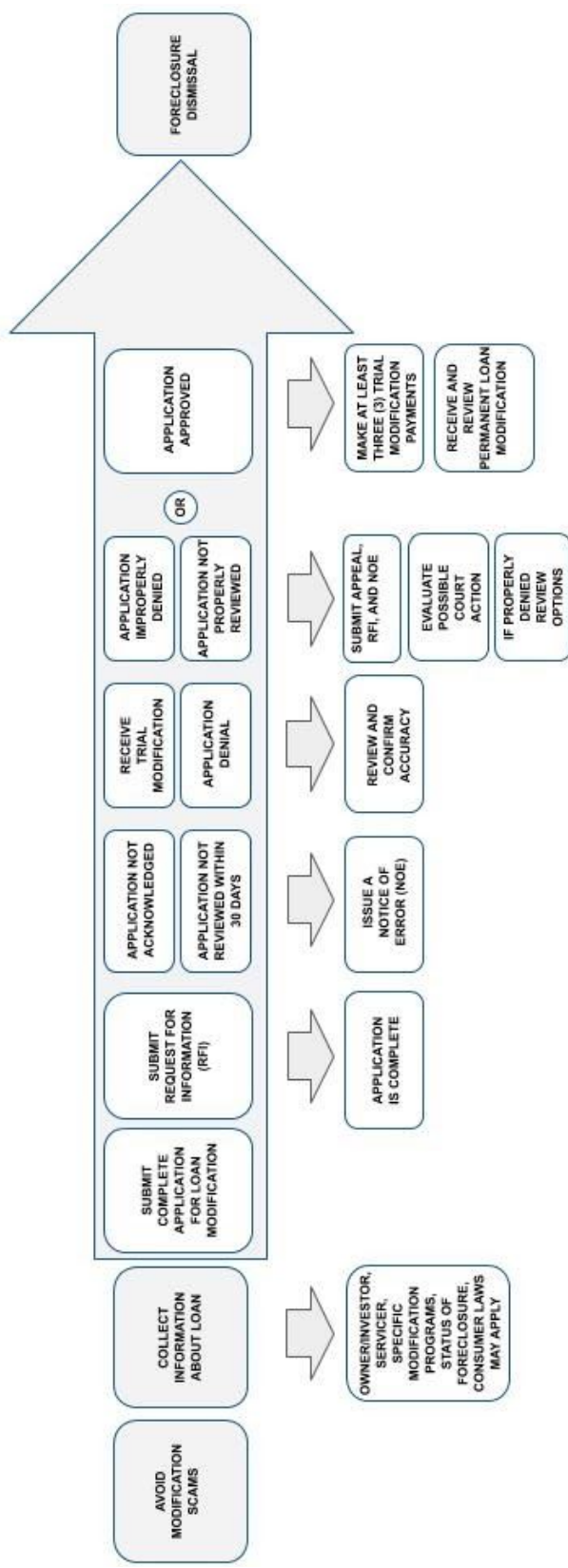


Understanding the Loan Modification Timeline in New Jersey



Ira J. Metrick, Attorney at Law, LLC
 732-462-7000
 ira@metrickesq.com

1. AVOID SCAMS

It may be a Modification Scam if:

- You get a letter that looks like a modification pre-approval.
- You get notices that look like they are from the government.
- You get notices that look like they came from a mortgage company.
- They tell you that you are about to lose your home.
- You cannot speak to the attorney that is handling your file.
- They promise a 2% interest rate.
- They promise principal reduction.
- They tell you that you don't need tax returns.
- They tell you they can lower your payment without taking any information from you.
- They are not a NJ licensed attorney or a NJ licensed debt adjuster.
- They are not located in NJ.
- They are not prepared to help you go to Court or stop a sheriff sale.

2. WHO IS THE CURRENT OWNER/INVESTOR AND SERVICER?

The loan modification application must be submitted to the current loan servicer. This is normally the company that is sending the monthly mortgage statements. Knowing the Owner/Investor can be the most important piece of information available and will tell you what types of modifications may be available. If your loan is "Federally Backed," meaning it is with FHA (Federal Housing Authority), VA, Fannie Mae or Freddie Mac, your modification programs are publicly available and the Servicer must abide by them. You can find out if your loan is "Federally Backed" through these searches:

- [Find Out if Your Loan is Owned by Fannie Mae Here](#)
- [Find Out if Your Loan is Owned by Freddie Mac Here](#)
- To Find Out if you have a VA-guaranteed loan, there is specific language in the note and mortgage identifying it as a VA loan, and there are fees paid to the VA.
- Find Out If Your Loan Is Backed By The Federal Housing Authority (FHA) By Calling:
 - 1-800-CALL-FHA (800-225-5342) or HUD's National Servicing Center at 877-622-8525
 - You can also try calling your lender to ask if your mortgage loan is "enterprise backed."

[Learn more about modification after forbearance for Federally Backed loans](#)

If your loan is not "Federally Backed," the modification programs will be determined based upon an agreement between the Owner/Investor and the Servicer. You can find out the Owner/Investor and available programs by sending a written Request for Information (RFI) to the Servicer and ask the name of the Owner/Investor. If the RFI is sent to the designated address, by certified mail, the Servicer MUST respond in writing. Modifications are mathematical

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ira@metrickesq.com

formulas. The Servicer does not look at the hardship letter and a borrower's file to decide if they deserve help. The question is whether the numbers work.

3. DETERMINE STATUS OF ANY FORECLOSURE

The status of a foreclosure is critical in the modification process. In most instances, the Modification Application **MUST** be submitted at least 37 days prior to the Sheriff Sale. However, it should be submitted at least 45 days prior to the Sheriff Sale to make sure the most protections are in place. In most instances, if a "Complete" application is being reviewed, a lender cannot file a Complaint, an Application for Final Judgment, and they can't conduct a Sheriff sale.

