

## LOAN MODIFICATIONS & THE BANKRUPTCY DEBTOR

- Loan modification- the lender and the debtor enter into an agreement to change an adjustable rate mortgage to a fixed rate mortgage, or lower the interest rate or payment or put a debtor's mortgage arrearage at the end of the loan.
  - **To qualify for a loan modification, the debtor must provide the following information (it varies depending on the lender):**
    - 2 months worth of paystubs or income documentation for every member of the household.
    - Copies of the most recent two years of tax returns with all schedules and W-2 forms.
    - If self-employed, the debtor must provide the last 2 quarters of profit and loss statements.
    - Proof of any additional income- rental income, child support, food stamps, etc.
    - Copies of the most recent two months of checking and savings bank account statements.
    - A copy of the most recent utility bill addressed to the property.
    - Copies of documentation supporting the debtor's financial difficulties. (For example: medical bills)
    - Amount of up front funds the debtor is able to submit to lender.
    - A hardship letter explaining the circumstances that resulted in the default on the mortgage. This must be signed by all of the parties on the mortgage and dated.
    - Signed form consenting to a review of the debtor's credit report.
    - A completed worksheet regarding the debtor's monthly income and expenses.

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- If the lender determines that the debtor qualifies for a loan modification, the lender will send a proposed loan modification agreement to the debtor and the debtor's attorney. If the debtor wants to accept the terms of the proposed loan modification agreement, the following items normally must be submitted back to the lender before a deadline specified within the documents:
  - Approval of the bankruptcy court, **not** the bankruptcy trustee.  
  
Bank of America/BAC (formerly Countrywide Home Loans, L.P.) & Ocwen require this.  
  
Debtor's attorney must file a motion with the court and serve it on all creditors. Normally the loan modification agreement is attached to the motion or the terms are outlined in the motion. If no objection is received, a proposed order is submitted. The signed order must be submitted to the lender.
  - Signed, dated and notarized original loan modification agreement.
  - Up front funds in certified form (cashier's check or money order).
  - If there is a co-signer on the mortgage, the co-signer must also sign the loan modification agreement.
  - All documents and information requested prior to deadline specified in documents.
- Some lenders require a stipulation and signed order lifting the automatic stay for the purpose of the parties discussing a loan modification or other type of loss mitigation. Some lenders require this **before** they will discuss loss mitigations options with the debtor or their attorney.