New rules for foreclosure prevention

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Consumer Financial Protection Bureau (CFPB) releases mortgage servicing rules

While new mortgage servicing rules do not require servicers to offer modifications on home loans (even where it makes financial sense for both the borrower and the loan's owner), the new national standards do create an industry-wide process to clarify what options are available to homeowners to avoid losing their homes.

Mortgage servicers (companies that collect monthly mortgage payments) are now required to keep accurate records, correct errors and in some cases freeze foreclosures when a struggling homeowner has asked for a loan modification.

Here's a summary of the Consumer Financial Protection Bureau's (CFPB) new rules.

Foreclosure Prevention

- Mortgage servicers cannot begin a foreclosure if a borrower has submitted a complete application for a loan modification.
- Servicers must consider a borrower's request for a loan modification until 37 days before a foreclosure sale.
- If you request a loan modification after the foreclosure process has begun, the foreclosure process may continue (called "dual track"), but servicers are banned from selling your home until a decision is made regarding your loan modification application.
- Servicers may not file for foreclosure until a borrower is 120 days (four months) past due.

Loan Modification Options

- Servicers must notify homeowners of all alternatives to foreclosure (deferred payments, modifications to rate, delinquencies, etc.).
- Once borrowers miss two consecutive payments, servicers must notify them of their loss mitigation options within 60 days.
- Servicers must evaluate loan modification applications within 30 days.
- If denied a modification, consumers have the right to appeal, if their application was received 90 days prior to sale.
- Servicers must provide "direct, easy access " to employees who are responsible for assisting delinquent borrowers.

Error Resolution

- Servicers must correct errors, usually with 30 days.

- Servicers must conduct a “reasonable investigation” into the error.
- Servicers must notify the borrower in writing why they believe an error did not occur.
- Servicers must maintain easy access to accurate records.

Disclosures

- Mortgage payments must be credited the day they are received.
- Partial payments must be placed in a “suspense account” and credited once they equal a full payment.
- Clear monthly statements must include amount owed, due date, breakdown of principal, interest, fees and escrow, and transaction history.
- Prior notice of interest rate increases must be provided, seven months prior to the rate increase and again two months prior to the increase.
- Prior notice must be provided if servicer plans to charge for “force-placed” insurance.
- Servicers must cancel the force-placed insurance and refund premiums if borrowers prove they have insurance coverage.

While these rules apply to all large mortgage servicers, not just banks, they do not apply to small servicers that service fewer than 5,000 home loans a year.

The rules take effect January 2014. For more information visit http://www.consumerfinance.gov/regulations/