

**CENTER FOR NYC NEIGHBORHOODS**

# **FORECLOSURE PREVENTION RESOURCE GUIDE**

## **Volume 1**

Created with the assistance of:



Updated: October 2014

This Center for NYC Neighborhoods (“Center”) Resource Guide serves as a guide to housing professionals who work with New York City homeowners who are behind on their mortgages or are in financial distress. This guide consists of two volumes.

This first volume is a programmatic guide that provides a step by step process of effectively and efficiently serving homeowners facing mortgage or other financial and legal challenges. The volume will cover basic counseling skills such as determining loan workout options, preparing loan modification application packages, how to deal with denials, and how to escalate cases.

The second volume of the Resource Guide provides links to organizations, programs and various resources that may be helpful in assisting clients.

You can find an online copy of the guides in the Center’s Network Partner Portal at [cnycn.org](http://cnycn.org).

## Table of Contents

1.	Intake.....	1
1.1.	Defining Your Role.....	1
1.2.	Screening.....	1
1.3.	Gather Information.....	2
1.4.	Identify the Type of Loan .....	5
1.5.	Collect the Supporting Documents .....	5
1.6.	Create an Action Plan .....	6
1.7.	Intake Packet.....	9
1.8.	File Checklists.....	9
2.	Triage .....	31
2.1.	Non-Modification Loss Mitigation .....	31
2.1.1.	Forbearance Plans.....	31
2.1.2.	Repayment Plan Options .....	32
2.1.3.	Reinstatement.....	33
2.2.	Modifications.....	33
2.2.1.	HAMP.....	33
2.2.2.	Principal Reduction Alternative (PRA).....	34
2.2.3.	HAMP Tier 2.....	35
2.2.4.	Standard Modifications.....	36
2.2.5.	2MP (for Second Mortgages) .....	37
2.2.6.	FHA Modifications and FHA-HAMP .....	38
2.2.7.	Net Present Value (NPV) Test .....	41
2.2.8.	Online Resources for Modification Analysis .....	41
2.2.9.	Non-HAMP Modifications .....	41
2.3.	Refinances.....	44
2.3.1.	Reverse Mortgages.....	44
2.3.2.	Home Affordable Refinance Program .....	45
2.3.3.	FHA Refinance Programs .....	45
2.4.	Non-Retention Options .....	46
2.4.1.	Market Sale .....	47
2.4.2.	Home Affordable Foreclosure Alternatives (HAFA).....	47
2.4.3.	Short Sale .....	47
2.4.4.	Deed-in-Lieu of Foreclosure.....	48
2.4.5.	Deficiency Judgment and Taxes .....	48
2.5.	Tax Liens .....	49
3.	Counseling .....	50
3.1.	Setting Expectations .....	50
3.1.1.	Discussing Options .....	50
3.1.2.	Delivering Bad News.....	51
3.1.3.	Empathy vs. Sympathy .....	52
3.2.	Preparing Application Packages .....	53
3.2.1.	Prove it.....	53
3.2.2.	Proposed Financial Statement or Budget.....	54
3.2.3.	Hardship.....	54

3.2.4.	Completing the Package .....	55
3.2.5.	Using the Credit Report.....	84
3.3.	Evaluating Borrower Income.....	84
3.3.1.	Allowable Income .....	84
3.3.2.	Employment Income .....	84
3.3.3.	Overtime and Bonus Income.....	85
3.3.4.	Commission Income.....	86
3.3.5.	Part Time Income & Second Jobs.....	86
3.3.6.	Self-Employment Income .....	87
3.3.7.	Rental Income .....	87
3.4.	Budget Development .....	88
3.4.1.	Interim or Crisis Budget.....	88
3.4.2.	Savings Account.....	89
3.4.3.	Force-Placed Insurance .....	89
3.5.	Complaint Forms .....	90
3.5.1.	Consumer Financial Protection Bureau (CFPB).....	90
3.5.2.	Office of the Attorney General.....	93
3.5.3.	Department of Financial Services (DFS).....	99
3.6.	Using Network Resources .....	106
3.6.1.	Providing Referrals.....	106
3.6.2.	Gap Loans .....	108
3.6.3.	Working with Legal Services .....	112
3.6.4.	Settlement Conference Notes .....	114
3.6.5.	Rehabilitation Loans.....	117
3.6.6.	Center Resources .....	119
3.6.7.	Office of Financial Empowerment (OFE).....	121
3.6.8.	Bankruptcy .....	123
3.6.9.	Loan Modification Scams .....	125
4.	Follow Up .....	127
4.1.	Challenging Common Denials .....	127
4.2.	Escalations .....	129
4.3.	Review Offers and Agreements .....	131
4.3.1.	New terms .....	131
4.3.2.	New Back-End Debt to Income Ratio (DTI).....	140
4.3.3.	Ongoing budgeting.....	140
4.4.	Closing Files .....	141
4.4.1.	Timing .....	141
4.4.2.	Warning letters.....	141
4.4.3.	Sustainability .....	141
Appendix.....		144



