



HOUSING SCENE | LEW SICHELMAN



Loan modification subject to growing fraud

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RED FLAGS

Here are some things that should get your antenna wiggling about supposed loan-modification specialists:

Be leery of anyone who contacts you. Crooks scan public records looking for at-risk owners, and they know all the right things to say, including making their company names sound legitimate or original. Better to speak only with persons recommended by someone you trust, or with those with whom you initiated contact.

Call your note holder or loan servicer to see who owns your loan. You don't need to pay anyone to find out this information, nor do you need to pay to find out if you qualify for a government program. To determine if your loan is held by Fannie Mae or Freddie Mac, the two agencies operating the government's foreclosure-relief efforts, call (800) 7FANNIE or (800) Freddie, or go online to fanniemae.com/homeaffordable or freddiemac.com/avoidforeclosure.

If you still believe you need a third party to work on your behalf, get a list of detailed charges, but pay nothing upfront. If you are getting a new loan, insist on wrapping the costs into the loan amount. Not only will this chase away the crooks; the closing costs may be tax deductible. If your loan is being modified, pay only after the terms are changed and you've signed a new note.

FOR THE RECORD

Lew Sichelman's column that ran in the Home Section last Sunday on the new tax credits for energy-efficient home improvements contained some incorrect information. Tax credits for windows, doors, insulation, HVAC systems and nonsolar water heaters were available for 2006 and 2007 but not for products installed in 2008. However, these products are once again eligible for credits if they are installed this year or next.

The only improvements eligible for a credit for the 2008 tax year are geothermal heat pumps, solar water heaters, solar panels, small wind energy systems and fuel cells. The credit for heat pumps, water heaters and solar panels is 30 percent of their cost, up to \$2,000. For wind energy systems, the credit is 30 percent of the cost, up to \$4,000. And for fuel cells, the credit is 30 percent, up to \$1,500 per 0.5 kW of power capacity.

Taxpayers need to file Form 5695 to claim the 2008 credit.

Lew Sichelman regrets the error.

United Feature Syndicate, Inc.

WASHINGTON – Con artists promising to intervene with lenders on behalf of homeowners who are having trouble making their mortgage payments are proliferating at warp speed, according to the latest statistics on mortgage fraud.

But an increasing number of owners are also trying to pull the wool over their lenders' eyes. In some cases, they are lying in an effort to save their homes from foreclosure. But in other instances, they are trying to convince lenders to grant them new, more favorable loans they don't really deserve.

Frank Sillman, managing partner at Fortace, a Los Angeles-based fraud pursuit and recovery company, has seen a marked increase in loan-modification fraud, which could be described as just the opposite of the loan-approval fraud committed by many people to obtain mortgages for which they didn't really qualify.

“First, they overstated their incomes,” Sillman says. “Now they are understating them.”

In many cases, out-of-work industry insiders who have been sidelined by the housing recession and are no less desperate to generate a little income are coaching borrowers to hoodwink lenders.

Sometimes, in fact, they are being aided by those same supposed professionals who originally told borrowers it was OK to exaggerate their earnings or pass off someone else's sterling credit record as their own. “Crooks morph very quickly,” says Sillman.

But in other instances, borrowers are winging it as best they can, willfully fudging tax returns and altering weekly pay stubs to show lenders they can no longer afford their house payments.

Coaxed or not, though, people who lie to their lenders are just as guilty of a crime as foreclosure-rescue specialists who fleece struggling borrowers out of their last few thousand dollars by promising to negotiate better loan terms and then fail to deliver.

Sillman says he's seeing “a ton of fraud,” especially as it applies to fake “short sales,” which is the industry term used to describe the sale of a property for less than what is owed on it.

Rather than stay in a home they can no longer afford, or one that is no longer worth what they paid for it, many borrowers are willing to give up their castles. But to do so, they must prove to their lenders that theirs is a truly a hardship case.

If a borrower can show there's no hope that he can make his payments as originally promised, he can pretty much wipe the slate clean. Uncle Sam forgives the difference between what he owes and the selling price, his loan is closed and, unless he is already behind on his payments, his credit record remains intact.

Lenders generally approve legitimate short sales because it is less expensive than foreclosure. But they want to make sure borrowers who want out honestly no longer have the capacity to meet their obligations. And what investigators are finding is that many applicants can still make their payments, they just would rather not.

Sillman's firm has uncovered numerous questionable short sales in which the “buyer” is really a friend or family member. Typically, lenders would rather see arm's-length transactions in which they buyer and seller do not otherwise know each other. But they will consider a sale to a family member or friend. However, such a deal “is a big red flag” that it's not on the up and up.

Fortace also has uncovered many instances where solvent owners are imploring employers to tell lenders they no longer work there or are temporarily signing over assets to friends or distant relatives. “Everyone's trying to hide assets,” Sillman says.

Others have uncovered similar shenanigans. Jeffrey Taylor at Digital Risk, an Orlando, Fla., firm that analyzes

loan portfolios on behalf of potential investors, has found numerous cases where co-workers are supposedly verifying income rather than the boss, or where people are claiming they have been told they will be laid off in 30 or 60 days so they qualify as “imminent defaults.”

Many owners whom Taylor says “are trying to get their share of the free money, one way or another” are also failing to disclose bank and stock accounts, neither of which are listed on credit reports. “It’s easy to hide assets if you don’t want to disclose them,” says Taylor, whose firm scours numerous databases to root out liars.

Jon Daurio of Kondaur Capital in Southern California, a firm that buys nonperforming mortgages for pennies on the dollar and then works with troubled borrowers to get them back on track, has seen a proliferation of “canned” hardship letters borrowers are asked to write to explain why they became so far behind on their payments.

The letters are so similar, reports Daurio, it is obvious that people have been “coached” about what to write. Which brings us back to what Merle Sharick of the Mortgage Asset Research Institute says is a growing cottage industry among out-of-work mortgage professionals who are now billing themselves as loan-modification specialists.

In many cases, according to Sharick and other observers, these are the same industry insiders who led borrowers blindly into loans they could not hope to afford, often coaxing them to lie on their loan applications. “Once a crime of opportunity,” Sharick says, “fraud is now a crime of necessity.”

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