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## **National Effort Needed to Protect Homeowners from Mortgage Loan Modification Scams**

*National Consumer Law Center Wants Ban on Up-Front Payments for Mortgage Assistance Relief;  
Says Fees for Loan Modification Services Should Be Tied to Results*

**Editors' note: Reporters can find the entire report by the National Consumer Law Center at [www.nclc.org](http://www.nclc.org). Interviews may also be arranged with the authors through the contact number listed above.**

**WASHINGTON --** Stronger rules are needed to protect homeowners from mortgage loan modification scams that have flourished during nation's housing downturn, according to a National Consumer Law Center report released on Friday.

The NCLC report calls for a national ban on advance fees and a rule that no fee can be earned until the homeowner receives an affordable modification of the loan that can actually help avoid foreclosure. The report was released in advance of the Federal Trade Commission's July 15 deadline for comments on proposals to deal with loan modification scams. Sample comments are on NCLC's website.

"The pitch by this new breed of predators is that, for a fee, which can reach several thousand dollars, they will negotiate a loan modification for a financially distressed borrower," according to the NCLC report, "Desperate Homeowners: Loan Mod Scammers Step in When Loan Servicers Refuse to Provide Relief."

"The hitch is that the 'work' performed, if any, leads nowhere, with the homeowner out money and time and closer than ever to foreclosure," write the report's authors, NCLC attorneys Lauren Saunders, Tara Twomey and Andrew Pizor.

An estimated 8.1 million mortgages are expected to be in foreclosure within the next four years, and foreclosure scams are increasing because mortgage loan servicers cannot or will not meet borrowers' need for assistance with their mortgages. Additionally, non-profit counseling agencies certified by the federal government have found themselves overwhelmed and not always able to respond to consumer demand.

Seeking to fill this vacuum, loan modification operators -- some of whom have connections to the defunct subprime mortgage industry -- have seized on reports about legitimate government and industry loan modification programs and publicity about millions of dollars of bailout money available to attract business. Sales pitch artists are being recruited to join this "hot" new industry with ads implying that they can earn enough to buy a \$1 million luxury car.

Many loan mod outfits have misrepresented themselves as being affiliated with the government. One, USHUD.com --which implies that it is the U.S. Department of Housing and Urban Development -- claims that it is "the name you know, the name you trust." Even firms with less blatantly deceptive come-ons obscure the fact that homeowners are better off taking advantage, if they can, of the qualified help available from federally approved counseling agencies. The FTC has issued cease-and-desist orders to several firms with deceptive names or websites.

Although most loan modification scams involve taking up-front payments for doing little or nothing for the homeowner, variations have been reported, including charging:

- A fee to obtain an unaffordable loan modification.
- Exorbitant fees to homeowners attending loan modification seminars.
- Thousands of dollars for "loan audits" which claim to discover legal defects in the mortgage, but which are worthless because the defects don't exist or the potential violations are barred by a statute of limitations which has expired.

The loan modification industry did not exist before the real estate market began to collapse in 2006. By the summer of 2007, the Better Business Bureau reported receiving complaints from hundreds of homeowners in all 50 states who had each paid up to \$1,300 to con artists promising help but doing little or nothing. A little more than a year later, the state of California was receiving an average of 900 complaints per month with 175 active investigations -- and that was just about scams involving attorneys. Since then some homeowners have been charged fees exceeding \$4,000.

“For too many families, loan modification scams make a precarious financial situation much worse. Homeowners are out thousands of dollars that could have been put towards their mortgages,” the report says. “Some fall further behind on their payments after loan modification companies advise them to stop making mortgage payments. And, the foreclosure clock keeps ticking as borrowers wait for these companies to make good on their promises.”

Some 24 states and the District of Columbia now have laws that impose constraints on foreclosure rescue operations, but more states need to do so. Those that already have these laws need to close loopholes, make them apply to all homeowners regardless of whether they are in default on their mortgages, and revise them to keep up with scammer innovations, according to the report.

NCLC believes Congress can help most by requiring mortgage servicers to be more responsive to their troubled customers and by setting minimum national standards to assist states that do not have foreclosure rescue laws. Congress recently added more resources for federally approved counseling agencies, but more may be needed.

The FTC is accepting comment through July 15 on whether it needs to ban suspicious loan modification practices as unfair and deceptive. The NCLC report calls on the FTC to:

- Ban up-front payments for mortgage assistance relief services.
- Permit fees only if services produce sustainable and affordable loan modifications.
- Tie compensation to results.
- Avoid exemptions that open wide loopholes for scammers while avoiding excessive restrictions on legitimate service providers.
- Make clear that its rules do not preempt stronger state measures.
- Require mortgage servicers to give borrowers contact information for a specific representative who has the information and authority to answer questions and resolve issues, including the power to modify loans.

New FTC rules offer “the best chance for protecting desperate homeowners from opportunistic scammers and incompetent loan modification and foreclosure rescue services,” the report says. “Issuing strong, effective regulations will protect distressed homeowners when they most need it.”

In addition to legislation and regulations, NCLC wants federal and state governments, lenders, mortgage loan servicers, housing counselors and community-based groups to launch a national campaign that would combine social awareness, emergency assistance and strong enforcement against rescue scams.

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*The National Consumer Law Center (NCLC), a nonprofit corporation founded in 1969, assists consumers, advocates, and public policy makers nationwide on consumer law issues. NCLC works toward the goal of consumer justice and fair treatment, particularly for those whose poverty renders them powerless to demand accountability from the economic marketplace. For more information visit: <http://www.nclc.org>*