Some reasons that the application may not stop the foreclosure are: if the Servicer has reviewed a prior Modification Application since 2014; if the property is more than 4 units; if the Borrower no longer lives in the property and it is used as an investment property; if the property is vacant or abandoned; or if the property is for a commercial use.

4. PREPARE AND SUBMIT A COMPLETE MODIFICATION APPLICATION

It is always best to submit everything requested in one (1) package in a way that you can track and prove receipt by the Servicer. Try not to send the application in multiple pieces. You should also keep a copy for your records. To have the best protections, all submissions need to be made to the address designated by the lender. If there is a Sheriff Sale scheduled and it is adjourned to have time to submit the application, include the letter from the Sheriff to confirm the sale has been adjourned and there is enough time for a review.

5. AFTER APPLICATION IS SUBMITTED, REQUESTS FOR INFORMATION (RFI) AND NOTICES OF ERROR (NOE)

If RESPA or TILA applies, the lender must acknowledge receipt of the application and advise if anything else is needed, within five (5) business days, and they must review a "complete" application within 30 days. If you do not hear from the Servicer, you can send a RFI (Request for Information) pursuant to 12 CFR § 1024.36, to ask them to confirm:

- That they received the application;
- That they did not ask for any additional documents or information;
- That the application is complete; and
- That the application will be reviewed within 30 days

You can also send a NOE (Notice of Error), pursuant to 12 C.F.R. § 1024.35 to put them on notice that they are in error for failing to acknowledge receipt of the application or failing to review the complete application within 30 days.

The letters **MUST** be sent to the address designated by the Servicer and the letters **MUST** be sent by certified mail. These are necessary steps to protect the homeowner and prepare to

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litigate if the Borrower is improperly reviewed for the modification. Under the rules, a lawsuit can be brought for failing to correct the situation after a NOE is received.

6. RECEIVE AND REVIEW TRIAL MODIFICATION (TRIAL PAYMENT PLAN) OR DENIAL AND REVIEW TO CONFIRM IT IS ACCURATE

In most cases, after the review, the Servicer will either offer a Trial Modification, often called a Trial Payment Plan (TPP), or they will deny the application.

If you believe that the denial is a mistake or that a better modification should have been offered, you can Appeal the decision and send Requests For Information to find out about the guidelines for the modification program and the figures that were used. If you are seeking a better modification, you could lose the modification if you don't accept, so you may want to consider making the payments while you appeal.

In many cases, you will not get the terms of the Permanent Modification as part of the Trial Modification. People want to know the interest rate, payment amount and other details for the Permanent Modification, but in many cases, it has not been created yet, so the Customer Service Representatives don't have that information to provide.

7. IF MODIFICATION WAS PROPERLY DENIED, REVIEW OPTIONS

If the modification is properly denied, it is not necessarily the end. The loan can be sold at any time or the Servicer can change at any time. If the loan is sold, many times it is purchased at a discount and the new Owner/Investor may be able offer a modification. Additionally, if the servicing changes, by law, there is a right to submit a new modification application. The new Servicer may have a different modification, with different requirements, and a modification may be possible.

Depending upon the status of a foreclosure, it may be possible to defend the foreclosure to create time. It also makes sense to speak to an experienced Bankruptcy Attorney to see if that is an option.

8. IF APPLICATION WAS NOT PROPERLY REVIEWED, EVALUATE POSSIBLE COURT ACTION IN STATE COURT OR FEDERAL COURT-MOTIONS TO STAY SHERIFF SALE, SET ASIDE SHERIFF SALE, OR FEDERAL ACTION FOR VIOLATING SERVICING GUIDELINES

If the proper steps are taken during the application process through Requests for Information (RFI) and Notices of Error (NOE), the Borrower can be in a position to go to Court if the application is not properly reviewed or the modification is improperly denied. It may be possible to file a Motion with the Court to Dismiss the Complaint, Deny Final Judgment, Stop a Sheriff Sale or even Set Aside a Sheriff Sale. This also applies if the Borrower was making payments on a Modification or Trial Plan.

Aside from stopping the foreclosure, it may also be possible to file a Federal Action against the Owner/Investor and Servicer under Truth in Lending Act (TILA), Real Estate Settlement

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protection Act (RESPA), New Jersey Consumer Fraud Act (NJCFA), and the Fair Debt Collection Practices Act (FDCPA).

It may also be possible to file a Federal Complaint under the Fair Debt Collection Practices Act (FDCPA), against the attorneys that took an improper action to collect the debt through the foreclosure.

9. IF MODIFICATION WAS APPROVED, MAKE AT LEAST THREE (3) TRIAL MODIFICATION PAYMENTS.

If a Trial Modification (Trial Payment Plan) is approved. At least three (3) payments will be required. It is important to make sure the payments are made on time and the payments should be exactly the amount requested. DO NOT PAY EXTRA. Additionally, DO NOT STOP MAKING PAYMENTS. Even if you have made the three (3) required payments and you are waiting for the Permanent Modification, do not stop making payments. It may take 1-2 more months for the final paperwork to be prepared, so keep making the trial payments until you are advised in writing to stop.

10. AFTER COMPLETION OF TRIAL PAYMENT PLAN, RECEIVE AND REVIEW PERMANENT MODIFICATION

Once received, confirm that the Permanent Modification is correct. Then it must be signed and returned to the Servicer. Most times, it will need to be Notarized because it is going to be filed with the County Clerk. Once you receive a signed copy back from the Servicer, you can seek to confirm that any Foreclosure is dismissed and that the Lis pendens is discharged from the County records.

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