

**INVITATION FOR COMMENTS**  
**DRAFT**  
**CALIFORNIA FORECLOSURE PREVENTION ACT**  
**REGULATIONS**  
**(Corporations, Financial Institutions, Real Estate)**

**I. REQUIREMENTS**

(a) These rules set forth the minimum requirements for a comprehensive loan modification program under Civil Code Section 2923.53, in order for a residential mortgage loan servicer to be exempted from the provisions of Civil Code Section 2923.52.

(b) The modification of loans in conformance with the Home Affordable Modification Program Guidelines issued by the Department of the Treasury on March 4, 2009, (the “Guidelines”) and hereby incorporated by reference, shall constitute the implementation of a comprehensive loan modification program that meets the requirements of subdivision (a) of Civil Code Section 2923.53. All other comprehensive loan modification programs shall comply with the minimum standards in this section to obtain an order from the Commissioner for exemption from the provisions of Civil Code Section 2923.52.

**A. ELIGIBILITY**

(a) For an applicant to be exempt from the provisions of Civil Code Section 2923.52, the comprehensive loan modification program shall, at a minimum, be available for borrowers and residential mortgage loans meeting the following requirements:

- 1) The residential mortgage loan to be modified was recorded during the period of January 1, 2003 to January 1, 2008.
- 2) The borrower occupies the property as his or her principal residence, and occupied the property as his or her principal residence at the time the loan became delinquent.
- 3) The loan is in default, and a notice of default has been filed with the county recorder under Civil Code Section 2924 for the mortgaged property.

- 4) The residential mortgage loan is the first lien on the property, and either the property is not subject to a subordinate lien, or the subordinate lien holder has agreed to subordinate to the modified first lien.
  - 5) The mortgaged property is located in California.
  - 6) The borrower can document assets, income or likelihood of future earnings to establish the ability to repay the modified loan, using customary underwriting criteria and analysis.
  - 7) The borrower has not surrendered the property.
  - 8) The borrower has not contracted with an organization, person or entity whose primary business is advising people who have decided to leave their homes regarding how to extend the foreclosure process and avoid their contractual obligations to mortgagees or beneficiaries.
  - 9) The borrower does not currently have a bankruptcy action pending under Chapter 7, 11, 12, or 13 of Title 11 of the United States Code.
- (b) Nothing in this section prohibits a mortgage loan servicer from including more residential mortgage loans and more borrowers in a comprehensive loan modification program than the minimum set forth in this section. For example, the Commissioner will consider a program that includes borrowers whose loans have not yet become delinquent, but such delinquency is reasonably imminent. For purposes of these regulations, “delinquent” means that an installment has not been paid 30 or more days after the date the installment payment was due.

## B. AVAILABILITY

- (a) For an applicant to be exempt from the provisions of Civil Code Section 2923.52, the comprehensive loan modification program shall, at a minimum, be made available to any borrower meeting the eligibility requirements of this rule who calls, writes, or otherwise communicates with the mortgage loan servicer to notify the servicer of a financial hardship or to explore modifications to an existing loan, and shall be made available to borrowers as part of the contact required under Civil Code Section 2923.5.

(b) Every servicer that contacts a borrower in writing under Civil Code Section 2923.5 shall notify the borrower of the availability of the servicer's comprehensive loan modification program.

### C. PROGRAM REQUIREMENTS

(a) For an applicant to be exempt from the provisions of Civil Code Section 2923.52, the comprehensive loan modification program shall meet the minimum requirements:

#### 1. LOAN MODIFICATION FEATURES

(A) Any residential mortgage loan refinanced under the HOPE for Homeowners Act of 2008 (Title IV of Division A of the Housing and Economic Recovery Act of 2008 (Pub. L. 110-289, 122 Stat. 2654, approved July 30, 2008)) is conclusively presumed to meet the minimum requirements for a loan modification under a comprehensive loan modification plan.

(B) Any residential mortgage loan refinanced under the Home Affordable Refinance Program announced by the U.S. Department of the Treasury on February 18, 2009, is conclusively presumed to meet the minimum requirements for a loan modification under a comprehensive loan modification plan.

