

The “Complete” Application Problem: A Solution to Help Homeowners and Banks Work Together

THE THIRD REPORT OF THE CALIFORNIA MONITOR
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A PROGRAM OF THE CALIFORNIA ATTORNEY GENERAL

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Summary

Homeowners and mortgage companies must work together to save homes from foreclosures. Neither can act alone. The process for modifying unaffordable home loans and helping families stay in homes is called loan modification. For the past six years, this process has been dysfunctional. Millions of homes were lost to foreclosures that could have been prevented, and communities and families suffered the consequences.

In recent months, legal remedies such as the National Mortgage Settlement have tried to improve the loan modification process. The goal is to help homeowners and mortgage companies work together to see if a mortgage loan can be modified, and to protect homeowners during that process. Today, the process is much better. But still suffers a serious problem: a loan modification application must be “complete” for a homeowner to be protected from foreclosure while the mortgage company makes a decision. The path to becoming “complete” often requires dozens of back and forth communications between homeowners and banks. It drags on for months, creating uncertainty and frustration and putting families at risk of foreclosure.

This report, the third from the California Monitor Program, proposes robust protections for homeowners during the loan modification process. Under the current law, even if a borrower has submitted loan modification documents, a mortgage company can foreclose and sell a home if that application is deemed incomplete. We propose that homeowners be protected from advancing the foreclosure process or referring a home to foreclosure while they are working with their banks to complete the loan modification application. Upon submitting an initial application, homeowners should be protected from foreclosure activity. Banks can then take the time to gather the documents needed to underwrite affordable modifications. Requiring banks to pause the foreclosure process gives banks the incentive to make clear and reasonable document requests. Homeowners are able to better respond to such requests when they are not simultaneously receiving legal documents taking the next step in losing their homes to foreclosure.

These improvements to existing law under the National Mortgage Settlement, the Consumer Financial Protection Bureau rules, and the California Homeowner Bill of Rights would truly transform how the loan modification process works. Our proposal will give meaning to dual tracking protections and will address concerns about confusing, repetitive document requests and decision-making deadlines. Having clear rules means regulators can assess the banks’ performance in assisting homeowners in financial trouble. The result will be robust enforcement of laws to protect consumers and meaningful opportunity to save homes from foreclosure.

Very truly yours,



Katherine Porter

This report reflects the views of the California Monitor Program. It does not necessarily reflect the views of the California Attorney General or the California Department of Justice.

CONTENTS

| | |
|--|----|
| Summary | 2 |
| Complete Application Definitions | 4 |
| Our Solution | 5 |
| Peggy's Story: Broadening Dual Tracking Protections | 5 |
| Aligning Interests to Facilitate Cooperation | 6 |
| Bank Incentives | 6 |
| Homeowner Incentives | 6 |
| A National Approach: One Rule for Two Systems | 7 |
| Why Other Solutions Fall Short | 8 |
| Notice of Missing Documents Within Five Business Days of Receiving Application | 8 |
| Notice of Complete Application Letter | 8 |
| Pausing Foreclosure, Not Just Preventing Sale | 8 |
| Protecting Homeowners Who Seek Modifications After Foreclosure Begins | 9 |
| Communication in the Document Collection Process | 9 |
| Received and Complete Documents | 10 |
| Incomplete and Deficient Documents | 10 |
| Missing Documents | 10 |
| An Improved Document Request Letter | 11 |
| A Recordkeeping Worksheet | 12 |
| Next Steps | 13 |
| Appendix A: Notification of Missing Documents for Bank Communication | |
| Appendix B: Loan Modification Steps Worksheet | |

COMPLETE APPLICATION DEFINITIONS

The National Mortgage Settlement is one of several legal remedies to ensure homeowners have a fair opportunity to modify their loans and avoid foreclosure. Other efforts include the California Homeowner Bill of Rights and the mortgage servicing rules released by the Consumer Financial Protection Bureau (CFPB). The most critical reforms in these laws—the protections against dual tracking—are dependent on when a homeowner’s application becomes “complete.” Yet, none of these laws defines “complete” in a way that accurately reflects the back-and-forth communication that must occur to modify a loan.

| | HOMEOWNER BILL OF RIGHTS | NATIONAL MORTGAGE SETTLEMENT | CFPB FINAL RULES |
|---|---|------------------------------|---|
| DEFINITION OF COMPLETE APPLICATION | A loan modification application is complete when the homeowner sends in all the documents required by the bank within a reasonable amount of time. ¹ | No definition. | An application is complete when a bank receives all of the information that the bank requires. The bank must use “reasonable diligence” to get the documents it needs from the borrower. ² |

These definitions do not concretely define what constitutes a “complete” application. Some homeowners have very straightforward financial situations. Others, such as those who are self-employed or receive income and support from multiple sources, require more documentation to determine whether a loan modification is possible. A one-size-fits-all definition of “complete” is impractical.