# **1. Intake**

## **1.1. Defining Your Role**

To manage your client's expectations, it is important to define your role and responsibilities when you speak with the homeowner. The National Industry Standards for Homeownership Education and Counseling outlines the following baseline duties for a foreclosure prevention counselor, which your organization can enhance:

- Assess the client's situation
- Explain the foreclosure timeline and trigger events
- Help clients identify budget shortcomings and create a revised budget
- Help clients create an Action Plan
- Assist clients in communicating with servicers
- Refer clients to other resources or service providers as appropriate
- Understand the file closure process

The important part is to ensure that your client is aware of what you are responsible for and any limitations to your role at the onset. Some methods include clarifying what a housing counselor does at workshops or initial intake, verbally explaining the client-counselor agreement, or adding it into the Action Plan discussion.

*Tip:* counselors and intake staff can point out that they are prohibited from charging a fee for foreclosure prevention services, while also displaying their professional certifications to further distinguish themselves from scammers.

## **1.2. Screening**

During intake and initial client meetings, counselors should determine whether the homeowner is an appropriate client for their foreclosure prevention program.

Examples of homeowners who may not be foreclosure prevention clients:

- **Situational:** Homeowners who are in imminent default and whose principal financial problems are budgetary or credit-related. These clients may be candidates for referral to the Office of Financial Empowerment ("OFE").
- **Unethical:** Homeowners who are openly manipulating their income or engaging in other dishonest conduct related to the modification process.
- **Lack of Hardship:** Homeowners who have good income, no pressing expenses, but cannot seem to save money or make a mortgage payment. This may be another referral for financial counseling.

### 1.3. Gather Information

Counselors must perform a complete review of a client's financial situation in order to properly evaluate him or her for foreclosure prevention options. Credit analysis, income analysis, asset analysis and mortgage analysis are often discussed when evaluating clients in pre-purchase counseling but this information is also important for foreclosure prevention counseling.

Credit Analysis. The homeowner's credit should be reviewed in order to understand the homeowner's debts and to calculate the front-end ratio and the back-end ratio.

Counselors should:

- Do a soft pull of the client's credit report so as to not further harm the score, analyze the report and review the information with the client.
- Calculate monthly debts and ratios based on credit report.

Key credit analysis terms (multiply answer by 100 to get percentage):

PITIA = Principal, Interest, Taxes, Insurance, Association Dues

Front-end ratio =  $\frac{\text{Monthly housing expenses (PITIA)}}{\text{Gross monthly income}}$

Back-end ratio =  $\frac{\text{Total monthly debt expenses (PITIA + all other debt)}}{\text{Gross monthly income}}$

(See Section 3.3 for a more detailed look at income calculations.)

Income Analysis. In order to determine the affordability of the mortgage and the homeowner's eligibility for certain options, income information must be gathered and calculated. Counselors should determine the following:

- Is the client's income from provable sources?
- Has the client's income increased or decreased recently?
- Is the client's income stable?
- Does the client have a comprehensive budget completed?

To determine income, counselors should gather the following information from homeowners going back 90 days (when possible):

- Pay stubs for all wage earners for each place of employment
- W-2s
- Profit and loss statements
- Benefits statements
- Unemployment benefits
- Rent receipts and leases, sometimes with proof of monthly deposits
- Client's household budget
- Contributor's proof of income

Asset Analysis. The homeowner's assets must be reviewed to help understand the homeowner's financial state, ability to pay and long term affordability of the mortgage. Counselors should determine the following information:

- If the client is delinquent, has he or she been saving money?
- How much money does the client have in his or her accounts?
- What is the current value of the mortgaged home?
- Is the property underwater?
- Does the client have other properties?