#### (C) Anticipated Recovery (NPV) Test

(1) For purposes of determining the anticipated recovery from foreclosure and the anticipated recovery from a loan modification, the net present value of the anticipated recovery shall be based on reasonable assumptions regarding discount rates, property values, costs of foreclosure, costs of modification, and ability of borrowers to pay. To the extent feasible, a servicer shall have internal or external evidence to support the validity of the assumptions in the calculations. The use of the Net Present Value Model Parameters in the Home Affordable Modification Program Guidelines, including applicable discount rates, cure rates and redefault rates, issued by the Department of the Treasury on March 4, 2009, and any amendments thereto, shall meet the requirements of this section and shall not require additional evidence or support. If a servicer's anticipated recovery (NPV)

model differs from the Treasury's Net Present Value Model Parameters, a servicer shall explain the differences in the application and set forth a justification for the differences.

(2) Where the net present value of the anticipated recovery from a loan modification meeting the parameters of this section exceeds the net present value of the anticipated recovery from foreclosure, the servicer shall provide a loan modification to eligible borrowers unless:

- (i) A borrower is unable to document his or her ability to repay the loan;
- or
- (ii) After reducing the interest rate, extending the amortization period, forbearing principal, or modifying the loan in another manner reasonably designed to facilitate repayment of the loan, the servicer is unable to achieve a loan modification for the borrower that results in a borrower's ability to repay the loan, under customary underwriting criteria and analysis.

(D) Debt to Income Ratio of 38% or Less

(1) For purposes of applying the anticipated recovery test, a servicer shall seek to achieve a 38% housing-related debt to gross income ratio. However, a servicer is not required to meet this ratio for every loan modified under the program. A servicer's loan modifications shall, in the aggregate, achieve a 38% housing-related debt to gross income ratio.

(2) For loan modifications under the program that do not achieve a 38% or lower ratio, a servicer shall be able to establish other borrower characteristics that support a borrower's ability to repay the loan. These factors may include, but are not limited to, assets, a high income, low consumer debt, or any other borrower characteristics that support a borrower's ability to repay the loan, using customary underwriting criteria. If a servicer's comprehensive loan modification program results in the modification of some loans at a debt-to-income ratio higher than 38%, a servicer shall explain in the application the reasons for accepting a higher ratio.

(3) For purposes of calculating housing-related debt to gross income, housing-related debt shall include junior liens, if any, in addition to senior liens.

(E) Other Features

(1) A comprehensive loan modification program shall include at least two of the following features:

(a) An interest rate reduction, as needed, for a fixed term of at least 5 years.

(b) An extension of amortization period for the loan term, to no more than 40 years from the original date of the loan.

(c) Deferral of some portion of the principal amount of the unpaid principal balance until maturity of the loan.

(d) Reduction of principal.

(e) Compliance with a federally mandated loan modification program.

(f) Any other factor the Commissioner determines is appropriate, as identified and described in the servicer's application and approved by the Commissioner. Some factors may include, but are not limited to, back-end debt-to-income ratios, elimination of certain delinquency-related charges, modifications for borrowers who are not delinquent, but where such delinquency is reasonably imminent, and other forms of modification that result in a reduction of monthly payments for borrowers.

(2) While a comprehensive loan modification program must include at least two of the features set forth in paragraph (1), each individual loan modification need not include two features.

(3) A servicer shall have criteria in place that define when a borrower qualifies for the potential concessions or modifications, to ensure that the granting of modifications is applied fairly to applicants.

(F) Long-term Sustainability:

A loan modification shall be presumed to constitute a long-term sustainable modification if it includes at least one of the following characteristics:

(1) The modification provides a reduction in monthly payment for the borrower;

- (2) The modification provides the borrower with a housing-related debt to gross income ratio of 38% or less;
- (3) After the modification, the borrower's back-end debt-to-income ratio (as defined in the Home Affordable Modification Program Guidelines issued by the Department of the Treasury on March 4, 2009) is equal to or less than 55%;
- (4) The borrower is current under the terms of the modified loan at the end of a 3-month trial period; or
- (5) The modification is pursuant to the Home Affordable Modification Program Guidelines, HOPE for Homeowners Program, or another federal program intended to reduce the rate of foreclosures.

