

Loan Modification Hearing 10/28/2010

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Thank You Senator Whitehouse for the privilege of being invited to share my experiences regarding this very important housing issue. My name is Christopher M. Lefebvre. I have been a practicing consumer advocate and bankruptcy attorney in Rhode Island for 23 years. Not surprisingly, bankruptcy business is booming in the State of Rhode Island. The exponential growth of Rhode Island bankruptcy filings is clearly related to the devastating economic conditions and their affect on the local housing market. As real estate values plummeted, the ability to take advantage of historically low fixed interest rates to refinance vanished. With massive jobs losses and a wave of adjustable rate mortgage resets, it's not surprising that consumers have flocked to the bankruptcy court seeking refuge from their mortgage creditors. Rhode Island has responded to this crisis in a very unique fashion with it's now one year old Loss Mitigation Procedures. The success of this program is simply staggering. There is absolutely no doubt in my mind that this program has helped many Rhode Island families save their homes from foreclosure.

As a practicing attorney, I am bombarded on a daily basis with complaints from Rhode Island Homeowners that their mortgage lenders and servicers are simply unwilling to work with them to modify mortgages to avoid and or stop foreclosure. Rhode Island homeowners are frustrated with the general non responsiveness to their pleas for help. Many lenders rush to foreclosure rather than working with consumers in a meaningful way to modify loans. Paperwork is consistently lost in the shuffle, documents are resent by consumers ad nauseam, phone calls regarding the status of mitigation efforts go unreturned, and borrowers never get to speak with the same person handling their mortgage file. Then, on the rare occasion when a borrower receives word that they have been accepted for a temporary trial modification, and make trial payments for months, they learn suddenly and without any detailed explanation that a permanent modification has been rejected. Homeowners are immediately thereafter hit with a notice seeking immediate repayment of the unpaid contractual payments that were not made at the request of the lender and or servicer during the trial period. This anomaly causes frustration, anxiety and constant stress for Rhode Island homeowners faced with the possible reality that their home may be lost through foreclosure. Borrowers simply don't understand why all the programs and incentives plastered in the media regarding foreclosure assistance are not available or simply not working.

The Rhode Island Bankruptcy Court Loss Mitigation Procedures eliminates this “merry go round” dysfunction of present modification procedures enacted by many lenders and servicers. The judicial oversight of the process is the key to the programs success. Non responsiveness of lenders and servicers is simply not tolerated. Those choosing to participate in the process are forced to communicate and discuss meaningful modification possibilities within the tightly monitored time frames set by the bankruptcy court. The program is working. Interest rates are being fixed at market rates, arrearages are being recapitalized, loan terms are being extended and reamortized and payments are being substantially reduced. The net result is that many homeowners who have entered the bankruptcy system in Rhode Island emerge with an affordable mortgage payment with their home safe from foreclosure.

Not all individuals seeking to participate in this court annexed mortgage mediation process receive loan modifications. Unfortunately there are simply too many homeowners that are unemployed and without the resources to maintain their residence. These individuals usually do not meet the eligibility requirements of most servicers for loan modifications and accordingly their requests are denied. Nevertheless they are at least acknowledged and heard during the bankruptcy process and treated with dignity and respect, concepts totally foreign to most Rhode Island consumers trying to seek modifications in the non-bankruptcy arena.

The Rhode Island Bankruptcy Court program has helped stabilize the lives of several homeowners who I have represented. For example, in 2009, Mark, a self-employed carpenter from Chepachet experienced a temporary drastic reduction in income. His mortgage company started the foreclosure process. He filed bankruptcy and through the Loss Mitigation Program has saved his home for himself and three small children. His lender GMAC Mortgage fixed his interest rate at 4.5% and recapitalized arrearages and extended the term so that his payment is now manageable.

There is also Saron from Providence who became temporarily unemployed as a jewelry worker in late 2009 and was forced to file bankruptcy to stop a foreclosure. When her employer rehired her she was to obtain a loan modification with America’s Servicing Company, that recapitalized arrearages, extended the term of the loan, fixed the interest rate to 4.5% from a prior 6.875%, resulting in a \$500.00 monthly reduction in her payment. Saron is now able to continue to provide a home for her three children at a payment that is affordable. These success stories are tributes to the thoughtful and life altering Rhode Island Bankruptcy Court loss mitigation program.

Thank you again for the opportunity to testify. I’m happy to answer any questions.