

Modesto attorney says foreclosure changes may establish more freedom

As the foreclosure crisis persists, the government and banks continue to seek ways to assist and reward struggling homeowners who try to work towards resolution of their loan delinquencies. New changes may finally afford homeowners some real freedom from the crisis.

The U.S. Treasury Department recently earmarked almost \$700 million for the California Housing Finance Agency's Mortgage Assistance Corporation (CalHFA MAC) to aid besieged borrowers in various ways. These federal funds will be used in upcoming months to reduce principal on mortgage loans through an earned forgiveness program, to address late and overdue loan payments, and to subsidize loan payments for unemployed families. "These new state programs give distressed homeowners many more tools than they currently have to try to get back on their feet and save their home," says attorney John Villines, a Modesto real estate lawyer who advises clients on the legal ramifications of foreclosure.

Currently, homeowners generally have three options when faced with foreclosure: negotiate a loan workout with the lender, attempt to "short sale" the home to a third party for a reduced price or simply walk away. "Each of these choices has significant pitfalls and long-lasting consequences, so careful planning is required," Villines says. "The recent bank changes and new governmental programs mean that each option has significantly changed."

Attorney John Villines, who has been practicing law for more than a decade in the area, is especially concerned that homeowners cannot keep up with the rapidly changing foreclosure environment. "New laws and bank policies are literally being announced daily," Villines says. "Homeowners are bombarded with conflicting information from a variety of sources. It is vital that homeowners seek help from professionals with a depth of experience and knowledge."

Successful loan modifications



Attorney John Villines with Clerical Assistant Samantha Winfree at JV Law office, located at 726 14th Street in downtown Modesto.

are on the rise, and more banks are turning to in-house programs rather than Obama's "HAMP" program. In May, 70 percent of all completed loan modifications were through banks' own programs. Overall, there were almost 400,000 workouts granted by banks in May. "This is good news for homeowners. Banks are finally cooperating with their customers in good faith," Villines says. "For too long, the banks were granting mere lip service to modifying loans, but it seems like now there is a movement towards real action. People contemplating a loan modification should act now during this window of opportunity."

Short sales, where a bank approves the sale of the home to a third party for less than what is owed, are also on the rise. In the first quarter of 2010, 31 percent of all residential property sales resulted from the foreclosure process.

A short sale is of a greater benefit to homeowners than a foreclosure sale, as it has less of an impact on credit scores and allows for the purchase of a new home in a shorter amount of time. There are risks

however. "Short sales are a great solution for many people, but come with all sorts of complications, especially if there is more than one loan on the property," Villines warns. "Many times a person will sell her home through a short sale and think her problems are over, but a year later she will receive a big tax bill from the IRS or is sued by the second mortgage for the debt that is still owed."

Part of the new changes to Obama's HAMP program is that banks must now agree to allow a short sale if a loan modification is denied and give the homeowners \$3,000 for relocation assistance. This is called the HAFA program. "HAFA can be a viable option for some people. It allows homeowners to try to obtain a loan modification first, and use the short sale option as a fallback plan." The HAFA program is expanding next month, so that even more people can take advantage of it. Villines cautions, "HAFA does have some drawbacks. I would advise a borrower to seek counsel from a professional on what type of short sale best meets that borrower's needs."

In addition to HAFA, CalHFA MAC just announced that it will also be providing funds to borrowers who have conducted a short sale to assist with their transition to alternate housing.

Villines routinely works side-by-side with real estate agents and homeowners throughout the short sale process, negotiating with banks and reviewing the legal documents. Although real estate agents handle the purchase mechanics of the short sale transaction, these agents are prohibited by law from giving legal advice. "It's crucial to get counsel from a trusted attorney on a short sale," Villines says. "The risk is too high to just hope it all works out."

Many borrowers are choosing to simply walk away from a devalued property. These "strategic defaults" come with potential problems. For example, Fannie Mae announced last week that borrowers who walk

away without completing a workout will be ineligible for a new loan for 7 years after the foreclosure and may face legal action to recoup the loan deficiency. Conversely, those borrowers who complete a workout with their bank, such as a loan modification or short sale, could be eligible for a new mortgage loan in 2-3 years.

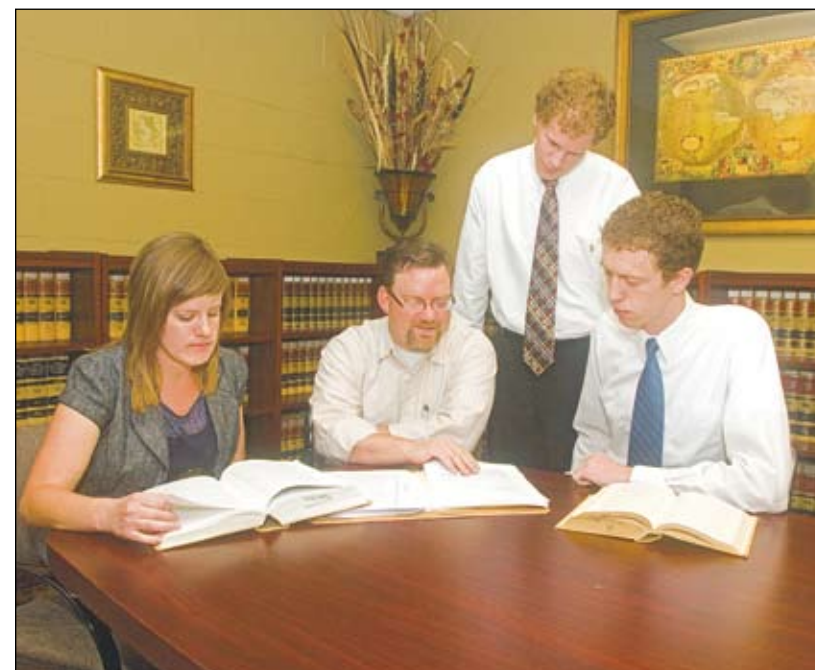
These new policy changes are critical since the majority of loans in the Central Valley are backed by Fannie Mae. "Our services include counseling clients on how to properly walk away from real estate," says Villines. "We want to minimize the negative impact, and position our client for future home ownership as soon as possible."

Overall, Villines cautions homeowners to seek advice from a real estate attorney who has experience with mortgage workouts before taking a particular course of action. "One misstep could have far-reaching tax, debt, and liability consequences," says Villines. "It is critical that homeowners know all their options from an objective source. We educate our clients and craft a legal 'plan-of-action' to guide them through their economic crisis."

Homeowners are encouraged to take advantage of JV Law's free case analysis. Each unique situation is evaluated, and homeowners are advised of the options, strategies, potential ramifications, and the best course of action, taking full advantage of in-depth knowledge of the law and available programs. To schedule your free appointment, call JV Law toll-free at 1-866-510-2068 or 209-524-9903. You can also get up-to-date information by visiting www.jvlaw.net.



726 14th Street, Suite E
Modesto, CA 95354
(209) 524-9903 • www.jvlaw.net



(l-r) Adrienne Yerzy, Attorney John Villines, Chris Yerzy and Richard Birlew working together on a client's case.