## 2. OTHER REQUIREMENTS FOR COMPREHENSIVE LOAN MODIFICATION PROGRAMS

(A) If a loan modification consists solely of a repayment plan, a servicer must be able to validate that the borrower has a housing-related debt to gross income ratio of 38% or less, and that under customary underwriting analysis and criteria the servicer has reasonable grounds to support the ability of the borrower to repay the loan.

(B) If a mortgaged property has a subordinate lien, a servicer shall make a reasonable attempt to obtain the consent of the subordinate lien holder to subordinate the lien to a modified loan.

(C) If a loan is investor-owned, a servicer must make a reasonable attempt to obtain the consent of the investors to the modification, if consent is required or if the terms of the pooling-servicing agreement otherwise restrict or are unclear about the servicer's ability to modify the loan. A servicer is not required to modify a loan where the modification will result in a likelihood that the servicer will breach a contractual agreement. A servicer is not required to modify a loan where a guarantor or insurer restricts or prohibits the loan modification.

(D) A servicer that determines a pooling-servicing agreement, or other contract, prohibits the modification of a loan, shall have reasonable grounds for making that determination.

(E) A servicer shall act on an application to modify a loan within a reasonable time period, and shall have procedures and processes in place to ensure that delays in the process not caused by a borrower do not adversely impact a borrower in the modification or foreclosure process.

(F) If a borrower fails to participate in the modification process by providing documentation within a reasonable time or otherwise abandoning the borrower's application, a servicer may decline the application and pursue other remedies such as foreclosure sale. A servicer shall notify a borrower in writing of the time period to respond to a request for information and the potential consequence of failing to provide information in a reasonable time, prior to declining an application because of a borrower's undue delay.

(G) A comprehensive loan modification program may include other foreclosure alternatives for borrowers who do not qualify for a loan modification or who no longer wish to remain in the property, such as short sales or deeds-in-lieu of foreclosure.

(H) A servicer is not required to modify a loan more than once.

## **II. APPLICATION**

### **A. INITIAL APPLICATION**

An applicant shall be temporarily exempt from subdivision (a) of Civil Code Section 2923.52 upon the filing of the exemption application set forth in this rule, provided that the exemption notice is accepted by the Commissioner.

#### **1. Where to File**

##### **[SPACEHOLDER FOR ELECTRONIC FILING INSTRUCTIONS]**

(a) Applicants licensed by the Department of Corporations under either the California Finance Lenders Law or the California Residential Mortgage Lending Act, and any other entities servicing residential mortgage loans that are not described in subparagraphs (b) and (c), shall file their application with the Department of Corporations at the following address:

California Department of Corporations  
Attention: Foreclosure Prevention Act Application Processing  
Los Angeles, CA

(b) Commercial or industrial banks, savings associations, or credit unions organized in this state shall file their application with the Department of Financial Institutions at the following address (for purposes of this regulation, the phrase “organized in this state” means institutions headquartered in this state):

California Department of Financial Institutions  
Attention: Foreclosure Prevention Act Application Processing  
Sacramento, CA

(c) Applicants licensed by the Department of Real Estate under the Real Estate Law shall file their application with the Department of Real Estate at the following address:

California Department of Real Estate  
Attention: Foreclosure Prevention Act Application Processing  
Sacramento, CA

The inadvertent filing of an application with the incorrect department will not constitute grounds for denial of the application.

## 2. When to File

An applicant may file an application at any time. An applicant will be temporarily exempt from subdivision (a) of Civil Code Section 2923.52 upon the receipt of the exemption application by the appropriate Department as noted above. An application received before the operative date of Civil Code Section 2923.52 shall be deemed received upon the operative date of that section, for purposes of the temporary order under subdivision (b)(2) of Civil Code Section 2923.53.