Key asset analysis term:

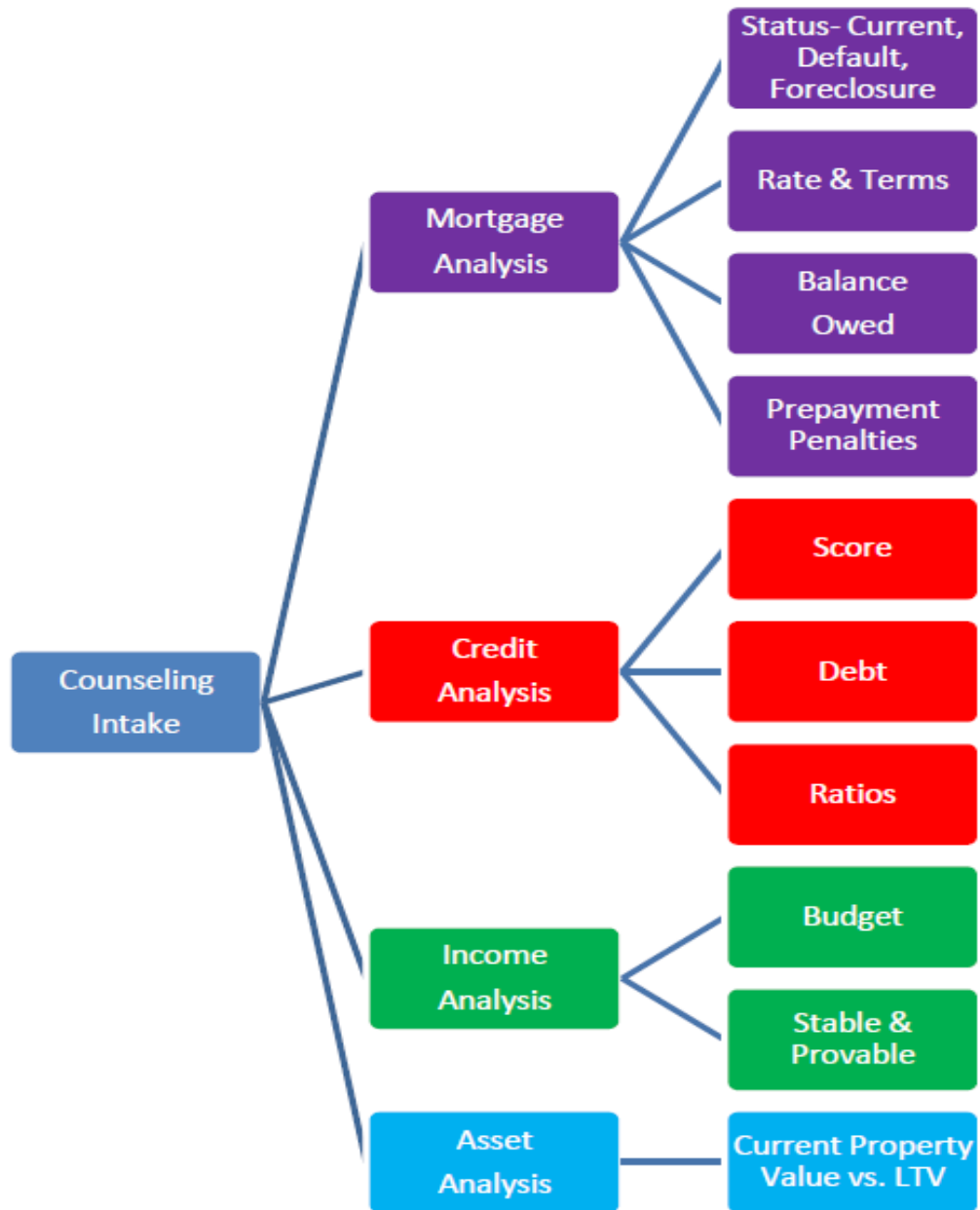
Loan to Value (LTV) ratio =  $\frac{\text{Capitalized Balance on the Loan}}{\text{Value of the Home}}$

Counselors should request the following documents to evaluate the homeowner's assets:

- Bank statements for checking and savings accounts
- Monthly mortgage statements
- Property Tax bills
- 401-k plan statement or Investment/reserve account
- Mortgage statement from investment properties, if any

Mortgage Analysis. Counselors should also conduct a mortgage analysis and review the following information:

- What is the status of the mortgage?
- What was the original rate and terms of the mortgage?
- What is the current rate and terms of the mortgage?
- What was the unpaid principal balance of the loan at default?
- When did the homeowner default on the mortgage (if applicable)?
- What is the loan balance, including arrears?
- Has the mortgage been modified before?