But there are guideposts and established industry standards that can help determine when homeowners should receive dual tracking protections. The federal Home Affordable Modification Program (“HAMP”) sets out the documents needed for an initial loan modification package. These documents include a standard application form, a hardship affidavit, an authorization for a release of tax returns (4056-T), and “evidence of income.” HAMP guidelines define “evidence of income” differently depending on the source of income. For example, a borrower can submit two recent paystubs to verify wage or salary income. For self-employment income, a homeowner can submit a yearly or quarterly profit-and-loss statement.³ Under HAMP rules, a servicer has discretion to request additional documents for income verification when appropriate. For example, a servicer may ask a homeowner to turn in bank statements verifying income reported on a profit-and-loss statement.

The purpose of verifying income and seeking documents about the homeowner, the home, and the loan is to identify whether a homeowner can afford a modified loan and what the terms of that loan should be. Thorough document collection is necessary to create sustainable modifications. The process needs a better framework, however, that obligates banks to keep families in their homes while those families submit the required documentation.

¹ California Homeowner Bill of Rights. SB900, § 2924.18 (d).

² 2013 Real Estate Settlement Procedures Act (Regulation X) and Truth in Lending Act (Regulation Z) Mortgage Servicing Final Rules § 1024.41 (b)(1).

³ Fannie Mae and Freddie Mac have parallel guidelines for banks reviewing applications to modify Fannie or Freddie loans.

OUR SOLUTION

Our proposal is to protect homeowners from foreclosure once they submit the initial paperwork for a loan modification. The initial submission must show a good faith effort on the part of the homeowner by including certain documents. The required initial submission should mirror the HAMP guidelines:

- ✓ A Request for Modification Assistance (RMA) form
- ✓ IRS Form 4506-T, which authorizes the release of a homeowner's tax returns
- ✓ Documentation of a homeowner's income

Once a homeowner submits these documents, the bank should neither refer the homeowner to foreclosure nor sell the home. This change to the law would give real meaning to the dual tracking protections intended by the Settlement.

Homeowners have a huge incentive to reach out to their banks early if they are struggling because the protections are the most robust if the homeowner has not yet been referred to foreclosure. But, in any event, the central protection remains: the bank cannot sell a home during the document collection process if the homeowner is complying with the bank's document requests to complete a modification.

If the bank needs more documents, the homeowner should be given 30 days to provide the requested documents. This is a requirement of the National Mortgage Settlement for any documents that a bank identifies as missing from its review of the initial application. When the homeowner has submitted all documents the bank needs in order to make a decision on the application, the homeowner should receive a decision within 30 days.

Peggy's Story: Broadening Dual Tracking Protections

Peggy B. reached out to the California Monitor after her home was sold at foreclosure in November 2012. At the time her home was sold, Peggy was in the document collection process. Her single point of contact at the bank had assured her the sale would be postponed. Peggy had maintained frequent contact with the bank and was complying with the bank's requests for documents. On Peggy's behalf, the California Monitor contacted her bank. It informed us that Peggy's application was missing documents at the time of the sale. Because her application was not complete, the bank had not violated the dual tracking protections in the Settlement. Protection from foreclosure should start at the beginning of the document collection process, not the end. Peggy was caught in the middle and lost her home.

Homeowners and banks each have responsibility in the loan modification process. Under our proposal, the bank would be able to refer to foreclosure or sell a home if the homeowner fails to respond to the bank's request for additional documents within 30 days. Otherwise, the bank could not move toward a foreclosure sale until it has reached a decision on the application and the homeowner has been given an opportunity to appeal the decision. This is an important balance of rights and responsibilities.

ALIGNING INTERESTS TO FACILITATE COOPERATION

Our proposal to protect homeowners from foreclosure during document collection aligns the interests of the homeowner and the bank. It rewards reasonable requests for documents that are made—and responded to—in a timely manner.

