORKOUT OPTIONS

**Reinstatement.** If you are able to make a lump sum payment to bring your loan current, ask if your servicer will reinstate your loan.

**Repayment Plans.** You may be able to cure a defaulted loan by entering into a repayment plan in which you make regular monthly mortgage payments as they are due, together with partial monthly payments on the arrearage. The amount of time allowed to complete the repayment varies based on the loan servicer but generally can be from three months to four years. Repayment plans are helpful if you experienced only a temporary financial setback.

**Forbearance.** A forbearance may be another option if you are experiencing temporary financial problems. With a forbearance, the loan servicer temporarily reduces or suspends the amount of your monthly payment. You will have to pay the arrearage and accumulated interest (along with the regular payment amount) when the forbearance ends.

**Modification.** A loan modification can take many forms, but generally a modification is best if you have recovered from a financial setback, but your income is less than it was before the default occurred. Possible modification options include:

- Reduction of the interest rate;
- Extension of the loan repayment period;
- Reamortization with capitalization of any arrears; and
- Reduction of the principal balance.

**Partial Claim.** If you have private mortgage insurance you might be eligible to obtain a one-time, interest-free loan to pay off your delinquency. Ask your servicer to assist you in filing a claim with your insurer. You must repay the loan when you refinance, sell or pay off your mortgage.

**Short Sales/Pre-Foreclosure Sales.** A short sale is selling a home for less than the amount due on the mortgage in order to avoid foreclosure. With a short sale, you avoid the harm a foreclosure causes to your credit rating. It is important, however, to negotiate an agreement that prevents the lender from obtaining a deficiency judgment against you. You may have to pay taxes on the difference between the amount of your mortgage and the amount for which you sell your home.

**Deed in Lieu of Foreclosure.** A deed in lieu of foreclosure is simply a transfer of the deed to the mortgage holder to satisfy the loan. This option, which will negatively impact your credit, usually is available only when a home has one mortgage. In some cases, if your second mortgage is with the same mortgage lender, the lender may accept a deed in lieu of foreclosure.

**Assumptions.** In some cases, a third party can assume the payment of the mortgage. The home can then be transferred to the person assuming the mortgage. However, you remain responsible for the mortgage unless the lender releases you from the obligation. Many mortgage contracts include a “due on sale” provision to prohibit assumptions without the lender’s consent.

## **BEFORE MEETING WITH A HOUSING COUNSELOR**

Although every situation is unique, generally, a housing counselor’s goal is to prevent a foreclosure. In order to work efficiently toward that goal, you need to provide the counselor with all relevant information and documentation regarding your circumstances. A list of important documents you need to compile is contained in Appendix C. Before meeting with the counselor, you should complete these tasks:

- Gather and organize all of the documents you have received from your servicer, your lender and any other entities related to your home ownership. (See Appendix C.)

- Gather and organize your financial records, including all income statements, bills, tax records, insurance policies, bank records and other documents showing your assets and debts.
- Figure out your immediate deadlines. For example, is there a foreclosure sale date scheduled?
- Decide what your goals and needs are, both financially and personally. For example, how badly do you want to keep your home? Is it realistic to keep your home under your current financial situation?

## WHAT TO EXPECT FROM A HOUSING COUNSELOR

Depending on the purpose of your meeting with the housing counselor, generally, you can expect a counselor to assist you with the following tasks:

- **Determining your objectives and needs.** The counselor should not make any determinations before obtaining all of the necessary information, including your objectives.
- **Scheduling any time limitations and deadlines.** The counselor should assist you in determining any upcoming deadlines.
- **Calculating how much you owe your lender.** This amount should include an accurate accounting of all payments, interest, taxes, insurance, arrearage and fees that you owe.
- **Assisting you in writing a hardship letter.** If the counselor determines that a hardship letter is warranted, the counselor can help you write one. It is important, however, that you write, sign and date the letter. (An example hardship letter is provided in Appendix E.)
- **Preparing a budget.** Your immediate financial circumstances will be a key factor in determining the likelihood of avoiding foreclosure. The housing counselor might use worksheets to help you understand all of your assets and debts. Do not understate certain expenses, such as food or utility costs.
- **Identifying ways to increase your income.** Counselors may know what avenues are available to increase your income. For example, you may qualify for public assistance. If you do, the counselor can assist you in applying for the appropriate benefits. Other possibilities include: selling unnecessary possessions, cashing out life insurance policies or retirement accounts, obtaining a second job or working overtime, asking a relative or friend for money or finding a roommate to offset housing costs.
- **Identifying ways to reduce your financial obligations.** You may be able to reduce or eliminate expenses by canceling private mortgage insurance (if eligible), obtaining low-income utility rate discounts, conserving energy, disconnecting optional services such as cable, Internet or cell phones, negotiating payment or interest reductions with credit card companies, requesting a temporary suspension or reduction of payments (known as a forbearance) on student loans or eliminating expensive habits such as smoking, eating out or shopping.
- **Educating you about saving money for a foreclosure avoidance plan.** An avoidance plan will be more attractive to your lender if you have a lump sum available to pay your

lender. Set up a separate savings account specifically for this money.

- **Completing the budget papers and obtaining the necessary documentation.** If a foreclosure avoidance plan is available, the counselor will complete the necessary budget forms and obtain verification of your income and expenses.
- **Requesting a delay of the foreclosure sale.** It may be necessary to request that the scheduled sale be postponed to allow sufficient time to arrange a foreclosure avoidance plan.
- **Submitting the proposed plan to the lender.** Depending on the situation, extensive negotiation with the lender on your behalf may be necessary.
- **Claim Advance.** If your mortgage is insured, you may qualify for an interest-free loan from your mortgage guarantor to bring your account current. In most cases, you are not required to repay the loan for several years.

## **MORTGAGE PAYMENT RELIEF FOR MILITARY PERSONNEL**

The Servicemembers Civil Relief Act protects military personnel during active duty from high rate mortgage loans and foreclosure. The Act limits the interest rate that a lender can charge an active duty military member to six percent per year. Monthly payments are recalculated to reflect the lower rate during active duty. However, the interest rate reduction is not automatic.

If you are in the military, which includes the reserves, and you want to request an interest rate reduction, you must send a written request, along with a copy of your orders, to your lender no later than 180 days after the date of your release from active duty.

The interest rate reduction applies only during active duty. Once your active duty ends, the rate reverts to its prior rate.

Your lender also may allow you to postpone paying the principal amount due on your loan while you are on active duty. You are still obligated to repay the unpaid principal once your active duty is finished.

Lenders may not foreclose on your home while you are on active duty or within 90 days after your duty ends.

If you have questions about your rights under the Act, contact your unit judge advocate or installation legal assistance office. The U.S. Armed Forces Legal Assistance website ([legalassistance.law.af.mil](http://legalassistance.law.af.mil)) provides information about local legal assistance offices for all branches of the armed forces.

## **BANKRUPTCY**

If you need more time to pay off a mortgage delinquency or restructure your debt, and your income (assets) are restricted, you may be able to file bankruptcy. Depending on your financial situation, you can file one of two types of bankruptcy.

**Chapter 7 (Liquidation).** The purpose of Chapter 7 bankruptcy is to eliminate unsecured, non-priority debts, while retaining exempt property. An unsecured, non-priority debt includes most consumer debt, such as credit cards and medical bills. This type of debt differs from non-dischargeable debt, such as criminal restitution, or debt that is secured by property, such as a car loan. Exempt property includes a portion (or value) of the debtor's homestead and a portion (or value) of the debtor's personal property. Eliminating the debtor's consumer debts devotes more of the debtor's income to making a mortgage payment. A typical liquidation takes between four and six months to complete.