## **1.4. Identify the Type of Loan**

To determine what workout programs are available, the counselor should determine whether or not the loan is (1) an FHA-insured loan, (2) held by Fannie Mae or Freddie Mac, (3) serviced by a company that participates in Making Home Affordable (MHA) or (4) none of the above.

FHA is the Federal Housing Administration, which is a branch of HUD. FHA insures, but does not own, mortgage loans. Loans insured by FHA must be serviced according to FHA's loss mitigation rules. The most straightforward way to determine whether a loan is an FHA loan is to look at the Mortgage, which is available online in ACRIS or the Richmond County Clerk. FHA loans have an FHA case number in the top, right corner of the Mortgage.

Fannie Mae and Freddie Mac are both Government Sponsored Entities (GSEs) that own and insure mortgage loans. GSE loans must be serviced according to detailed guides set forth by the relevant GSE. Although each GSE issues its own rules, these rules are similar enough in substance to be discussed jointly in this guide. To determine whether a loan is held by a GSE, the counselor should check the GSE's online look up tool. Freddie Mac's and Fannie Mae's lookup tools are available at <http://www.freddiemac.com/mymortgage> and <https://knowyouroptions.com/loanlookup>, respectively. Both loan lookup tools require the borrower's name, address and the last four digits of his or her Social Security Number.

MHA Participating Servicers are mortgage companies that have agreed to participate in the HAMP loan modification program and other, related programs. A list of companies that have agreed to participate is available here: <http://www.makinghomeaffordable.gov/get-assistance/contact-mortgage/Pages/default.aspx>.

If None of the Above are applicable, then the borrower may be eligible for HAMP if the non-participating servicer received the servicing rights from a participating servicer. Additionally, the borrower may be eligible for an in-house modification or a foreclosure alternative that is not provided by the servicer, such as a refinance, bankruptcy or a gap loan.

## **1.5. Collect the Supporting Documents**

In addition to the documents necessary to review credit, income, assets and the mortgage, there are several other documents that a counselor needs to gather from a client in order to properly assist a homeowner.

Make sure you gather the following from a client:

- Authorization for Release of Information
- Client/Counselor Agreement

- Homeowner Hardship Letter (which you may need to help write with the client)
- Evidence of Homeowner's Insurance
- Federal Income Tax Returns with W-2 Statements

Depending on the client's situation and which servicer you are working with, there may be additional documents that the homeowner needs to provide.

If your client is unable to find some of the mortgage documents, you can assist your client in submitting a Qualified Written Request ("QWR"), now renamed a Request for Information and/or Notice of Error under the CFPB rules, to the servicer. For more guidance, MFY Legal Services issued a guide with sample letters that you can find in the Center's Network Partner Portal and MFY's website.

## **1.6. Create an Action Plan**

An action plan is important for successful collaboration between the counselor and the client to help achieve a client's housing goal. A blank action plan can be found on the following page.

According to the HUD Handbook, an action plan consist of a plan prepared by a housing counselor that

- Identifies the client's need or problem, and
- Outlines what the agency and client need to do in order to meet the goals

Best Practice: an action plan should be part of the case file and modified accordingly as the situations and options change. A counselor should go over the action plan with the client and have the client sign it, with the understanding that the homeowners will need to take proactive action in order to accomplish the planned goals.

## Intake Action Plan (page 1)

### SUBMISSION VERIFICATION

Please verify that you have submitted the following items by checking the box:

- ☐ Attended foreclosure workshop
- ☐ Completed the Client Intake Form
- ☐ Completed the Family Budget Form
- ☐ Completed the Hardship Affidavit
- ☐ Signed and dated the Authorization Form
- ☐ Completed the Credit Report Order Form
- ☐ Signed the Counselor/Client Agreement

Please verify that you have provided one copy of all the documents below:

- ☐ Copies of mortgage coupons or billings
- ☐ Correspondence from the servicer or attorney
- ☐ Copies of pay stubs
- ☐ Copy of last year's tax returns
- ☐ Copies of last two months' bank statements
- ☐ Copies of latest utility bills, credit card statements, car loan statements, student loan statements, and other consumer debt statements

### INTAKE ACTION PLAN (DEVELOPED WITH COUNSELOR)

**Housing Goal:** \_\_\_\_\_

#### *Client Action*

##### **Increase Income**

- ☐ Get a steady primary job
- ☐ Get part time job(s)
- ☐ Rent out a room
- ☐ Reduce withholdings on W-4 form (check with the IRS at [www.irs.gov](http://www.irs.gov) or call them for publications 505 and 919)
- ☐ Get any garnishment(s) reduced, if applicable