## 3. Temporary Order

Upon receipt of an application, the Department will immediately notify a servicer electronically of the issuance of a Temporary Order exempting the servicer from the requirements of subdivision (a) of Civil Code Section 2923.52. The Department will identify the servicer as having a Temporary Order on the Department's website, and mail a Temporary Order to the servicer.

#### 4. Final Order

Within 30 days of the receipt of an exemption application, the Department will notify the servicer of whether the servicer has a comprehensive loan modification program that meets the requirements of Civil Code Section 2923.53. Upon a finding that the loan modification program meets the requirements of that section, the Commissioner shall issue a Final Order, and shall immediately notify the servicer of the final order.

#### 5. Denial of Application

If the Commissioner denies the exemption application, the Department shall immediately notify the servicer. The Temporary Order shall remain in effect for 30 days after the date of denial. A servicer may submit a revised application before or after the denial of an application. A revised application will not alter or delay the expiration of the Temporary Order. Upon the expiration of the Temporary Order, a servicer shall comply with subdivision (a) of Civil Code Section 2923.52.

#### 6. Modifications to Application

The Department will accept modifications to an application while the application is under consideration. However, the Temporary Order may not be extended.

### B. MODIFICATIONS TO PROGRAM AFTER FINAL ORDER

A servicer may not alter its comprehensive loan modification program after the servicer receives a Final Order from the Commissioner, unless the servicer informs the Commissioner of the change to be made to the program. Any alterations to the program that cause the program to fall out of compliance with the approved program shall require a new application for exemption from the Commissioner. Nothing herein shall prevent a

servicer from adding additional features to the modification program where such features are designed to increase the eligible volume of loans to be modified, reduce the amounts of monthly payments to borrowers, or reduce the probability of redefault, provided that the Commissioner receives timely notice of such alteration. Such timely notice shall not be greater than sixty (60) days after the changes to the modification program are proposed or initiated.

### **III. APPLICATION FORM**

The exemption application shall be in the following form:

DRAFT

**STATE OF CALIFORNIA  
DEPARTMENTS OF  
CORPORATIONS, FINANCIAL INSTITUTIONS,  
AND REAL ESTATE**

**APPLICATION FOR EXEMPTION FROM  
CIVIL CODE SECTION 2923.52(a)  
CALIFORNIA FORECLOSURE PREVENTION ACT**

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The purpose of this application is to apply for an exemption pursuant to Section 2923.53 of the California Foreclosure Prevention Act (California Civil Code Section 2923.52 et seq.). The approval of this application by the Commissioner shall provide the applicant with an exemption from the additional 90-day delay period before a servicer may file the Notice of Sale when foreclosing on real property, as provided in Civil Code Section 2923.52.

Upon filing this application, the applicant will be issued a temporary order of exemption, effective from the date of receipt of the application. The temporary order of exemption remains in effect until a final order of exemption is issued or for thirty (30) days after the application is denied.

When completing the application, please note the following:

- The name of the applicant must be the applicant's legal name.
- The applicant's regulatory license number must be provided.
- If the applicant holds a license with more than one regulatory agency, under the same legal name for the same entity, list the license numbers for each regulatory agency from which an exemption is requested.
- The applicant must provide the name, title, address, email address, and telephone number of the contact person to whom questions regarding the filing of this application should be directed.

- The application must be signed by the applicant if a sole proprietor, by a general partner if a partnership, or by an authorized officer if a corporation or other entity.

The applicant's loan modification program must meet the following requirements:

- The program is designed to keep borrowers in their homes when the anticipated recovery under the loan modification or workout plan exceeds the anticipated recovery through foreclosure on a net present value basis.
- The program targets a ratio of the borrower's housing related debt to gross income of 38% or less, on an aggregate basis in the program.
- The program includes a combination of the following:
  1. An interest rate reduction, as needed, for at least five years.
  2. An extension of the amortization period for the loan term, to no more than forty years from the original date of the loan.
  3. A deferral of some portion of the unpaid principal balance until the maturity of the loan.
  4. A reduction of principal.
  5. Compliance with a federally mandated loan modification program.
  6. Other factors as determined by the Commissioner.
- In determining a loan modification solution for the borrower, the program seeks to achieve long-term sustainability for the borrower.