**Chapter 13 (Reorganization).** The purpose of Chapter 13 bankruptcy is to give the debtor a chance to work out a debt payment plan over a period of years. A Chapter 13 is available only if the debtor can afford to make the required payments. Second mortgages can be eliminated when no equity is attached to the interest.

## **IMPORTANT BENEFITS OF BANKRUPTCY**

Filing bankruptcy offers two important benefits. As soon as the petition is filed, an "automatic stay" of all debt collection efforts, including a foreclosure action, is entered. Most creditors must get the court's permission to continue collection. Keep in mind, however, that a bankruptcy does not stay some legal actions, including criminal prosecutions, child support collections and evictions.

The second benefit of bankruptcy is it requires creditors to submit their claims to the court for review. If a creditor is attempting to collect a debt that is questionable or that includes unlawful fees, court review can help eliminate erroneous charges.

## **TALK TO AN ATTORNEY**

Bankruptcy is a complicated legal proceeding with long-term consequences. Not everyone can qualify for or afford bankruptcy. To learn about the process, read the Idaho Bankruptcy Court's "Bankruptcy Facts You Should Know," available at [www.id.uscourts.gov](http://www.id.uscourts.gov). To locate a qualified bankruptcy attorney, contact the Idaho State Bar's Lawyer Referral Service at (208) 334-4500 or visit [www.isb.idaho.gov](http://www.isb.idaho.gov).

## **TAX CONSEQUENCES OF FORECLOSURE**

### **THE MORTGAGE FORGIVENESS DEBT RELIEF ACT**

Enacted in late 2007, the Mortgage Forgiveness Debt Relief Act allows taxpayers to exclude from their income any income obtained through modification of a mortgage or through foreclosure on the taxpayer's principal residence. The balance of the loan must equal \$2 million or less. For a married taxpayer filing a separate return, the limit is \$1 million.

The Act applies to debt secured by a residence that was used to buy, build or substantially improve a principal residence. If a debt was used to refinance another debt, the debt is eligible for the exclusion up to the amount of the mortgage principal before refinancing.

Taxpayers whose debt is reduced or eliminated will receive a Form 1099-C from their servicer or lender. The form must show the amount of debt forgiven and the fair market value of any property that was foreclosed. Be sure to review the form closely, especially Box 2 (Debt Cancelled) and Box 7 (Fair Market Value) and notify your lender if any information is incorrect. Debt relief under this Act applies to debt forgiven between 2007 and 2012.

For additional information about the Mortgage Forgiveness Debt Relief Act, review Internal Revenue Service Publication 4681 at [www.irs.gov](http://www.irs.gov).

## **LIFE AFTER FORECLOSURE**

Foreclosure is not the end of the world. You can survive this and use what you have learned to improve your life both personally and financially. Most likely, you now face a limited income, substantial debts and an impaired credit history. However, it is important to recognize the temporary nature of your situation and utilize family and community resources to get back on track.

### **TAKE CARE OF YOURSELF**

If you are feeling sad, hopeless or are having self-destructive thoughts, get help immediately. Crisis counselors are available 24 hours a day, seven days a week at:

#### **Suicide Prevention Hotlines**

**National Hopeline Network**  
(800) SUICIDE (800-784-2433)

**National Suicide Prevention Lifeline**  
(800) 273-TALK (8255)

To find a local hotline, check your phone book.

#### **Other Mental Health Resources**

**Suicide Prevention Action Network of Idaho (SPAN)**  
[www.spanidaho.org](http://www.spanidaho.org)

**Idaho 2-1-1 Careline**  
Telephone: 211 or (800) 926-2588  
[www.idahocareline.org](http://www.idahocareline.org)

**National Suicide Prevention Lifeline**  
[www.suicidepreventionlifeline.org](http://www.suicidepreventionlifeline.org)

**National Institute of Mental Health**  
[www.nimh.nih.gov](http://www.nimh.nih.gov)

#### **National Alliance on Mental Illness**

Idaho Telephone: (800) 572-9940  
Information Helpline: (800) 950-NAMI  
[www.nami.org](http://www.nami.org)

#### **Military and Veterans Resources:**

**Air Force Suicide Prevention Program**  
[afspp.afms.mil](http://afspp.afms.mil)

**Army Suicide Prevention Program**  
(703) 604-0620  
E-mail: [g1suicide@conus.army.mil](mailto:g1suicide@conus.army.mil)  
[www.armyg1.army.mil](http://www.armyg1.army.mil)

**Coast Guard Suicide Prevention**  
Employee Assistance Program  
(800) 222-0364  
[www.uscg.mil](http://www.uscg.mil)

**Marine Corp. Suicide Prevention**  
Military OneSource  
(800) 342-9647  
[www.usmc-mccs.org](http://www.usmc-mccs.org)

**Navy Suicide Prevention Program**  
[www.npc.navy.mil](http://www.npc.navy.mil)

**United States Department of Veterans  
Affairs**  
[www.mentalhealth.va.gov](http://www.mentalhealth.va.gov)

## **Covering the Basics**

Meeting your basic needs, such as food, health care and housing costs, is the first step in a financial crisis. Community resources are available if you need financial assistance or personal support.

**Food/Cash/Assistance.** The Idaho Department of Health and Welfare offers assistance to families who need temporary assistance to get back on the road to self-reliance. For information about available programs, visit [www.healthandwelfare.idaho.gov](http://www.healthandwelfare.idaho.gov) or call your local Department of Health and Welfare office.

**Housing.** The Idaho Housing & Finance Association assists families in finding affordable housing. For more information, visit [www.ihfa.org](http://www.ihfa.org). You can find additional housing resources in Idaho at [www.hud.gov](http://www.hud.gov).

**Prescription Medication.** RxIdaho can help you find affordable prescription medication assistance. Visit [www.rxidaho.gov](http://www.rxidaho.gov) or call (888) 477-2669 for additional information.

## **IMPROVING YOUR FINANCIAL SITUATION**

Once your basic needs are met, you can focus on your finances. Most likely, you will need to change your spending and saving habits. Planning is essential to sustaining financial stability. If you need assistance with budgeting and goal setting, meet with a qualified, non-profit financial (debt) counselor.

For a list of agencies that engage in money debt counseling, visit [www.hud.gov](http://www.hud.gov) and access the Idaho webpage. You also can locate a credit counselor by calling HUD at (800) 569-4287 or by visiting the National Foundation for Credit Counselors' website at [www.nfcc.org](http://www.nfcc.org). The NFCC publishes several financial self-help guides and is available by phone at (800) 388-2227. The Idaho Department of Finance licenses credit counselors. Visit [finance.idaho.gov](http://finance.idaho.gov) to verify that the counselor you have selected is licensed in Idaho and is in good standing with the Department of Finance.

## **AVOIDING FUTURE FINANCIAL PITFALLS**

You cannot cure your financial woes overnight, but giving up on a plan or trying to find an easy way out is not the answer. It is essential that you avoid the spending and lending traps of "fringe financial services." Payday loans and paycheck cashers, car title loans, tax refund anticipation loans and rent-to-own agreements are dangerous traps that can suck you deeper into debt. High-risk lenders charge very high interest rates, and you will end up paying substantially more for merchandise you purchase at a rent-to-own store. It is best to avoid these high-cost lenders altogether.

