

**EXECUTIVE SUMMARY
OF
PEIRSONPATTERSON,
LLP/PPDOCS, INC.
CLIENT
MEMORANDUM**

From: Shannon Phillips Jr., Attorney at Law, and Randy Carey, Compliance Specialist

Date: March 26, 2020—Revised April 8, 2020

Subject: EXECUTIVE SUMMARY: Relief Modification Services for Customers of Clients Affected by the COVID-19 Pandemic

Available for electronic signature using our E-Sign service for \$75.00 per transaction:

- Simple Non-Recordable Loan Modification Agreement (“Modification”)
- Forbearance Letter

Documents electronically delivered to your customer for electronic signature through DocuSign.

Use with residential loans, commercial loans, fixed or variable rate loans, and loans secured by improved property, and/or unimproved property.

The Simple, Non-Recordable Loan Modification Agreement

- Does not contain acknowledgements, does not require a notary public, and is not eligible for recording.
- Is appropriate for deferring payments, changing installment amounts, decreasing interest rates, and/or decreasing loan amounts.
- Is **not** recommended for any modification that lengthens the maturity date because of the lack of acknowledgement and recordation.
- When modifying a loan secured by homestead in Texas, do not add our fee or any fees for modifying to the principal balance.

The Forbearance Letter

- Lender will forbear from foreclosing for a specific period.
- Borrower agrees to execute Modification effective at the end of the forbearance period.

Modifying Texas Home Equity Loans

- Modification must be agreed to in writing by the borrower and lender.
- Texas law does not require writing be acknowledged or recorded.
- No advance of additional funds permitted, including fees to modify.
- No terms permitted at modification that would not have been permitted at the time of closing.
- Modification fees and the fees of original loan (that were subject to fee cap) must not exceed the original closing fee cap.
(Formula: Any fees to modify + Fees of original loan subject to cap \leq Original fee cap)
- May change scheduled installments amounts, remaining term or both. Every installment after modification must be substantially equal, but are **not** required to be substantially equal to the original installments.
- Every installment after modification must equal or exceed accrued interest and be scheduled to be repaid in equal successive periodic installments, not more often than every 14 days and not less often than monthly.
- First payment after modified may be more than 2 months after modification.
- Letter of Forbearance **required** to ensure each post-modification payment equals or exceeds accrued interest, is scheduled not less often than monthly, and is substantially equal to all other post modification payments.
- May capitalize past-due amounts under the original loan agreement.
- Is not a new extension of credit, thus not required to comply with the 80% combined loan to value requirement.

Other Loans Secured by Homestead (Non-Home Equity Loans)–Capitalizing Accrued But Unpaid Amounts

- In Texas, may modify non-home equity loans to capitalize accrued but unpaid amounts.

Other Considerations When Modifying

Flood Hazard.

- Extending maturity: New flood determination or if determination is less than seven years old, assure it is based on the most current FIRM.
- In an SFHA: Obtain new acknowledgement of the Notice of Special Flood Hazards and Availability of Federal Disaster Relief Assistance.

Loan Servicing Systems.

If entering into payment deferral agreement, adjust loan servicing systems to avoid reporting the consumer past due during the deferral period.

Escrow.

Consider escrow deficiency as a normal escrow deficiency at next analysis.

Refusing a Payment Deferral Request.

If lender says “no” to a verbal or written deferral request, it may be an adverse action.

Mortgage Servicing.

If not a small servicer under Reg. Z, ensure policies, procedures, and training are fully in place after disaster.

Modifying an ARM.

When modifying an ARM and adjustment would occur during the deferral of payments or the initial payment adjustment notice is required at least 210, but no more than 240, days before the first payment at the adjusted level is due, the creditor will basically ignore the impact of the loan modification agreement.

Unauthorized Practice of Law

Our reading of Texas law requires that the preparation of instruments affecting title to real property in Texas generally must be done by an attorney at law.

This is an executive summary of our memo summarizing the requirements for modifying loans secured by real property located in Texas. For more information, see the full memo. Neither the memo nor this executive summary is intended as a comprehensive analysis of the law. Clients and their legal counsel must determine how to best handle a customer’s request of a modification or refinance of an existing loan secured by real property in the state of Texas.