The appropriate page and paragraph from the loan modification plan must be referenced on your application to show the program's compliance with the above requirements and expectations.

This comprehensive loan modification program must indicate that senior management has approved and implemented it as part of the applicant's underwriting and loss mitigation policy.

NOTE: A servicer is not required to violate a contractual agreement for the investor-owned loans or provide a modification to a borrower who is not willing or able to pay under the modification. However, in these situations, and for any decline in granting a loan modification under this paragraph, the reasons must be fully documented in the borrower's loan file.

In addition to other required documentation, an applicant must submit with this application a revised "Notice of Sale" document that meets the disclosure requirements of Civil Code Section 2923.54. The amended "Notice of Sale" must contain a declaration stating whether the servicer has obtained an order of exemption from the Commissioner that is current and valid on the date the Notice of Sale is filed, and whether the additional 90-day period is applicable.

The application shall be filed with the appropriate agencies as follows:

Department of Corporations

- Licensed residential mortgage lenders and servicers
- Licensed finance lenders and brokers servicing mortgage loans
- Any other entities servicing mortgage loans that are not required to file the application with the Department of Financial Institutions or the Department of Real Estate

Department of Financial Institutions

- Commercial and industrial banks
- Savings associations
- Credit unions

Organized in this state servicing mortgage loans (for purposes of this regulation, the phrase "organized in this state" means institutions headquartered in this state)

Department of Real Estate

- Licensed real estate brokers servicing mortgage loans

An application will not be rejected by a department based upon an applicant's inadvertent failure to file with the designated department.

**APPLICATION FOR EXEMPTION UNDER  
SECTION 2923.53 OF THE  
CALIFORNIA FORECLOSURE PREVENTION ACT  
(CIVIL CODE SECTION 2923.52 ET SEQ.)**

1. Legal name of applicant:

\_\_\_\_\_

Fictitious business name (FBN):

\_\_\_\_\_

2. License numbers:

DOC Primary License Number: \_\_\_\_\_

DFI Primary License Number: \_\_\_\_\_

DRE Primary License Number: \_\_\_\_\_

Other entity servicing mortgage loans

Name of Primary Regulator: \_\_\_\_\_

License/Identification Number, if applicable: \_\_\_\_\_

(Specify every license held by applicant that this application applies to.)

3. Contact Person/Title: \_\_\_\_\_

4. Telephone Number: \_\_\_\_\_

5. Email Address: \_\_\_\_\_

6. Mailing Address: \_\_\_\_\_

\_\_\_\_\_

7. Date comprehensive loan modification program was implemented: \_\_\_\_\_

8. Link to applicant's website describing its loan modification program:

\_\_\_\_\_

INVITATION FOR COMMENTS  
Draft California Foreclosure Prevention Act Regulations  
Comments Requested by May 6, 2009

9. Are you a commercial or industrial bank, savings association or credit union organized in this state that has adopted a comprehensive loan modification program in conformance with the Home Affordable Modification Program Guidelines issued by the Department of Treasury on March 4, 2009?  
Yes \_\_\_ No \_\_\_\_.

If your answer is "Yes," please skip the remaining questions, provide only Exhibits 2 and 3, and complete the declaration section of this application. If your answer is "No," please continue to complete the remainder of this application.

10. Are you currently participating in a federally sponsored loan modification program, or other federal loan modification program?  
Yes\_\_\_\_\_ No\_\_\_\_\_

If yes, please indicate the program below:

- \_\_\_\_\_ Home Affordable Modification Program  
\_\_\_\_\_ Hope for Homeowners  
\_\_\_\_\_ Other. Please specify. \_\_\_\_\_

- A. Have you entered into a contract or agreement with the federal agency responsible for the program?  
Yes\_\_\_\_\_ No \_\_\_\_\_

If yes, please provide a copy of the agreement(s).

