7 Costly Misconceptions About Mortgage Loan Modifications

by
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COSTLY MISCONCEPTION #1: You are not eligible for a loan modification until you are late paying your mortgage. Not true. Your lender or loan servicer will probably give you more attention if you are late, but there's no hard and fast rule. Even people who are current on their mortgages occasionally get loan modifications if they go about it the right way.

You can expect your loan modification to take three to six months and involve a lot of phone calls, e-mails, letters and so on. If you have a never-say-die attitude and are good at making noise, you'll probably get the attention you deserve.

COSTLY MISCONCEPTION #2: Nothing you do will increase the odds of getting your loan modified. Not true. Here's an effective first step: Ask a qualified bankruptcy lawyer to conduct a mortgage audit or review of your mortgage loan documents. If your lawyer discovers that the lender broke the law, the lender will likely work with you to modify the loan before your payments are late. When a mortgage lender faces a lawsuit because it violated lending laws - and knows that you're already working with a bankruptcy lawyer - the lender will probably give you a favorable loan modification.

COSTLY MISCONCEPTION #3: Organizations like HOPE NOW and 995-HOPE will help you solve your mortgage problems. Maybe and maybe not. First, you should know that these organizations are funded by mortgage lenders. This means they want to make sure the lender earns a handsome profit. You cannot expect these organizations to conduct legal audits to see if lenders broke the law. These groups want to keep lenders from being sued and not do anything that could help you with your lawsuit. This is why it pays for you to have a qualified lawyer assist you with your loan modification.

COSTLY MISCONCEPTION #4: Mortgage lenders and servicers will reduce the principle amount of your loan if you are "under water" and owe more than your home's value. Perhaps, but not very often. On some occasions, if you have a second mortgage (or home equity loan) on your home, the home equity lender might settle your loan for a reduced amount. The lender who holds the first mortgage on your home is not likely to reduce your principle unless you plan to sue the lender - or unless the lender violated the law when granting your loan.

Important Note: You will see offers from companies that claim they can negotiate a lower principle balance for you. ***Don't believe it! These are scams.*** Most lenders will **<u>not</u>** lower the principle balance on your loan, even if your home is worth less than the principle amount.

COSTLY MISCONCEPTION #5: Mortgage lenders and servicers are doing everything possible to help homeowners who are behind in their house payments. Not true. Lenders are faced with two problems: lawsuits and reputation. They fund organizations like 995-HOPE so they look as if they're trying to help homeowners - and so they'll get positive public relations by appearing on the evening news. But, truth be told, lenders do not have nearly enough people to help cash-strapped homeowners review their loans. Lenders have fired (or "laid off") thousands of employees, the same people who approved these loans.

Lenders create organizations that appear to help homeowners so they look good to the media and to government regulators. If lenders really wanted to help homeowners, they would hire many more people to work on loan modifications - and they would be more helpful and willing to modify loans.

COSTLY MISCONCEPTION #6: If you file for bankruptcy, the lender will refuse to modify your mortgage loan. Not necessarily. Lenders want to make sure you keep paying on your mortgage and don't default. And, after you file for bankruptcy, your lender must act according to the orders of the bankruptcy court. So if a loan modification is the best solution, and if you're working with a bankruptcy lawyer, your lender might find a way to keep you in your home. It all depends on your personal situation, which you should discuss with a qualified bankruptcy lawyer before you make a decision.

Start by going to the lender's website and see if you find any information about bankruptcy filings and loan modifications. Also, see if you find anything relating to loan retention or loss mitigation. If you don't find anything on their website, then send an e-mail to the lender and ask about loan modifications and bankruptcies. If they respond, you'll have your answer in writing.

If you don't get a reply to your e-mail, then call and ask the mortgage lender or servicer to send you written guidelines about loan modifications during bankruptcy.

One Note: Filing bankruptcy may affect the Net Present Value test that your lender uses to help determine whether it should modify your loan. This test helps determine how likely you are to default on a modified loan. Some lenders view bankruptcy as good because you have erased or reduced your other debts. Some lenders see bankruptcy as bad because it lowers your credit score, which is part of the Net Present Value test.

COSTLY MISCONCEPTION #7: If you want to remain in your home, you should reaffirm your mortgage loan during bankruptcy. Not necessarily true. Reaffirming your loan means that rather than discharging your mortgage during bankruptcy, you agree to remain obligated by your mortgage and to keep making your mortgage payments. If you file bankruptcy, the court does not require that you reaffirm your loan to keep your home. Instead, you get to keep your home as long as you continue to make your agreed-upon mortgage payments. Here are good reasons **<u>not</u>** to reaffirm your mortgage loan:

1. If you reaffirm your mortgage, you may no longer be eligible to modify your mortgage under the government's Home Affordable Modification Program (HAMP). HAMP says, "Borrowers who have previously received a Chapter 7 bankruptcy discharge in a case involving the first lien mortgage, who did not reaffirm the mortgage debt under applicable law, are also eligible."

2. If you reaffirm your mortgage and then lose your home, you may be at risk of getting a deficiency judgment because of your affirmation. In bankruptcy, you avoid deficiency judgments if you lose your home to foreclosures, deeds-in-lieu of foreclosure, or short sales.

Caution: Your mortgage lender may tell you that your mortgage documents require that you reaffirm your loan if you file for Chapter 7 (liquidation) bankruptcy. This may or may not be correct.

Here's the problem: You may not want to reaffirm your loan until you have a written loan modification offer laying out all the details, including your interest rate. On the other hand, your mortgage servicer may not consider your application for a loan modification until you reaffirm your loan.

So, make sure you get legal advice from a qualified bankruptcy lawyer **<u>before</u>** you reaffirm your mortgage loan.

If you have already reaffirmed your mortgage loan ...

...you can cancel the reaffirmation within 60 days after you file it with the bankruptcy court. Make sure you cancel the reaffirmation **<u>before</u>** the court issues its discharge order. Also, make sure you tell your lender if you decide to cancel your reaffirmation.

Now, here are ...

5 Smart Steps to Modifying Your Home Mortgage Loan

STEP #1: Apply for a loan modification before you file for bankruptcy. If you find that you need to file bankruptcy, you can always file it after you apply.

STEP #2: Find out your lender's policy about your filing for bankruptcy.

STEP #3: If the lender denies your application to modify your loan, you can always buy yourself more time by filing for bankruptcy - and you may be able to keep your home.

STEP #4: Don't reaffirm your mortgage loan until you first talk with a qualified bankruptcy lawyer.

STEP #5: Ask a bankruptcy lawyer for a free consultation. You may need to hire a bankruptcy lawyer to give you leverage with your lender. Make sure you hire a bankruptcy lawyer who has a proven track record of working with lenders to modify loans. For those in the Chicago area looking for qualified legal advice, bankruptcy lawyer Richard Fonfrias offers a complimentary initial consultation. Serving Illinois and the greater Chicago area, Richard Fonfrias is Chicago's financial rescue and bankruptcy lawyer who will work with you to solve your financial problems, including reviewing your mortgage loan documents and conducting a mortgage audit.

You're Invited to Call or E-mail.

"If you have questions about bankruptcy, foreclosure, credit card debt, loan modifications,

tax liens or other financial problems, please send your e-mail today to

rich@chicagomoneylawyer.com

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