If you decide to use one of these lenders, check with the Idaho Department of Finance to find out if a company offering these services is required to be licensed under Idaho law and if the company is licensed.

## **MORTGAGE RESCUE SCHEMES**

With the increasing number of foreclosures, fraud perpetrators have boundless opportunities to exploit homeowners who are seeking financial help and who are desperate to save their homes. To make fast profits, fraudulent mortgage rescue companies use half-truths and lies to sell services that they never deliver. Such schemes may result in the loss of your home.

The Attorney General has received consumer complaints about mortgage rescue scammers who:

- Represent they are government agencies or have government approval;
- Advertise they are attorneys or have attorneys working for them when they don't;
- Claim they are licensed or BBB-certified when they aren't;
- Claim they have special or insider relationships with mortgage servicers when they don't;
- Advertise ridiculously high success rates;
- Purposefully stall the modification process by:
  - Requiring the consumer to resend documents previously provided;
  - Refusing to return the consumer's calls or e-mails;
  - Continually transferring the consumer's file to new agents;
  - Blaming the mortgage servicer for "losing" a consumer's file; and
  - Requiring additional fees from the consumer.
- Tell the consumer to stop making payments to the mortgage company;
- Instruct consumers to ignore delinquency, foreclosure, sale or other notices;
- Continue to collect money from the consumer for services never provided;
- Fail to employ experienced, trained mortgage modification specialists;
- Allow the consumer's home to be sold without informing the consumer;
- Turn the consumer into a tenant in the consumer's own home;
- Wipe out any equity the consumer has in the home;
- Instruct their employees to make promises to the consumer that the company has no ability or intent to satisfy;
- Pay refunds with rubber checks; and
- Fail to contact the consumer's mortgage company to negotiate a modification.

Do not become a victim of a mortgage rescue scam. Free help is available from qualified housing counselors. Call (888) 995-HOPE or visit [www.hud.gov](http://www.hud.gov) to locate a counselor.

The sooner you take action, the better chance you have of saving your home. Do not believe anyone who tells you to ignore calls or letters from your mortgage servicer.

The Attorney General coordinates with the U.S. Department of the Treasury, the U.S. Department of Justice, the Department of Housing and Urban Development, the Federal Trade Commission, the Idaho Department of Finance and other state agencies in fraud investigations, enforcement actions and consumer education opportunities. If you lose money to a mortgage modification scam, you can file a consumer complaint with the Consumer Protection Division. Complaint forms are available at [www.ag.idaho.gov](http://www.ag.idaho.gov) or by calling the office.

You also can file a complaint with the Idaho Department of Finance, which licenses debt counselors and for-profit mortgage modification service providers. The Department has authority to initiate administrative actions against entities whose business practices fall within laws the department administers. For information about filing a complaint and what types of entities are licensed by the Department of Finance, go to [finance.idaho.gov](http://finance.idaho.gov).

## DECEPTIVE ADVERTISEMENTS

Mortgage rescue companies sift through public foreclosure notices in newspapers, at courthouses and on the Internet to find targets. The companies send personalized letters instructing you to call the company in order to “save” your home from foreclosure.

Companies also advertise on the Internet, television and in the newspaper. They staple posters to telephone poles and bus stops and leave flyers on doorsteps. These ads contain intimidating language designed to convince you that the only way to save your home is to call the “rescue” company. Mortgage rescue companies may include in their ads false court case numbers and bank names to make you believe the court or your mortgage company generated the notice.

An example of a typical direct-mail ad is:

<p>National Bank, N.A. <b><u>IMPORTANT NOTICE</u></b></p>
<p>Jane Doe 1900 Estate Drive Idaho Falls, ID 83404</p>
<p>Re: Case No. 123-1234</p>
<p><b>Your Home Will be Sold at Auction!</b></p>
<p>Our team of loss mitigation specialists has decades of experience and a 100% success rate. We will save your home and your credit! Call now!</p>
<p><b>Don't Wait Another Minute!</b> <b>(800) 555-3100</b></p>
<p>Joe Smith Foreclosure Specialist</p>

## **LOAN MODIFICATION NEGOTIATORS**

Enter the phrase “loan modification” into any Internet search engine and you will receive dozens of hits for companies claiming they can negotiate a mortgage modification with your lender. First, however, you must authorize a withdrawal from your credit card or send a money order for hundreds of dollars. Don’t do it.

Be very cautious before paying someone to negotiate with your mortgage servicer or your other creditors and always insure that they are licensed by the Idaho Department of Finance.

Everything a mortgage modification consultant or credit counselor can do for a fee, you or a housing counselor can do for free.

The federal Making Home Affordable program helps eligible homeowners refinance or modify their mortgages. Making Home Affordable is free. A mortgage servicer or housing counselor can assist you in taking advantage of the program. For more information, visit [www.makinghomeaffordable.gov](http://www.makinghomeaffordable.gov) or call (888) 995-HOPE.

Unfortunately, the program has attracted a slew of scammers who falsely claim the government has approved their fee-based services. A business that represents an affiliation with the Making Home Affordable program or the HOPE Now program is violating state and federal laws. Report these scammers to the Attorney General’s Consumer Protection Division.

Never stop paying your mortgage or stop talking to your servicer on the advice of a loan modification counselor. If you are delinquent or at risk of becoming delinquent on your mortgage, don’t make the problem worse by ignoring your servicer. Call your servicer’s toll-free number and explain your situation.

If you are unable to negotiate a modification on your own, contact a HUD approved housing counselor who is trained to negotiate with lenders. Taking these pro-active, cost-free steps, rather than handing over your money to an Internet advertiser, not only saves you hundreds of dollars, it is more likely to save your home from foreclosure.

The Attorney General recognizes how easy it is to believe the promises of so-called debt modification consultants. Although you want to trust that the person advertising to “help” you would never take advantage of you, now is not the time to trust in the kindness of strangers. You may be risking your home and financial future when you send money to modification negotiators doing business in Idaho without being licensed by the Department of Finance.

Debt and credit counselors that service Idahoans must be licensed. To verify a company’s licensing status, visit [finance.idaho.gov](http://finance.idaho.gov). Keep in mind, however, that simply because a company is licensed does not mean that it can negotiate a loan modification in every case.

## **BAIT AND SWITCH**

You think you are signing documents for a new loan to bring your mortgage current. What you really sign is an agreement surrendering your home to the scammer in exchange for a fictitious loan.

## **TENANT/BUY-BACK SCHEME**

You are told that if you sign a quitclaim deed transferring your home to the scammer, the mortgage will be paid, and you can continue living in your house. You are also told that the scammer will deed the house back to you once you qualify for refinancing.

This scheme turns you into a tenant in your own home. As a tenant, you can be evicted for failing to pay the monthly “rent,” which usually is higher than your monthly mortgage payment. Even though you no longer own the home, you remain responsible for paying the mortgage.

Most mortgage agreements prohibit a third party from assuming a mortgage, but scammers typically ignore this prohibition and tell you not to disclose the mortgage assumption to your lender. Before entering into any mortgage assumption agreement, you should contact your mortgage lender. The third party’s claim that the assumption is allowed by the lender does not make it so.

## **MORTGAGE ELIMINATION SCHEMES**

The company advertises that it is possible to avoid paying the mortgage loan based on the ridiculous legal argument that, because the mortgage transaction was merely a “paper” transaction involving no exchange of funds, the loan does not exist. Therefore, according to the company, you have no duty to repay the loan. Of course, the only way to obtain access to the company’s secret mortgage-elimination method is to send the company a large fee.