Bank Incentives

Under the current system, banks have no incentive to hasten loan modifications to be complete. Normally, a bank is not being paid monthly payments from homeowners seeking a modification. If document collection for modification takes months, or even years, banks can decide they want to stop waiting and simply foreclose.⁴ That is a faster route to getting paid than saving the home with a loan modification. This is especially true where homeowners are having difficulty with document submission and ultimately may end up in foreclosure. Also, the structure of payment for mortgage servicing contains incentives to slow the loan modification process. At the foreclosure sale, default fees, such as late fees and property preservation fees, are paid to the mortgage servicer before the property owner/investors recover on the loan. The more fees accumulate—if a property will be foreclosed ultimately—the higher profits a servicer can earn. A sustainable loan modification might be the best outcome for everyone, including the bank who can retain the monthly fee for servicing the loan. But if completing a modification will take sustained and expensive efforts to assist the homeowner, the easier and cheaper option may be to let the homeowner flounder and refuse to consider the modification application as “complete”.

Homeowner Incentives

Most homeowners want a quick and fair loan modification review. The goal is to bring their loan out of delinquent status and relieve the anxiety that comes from a looming foreclosure. These families are frustrated by the uncertainty of an extended and confusing document collection process. However, if a family has no income or very limited income, or if they are seeking a modification that would bring the monthly payment out of line with affordability standards (usually around 25% to 40% debt-to-income ratio), the document collection process can delay an otherwise inevitable foreclosure. While these homeowners avoid foreclosure for a period of weeks, they also impose costs on servicers and on investors (including others who own shares in such mortgages through pension funds and the like). Banks then use resources trying to locate all homeowners, rather than concentrating their best resources on homeowners who are participating in good faith in document submission.

In addition, difficulties in submitting documents deter the most vulnerable, such as people with limited-English proficiency, the less educated, or the elderly, from pursuing home-saving loan modifications. The bank’s ability to continue foreclosure despite good-faith submission of loan documents causes the most vulnerable to give up hope and allow their homes to be sold at foreclosure. Banks have an incentive to provide the least assistance to such homeowners because they may require additional explanation and assistance that costs money.

Banks giving up on homeowners who were trying to follow the rules to get mortgage help paying their mortgages was the principal example of unfair servicer behavior. That problem resulted from misaligned incentives. While the Settlement itself motivates banks to improve the loan modification process through compliance monitoring, such as the National Monitor’s test metrics, the additional protection for homeowners who are submitting documents proposed in this report will spur even greater efforts from banks. And, importantly, it encourages banks to distinguish between homeowners who are making progress completing their applications—who deserve a full and fair opportunity to do so—from those who may simply be delaying a difficult outcome.

⁴ Under HAMP and some programs there are minimum solicitation requirements, but these do not impose requirements that the banks delay foreclosure if the document collection process takes an extended period.

A NATIONAL APPROACH: ONE RULE FOR TWO SYSTEMS

State law governs the foreclosure process, so there are 50 different laws. This is an inherent challenge to creating uniform mortgage servicing rules. The California Monitor Program assists California homeowners, but we understand that making the National Mortgage Settlement work for Californians means making it work nationally. We believe our proposal should apply for homeowners across the nation. This uniformity will improve the banks' compliance and permit more government actors to make sure the banks are complying with the law.

States are divided into two categories based on the most common method of foreclosure used: judicial foreclosure states and non-judicial foreclosure states. In judicial foreclosure states, the lender must sue the borrower in state court by filing a complaint. Upon entry of judgment in favor of the bank, the property is sold at a public auction. In non-judicial foreclosure states, no court action is required to foreclosure. Instead property may be foreclosed after giving notice as required by the terms of the mortgage and applicable state statute. For example, in California, the bank publishes notices including the Notice of Default, and later, a Notice of Trustee Sale. The bank must wait specified periods of time between each step before moving forward with the foreclosure sale. Without court involvement, the property is sold by a trustee at a private sale.

Because dual tracking raises concerns about fundamental fairness and due process, consumers deserve equal protection from foreclosure while seeking loan modifications under either system. Adopting a uniform rule for all states also facilitates consumer education and improves consumer's understanding of their rights and responsibilities when trying to avoid foreclosure. Homeowners, advocates, and governments from different states or localities also can better cooperate to address concerns about compliance if a consistent approach applies. Below we detail how the complete application problem should be solved in non-judicial and judicial states, recognizing that the two systems require different operational considerations from mortgage servicers.

In non-judicial foreclosure states, once a bank has filed a Notice of Default, it may choose to wait a long period of time before taking the next step, such as filing a Notice of Sale. During this time, the bank's Notice of Default is still valid. The process is simply paused until the servicer decides to move forward. In non-judicial foreclosure states, like California, the banks should not take any step forward in the foreclosure process if the homeowner has submitted an initial application and the homeowner is in the 30-day period to provide additional documents.

