

Important Information about the Independent Foreclosure Review Program

If you lost your home in a foreclosure between January 1, 2009 and December 31, 2010, or had a pending foreclosure on your primary residence in 2009 or 2010, you may have received a letter from your loan servicer notifying you about a foreclosure review program called the “Independent Foreclosure Review” (IFR). This informational notice is intended to help California consumers understand the IFR program so they can decide whether to request a review.

Our general advice is to request a review if you believe you suffered financial harm because your servicer wrongfully foreclosed on you or wrongfully initiated or continued foreclosure proceedings, or if the servicer otherwise wrongfully cost you significant expense, but to understand that you may get little, if anything, out of the review process. We advise requesting a review so that your complaint will be counted in the totals to show just how widespread these problems are. There are, however, some drawbacks and risks to the process that you should be aware of, as discussed below.

Background

The “Independent Foreclosure Review” (IFR) is part of the settlement of a series of 2011 enforcement actions brought by two federal agencies against several of the largest loan servicers in the U.S. The settlement requires these loan servicers to hire outside consultants to review the foreclosures that took place or were initiated in 2009 and 2010 to determine if homeowners suffered financial injury as a result of the servicers’ foreclosure practices.

The loan servicers subject to the settlement are: America’s Servicing Company, Aurora Loan Services, Bank of America, Beneficial, Chase, Citibank, CitiFinancial, Citi Mortgage, Country-Wide, EMC, EverBank/Everhome, Freedom Financial, GMAC Mortgage, HFC, HSBC, IndyMac Mortgage Services, MetLife Bank, National City, PNC Mortgage, Sovereign Bank, Sun-Trust Mortgage, U.S. Bank, Wachovia, Washington Mutual, and Wells Fargo.

If your loan servicer is not on this list, you are not eligible for a review under this program.

Purpose and Potential Remedies

The IFR is supposed to determine whether individual homeowners suffered financial injury due to errors or other problems during their home foreclosure process. Situations that may have led to financial injury include, but are not limited to:

- The mortgage balance reported by the loan servicer at the time of the foreclosure was more than you actually owed.
- Fees charged or mortgage payments were inaccurately calculated, processed or applied.
- You had a loan modification agreement in place, but the foreclosure sale still happened.
- The foreclosure action occurred while you were protected by bankruptcy.
- A foreclosure proceeded on a military member in violation of Servicemembers Civil Relief Act protections.

The consultants reviewing servicer files are supposed to determine whether individual homeowners should receive compensation or other remedies. As of January 6, 2012, the federal agencies in charge of the program had not decided what amounts of compensation homeowners might receive or what other remedies might be offered for various types of harm.

Drawbacks and Potential Risks

Consumer advocates have criticized several aspects of the IFR program. For example, the National Consumer Law Center recently testified about the program's flaws before Congress. Detailed information is included in recent congressional testimony at http://www.nclc.org/images/pdf/foreclosure_mortgage/mortgage_servicing/testimony-occ-cohen.pdf. In addition to uncertainty about what homeowners might actually get out of the process, some specific concerns about the IFR program include the following:

A Request for Review Does Not Stop a Pending Foreclosure

Reviewers are supposed to prioritize cases in which there is an imminent foreclosure sale date scheduled. It is very unlikely, however, that any particular review will be completed before a scheduled sale date, so homeowners who request a review should also remain in contact with their servicers and counselors or advocates regarding the foreclosure.

Servicers' Adverse Use of Information You Provide

The information you provide in a request for review can and most likely will be shared with the servicers. This means that if you moved after a foreclosure and you still have an outstanding debt with the servicer, the servicer might use your new contact information to try to collect on that debt. If you are a California consumer, [click here for more information](#) about whether you still owe any mortgage-related debt after a foreclosure.

Lack of True Independence

The companies hired to conduct the reviews were hired by the servicers and are free to seek other work with those servicers in the future. It is unclear, therefore, how "independent" their reviews will really be.

Limited Homeowner Input

The reviewers will not contact or seek additional information from homeowners beyond an initial form requesting the review. Once a decision is made by the reviewer, the homeowner will not be able to appeal the outcome of the review.

Limited Scope of Review

The reviews conducted under this program ***will not address*** many important problems, including:

- Loan origination/predatory lending.
- Issues with mortgage servicing not related to a foreclosure.
- Some of the problems homeowners encounter with the loan modification review process.

Waivers

It is possible that compensation or other remedies resulting from a review will come with strings attached. While it is not yet clear what these strings might be, homeowners who receive offers of compensation after an IFR should carefully review any waivers or releases they are asked to sign, preferably with a trusted advisor, to make sure they are not giving up valuable legal claims worth more than the compensation offered under the

IFR program. For example, if a homeowner is offered \$150 in compensation after an IFR but has legal claims against the servicer involving much larger damages, the homeowner should not accept the \$150 if it means giving up the right to pursue those legal claims.

Tips for Requesting a Review

- Read the request form carefully and consult with a housing counselor or other trusted advisor if you need help understanding or completing the form. Free basic assistance is available at (888) 952-9105 Monday through Friday from 8 a.m. to 10 p.m. (ET) and Saturday from 8 a.m. to 5 p.m. (ET).
- Be thorough. Make sure to include *all* injuries and damages you believe you suffered as a result of the servicer's foreclosure practices whether or not they are listed on the form, including problems with the loan modification review process. You will only receive a comprehensive review of injuries you identify in the request form. Also, if you don't identify a certain type of damages, you could have difficulty trying to collect those damages in a lawsuit or other claim in the future.
- Include copies (not your originals) of supporting documentation that demonstrates the financial harm you describe. If you previously worked with a housing counselor, you may be able to obtain a copy of the closed file from that agency.
- If you believe you are eligible and have not received a request form, you can request one from (888) 952-9105.
- You should receive a letter acknowledging your request soon after you submit it, but the review process may take several months to complete.
- The deadline to submit a request form and supporting documentation is July 31, 2012.

Beware of IFR Scams

If anyone offers to help you request an IFR in exchange for money, be extremely cautious. There is no guarantee you will receive anything at all as a result of the review process, so no one can guarantee that you'll receive compensation or that they can increase your chances of getting compensation. Free basic assistance is available at (888) 952-9105. You can also contact a HUD-certified housing counseling agency. The review itself is free of charge, so you should not pay anyone who offers to perform an IFR for you.

For additional information and answers to basic questions about the review process, visit www.IndependentForeclosureReview.com and www.occ.gov/independentforeclosurereview.