



**GOOD**

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## ***Mortgage Modifications – What’s The Latest?***

### ***I. Making Home Affordable – Presidential / Treasury Secretary Proposal***

- (1) Would allow borrowers to refinance to traditional 15 or 30 year loans if you qualify – Rates can be as low as 2% for the first few years. This program would be administered through **Servicers**.
  
- (2) Several qualifications:
  - a. **Personal** Residences only / No Investor-Owned Properties;
  
  - b. Loans over approximately \$730,000.00 do not qualify;
  
  - c. There are complex calculations that the servicers would have to work out with borrowers that match any refinancing to their income, which they call the “Debt to Income Ratio”;
  
  - d. Many details remain to be worked out.
  
  - e. Fortunately, homeowners can still apply if they are in bankruptcy or if there is a foreclosure pending.

What To Do:

- (a) Go to [www.goodattorneysatlaw.com](http://www.goodattorneysatlaw.com), click on “Bankruptcy” – Great links to more detail about the program;
- (b) IF you qualify, contact your mortgage servicer. Everything in writing.

**II. Helping Families Save Their Homes Act of 2009**

*Very Favorable Bankruptcy Mortgage Modification Legislation  
(Introduced in Senate S. 61, now HR 200)*

**Status:** Amended in the Senate and reported to House of Rep

(1) Principal residences only

(2) Would allow **modification** of such loans:

- a. Requires Court to disallow loans that violated Truth In Lending Act
- b. Change Terms of Loan – Adjustable to fixed, payment term
- c. Disallowing creditors’ claims for penalties and certain fees

(3) Could apply even to properties that have already been foreclosed

(4) Does NOT contain “**Cramdown**” provision

## Outlook:

- (1) Will probably be further modified given bank pressure & lobbying.
- (2) Will not apply to FHA or VA backed loans.

### **III. Emergency Homeownership and Equity Protection Act**

*(Introduced in House HR 225)*

Similar to “Helping Families” legislation but **DOES** include the “Cramdown” provision.

**Bottom Line:** Nothing now, time will tell.

### **IV. Beware the Tax Consequences**

- (i) There are **important tax considerations** when it comes to foreclosures, short sales, and withdrawing money from your retirement account:
  - a. Debt that is **written off** from a short sale or deed in lieu, especially on investment property, will constitute taxable **income** IF the lender writes off the balance AND no other exception, especially bankruptcy, applies;
  - b. Be careful about withdrawing money from **retirement accounts** to pay your bills. The money you put in your

401(k) and deducted before **is income now** when its withdrawn. There are hardship provisions that may allow you to avoid these negative consequences. Contact us so I may examine your particular situation.

## ***V. Foreclosure Defense***

- (a) For clients that who's **only** real financial issue are the payments on their home, there are steps borrowers can take, such as responding to the foreclosure complaint, or alleging certain breaches of state or federal law, such as Truth in Lending Act;
- (b) It never hurts to make a good faith effort. Send a letter to your lender at least every thirty (30) days, return receipt requested, to show good faith.

### **Parting Thoughts**

- (1) DO NOT FALL FOR SCAMS – SPEAK TO AN ATTORNEY FIRST, EVEN IF JUST FOR A CONSULTATION!
- (2) DON'T WAIT

## TAX ITEMS

### *The American Recovery and Reinvestment Act of 2009 (Tax Items):*

- (1) **Tax Credit for Individuals** – “Making Work Pay” - \$400.00 for individuals / \$800 Joint Returns – Can reduce withholding or claimed as credit on return.
  
- (2) **Special Payment** - One-Time \$250 payment to retirees, the disabled, anyone receiving SSI, disabled veterans. Reduces the Tax Credit.
  - a. Between the two of these, most people will get some benefit under one or the other, since not everyone has wages and not everyone has any taxes due at the end of the year.
  
- (3) **First-Time Homebuyer Tax Credit** – 10% of Purchase Price, up to \$8,000.00, for homes purchased through the end of November, 2009.
  
- (4) **New Car Purchases** – Deductibility of sales and local taxes on new vehicle purchases (though only for those not already electing to deduct state sales taxes, which applies to many FL taxpayers).