In judicial foreclosure states, pausing the foreclosure process to allow homeowners and banks to communicate about loan modification documentation requires halting a court process. If the bank has not filed the lawsuit, it can merely delay doing so. If the lawsuit is pending, the bank can request more time before proceeding with the judicial process, including postponement of the sale date. Extension or postponements are routinely granted in most states.⁵

Taking a step toward foreclosure while the homeowner and bank are actively engaged in document collection for evaluating a loan modification creates serious problems. Homeowners suffer equally severe harms whether they reside in a non-judicial foreclosure states (where a bank files a Notice of Default or Notice of Sale) or in a judicial foreclosure state (where a bank files a lawsuit or sets a sale date). Homeowners may give up on the loan modification process, believing it is too late to submit documents. Or they may frantically reach out for help, becoming victims of foreclosure rescue scams. The result in either case can be a needless foreclosure. Most complaints that the California Monitor receives about dual tracking are prompted by servicers simultaneously moving the foreclosure process forward while in document collection. It

⁵ Florida is a notable exception; its courts apparently do not permit—even by mutual agreement of the bank and homeowner—the postponement of a foreclosure sale. The foreclosure must be cancelled entirely, which requires the servicer to restart the foreclosure process and imposes a costly delay of months or even years. Or the sale can continue, which deprives the homeowner of the opportunity to complete the loan modification. The solution is to change the Florida process if needed, not to deprive consumers across the country of a well-functioning loan modification process.

leads homeowners, and the public, to believe that the banks' foreclosure and customer service departments are not communicating with each other and it undermines confidence that the foreclosure process has improved because of legal reforms such as the Settlement. That is the heart of the problem with the existing approach that protects against moving forward in the foreclosure process only after an application is complete.

WHY OTHER SOLUTIONS FALL SHORT

Before arriving at our proposal, we considered other ways to clarify when an application becomes complete and triggers the Settlement's dual tracking protections. While these proposals would be an improvement over the currently undefined "complete" application, the solution that we present in this report is a better approach. Below we outline some of the reasons why.

Notice of Missing Documents Within Five Business Days of Receiving Applications

We considered whether it would be effective to link a "complete" application status to the Settlement's requirement that a servicer send a notice of missing documents within five business days of receiving an application. One approach would deem an application complete if a bank failed to send the written notice requesting additional documents within five days. A bank's silence (or more precisely, its failure to write in the specified time period) would favor the homeowner by triggering dual tracking protection. This approach has merit.⁶

But tying a complete application to the servicers' failure to send the missing items notice may not adequately protect many homeowners. The servicers are required to send the missing documents letter within five days of the initial loan modification application submission. They comply with this requirement in most cases, and the Settlement requires a threshold level of compliance. If the servicer sends the initial five-day letter, the homeowner then would have no protections until she managed to complete the application. The homeowner should not be subjected to wondering whether her bank will refer her loan to foreclosure or sell her home during the document collection process. Paradoxically, a homeowner would receive the best protection from dual tracking if a bank failed to comply with the law by not sending a missing document letter. This creates misaligned incentives and murky grounds for enforcement.

Notice of Complete Application Letter

We also considered whether it would be effective for banks to send a notification letter to homeowners informing them of a complete status once all documents are received. In our discussions with the banks, we have learned that once an underwriter has all documents needed to make a determination (and therefore, a "complete" application), the decision on the loan modification application is made at that time. Homeowners would then receive a decision letter within 30 days of the last date they submitted documents. A separate "complete" application notification letter might be confusing or unnecessary given that the homeowner would receive a decision at or before the complete status letter would arrive.

Pausing Foreclosure, Not Just Preventing Sale

The foreclosure process is opaque to nearly all homeowners. Its technicalities, including how much time will elapse before the actual sale of their homes, are usually not well-understood. (Indeed, this may not be certain even to banks who must manage volume and staffing issues and court processing.) This means that any steps toward foreclosure, such as the filing of a Notice of Default (non-judicial system) or a motion for foreclosure judgment (judicial system), leaves homeowners feeling that the loss of their homes may be imminent. Allowing banks to take steps forward in the foreclosure process while documents are being gathered in the loan modification process produces fear, anxiety, and uncertainty. These homeowner reactions undermine the ability to save homes through loan modifications. The California Monitor Program believes that homeowners must be protected from *any* progress toward a foreclosure sale, not just from the actual sale of their homes. This broader protection also aligns with the public's understanding of dual tracking as simultaneous foreclosure activity

⁶ The Massachusetts Attorney General's office suggested a similar approach in its May 1 letter to the National Monitor, Joseph A. Smith.

and loan modification activity. If banks take steps toward foreclosure, or only protect those who have not yet been referred to foreclosure, communications to complete loan modifications will break down and perceptions of unfair dual tracking will linger.