## **IDAHO MORTGAGE FRAUD LAWS**

### **IDAHO CONSUMER FORECLOSURE PROTECTION ACT**

Recognizing the damage that fraudulent mortgage rescue companies cause homeowners, the Idaho Legislature enacted the Idaho Consumer Foreclosure Protection Act. The Act requires certain businesses to include written disclosures in certain contracts with you if you are facing foreclosure on your home.

Contracts must include a notice informing you about the consequences of entering into a foreclosure rescue contract. The notice must be printed in 12-point bold type on 8½" x 11" paper. The notice provides information about other resources you can consult and informs you that you have a right to cancel the contract within five days of signing it. For detailed information about the law and copies of the required notices, visit [www.ag.idaho.gov](http://www.ag.idaho.gov).

### **IDAHO CONSUMER PROTECTION ACT AND RULES**

Title 48, Chapter 6, of the Idaho Code and the rules enacted under it prohibit unfair or deceptive acts or practices in the conduct of trade or commerce within the state. For example, companies must disclose all material terms and conditions of an offer and must be able to substantiate the information in their advertisements. Also, they must not engage in bait-and-switch activities.

## **The Attorney General's Enforcement Authority**

The Attorney General is authorized to enforce the Idaho Consumer Protection Act and the Idaho Rules of Consumer Protection. The Act authorizes the Attorney General to file an action against a business or an individual if the Attorney General has reason to believe that the business or individual violated the Act or the Rules. In his lawsuit, the Attorney General can request that the court, among other things:

- Declare that the defendant violated the Act;
- Enjoin the defendant from doing business in Idaho;
- Revoke the defendant's license to practice or do business in Idaho;
- Order the defendant to pay restitution to injured consumers;
- Order the defendant to pay civil penalties of up to \$5,000 for each violation of the Act; and
- Order the defendant to pay the Attorney General's fees and costs.

The Attorney General accepts complaints from Idaho consumers or out-of-state consumers complaining about an Idaho business. The Attorney General offers an informal and voluntary dispute resolution process for Idaho consumers whereby the Attorney General forwards the complaint to the business for a written response within 21 days. If the Attorney General receives a response from the business, he will send it to the consumer.

The Attorney General cannot force a business to respond to or resolve a complaint. However, the Attorney General has found that, in the past, communication from his office helps facilitate a more open and productive discussion between the parties, thereby bringing about a successful resolution.

Complaint forms are available at [www.ag.idaho.gov](http://www.ag.idaho.gov) or by calling the Attorney General's Consumer Protection Division.

## **Idaho Code § 48-608: Private Consumer Rights**

### **Voiding an Unlawful Contract**

Idaho Code § 48-608 allows you, as a consumer, to treat any agreement, including a written contract, as voidable if you lose money or property because of another's violation of the Consumer Protection Act. This means you can cancel a contract with a business if the business engages in a deceptive act or practice that causes you to lose money or property. However, to prevent a legal action against you for canceling a lawful contract, you should consult with a private attorney before you void a contract.

### **Filing a Private Lawsuit**

You also have a right to file an individual or class action against a business for deceptive acts and practices, including misleading advertising. In a lawsuit under Idaho Code § 48-608, you can ask the court to order payment of restitution and, in certain situations, punitive damages.

Idaho Code § 48-608(2) allows elderly or disabled persons to seek a higher penalty against an alleged violator of the Act. If the court determines that the defendant had reason to know or should have known that the victim was an elderly or disabled person, and that the defendant caused the victim a certain amount of injury, the victim can recover \$15,000 or triple his actual damages, whichever is greater.

For purposes of this section only, an elderly person is defined as a person aged 62 or older. A disabled person is someone who suffers from a physical, mental or emotional impairment that substantially limits a major life activity.

Speak with a private attorney for additional information about the Consumer Protection Act and whether it applies to your situation. The Attorney General cannot give you legal advice or recommend a course of action.

## **IDAHO RESIDENTIAL MORTGAGE PRACTICES ACT**

The Idaho Department of Finance enforces the Idaho Residential Mortgage Practices Act (Title 26, Chapter 31, Idaho Code). The Act applies to mortgage brokers, mortgage lenders, mortgage loan originators and for-profit mortgage service providers. It requires them to obtain a license before operating in the state. The Act incorporates relevant federal laws, including the Real Estate Settlement Procedures Act and the Home Ownership Equity Protection Act. The Department of Finance has authority to bring legal actions against those who violate the Act or federal mortgage laws. If you believe a mortgage broker, mortgage lender or mortgage loan originator violated the Act, you should file a consumer complaint with the Department of Finance, which accepts complaints by mail or on its website at [finance.idaho.gov](http://finance.idaho.gov).

## **WHO REGULATES MY SERVICER?**

Financial regulation is complicated, and determining which government agency is responsible for regulating a certain financial institution or company offering financial services can be difficult. If you are unsure what government agency regulates your servicer, review the “Frequently Asked Questions” at the end of this manual.

## **OTHER FEDERAL MORTGAGE FRAUD LAWS**

### **THE FRAUD ENFORCEMENT AND RECOVERY ACT (FERA)**

FERA gives the Department of Justice broad criminal authority to prosecute mortgage fraud involving financial institutions, including mortgage brokers and other lenders. The Act helps reduce mortgage companies’ ability to manipulate the market. For example, FERA makes it a crime to overvalue a property in order to influence the actions of a mortgage lender.

### **THE HELPING FAMILIES SAVE THEIR HOME ACT**

To make it easier to determine who owns your mortgage loan, the Helping Families Save Their Home Act requires the servicer to notify you whenever your loan is sold or transferred. The Act also expands the reach of certain federal foreclosure-prevention programs, such as the Making Home Affordable Program.

The Act protects tenants in homes with pending foreclosure from premature eviction. Banks must honor existing leases or provide month-to-month tenants with at least 90 days notice.

## FREQUENTLY ASKED QUESTIONS

- 1. I've tried to contact my servicer to discuss why I can't afford my mortgage payment, but no one will call me back when I leave a message. I've spent hours on hold and have been transferred to people who don't know anything about mortgage modification programs. What do I do now?**

Do not give up. Servicers are overwhelmed with customer calls and might not have enough trained employees to respond to every person's question immediately. However, there is no excuse for simply ignoring a customer's request for modification consideration.

You need to do your own research so you know what your options are. The Internet is the best place to find information. If you don't have a computer, go to your nearest public library or ask a friend or family member to help you.

You can visit the federal government's Making Home Affordable website at [www.makinghomeaffordable.gov](http://www.makinghomeaffordable.gov). Follow the instructions for determining whether your loan is eligible for refinancing or modification under the Making Home Affordable programs.

Visit your servicer's website and locate its "mortgage payment" page. Typically, a servicer includes a link on the page directing borrowers to mortgage modification information. Look for links such as: "Struggling to Pay Your Mortgage?"; "Making Home Affordable;" "Home Retention Options;" or "Avoid Foreclosure." Larger servicers have set up special departments to handle mortgage modification requests. Always call the number for that department rather than the general customer service number.

Contact a housing counselor. Call (888) 995-HOPE for information about counselors in your area. Never pay someone to negotiate with your mortgage company!

- 2. My servicer won't cooperate with me or my housing counselor, and I want to file a complaint with the government. Can I file a complaint?**

If you and your counselor can't obtain assistance from your servicer, and you believe you qualify for a modification, you can file a complaint with the government agency that regulates your servicer.