- B. Does the federal loan modification program(s) you are participating in cover all types of residential mortgage loans you service? (i.e. Fannie Mae, Freddie Mac, FHA, VA, etc.)  
Yes\_\_\_\_\_ No\_\_\_\_\_

If no, please explain and include how modifications for the loans not covered by the federal program are performed.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The following exhibits must be submitted with this application:

Exhibit (1): A description of your Comprehensive Loan Modification Program(s). The program must, at a minimum, include the requirements of Civil Code Section 2923.53. Please respond to the following questions and reference below the page and/or paragraph numbers with your submitted program. If you have more than one comprehensive loan modification program, please identify the program name and provide the requested information for each program:

Program 1 Name/Identity: \_\_\_\_\_  
Program 2 Name/Identity: \_\_\_\_\_

Program 3 Name/Identity: \_\_\_\_\_

- Does the program contain a provision that the anticipated recovery under the loan modification or workout plan exceeds the anticipated recovery through foreclosure on a net present value basis? (Net present value (NPV) has same meaning as used in the federal Affordable Home Modification Program.)

Program 1

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, indicate the location of the provision. Page \_\_\_\_\_ Paragraph \_\_\_\_\_

Program 2

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, indicate the location of the provision. Page \_\_\_\_\_ Paragraph \_\_\_\_\_

Program 3

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, indicate the location of the provision. Page \_\_\_\_\_ Paragraph \_\_\_\_\_

- Does the program contain a provision that it targets a ratio of the borrower's housing related debt to gross income of 38% or less, on an aggregate basis in the program?

Program 1

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, indicate the location of the provision. Page \_\_\_\_\_ Paragraph \_\_\_\_\_

Program 2

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, indicate the location of the provision. Page \_\_\_\_\_ Paragraph \_\_\_\_\_

Program 3

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, indicate the location of the provision. Page \_\_\_\_\_ Paragraph \_\_\_\_\_

- The program includes the consideration of a combination of the following features:

A. Does the program include an interest rate reduction, as needed, for at least five years?

Program 1

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, indicate the location of the provision. Page \_\_\_\_\_ Paragraph \_\_\_\_\_

Program 2

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, indicate the location of the provision. Page \_\_\_\_\_ Paragraph \_\_\_\_\_

INVITATION FOR COMMENTS  
Draft California Foreclosure Prevention Act Regulations  
Comments Requested by May 6, 2009

Program 3

Yes\_\_\_\_No\_\_\_\_

If yes, indicate the location of the provision. Page\_\_\_\_ Paragraph\_\_\_\_

B. Does the program include an extension of the amortization period for the loan term, to no more than forty years from the original date of the loan?

Program 1

Yes\_\_\_\_No\_\_\_\_

If yes, indicate the location of the provision. Page\_\_\_\_ Paragraph\_\_\_\_

Program 2

Yes\_\_\_\_No\_\_\_\_

If yes, indicate the location of the provision. Page\_\_\_\_ Paragraph\_\_\_\_

Program 3

Yes\_\_\_\_No\_\_\_\_

If yes, indicate the location of the provision. Page\_\_\_\_ Paragraph\_\_\_\_

C. Does the program include a deferral of some portion of the unpaid principal balance until the maturity of the loan?

Program 1

Yes\_\_\_\_No\_\_\_\_

If yes, indicate the location of the provision. Page\_\_\_\_ Paragraph\_\_\_\_

Program 2

Yes\_\_\_\_No\_\_\_\_

If yes, indicate the location of the provision. Page\_\_\_\_ Paragraph\_\_\_\_

Program 3

Yes\_\_\_\_No\_\_\_\_

If yes, indicate the location of the provision. Page\_\_\_\_ Paragraph\_\_\_\_

D. Does the program include a reduction of principal?

Program 1

Yes\_\_\_\_No\_\_\_\_

If yes, indicate the location of the provision. Page\_\_\_\_ Paragraph\_\_\_\_

Program 2

Yes\_\_\_\_No\_\_\_\_

If yes, indicate the location of the provision. Page\_\_\_\_ Paragraph\_\_\_\_

Program 3

Yes\_\_\_\_No\_\_\_\_

If yes, indicate the location of the provision. Page\_\_\_\_ Paragraph\_\_\_\_

INVITATION FOR COMMENTS  
Draft California Foreclosure Prevention Act Regulations  
Comments Requested by May 6, 2009