Protecting Homeowners Who Seek Modifications After Foreclosure Begins

The foreclosure crisis created large variation in how long homeowners may be in default before banks begin foreclosure. The time between default and referral to a foreclosure attorney or trustee has shortened in the last several months. Foreclosure now may start after only a few months of missed payments, rather than a year or more. While this change is positive in that it reflects adequate staffing at banks and a reduction in the total volume of foreclosures, it catches some homeowners by surprise.

Cutting-edge consumer science shows that people often procrastinate. Most homeowners seek a loan modification only when foreclosure begins, such as when they receive a letter from a trustee or attorney, or are served with legal documents. An approach that only protects homeowners who have not yet been referred to foreclosure will protect few people. Significantly, it will fail to protect the most vulnerable homeowners. It is precisely those who struggle to understand their options, such as the elderly, servicemembers, and those with limited-English proficiency, who are most likely to wait in calling the bank about options, seeking out the help of a housing counselor, or contacting a government agency.

The California Monitor Program proposes that the foreclosure process should be paused for all homeowners who submit initial loan modification applications at least 37 days before any scheduled sales—even if such applications are not yet complete. This expansion of the Settlement reforms and other laws would protect the most vulnerable and recognize the realities of consumer behavior.

COMMUNICATION IN THE DOCUMENT COLLECTION PROCESS

The biggest breakdown in communication between homeowners and their banks occurs during the document collection process. Poor communication can result in preventable foreclosures, either because homeowners cannot understand the banks' requests or because homeowners give up in frustration at duplicative or endless requests. Banks can save more homes from foreclosures if they communicate better to homeowners about what documents are needed to complete a loan modification application. Two reforms would significantly help: 1) improvements to the letter that requests additional documents to provide more clear instructions and prompt homeowner action; and 2) offering homeowners an informational sheet that can be used to track their progress in completing a loan modification.

The California Monitor Program has engaged banks several times to suggest changes to letters sent to homeowners. We have discussed concerns such as how investors of securitized mortgages are identified, how denials of modifications are explained, and how concerns about payment accounting mistakes are addressed. Document collection letters are among the most confusing—and most common—correspondence that banks send.

For illustrative purposes, this report describes a few examples. A Bank of America letter advises that a homeowner is “at risk of losing consideration for a trial modification.” Some homeowners may not understand the term “trial modification” and may not understand the imperative from the reference to “risk.” Instead, the letter should simply state that “[y]ou must submit additional documents to be considered for a loan modification and avoid foreclosure.” A letter from Chase tells a homeowner what to submit if the loan is escrowed and if the loan is not escrowed. Since Chase has such information in its records, the letter should be tailored to the homeowner's situation. Wells Fargo sent a letter that stated that “[u]nfortunately, the information submitted is either incomplete, needs further clarification, or is out-of-date.” This homeowner was missing only one document, which was identified, but the homeowner is left wondering whether it was

never received, was incomplete, needs clarification or is out-of-date. It is hard to remedy a problem that is not adequately described.

In our sixteen months of assisting 3,387 homeowners, the California Monitor Program has seen hundreds of document request letters. The content and format vary wildly, not just between banks, but even within one bank. Letters vary in length from one to six pages, and vary in terms of requesting specific documents (such as all pages of a homeowner's April 2013 checking account statement), making vague requests (send "recent" bank statements), and simply supplying a blanket list of all possible documents that could be needed to underwrite a modification ("If a borrower is no longer living [provide] a copy of the death certificate or obituary.")

The document collection letter should compel homeowners to take action by submitting the required documents. The letter should focus on immediate next steps and provide a deadline for those steps. With respect to documents, the letter should: (1) acknowledge what complete and adequate documents the servicer has received, (2) identify the specific deficiencies in any of the submitted documents and state how to correct them, and (3) list the documents that have not yet been submitted that are needed to complete the application.

Received and Complete Documents

Bank letters requesting additional documents should tell homeowners what documents already have been received for the application. To the best of our knowledge, no bank currently does so. This leaves homeowners wondering if their documents were received. Many homeowners have told us that they are asked repeatedly for documents that the bank representative had assured them were received. By giving a homeowner a written record that a document was received, problems of proof and credibility are resolved. Both parties have a record of the loan modification efforts to date. Acknowledging received documents gives homeowners more confidence that their applications are being received and reviewed with care. It will also aid regulators and courts in determining if dual tracking protections apply.

Bank letters requesting additional documents should tell homeowners what documents already have been received for the application. To the best of our knowledge, no bank currently does so.