The fastest way to find out what government agency regulates your servicer is to call your servicer and ask. You also can refer to the following general guidelines:

Servicer	Description	Agency
Federal Credit Union	Any credit union with "federal" in its name or located in DE, DC, SD, or WY.	Nat'l Credit Union Admin. <a href="http://www.ncua.gov">www.ncua.gov</a>
Federally-Chartered Savings Bank	Any savings bank with "federal" or "F.S.B" in its name.	Office of Thrift Supervision <a href="http://www.ots.gov">www.ots.gov</a>

Servicer	Description	Agency
Federal Savings & Loan	Any S&L with “federal” in its name.	Office of Thrift Supervision <a href="http://www.ots.gov">www.ots.gov</a>
Idaho State Bank	Must be chartered (licensed) by the Department of Finance.	Department of Finance <a href="http://finance.idaho.gov">finance.idaho.gov</a>
Idaho Credit Union	Any credit union located in Idaho that isn’t a federal credit union.	Department of Finance <a href="http://finance.idaho.gov">finance.idaho.gov</a>
National Bank	Any bank with “national” or “N.A.” in its name.	Comptroller of the Currency <a href="http://www.occ.gov">www.occ.gov</a>
State Bank	Is regulated by either the Federal Reserve or the FDIC. A state office also may have regulatory authority. (See <a href="http://www.csbs.org">www.csbs.org</a> for contact information.)	Federal Reserve Board <a href="http://www.federalreserve.gov">www.federalreserve.gov</a> Federal Deposit Ins. Corp. <a href="http://www.fdic.gov">www.fdic.gov</a>
State Credit Union	Any credit union that isn’t a federal credit union.	State Regulatory Authority <a href="http://www.csbs.org">www.csbs.org</a>
Lenders not otherwise listed	Includes private lenders and credit reporting agencies.	Federal Trade Commission <a href="http://www.ftc.gov">www.ftc.gov</a>

You can visit [www.ffiec.gov](http://www.ffiec.gov) to search for your servicer’s federal regulator, if applicable. Click on the regulator’s link for information about how to file a complaint.

Contact the Idaho Department of Finance to find out if the Department licenses the servicer. Instructions for filing a complaint with the Department are available at [finance.idaho.gov](http://finance.idaho.gov).

If your servicer is Bank of America (formerly Countrywide Financial Corporation), you can file a complaint with the Attorney General’s Office. (The office forwards complaints against national banks or Idaho banks to the appropriate regulating authority for a response.)

### 3. Isn’t my servicer required by law to modify my mortgage if I can’t afford it?

No. You entered into a contract in which you promised to repay your loan in full according to the terms outlined in your promissory note. This is a binding, legal agreement between you and your lender. If you don’t fulfill your obligation, you can lose your home, your down payment, all of the money you have paid on the loan and all of the fixed improvements to your home. Your credit rating will plummet, and you might have to pay a deficiency judgment if your home sells for less than what you owe.

However, you do have options. Servicers that participate in the federal Making Home Affordable program are required to modify (or refinance) eligible loans. In addition, Bank of America (formally Countrywide Financial Corporation) entered into an agreement with the Attorney General and the Idaho Department of Finance wherein Bank of America must consider certain high-risk loans for modification.

**4. Do I have to miss a certain number of payments in order to qualify for a modification?**

No. Don't believe anyone who tells you to stop paying your mortgage. If you can afford to make your payment or even a partial payment, do it. Continuing to pay on your mortgage demonstrates to your servicer that you are committed to keeping your home.

**5. I received a flyer on my door offering to stop the pending foreclosure on my home. Can these people really help me?**

Probably not. Mortgage predators are scouring the foreclosure notices in newspapers to find potential victims. Don't fall for their expensive promises. You can talk to a housing counselor for free by calling (888) 995-HOPE.

**6. I paid a company to negotiate a modification of my loan and sent the company all of my personal information. Now I can't contact anyone and nobody has talked to my mortgage servicer about a modification. What should I do now?**

First, and most importantly, you must contact your servicer and begin the negotiation process on your own. You also can speak with a housing counselor about your options by calling (888) 995-HOPE.

File a complaint with the Idaho Department of Finance. If you paid with a credit card, and the company did not provide the service, you also should "dispute" the charge with your credit card company.

Because your personal financial information is compromised, you need to take action to limit the potential consequences of its exposure. Place a security freeze on your credit by contacting at least one of the three major credit reporting agencies and requesting a freeze. If you are aware of an instance of identity theft, report it to local law enforcement and use the police report to obtain a free credit freeze. Continue to monitor your credit on a regular basis for unusual activity. You can obtain a free credit report once a year at [www.annualcreditreport.com](http://www.annualcreditreport.com).

You should file a complaint about the financial consultant with the Attorney General's Office and provide as much information about the transaction as possible. You also can file a complaint with the Federal Trade Commission. If the financial consultant made misrepresentations about its affiliation with any of the federal government's mortgage refinance/modification programs, file a complaint with the Special Inspector General of the Troubled Asset Relief Program (SIGTARP) at [www.sig tarp.gov](http://www.sig tarp.gov).

**7. I can't afford my payments and don't really want to go through the modification process. Can I just walk away from my house?**

Yes, but just because you can, doesn't mean you should. If you abandon your home, you are breaking your contract to repay your loan. You will lose thousands of dollars, ruin your credit and put yourself on the hook for a deficiency judgment.

You also should consider the devastation that home abandonment has on your neighbors and

your community. Abandoned homes drain the beauty, the energy and the value from surrounding properties.

Abandoning your home is never a good decision. Talk to a housing counselor about your options. There are ways to exit gracefully, including:

- **Selling the property.** This is the best option, because you might be able to recover your equity.
- **Assumption of the loan.** Check your loan documents to see if another borrower can take over your payments.
- **A short sale.** If you owe more than your home is worth, you can use the sale proceeds to pay as much of the balance as possible. You must have your lender's and your insurer's approval to do a short sale.
- **A deed-in-lieu of foreclosure.** You transfer the property to the servicer if you can't sell it within a specified time, usually 90 days. Tax consequences may apply.
- **Bankruptcy.** You can file Chapter 7 or Chapter 13 bankruptcy if you need additional time to pay off a delinquency or if you need to restructure your debt.

## APPENDIX A

### RESOURCES

The following resources are provided for your convenience and do not constitute an exhaustive list of available resources. If you have questions about the foreclosure process, how to avoid foreclosure or any of your legal rights and options, speak with a HUD-approved housing counselor, an attorney and/or an experienced, trusted financial advisor.

