6 Tricks Banks Use to Drive Homeowners Into Foreclosure

Carla Faraldo April 19, 2015

The Banks Business Model is Foreclosing on Homeowners Image by lewilljo

Banks have become just mortgage servicing agents and foreclosure of your home is their new business model. Protect your home by learning about the tricks they play.

(Newswire.net -- April 19, 2015) Los Angeles, CA -- Most homeowners are unaware that their mortgage banks make more money from foreclosure than actual payment. Mortgage banks give as few modifications as possible and comply minimally with statutes put in place to protect borrowers, all while employing tricks to "cash in" on homeowners' defaults, pushing them to foreclosure. The banks take the risk of litigation because few people sue, but getting legal assistance as soon as possible can make the difference between homeowners asserting their rights or losing their homes while being bulldozed by the bank.

Securitization is the reason banks want homeowners to foreclose. When a bank assigns the risk of a loan to the investors of a securitized trust, the "bank" is no longer a traditional bank that gets the benefit when mortgage payments are made. Instead, the bank has become a servicer that actually benefits disproportionately from foreclosure on a homeowner's property.

When foreclosure becomes a possibility, like when a borrower misses a payment or asks for a modification, the banks seize the opportunity for increased profit by foreclosure. According to Susan M. Murphy, Founding Member and Lead Attorney of Los Angeles based Advocate Legal, that is also when the bank will start to employ the following tricks:

Bank Trick #1: Refusing Payments

The bank refuses the check a homeowner sends in. The bank may offer a reason (for example, there's a mistake on the account) or it might offer no explanation at all. The bank may even offer the homeowner a loan modification. The bank does this to delay the homeowner from immediately contacting an attorney to pursue a breach of contract claim.

Alternately, the bank may take trial payments in an effort to further delay the homeowner until the arrears (also known as the forbearance) becomes so great that the homeowner is ineligible for a loan modification or unable to repay the debt.

Eventually, the servicer combines this trick with other tricks, such as changing servicers, to draw the homeowner further into default.

Bank Trick #2: Switching Services During Modification

A homeowner gets a loan modification with one servicer and makes trial payments. The servicer advises the homeowner that it is switching servicing rights to another servicer.

The new servicer claims to know nothing about the modification and delays the homeowner for months waiting to get the relevant "paperwork." No matter how many times the homeowner sends proof of the modification, the new servicer refuses to honor it.

It is a violation of California law to not honor a modification from a prior servicer but servicers know that most people will not pursue litigation.

Bank Trick #3: Breaching a Modification Contract

The homeowner gets a loan modification that includes a balloon payment of, for example, $50,000 after 20 years. After paying on this loan modification for a year and a half, the homeowner gets a new modification in the mail from the same servicer with a balloon payment of $150,000. No matter how many times the borrower calls the servicer, or tries

to forward the existing modification, the agent will respond with a fixed script that does not acknowledge the prior modification but only talks about the new one. The confused borrower will feel like he or she is talking to a robot (on a recorded line, being monitored by a supervisor). Eventually, if the borrower does not sign and execute the new modification, the bank will begin to refuse their payments on the old modification.

The servicer will also create a paper trail that tells a different story than what is actually happening. If the bank is trying to stick a borrower with a new modification, the paper trail will show the borrower is refusing the modification and mention nothing about the old one. Eventually, the servicer will stop accepting payments unless the homeowner acquiesces to the new modification.

Bank Trick #4: Extra Fees & Escrow Accounts

The homeowner receives a bill for extra fees out of nowhere so that the mortgage payment becomes something the homeowner suddenly can't afford. The servicer refuses to accept any "partial payment." After that, the bank continues adding on fees each month, increasing the amount the borrower has to pay to reinstate. They may offer the homeowner a loan modification as a distraction to trick the homeowner into a longer default. Because the borrower thinks they are getting a modification, they will spend the money they would have put towards their mortgage and be unprepared to pay their arrears if the modification falls through, as it most likely will.

The servicer does all this while telling the borrower they are there to help.

The servicer may pay homeowner taxes early and then accuse the homeowner of not paying them. The servicer may point to a clause in the mortgage that says if the homeowner doesn't pay the taxes, they can raise the interest rate. They may begin charging the homeowner for forced place insurance at a high rate even though the homeowner already has insurance. This is something the homeowner only finds out after-the-fact when trying to pay property taxes.

Bank Trick #5: False Notices

In a non-judicial foreclosure state, such as California, foreclosure is done by recorded notice. The Notice of Default states the amount of arrears that a homeowner must pay back to reinstate the loan.

Servicers uniformly overstate this amount by up to $20,000, which serves two purposes: (1) It scares borrowers with an inflated amount of arrears that they believe they can't cure; and (2) It creates a paper trail for the bank so they can claim more money from investors.

Bank Trick #6: Multiple Modifications

The Homeowner Bill of Rights (HBOR) is recent California law that has protection built in for borrowers that apply for a loan modification. The bank must respond to the application with a denial or approval within a definite period. A denial must be in writing and must inform the borrower of the right to appeal. The bank cannot "dual track" a borrower by posting Notices of Foreclosure and Trustee's Sale while reviewing the borrower for a modification.

There are big penalties for "dual tracking" by the bank, but only if it is the borrower's first time applying. This is why a servicer will often deny a modification over the phone or encourage a borrower to apply again. Once a borrower becomes a serial modifier, the bank can dual track the borrower all it wants without statutory penalties. And, it will.

Banks use these tricks because they prefer foreclosure to loan modification. Murphy, whose practice focuses on litigation against lenders and servicers , goes on to note that servicers benefit more from foreclosure than from modification because of something called "creaming the debt." If the servicers modify the loan, their penalties and fees might not get paid to them. When they foreclose, they get their penalties first, before the investors– which is the "creaming."

Foreclosure is clearly the fattest pot of gold possible and it's for this reason foreclosure is the bank's primary goal.

If a homeowner spots any of the above tricks, the best thing to do is immediately seek legal assistance in order to avoid the situation from getting any worse.

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