Incomplete or Deficient Documents

Banks routinely request that homeowners submit documents that were already provided. The most common reasons for these requests for duplicate submission are because the documents were not complete or were incorrectly filled out. To reduce homeowner confusion, servicers should list the specific problem with the document and how the homeowner can correct it. Some banks do not provide the necessary information. A Bank of America letter, for example, states that a homeowner's request for a modification had the "following issue . . . Incorrect or Incomplete Borrower Signatures (Example: Missing borrower signature, Missing borrower suffix from signature, signature different from loan documents)." A homeowner does not know which of these problems plagued the application and is likely to repeat the same error.

Banks should ensure that their designated representatives to help homeowners, called "single points of contact", have access to the underwriter who has determined submitted documents were deficient. This will allow the single point of contact to explain to the homeowner how to correct the problem, rather than merely telling the homeowner to resubmit. The National Mortgage Settlement requires that single points of contact should be able to explain program documentation requirements (Ex. A.IV.C.4.c).

Missing Documents

If a homeowner failed to submit documents needed to complete the loan modification application, the letter should identify each document and explain any pertinent requirements. For example, if a homeowner has submitted documents

with the application that suggest receipt of rental income such as a tax return, but fails to include either a lease agreement or two cancelled checks from the tenant, the request should make clear that those additional documents are needed to verify the homeowner's income.

An Improved Document Letter

The document collection letter needs to be brief. Multiple-page documents are difficult to digest, particularly if the homeowner has limited education or English-proficiency or has other barriers to reading and understanding correspondence.

Honesty about the iterative nature of the loan modification process helps set homeowner expectations and encourages homeowners to open and read all mail.

The California Monitor Program has been told by banks that a one-page letter is impossible. The example below uses a table format to organize information. It bolds the key fact: that a homeowner must act in response to the letter to be considered for a modification. It acknowledges received documents, identifies problems with incomplete or deficient documents, and lists missing documents.

The model letter tells the homeowner right below the list of needed documents how to submit them and how to call for help. It also warns consumers that further documents—beyond those requested in the instant letter—maybe needed. This honesty about the iterative nature of the process helps set homeowner expectations and encourages homeowners to open and read all mail.

SAMPLE: Notification of Missing Documents for Bank Communication (excerpt; See Appendix A)

John and Jane Doe
1234 Sunrise Lane
Pacific Grove, CA 90000

Loan Number 987654322

Dear John and Jane Doe:

We have received your initial loan modification application. **You must submit additional documents in order for us to make a decision on whether you are eligible for a loan modification.** Your home will not be sold at foreclosure during the next 30 days while you collect and submit the additional documents.

This table shows your progress toward completing a loan modification application.

| Document | Status | Your next step |
|---|------------------|---|
| Request for Mortgage Assistance (RMA) form | Received 5/1/13 | None. Submitted at home preservation event. |
| Hardship letter | Received 5/10/13 | None. Received by mail. |
| IRS Form 4506-T | Received 5/12/13 | None. Received by fax. |
| March 2013 bank statement for Acct. No. 123456 | Incomplete | Please submit <i>all</i> pages of the statement. When you first submitted it, you sent only the first page. |
| Profit & Loss statement | Incomplete | Please submit a current statement reflecting the last 90 days of your gross income, expenses, and net income. Your prior statement did not contain expense information. |
| Letter of explanation: \$2000 deposit made on 3/3/2013 in bank acct no. 123456. | Missing | Please write a brief letter explaining the deposit, including the source of the funds. Be sure to sign and date the letter. |

Please submit the paperwork indicated as "incomplete" or "missing" in the table above within 30 days of receiving this letter. To submit documents, you may fax items to 1-800-555-5555, use the HopeLoan portal, or mail them to me with the FedEx label provided. If you have questions, please contact me at 1-800-555-0000 for help.

Documents other than those noted above may be needed to make a decision on your eligibility for a loan modification. If additional documents are needed, you will be sent a letter similar to this one and be given 30 days to submit them.

A Recordkeeping Worksheet

The letter would be accompanied by an overview of the loan modification process. It shows the steps in the loan modification process, many of which are opaque to consumers, such as sending the application to the underwriter. This helps homeowners understand why single points of contact cannot make an immediate decision when homeowners call them. It also identifies when a homeowner is responsible for action.

The worksheet is interactive; blanks are provided for homeowners to fill in the dates they took action, and deadlines for the bank to respond. This emphasizes the back-and-forth nature of loan modifications. Homeowners and banks must work together in the loan modification process.