E. Does the program comply with a federal loan modification program?

Program 1

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, indicate the location of the provision. Page \_\_\_\_\_ Paragraph \_\_\_\_\_

Program 2

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, indicate the location of the provision. Page \_\_\_\_\_ Paragraph \_\_\_\_\_

Program 3

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, indicate the location of the provision. Page \_\_\_\_\_ Paragraph \_\_\_\_\_

F. Does the program include other factors that have resulted in an increased number of loan modifications? Please provide a description and explanation of how the other factors have reduced foreclosures on Exhibit 5.

- In determining a loan modification solution for the borrower, does the servicer seek to reduce monthly payments for at least 5 years?

Program 1

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, indicate the location of the provision. Page \_\_\_\_\_ Paragraph \_\_\_\_\_

Program 2

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, indicate the location of the provision. Page \_\_\_\_\_ Paragraph \_\_\_\_\_

Program 3

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, indicate the location of the provision. Page \_\_\_\_\_ Paragraph \_\_\_\_\_

Exhibit (2): A NOTICE OF SALE form in compliance with Civil Code Section 2923.54.

Exhibit (3). A copy of the notice that will be sent to borrowers informing them of the program.

Exhibit (4): Complete and submit the attached spreadsheet for mortgages secured by residential property located in California, which includes the following statistical information:

    Servicing portfolio volume, including number of units and unpaid principal balance

    Delinquency status of portfolio

    Loss mitigation data including total number of modifications made.

    Loan modification features used.

INVITATION FOR COMMENTS  
Draft California Foreclosure Prevention Act Regulations  
Comments Requested by May 6, 2009

Housing related debt ratios.  
Subsequent defaults on loan modifications  
Reasons for denial of loan modifications

Exhibit (5): Explanations for items included in the application.

- (a) Provide the differences between applicant's NPV model and the Department of the Treasury's Net Present Value Model Parameters, and justification for the differences. For example, the use of alternative discount rates, the use of short sale rather than foreclosure, and other differences.
- (b) Provide the reasons that support the modifications of loans with a borrower debt-to-income ratio of more than 38%.
- (c) Provide a description of other modification features to be considered by the Commissioner.

NOTE: Exhibits 1, 4 and 5 are considered Confidential in nature and therefore will not be made available for public inspection on an individual basis.

Wherefore, applicant hereby requests that the Commissioner grant an exemption under Section 2923.53 of the California Foreclosure Prevention Act (Civil Code Section 2923.52 et seq.) pursuant to the criteria set forth in that act and the rules adopted thereunder.

I declare under penalty of perjury that I have read the forgoing application, including all exhibits attached thereto, or filed therewith, and know the contents thereof, and that the statements are true and correct. I further declare that senior management has approved and implemented the comprehensive loan modification program set forth in this application as part of the underwriting and loss mitigation policy.

\_\_\_\_\_  
Applicant

\_\_\_\_\_  
Signature of Declarant

\_\_\_\_\_  
Typed Name and Title of Declarant

Executed at: \_\_\_\_\_  
(City, County, and State)

Date: \_\_\_\_\_

INVITATION FOR COMMENTS  
Draft California Foreclosure Prevention Act Regulations  
Comments Requested by May 6, 2009

**IF EXECUTED OUTSIDE THE STATE OF CALIFORNIA, ATTACH A VERIFICATION  
EXECUTED AND SWORN TO BEFORE A NOTARY PUBLIC.**

DRAFT

#### **IV. DATA COLLECTION**

A servicer that obtains a Final Order exempting the servicer from the provisions of subdivision (a) of Civil Code Section 2923.52 shall report loan modification data to the Commissioner on a monthly basis.

The loan modification data shall be reported on the FORECLOSURE PREVENTION LOAN MODIFICATION DATA report form, hereby incorporated by reference.

**(See Excel Document)**

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