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Consumer Protection in Arkansas - Home

Buying a Home Tips:

- Get prices of comparable homes in the area, you can ask your real estate agent for a list of “comps.”
- Always have the property inspected by a licensed inspector. Visit www.ahib.org for a list of registered inspectors.
- Get relevant information about the mortgage, such as interest rate, term, costs, and type of mortgage (fixed or adjustable rate).
- Research Lenders and compare offers.
- Find out how much of a down payment is required. If it is less than 20 percent, you will be required to purchase Private Mortgage Insurance (PMI).
- Ask if there is a penalty for paying off your loan early.
- It is likely that your mortgage will be transferred from one lender to another once, if not several times, during the life of the loan. Federal law requires that your new lender or servicer notify you within 30 days of the transfer.
- The U.S. Department of Housing and Urban Development (HUD) provides free counseling. Visit HUD.gov or call (800) 225-5342.

Home Equity Loans:

Educate yourself before you pledge your equity for a loan or borrow against your equity by refinancing your home. You could lose your home if you fail to make good decisions.

DO NOT:

- DO NOT agree to a home equity loan if you do not have enough income to make the payments. Watch out for loans with “balloon payments,” where a large sum is due on a set date.
- DO NOT sign any document that you have not read, or that has blanks to be filled in after you sign.
- DO NOT let anyone pressure you into signing any document. Read and understand every document that you are asked to sign.
- DO NOT agree to a loan includes expensive credit insurance or extra products that you do not want or need.
- DO NOT let the promise of extra cash or lower payments get in the way of good judgement.
- DO NOT deed your property to anyone as a part of obtaining a loan.
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DO:

- Ask specifically if credit insurance is required as a condition of the loan. If it is not, and a charge is included, ask for it to be removed. If it is required, shop around for another lender. If you want credit insurance, shop around for the best rates.
- Keep careful records of what you have paid, including billing statements and cancelled checks. Challenge anything you think is inaccurate.
- If your home equity loan is in connection with a home improvement project, shop around for the best financing instead of just accepting the contractor's offer.
- Consider loan counseling since these loans are complex legal transactions.

Foreclosure - What to do Now:

If Struggling with Mortgage Payments, Then:

- Immediately contact your mortgage servicer and request information about in-house or government loan modification services that may be available. Beware of third-party scammers offering relief if you pay a fee up front.
- Continue to work closely with your lender and promptly provide required materials and information. This information is usually time-sensitive and critical to initiate mortgage relief options.
- Should your lender offer help, always get the offer in writing.
- Do not take offers from people who say they can "save" your home if you sign or transfer the deed to your home over to them.
- Ask for assistance from a counselor certified by U.S. Department of Housing and Urban Development (HUD).

Are You Defaulting on Your Mortgage (Have you received a notice of default or foreclosure?):

- Be aware that the foreclosure process often moves quickly. If you feel that errors have been made by your lender or servicer, the most direct and effective course of action is always to contact a private attorney to assist in disputing the foreclosure.
- Contact your lender or servicer immediately upon notice of default to explore what in-house options for loan modification may be available to you.
- Revisit the terms of your mortgage note. In most cases, the mortgage note will clearly lay out how the bank, lender or servicer will execute the default phase into the foreclosure phase.
- Review your income and budget so you can have information on hand to make the modification process more efficient with your lender.
- Do not ignore letters from your lender or servicer. Arkansas Act 885 of 2011 directs mortgage servicers to provide the names and contact information for any loss

mitigation or loan modification services that may be available to you prior to the foreclosure.

- Stay in your home for now. It is possible that you will not qualify for assistance if the property has been vacated or deemed abandoned.
- Contact a HUD-approved housing counselor for options such as Making Home Affordable or other programs that may apply to your situation. Contact HUD at (800) 225-5342 or www.HUD.gov. If your loan is backed by Fannie Mae or Freddie Mac, it is appropriate to contact them if your servicer is unresponsive to your needs.
- Mortgage relief or home retention services should be engaged only with non-profit counselors or with government agencies that deal directly with your lender, bank or servicer. These services should always be performed at no charge to you. Scammers frequently target distressed homeowners and charge fees.

Foreclosure Rescue and Loan Modification Scams:

As the number of foreclosures grows, so too do the number of scams and schemes involving mortgage rescue plans. These scams could result in the loss of your home.

You may see claims similar to the following:

“Stop Foreclosure Now!”; “We have special relationships with most banks that can speed up case approvals.”; “We Can Save Your Home. Guaranteed!”; “We stop foreclosures every day. We can stop yours this week.”; “We buy houses.”

Avoid foreclosure rescue and loan modification programs when marketing materials include any of these red flags:

- Claims to be affiliated with a government agency.
- Calls itself a “mortgage consultant,” “foreclosure service” or “loan modification service.”
- Offers a guarantee to stop the foreclosure process.
- Collects a fee before providing full services. In most cases, charging such fees violates Arkansas law.
- Accepts payment only by cashier’s check or wire transfer.
- Encourages you to transfer the title to them with a promise that you can buy it back over time or refinance it later.
- Tells you to make your mortgage payments directly to them, rather than to your lender.
- Suggests that you stop making mortgage payments in order to qualify for the program.
- Offers to buy your house for cash at a fixed price that is not set by the housing market at the time of sale.
- Uses high-pressure tactics, like pushing you to sign paperwork you have not had time to read thoroughly or that you do not understand.