Another purpose of the worksheet is to create documentation of the loan modification process for a particular homeowner. Those who provide direct assistance to homeowners need a fast and clean overview of where the process has broken down. The California Monitor Program developed this worksheet based on our extensive experience reviewing homeowner correspondence and the difficulties in determining the status of loan modification applications.

SAMPLE: Loan Modification Steps Worksheet (excerpt; See Appendix B)

| LOAN MODIFICATION APPLICATION WORKSHEET | |
|--|---|
| Fill in the blanks on this page to keep track of the status of your application. | |
| Step 1. Initial Application | You submit one or more documents, such as a Request for a Modification form or hardship letter, to seek a loan modification. Date submitted: _____ Method: _____ |
| Step 2. Document Collection | Your initial application is reviewed by your designated representative, a single point of contact. If you need to submit additional documents, you will receive a letter giving you 30 days to do so. That letter contains a chart explaining what documents were missing or incomplete. Date you received the bank's letter: _____ Deadline to submit (30 days from above): _____ Date submitted: _____ Method: _____ |
| Step 3. Underwriter Review | An underwriter reviews the application and may determine that additional documents are needed to evaluate you for a modification. |
| Step 4. Additional Document Collection | If you need to submit additional documentation, you will receive a letter giving you an additional 30 days to do so. That letter contains a chart explaining what documents were missing or incomplete. Date you received the bank's letter: _____ Deadline to submit (30 days from above): _____ Date submitted: _____ Method: _____ |
| Step 5. Bank Decision | Once your application is complete, the bank will send you a letter either approving or denying your application. If denied, the bank will provide you with an explanation for denial. This will normally take 30 days or fewer. |

NEXT STEPS

This report focuses attention on the gap in existing law governing loan modifications. Education and outreach are needed to help homeowners and their advocates understand the importance of getting an application to “complete” status. Under current law, protection from foreclosure does not begin until that point. Few understand this detail, however, which leads to allegations of dual tracking that are not violations of existing law.

The proffered solution to the complete application problem, which would protect homeowners in document collection, would be a major step in protecting consumers and stemming foreclosures. The California Monitor believes an expansion of the servicing standards in the National Mortgage Settlement is the best way to provide comprehensive, national protection to homeowners. Such a change is completely consistent with the spirit of the Settlement and will bring its protections into line with homeowners’ expectations and needs.

The California Monitor will continue to engage banks directly about operational and legal barriers to protecting homeowners during document collection for loan modification applications. The banks need to improve the letters that advise homeowners that additional documents are needed. They also need to refine the scripts and tools available to single points of contact who phone homeowners to request documents. The loan modification process is much improved as a result of the servicing reforms in the Settlement. Now, the most needed change is integrating the key loan modification reforms on document submission and dual tracking. The approach described here would align the incentives of banks and homeowners, improve communication, and help avoid preventable foreclosures.

APPENDIX A

Date

John and Jane Doe
1234 Sunrise Lane
Pacific Grove, CA 90000

Loan Number 987654322

Dear John and Jane Doe:

We have received your initial loan modification application. You must submit additional documents in order for us to make a decision on whether you are eligible for a loan modification. Your home will not be sold at foreclosure during the next 30 days while you collect and submit the additional documents.

This table shows your progress toward completing a loan modification application.

| Document | Status | Your next step |
|---|------------------|---|
| Request for Mortgage Assistance (RMA) form | Received 5/1/13 | None. Submitted at home preservation event. |
| Hardship letter | Received 5/10/13 | None. Received by mail. |
| IRS Form 4506-T | Received 5/12/13 | None. Received by fax. |
| March 2013 bank statement for Acct. No. 123456 | Incomplete | Please submit <i>all</i> pages of the statement. When you first submitted it, you sent only the first page. |
| Profit & Loss statement | Incomplete | Please submit a current statement reflecting the last 90 days of your gross income, expenses, and net income. Your prior statement did not contain expense information. |
| Letter of explanation: \$2000 deposit made on 3/3/2013 in bank acct no. 123456. | Missing | Please write a brief letter explaining the deposit, including the source of the funds. Be sure to sign and date the letter. |

Please submit the paperwork indicated as "incomplete" or "missing" in the table above within 30 days of receiving this letter. To submit documents, you may fax items to 1-800-555-5555, use the HopeLoan portal, or mail them to me with the FedEx label provided. If you have questions, please contact me at 1-800-555-0000 for help.

Documents other than those noted above may be needed to make a decision on your eligibility for a loan modification. If additional documents are needed, you will be sent a letter similar to this one and be given 30 days to submit them.

Attached is a guide to the loan modification process. You can fill in dates to help track of your application's status. To help us communicate with you during this process, please return phone calls promptly and open mail we send you. Thank you.