#### **Bankruptcy**

##### **American Bankruptcy Institute**

44 Canal Center Plaza, Ste. 400  
Alexandria, VA 22314  
(703) 739-0800  
[www.abiworld.org](http://www.abiworld.org)

##### **Idaho Bankruptcy Court (Boise Office)**

U.S. Courts  
550 W. Fort St.  
Room 400  
Boise, ID 83724  
(208) 334-1074  
[www.id.uscourts.gov](http://www.id.uscourts.gov)

##### **National Association of Consumer Bankruptcy Attorneys (Attorney Finder)**

2300 M St., Ste. 800  
Washington, DC 20037  
(408) 350-1173  
[www.nacba.org](http://www.nacba.org)

#### **Consumer Advocacy**

##### **Better Business Bureau (E. Idaho)**

453 River Parkway  
Idaho Falls, ID 83402-3615  
(208) 523-9754  
[www.idahofalls.bbb.org](http://www.idahofalls.bbb.org)

##### **Better Business Bureau (N. Idaho)**

152 S. Jefferson, Ste. 200  
Spokane, WA 99201-4352  
(509) 455-4200  
[www.spokane.bbb.org](http://www.spokane.bbb.org)

##### **Better Business Bureau (S.W. Idaho)**

4355 Emerald St., Ste. 290  
Boise, ID 83706  
(208) 342-4649  
[www.boise.bbb.org](http://www.boise.bbb.org)

##### **National Association of Consumer Advocates**

1730 Rhode Island Ave. NW, Ste. 710  
Washington, DC 20036  
(202) 452-1989  
[www.naca.net](http://www.naca.net)

#### **Consumer Credit**

##### **Annual Free Credit Report**

(available free once per year)  
(877) 322-8228  
[www.annualcreditreport.com](http://www.annualcreditreport.com)

##### **Equifax**

Office of Consumer Affairs  
PO Box 105851  
Atlanta, GA 30348  
(800) 685-1111  
[www.equifax.com](http://www.equifax.com)

##### **Experian**

National Consumer Assistance Center  
PO Box 2104  
Allen, TX 76013  
(888) 397-3742  
[www.experian.com](http://www.experian.com)

**National Foundation for Credit Counseling**

801 Roeder Rd., Ste. 900  
Silver Spring, MD 20910  
(800) 388-2227  
[www.nfcc.org](http://www.nfcc.org)

**TransUnion, LLC**

PO Box 1000  
Chester, PA 19022  
(800) 888-4213  
[www.transunion.com](http://www.transunion.com)

**Consumer Education****Center for Responsible Lending**

1330 Broadway, Ste. 604  
Oakland, CA 94612  
(510) 379-5500  
[www.responsiblelending.org](http://www.responsiblelending.org)

**Consumer Federation of America**

1620 I St., Ste. 200  
Washington, DC 20006  
(202) 387-6121  
[www.consumerfed.org](http://www.consumerfed.org)

**Consumers Union**

101 Truman Ave.  
Yonkers, NY 10703-1057  
(914) 378-2000  
[www.consumersunion.org](http://www.consumersunion.org)

**Mortgage Asset Research Institute**

11654 Plaza America Dr.  
Box 553  
Reston, VA 20190  
(866) 676-6274  
[www.marisolutions.com](http://www.marisolutions.com)

**Mortgage Electronic Registration System**

1818 Library St., Ste. 300  
Reston, VA 20190  
(800) 646-6377  
[www.mersinc.org](http://www.mersinc.org)

**National Consumer Law Center**

7 Winthrop Square  
Boston, MA 02110  
(617) 542-8010  
[www.consumerlaw.org](http://www.consumerlaw.org)

**U.S. Foreclosure Network**

14471 Chambers Rd., Ste. 260  
Tustin, CA 92780  
(800) 635-6128  
[www.usfn.org](http://www.usfn.org)

**Legal Assistance****Idaho State Bar Lawyer Referral Service**

525 W. Jefferson St.  
PO Box 895  
Boise, ID 83702  
(208) 334-4500  
[www.state.id.us/isb](http://www.state.id.us/isb)

**Boise Legal Aid**

310 N. 5th St.  
PO Box 913  
Boise, ID 83701  
(208) 342-0106  
[www.idaholegalaid.org](http://www.idaholegalaid.org)

**Caldwell Legal Aid**

1104 Blaine St.  
PO Box 1116  
Caldwell, ID 83606  
(208) 454-2591

**Coeur d'Alene Legal Aid**

410 Sherman Ave., No. 303  
Coeur d'Alene, ID 83814  
(208) 667-9559

**Idaho Falls Legal Aid**

482 Constitution Way, Ste. 101  
Idaho Falls, ID 83402  
(208) 524-3660

**Lewiston Legal Aid**

633 Main St.  
Lewiston, ID 83501  
(208) 743-1556

**Pocatello Legal Aid**

150 S. Arthur, No. 203  
Pocatello, ID 83204  
(208) 233-0079

**Twin Falls Legal Aid**

475 Polk  
Twin Falls, ID 83303  
(208) 734-7024

**Mortgage Financing****Federal National Mortgage Association  
(Fannie Mae)**

3900 Wisconsin Ave. NW  
Washington, DC 20016-2892  
(800) 732-6643  
[www.fanniemae.com](http://www.fanniemae.com)

**Federal Home Loan Mortgage Corp.  
(Freddie Mac)**

Jones Branch Dr.  
Freddie Mac Campus  
McLean, VA 22101  
(800) 336-3672  
[www.freddiemac.com](http://www.freddiemac.com)

**Gov't National Mortgage Association  
(Ginnie Mae)**

451 7th St. SW, Room B-133  
Washington, DC 20410  
(202) 708-1535  
[www.ginniemae.gov](http://www.ginniemae.gov)

**Mortgage Bankers Association**

1313 L Street NW  
Washington, DC 20006-3404  
(202) 557-2700  
[www.mbaa.org](http://www.mbaa.org)

**Mortgage Rate Information**

[www.bankrate.com](http://www.bankrate.com)

**U.S. Department of Veterans Affairs**

Consumer Affairs Service  
810 Vermont Ave. N.W.  
Washington, DC 20420  
(800) 827-1000

[www.va.gov](http://www.va.gov)

**Mortgage Insurers****Mortgage Guaranty Insurance Corp.**

PO Box 488  
Milwaukee, WI 53201  
(800) 558-9900  
[www.mgic.com](http://www.mgic.com)

**PMI Group, Inc.**

U.S. Headquarters - PMI Plaza  
3003 Oak Rd.  
Walnut Creek, CA 94597  
(800) 966-4764  
[www.pmigroup.com](http://www.pmigroup.com)

**Government Agencies****Federal Reserve Board**

Consumer Help  
PO Box 1200  
Minneapolis, MN 55480  
(888) 851-1920  
[www.federalreserveconsumerhelp.gov](http://www.federalreserveconsumerhelp.gov)

**Federal Trade Commission**

Consumer Response Center  
600 Pennsylvania Ave. N.W.  
Washington, DC 20580  
(877) 382-4357  
[www.ftc.gov](http://www.ftc.gov)

**Financial Crimes Enforcement Network**

General Inquiry Line  
United States Department of the Treasury  
(703) 905-3591  
[www.fincen.gov](http://www.fincen.gov)

**Idaho Attorney General's Office**

Consumer Protection Division  
954 W. Jefferson, 2nd Floor  
PO Box 83720  
Boise, ID 83720-0010  
(208) 334-2424  
(800) 432-3545  
[www.ag.idaho.gov](http://www.ag.idaho.gov)

**Idaho Department of Finance**

800 Park Blvd., Ste. 200  
PO Box 83720  
Boise, Idaho 83720-0031  
(208) 332-8000  
[finance.idaho.gov](http://finance.idaho.gov)

**Idaho Housing & Finance Association**

565 W. Myrtle  
Boise, ID 83702  
(877) 888-3135  
[www.ihfa.org](http://www.ihfa.org)

**National Credit Union Administration**

1775 Duke St.  
Alexandria, VA 22314-3428  
(800) 755-1030  
[www.ncua.gov](http://www.ncua.gov)

**Special Inspector General of the  
Troubled Asset Relief Program**

1500 Pennsylvania Ave. N.W.  
Ste. 1064  
Washington, D.C. 20220  
(877) SIG-2009  
[www.sigtarp.gov](http://www.sigtarp.gov)