- Instructs you not to contact your lender, credit counselor or attorney.

Variations of This Scam:

- **Phony Counseling:** In this type of scam, the con artist claims to be able to negotiate a deal with a lender, requiring an up-front fee for the service. You may be asked to pay a monthly fee. Once you pay the fee, the scam artist takes off with your money. Sometimes, the scammer takes your mortgage payments while presumably “negotiating” with your lender. Most often, the lender never sees the money and you fall further behind in your payments.
- **Bait-and-Switch:** Always read what you are signing. The con artist tells you the documents are a new loan to make your existing mortgage current, but in reality the documents surrender the title of your house in return for a small loan worth less than the value of your home.
- **Rent-to-Buy Schemes:** The con artist offers to allow you to rent your own home with the option to repurchase in the next few years. The con artist may tell you that surrendering the title will permit a more credit-worthy borrower to secure new financing. Most of the time, the terms under which you could repurchase your home are impossible to meet. In another variation, you are told that if you sign over the deed and move out, the con artist will find a buyer for your home. You are promised a portion of the profit when the home sells. However, once you sign over the deed you no longer have control of the property; the con artist simply rents out your home, keeps the money and waits until your lender forecloses. Remember, you are still responsible for your mortgage even if you sign over your deed to someone else. If the house sells for less than what is owed on the mortgage, you are still liable for the remaining debt.

Where to Find Legitimate Help:

- If you are having trouble paying your mortgage or you have gotten a foreclosure notice, contact your lender immediately. Most mortgage companies have a legal obligation to assist distressed borrowers and sponsor programs to assist homeowners in financial distress. You may be able to negotiate a new repayment schedule.
- For other foreclosure prevention options, the Federal Trade Commission has some helpful tips on their foreclosure prevention site.
- If you have any questions about a company offering foreclosure rescue services you should contact the Attorney General’s office at (800) 482-8982 or (501)-682-2007, or contact the Arkansas Securities Department at (501) 324-9260 or (800) 981-4429.

National Mortgage Settlement:

In February 2012, Arkansas joined 49 other States and federal agencies to settle allegations of illegal actions in servicing loans by the nation’s largest mortgage servicers:

Ally/GMAC, Bank of America, Citi, JPMorgan Chase and Wells Fargo. The settlement provides more than \$25 billion in relief nationwide, mainly to distressed borrowers in the form of loan principal reductions and refinancing. Here is a brief description of the settlement's primary provisions and information homeowners can use to determine how the settlement may apply to them.

Settlement Highlights:

- **Principal Reductions:** The settlement provides aid to homeowners who are currently in default and in need of loan modifications, including first and second lien principal reduction. The servicers are required to provide up to \$17 billion worth of principal reductions and other forms of loan modification relief nationwide. Arkansas homeowners will receive \$11.7 million worth of loan modifications from this settlement term.
- **Refinance Opportunities:** The settlement provides aid to borrowers who are currently making their monthly payments but are underwater. Borrowers whose loans are greater than the market value of their homes may be offered an opportunity to refinance at lower interest rates. The settlement requires servicers to provide up to \$3 billion in refinancing relief nationwide. Arkansas homeowners will receive nearly \$5.7 million through lower interest rates.
- **Payments to Borrowers Who Lost Their Homes to Foreclosure:** \$1.5 billion will be distributed nationwide to some 750,000 borrowers. Approximately \$8.5 million of this amount will go directly to Arkansas consumers whose homes were foreclosed upon between Jan. 1, 2008 and Dec. 31, 2011.

New Mortgage Servicing Standards: These new standards will benefit each homeowner whose mortgage is held or serviced by any of these five banks. The banks are required to implement the following standards:

- Offer loss mitigation alternatives to borrowers before pursuing foreclosure.
- Increase the transparency of the loss mitigation process.
- Impose timelines to respond to borrowers involved in the loss mitigation process.
- Restrict the unfair practice of "dual tracking," where foreclosure is initiated despite the borrower's engagement in a loss mitigation process.

Consumers may contact the banks directly with any questions or for information about their loans. Additional information is available to Arkansas consumers and homeowners at:

- www.NationalMortgageSettlement.com
- www.HUD.gov

Consumer counselors are available by phone to provide additional information or assistance. Please contact the Arkansas Attorney General's Office with questions at (800) 482-8982, (501)-682-2007, or consumer@arkansasag.gov.

This handout is distributed by the Arkansas Office of the Staff Judge Advocate, Office of Legal Assistance as a preventive law service. This document and other helpful information on similar personal legal affairs topics can be found on the office's website located at <https://arkansas.nationalguard.mil/Home/JAG-Legal/>

For more information on this topic or to consult with a legal assistance attorney contact the Arkansas National Guard Office of Legal Assistance at 501-212-5040 to establish eligibility and appointment times.