Sincerely,

Customer Service Representative

Si necesita asistencia en español, por favor llame al 1-800-555-1000.

APPENDIX B

LOAN MODIFICATION APPLICATION WORKSHEET

Fill in the blanks on this page to keep track of the status of your application.

| | |
|---|---|
| Step 1. Initial Application | You submit one or more documents, such as a Request for a Modification form or hardship letter, to seek a loan modification. Date submitted: _____ Method: _____ |
| Step 2. Document Collection | Your initial application is reviewed by your designated representative, a single point of contact. If you need to submit additional documents, you will receive a letter giving you 30 days to do so. That letter contains a chart explaining what documents were missing or incomplete. Date you received the bank's letter: _____ Deadline to submit (30 days from above): _____ Date submitted: _____ Method: _____ |
| Step 3. Underwriter Review | An underwriter reviews the application and may determine that additional documents are needed to evaluate you for a modification. |
| Step 4. Additional Document Collection Further requests for documents are most likely if you are self-employed or have multiple sources of income. | If you need to submit additional documentation, you will receive a letter giving you an additional 30 days to do so. That letter contains a chart explaining what documents were missing or incomplete. Date you received the bank's letter: _____ Deadline to submit (30 days from above): _____ Date submitted: _____ Method: _____ |
| Step 5. Bank Decision | Once your application is complete, the bank will send you a letter either approving or denying your application. If denied, the bank will provide you with an explanation for denial. This will normally take 30 days or fewer. |
| Step 6. Your Decision | If your application was approved, decide whether you would like to accept the loan modification. To accept the offer, you must follow the directions provided in the offer letter. Next step: _____ If your application was denied, you have 30 days to appeal the denial by following the directions provided in the denial letter. Once your appeal is received, the bank will make its best effort to respond within 30 days. Date the decision letter was received: _____ Appeal deadline (30 days from above): _____ Date submitted: _____ Method: _____ |

If you experience any problems or have questions during any step of this process, please contact your Single Point of Contact (SPOC). If your SPOC is unavailable, you may be asked to be transferred to a manager. You may also seek assistance from a non-profit housing counselor certified by the U.S. Department of Housing and Urban Development (HUD). To locate a counselor, call (800) 569-4287.

NEED HELP? SEND YOUR STORY.

Homeowners may submit requests for help through two methods: the California Attorney General's Public Inquiry Unit, online at [HTTP://OAG.CA.GOV/CONSUMERS/GENERAL](http://OAG.CA.GOV/CONSUMERS/GENERAL) or directly to the California Monitor Program, by email at CAMONITOR@DOJ.CA.GOV.

Propietarios de viviendas pueden presentar una queja a la Oficina del Procurador General de California en [HTTP://OAG.CA.GOV/CONSUMERS/GENERAL](http://OAG.CA.GOV/CONSUMERS/GENERAL) o por correo electrónico directamente al Programa del Monitor de California a CAMONITOR@DOJ.CA.GOV.

房主可以通过两种方式提交请求：上网到加州总检察长的谘询 [HTTP://OAG.CA.GOV/CONSUMERS/GENERAL](http://OAG.CA.GOV/CONSUMERS/GENERAL) 或直接通过电子邮件到加州监控程序 CAMONITOR@DOJ.CA.GOV.

Nếu quý vị cần giúp đỡ với nợ nhà, hãy liên lạc với chúng tôi tại California Attorney General's Public Inquiry Unit, [HTTP://OAG.CA.GOV/CONSUMERS/GENERAL](http://OAG.CA.GOV/CONSUMERS/GENERAL), hoặc gửi email đến CAMONITOR@DOJ.CA.GOV.

주택 소유자는 다음 두 가지 방법으로 도움요청을 제출할 수 있습니다: 캘리포니아 법무장관의 공개 문의 부서, 온라인을 통해 [HTTP://OAG.CA.GOV/CONSUMERS/GENERAL](http://OAG.CA.GOV/CONSUMERS/GENERAL) 또는 직접 캘리포니아 모니터 프로그램으로 이메일을 CAMONITOR@DOJ.CA.GOV.

Ang mga may-ari ng bahay maaaring magsumite ng mga kahilingan para sa tulong sa pamamagitan ng dalawang pamamaraan: ang Public Inquiry Unit ng California Attorney General, online sa [HTTP://OAG.CA.GOV/CONSUMERS/GENERAL](http://OAG.CA.GOV/CONSUMERS/GENERAL) o direkta sa California Monitor Program, sa pamamagitan ng email sa CAMONITOR@DOJ.CA.GOV.