**U.S. Comptroller of the Currency**

Customer Assistance Group  
1301 McKinney St., Ste. 3450  
Houston, TX 77010  
(800) 613-6743  
[www.occ.treas.gov](http://www.occ.treas.gov)

**U.S. Housing and Urban Development**

800 Park Blvd., Plaza IV, Ste. 220  
Boise, ID 83712-7743  
(208) 334-1990  
[www.hud.gov](http://www.hud.gov)

**U.S. Office of Thrift Supervision**

Compliance Policy  
1700 G St., NW  
Washington, DC 20552  
(800) 842-6929  
[www.ots.treas.gov](http://www.ots.treas.gov)

**Senior Citizens****AARP of Idaho**

3080 E. Gentry Way, Ste. 100  
Meridian, ID 83642  
(866) 295-7284  
[www.aarp.org](http://www.aarp.org)

**Idaho Commission on Aging**

3380 Americana Terrace  
Boise, ID 83706  
(208) 334-3833  
[www.idahoaging.com](http://www.idahoaging.com)

**Idaho Senior Legal Hotline**

(866) 345-0106

## APPENDIX B

### GLOSSARY OF MORTGAGE TERMS

**Adjustable rate mortgage (ARM).** A mortgage loan in which the interest rate can be adjusted at specified intervals. For example, with a 2/28 ARM loan, the interest rate is fixed at a relatively low or “teaser” rate for two years and then resets to a higher interest rate at the beginning of the third year.

**Amortization.** The gradual repayment of a mortgage loan through installment payments. An “amortization schedule” shows the amount of each payment applied to the principal and the amount applied to the interest.

**Annual percentage rate (APR).** The interest rate on a loan determined under rules required by federal law.

**Appraisal.** A written estimate of the property’s market value at a certain point in time. Idaho licenses three different types of appraisers.

**Arrearage.** The amount of money that is unpaid and overdue on a mortgage loan.

**Assumption.** A third party takes over the payments of a homeowner’s mortgage loan. The homeowner usually quitclaims the home to the third party, thereby transferring ownership of the property to the third party. Many mortgage contracts specifically prohibit assumptions without the lender’s consent.

**Balloon payment.** A payment that is larger than the normal payment amount and usually is paid at the end of the mortgage payment term in order to pay off the loan. Federal and state laws prohibit certain loans from requiring a balloon payment.

**Capitalization.** Adding unpaid interest to the mortgage loan principal, which increases the principal amount of the loan and its total cost.

**Closed-end loan.** A loan with a fixed term or end date.

**Collateral.** The property a borrower pledges to secure a loan. A creditor usually can take and sell the collateral if the borrower fails to repay the loan.

**Convertible ARM.** An adjustable rate mortgage loan that can be converted into a fixed-rate mortgage during a certain time period.

**Cure a default.** If a borrower fails to make the required payments on a loan, the borrower is in default. The process by which the borrower catches up on the missed payments is referred to as curing the default or reinstatement.

**Debt-to-Income Ratio.** The maximum percentage amount of a borrower’s gross monthly income that can be used for a monthly house payment plus all other debts.

**Deed.** A legal document by which title to property is transferred.

**Deed in lieu of foreclosure.** The lender accepts the deed to the borrower's home so that the borrower and lender can avoid foreclosure proceedings.

**Default.** When a borrower fails to make the required payments on a loan.

**Deficiency judgment.** A personal judgment against the borrower for the amount that remains due on the mortgage loan after the home is sold at the foreclosure sale. In other words, if the mortgage lender is unable to sell the home for at least the remaining balance of the loan, the lender can force the borrower to pay the difference between the loan balance and the selling price.

**Deferred payments.** Loan payments that are postponed as part of loan modification or workout process to avoid foreclosure.

**Delinquency.** Failure to make a loan payment when it is due. A loan usually is considered delinquent when it is 30 or more days past due.

**Due-on-demand clause.** A term in a mortgage agreement that allows the creditor to terminate the loan before the original end date and require the borrower to repay the entire outstanding balance.

**Due-on-sale clause.** A term in a mortgage agreement that requires the loan to be paid in full if the property is sold or transferred.

**Earnest money.** Money that the buyer pays to the seller when an offer to purchase is made. The money is held in the real estate broker's trust account until closing. It then is credited to the buyer's funds on the HUD-1 settlement statement.

**Equity.** The amount of cash a homeowner would keep if the owner sold his or her home and paid off all of the liens. For example, if the owner's home is worth \$200,000, but the owner owes the lender \$100,000 on the first mortgage loan and \$25,000 on a home equity loan, the owner has only \$75,000 in equity ( $\$200,000 - \$100,000 - \$25,000 = \$75,000$ ).

**Equity stripping.** Mortgage refinance terms that maximize the lender's profit by increasing the borrower's loan balance and decreasing the borrower's equity in the property. The most common equity stripping loan term is charging excessive fees that are financed as part of the new loan.

**Escrow account.** A special account where a portion of the borrower's monthly payments are held and then used to pay home-related obligations like property taxes, homeowner association dues and insurance.

**Escrow review.** A periodic review of an escrow account to make sure it contains sufficient funds to pay the taxes and insurance on a home when they are due.

**Eviction.** A legal process that terminates a tenant's right to occupy a home.

**Forbearance.** An agreement between the borrower and the lender allowing the borrower to stop making the required mortgage loan payments for a certain amount of time.

**Foreclosure.** A legal process that results in the forced sale of a home because the borrower failed to make the required loan payments.

**Good faith estimate.** A written approximation of the costs and fees expected to be incurred in obtaining a loan.

**Grace period.** The time between the date on which a payment is due and the date on which a late fee is charged.

**Hardship letter.** A letter that the borrower writes to the mortgage loan servicer explaining what caused the borrower to fall behind in making the monthly mortgage payments. The borrower must have a legitimate reason, such as a job loss, a death in the family, an illness or disability or another acceptable reason. The hardship letter is one step in the workout process.

**Hazard insurance.** Insurance required by mortgage contracts to pay for the loss of or damage to the property.

**Home equity loan.** Any mortgage loan that is used for a purpose other than to purchase a home.

**Investment property.** Property that is not a primary residence and that is intended to generate money, appreciate value, or obtain certain tax benefits.

**Lender placed insurance.** Insurance that a lender places on a property to protect its interest in the collateral that secures the loan.

**Lis pendens.** A legal notice that warns the public that a piece of property is subject to a lawsuit and that any interest in the property that is obtained while the lawsuit is pending is subject to the lawsuit's outcome.

**Loan-to-Value Ratio (LTV).** A percentage comparison between the mortgage amount and the actual value (or selling price) of the property. For example, if a home has a market value of \$100,000 and a \$70,000 loan, the loan-to-value ratio is 70%.

**Mortgage.** An agreement in which a property owner grants a creditor the right to satisfy a debt by selling the property in the event of a default.

**Mortgage Broker.** An individual or a company that arranges financing for a home loan.

**Mortgage Loan Originator.** A person who, while acting on behalf of a mortgage broker or lender, solicits or receives residential mortgage loan applications, or offers or negotiates terms of residential mortgage loans. Idaho law requires that mortgage loan originators be licensed by the Idaho Department of Finance.

**Negative amortization.** Occurs when a borrower's payments do not cover the amount of interest accruing on a loan.

**Open-ended loan.** Commonly known as “revolving credit.” Payments on the loan replenish credit available to the consumer. Credit cards are an example of open-ended loans.

**Origination fee.** A fee paid to a lender for processing a loan application.

**Principal.** The original amount the consumer borrowed. It does not include interest or fees on the loan.

**Principal balance.** The amount still owed on the loan, not including interest and fees.

**Prepayment penalty.** A fee that may be charged by a lender if the borrower pays the loan off early.

**Private mortgage insurance (PMI).** Insurance, provided by private insurers, which protects lenders against loss if a borrower defaults on the loan.

**Quitclaim deed.** A legal document that releases a homeowner from any interest in his or her home and transfers the home “as is” to another.

**Rate lock.** While a mortgage loan application is pending, a rate lock secures the interest rate at a specific number for a specified amount of time. Some lenders require a fee from the borrower to “lock in” a rate.

**Reamortization.** A recalculation of a loan payment by a lender with loan terms that are different from the original loan terms. For example, a lender may modify a borrower’s 10-year loan after the borrower has paid for five years in order to lower the borrower’s payments.

**Redemption.** The legal right of homeowners to buy back their foreclosed properties by paying the balance owed on their delinquent mortgages, as well as any interest and fees.

**Refinance.** The process of paying off a loan with a new loan.

**Reverse mortgage.** A refinancing option available to homeowners with substantial equity in the home. Money is drawn based on the property’s value without an immediate repayment obligation because the lender expects repayment by sale of the property in the future.

**Securitization.** The process by which loans are pooled together and the interests in the pool are sold to investors.

**Servicer.** A business, often a bank or mortgage company, that accepts and records mortgage payments from borrowers, negotiates workout plans and supervises the foreclosure process.

**Short sale.** A sale in which the lender allows the homeowner to sell his or her home for less than the amount owed on the mortgage loan. The lender accepts the sale proceeds as full payment of the mortgage debt.

**Subprime loans.** Types of loans that are designed to provide credit to borrowers with no credit history or past credit problems. Subprime loans have more expensive terms, such as higher interest rates and fees, than conventional loans.

**Title.** The documented evidence that a person or an organization owns a piece of real property.

**Underwriting.** The process of applying lending standards to the qualifications of a particular loan applicant.

**Valuation.** The process of estimating the value of a piece of property, normally done through an appraisal.

**Variable rate mortgage.** A mortgage loan where the interest rate changes over time and can affect the amount of the borrower's monthly payments.

**Work out.** A term used to describe the informal process for restructuring a loan in order to avoid foreclosure.

**Yield spread premium.** Yield Spread Premium (YSP) is a payment a mortgage broker receives from a mortgage lender when the mortgage broker sells a borrower a mortgage carrying an interest rate that is higher than the lowest rate a borrower actually qualifies for. One use of a yield spread premium is to reduce the mortgage's upfront costs. The larger the yield spread, the more a mortgage broker earns, which can tempt a mortgage broker to steer borrowers to higher interest loans.

## APPENDIX C

### IMPORTANT DOCUMENTS

Before speaking with your servicer or a housing counselor, gather the following documents if they are available. Having the documents organized in a notebook or a filing cabinet makes it easier for you to access them quickly. Never give someone an original document. Always make a copy.

#### **Mortgage Loan Documents** (alphabetical order)

- Adjustable Rate Mortgage Rider (ARM Rider)
- Deed of Trust
- Home Equity or Second Mortgage Documents
- HUD 1 Settlement/Closing Statement
- Prepayment Penalty Rider
- Promissory Note
- Statements
- Truth in Lending Disclosure Statement

#### **Financial Documents** (alphabetical order)

- Asset List (property you can sell)
- Bankruptcy Records
- Bank Statements (most current 2 months)
- Expenses List (bills you must pay)
- Liens & Judgments List (against you/owed to you)
- Pay Stubs (last 30 days)
- Social Security Award Letters
- Unemployment Records
- Tax Returns (Federal) (last 3 years)

#### **Other Relevant Documents** (alphabetical order)

- Correspondence from Your Servicer, Attorneys, Courts, etc.
- Hardship Letter
- Trustee (Foreclosure) Sale Information



## **APPENDIX E**

### **EXAMPLE HARDSHIP LETTER**

It is important for your servicer to know exactly why you or you and your family can't afford to pay your mortgage. When you write your hardship letter, limit yourself to a page, but be specific. Include a detailed explanation about your situation, and don't let your ego get in the way of telling the truth. Yours is one of a dozen or more loan files competing for your servicer's attention, so make every word count.

Type your letter on plain, white paper and include your account number and your complete day and evening contact information. Send the letter via certified mail, retaining a copy of the signed version for your file.

Jonathon Jacob Smith  
10325 115th St. W.  
Sandpoint, ID 83864  
(208) 537-9394 (work)  
(208) 537-8239 (home)  
(208) 537-5441 (fax)  
jjsmith881@gox.net

***Via Certified Mail***

January 1, 2012

ABC Mortgage Services, Inc.  
ATTN: Home Retention Division  
1111 N. Hillside Blvd., Dept. 3-D  
San Antonio, TX 78201

**Re:** Loan No. 1099277-42  
Borrowers: Jonathon & Jalinda Smith

Dear Loss Mitigation Manager:

I am writing to you regarding my family's mortgage loan (1099277-42), which ABC Mortgage Services, Inc., began servicing on March 1, 2009. For the past three years, my family made the required monthly payments and, in some months, paid an additional amount toward the principal.

On August 1, 2011, I had to close the used car lot that my family has owned for 20 years. I could not sell the business to anyone and the flooring company repossessed the entire inventory.

My wife, Jalinda, suffers from reoccurring bouts of clinical depression, and the medication she takes makes her too lethargic to hold a steady job. Without health insurance, paying for her four medications each month has put an enormous strain on our finances.

I am searching for a job, but my only experience is in sales. The Sandpoint, Idaho, area experienced a 7% decline in employment in 2011 and the demand for used car salesmen is nonexistent. I interviewed for a telemarketing position last week, and I hope to hear back from the company this week.

My wife, our three children (ages 4, 10, and 13) and myself are living on my \$1,200 unemployment check and, occasionally, food stamps. Despite eliminating all unnecessary spending, including cable television and my daughter's weekly ballet lessons, we cannot afford our \$1,000 monthly mortgage payment.

I met with a HUD-approved housing counselor and my wife and I have enrolled in a free credit-counseling workshop to help us better budget our money. This is the only home our children have known, and we are committed to doing whatever is necessary to stay here.

We ask that you consider lowering our interest rate to 2% for the life of the loan. A lower interest rate will make our monthly payments affordable. If that is not possible, we are open to other options, but we cannot afford more than \$850 a month.

Please call me between 8 a.m. and 5 p.m. P.S.T. at (208) 537-9394 or after 5:30 p.m. P.S.T. at (208) 537-8239. We appreciate your consideration and look forward to working toward a meaningful resolution.

Sincerely,

[EACH FAMILY MEMBER SIGNS]

The Smith Family

Funds collected by the Attorney General's Consumer Protection Division as the result of enforcement actions paid for this pamphlet. No tax monies were used to pay for this publication.

The Consumer Protection Division enforces Idaho's consumer protection laws, provides information to the public on consumer issues, and offers an informal mediation process for individual consumer complaints.

If you have a consumer problem or question, please call 208-334-2424 or in-state toll-free 1-800-432-3545. TDD access and Language Line translation services are available. The Attorney General's web site is available at [www.ag.idaho.gov](http://www.ag.idaho.gov).