## INTAKE ACTION PLAN (page 2)

### Reduce Expenses

- ☐ Get on an average payment plan for utility bills
- ☐ Energy audit
- ☐ Modify insurance policies, (increase deductibles, reduce coverage, use same company for all insurance)
- ☐ Contact \_\_\_\_\_ for utility assistance
- ☐ Contact \_\_\_\_\_ for emergency assistance
- ☐ Contact \_\_\_\_\_ for food assistance
- ☐ Negotiate lower payments on \_\_\_\_\_
- ☐ Reduce phone costs
- ☐ Reduce \_\_\_\_\_
- ☐ Reduce \_\_\_\_\_

### Increasing Funds to Reduce Delinquency

- ☐ Sell assets
- ☐ Get help from family, friends, or place of worship
- ☐ Borrow from or use hardship exception on 401(k)

### *Counselor Action*

---

---

---

**Referrals:** \_\_\_\_\_

I/We verify that I/we have completed the items listed above, provided all necessary documents as requested and have met with a foreclosure counselor to complete this Intake Action Plan.

\_\_\_\_\_  
Homeowner

\_\_\_\_\_  
Date

\_\_\_\_\_  
Homeowner

\_\_\_\_\_  
Date



## **1.7. Intake Packet**

A sample intake packet can be found on the following pages with examples of forms and information that should be collected at intake.

## **1.8. File Checklists**

Best Practice: Use a stacking order checklist in the file to ensure that you have received all relevant documents. Servicers usually provide their checklists for loan modification packages that you can use to help structure your file, but they may not include all relevant documents for other situations like contributor's authorization for a credit check pull. Organizing your client files in accordance with a standardized document checklist within your organization will make it easier and faster for you to find the documents or submit complete packages.

A sample Action Checklist and File checklist can be found in the following pages.

## Sample Cover Letter

Dear Homeowner,

Congratulations for taking that tough first step and contacting us about your mortgage. We understand how hard that can be and promise to work as hard as you do to find a resolution to your situation.

The application package has many forms to fill out, and there are documents you will need to collect and copy. To help you find your best options, this information is all needed. We only ask for the information that is necessary. Still, it's a lot and much of it is private information. Please know that we keep all your information confidential.

We suggest that you start with gathering the following documents before you begin to complete the forms. Some of the information for the forms will be found in the documents you are collecting.

- Copy of your note
- Copy of any correspondence from the mortgage company or its attorney
- Copy of anything you have gotten from the courts or sheriff regarding a foreclosure
- Copy of most recent paystubs for all jobs
- Copy of last two months of all bank statements
- Copy of most recent bills and statements for all bills, loans and credit cards
- Copy of last year's tax return

There are several forms you need to fill out. Explanations and instructions for each document can be found on our website or you have them in your package as requested. Our suggestion is you start with the form on top and work on one document at a time.

You will find there is an emphasis on being truthful. We can't help with a resolution unless we have a complete and accurate picture of your situation. A plan based on only part of your information is certain to fail. In addition, we do collect information from your credit report and the servicer to compare with your forms to make sure that all important information is included in our assessment and your decision making.

Please Note: This package must be received two working days before your appointment. If we have not received the package, your appointment will be cancelled. You will be able to reschedule an appointment once your package has been received.

Our first appointment will last an hour. Please arrive on time. Many other families are in the same position as you and the demand for our services is high. We often have appointments back-to-back. If you arrive late, we will have to reschedule your appointment.

You can reach me at (phone number) or (email address).

You have taken the first step to resolving your situation. I look forward to working with you.

## Document Tip Sheet

Document	Explanation
<b>Client/Counselor Agreement</b>	<b>Outlines the responsibilities of the counselor and the client:</b> <ul style="list-style-type: none"> <li>• Expectation of client honesty</li> <li>• Policy for when client is late or doesn't attend appointments</li> <li>• Outlines expectations about providing necessary documents</li> <li>• Sets expectations of required follow-up work or action plan items</li> <li>• Assurance of confidentiality on the part of the counselor</li> <li>• Informs client that there are no certain outcomes</li> </ul>
<b>Release of Information and Authorization Form</b>	<b>Allows counseling agency to:</b> <ul style="list-style-type: none"> <li>• Receive information from other sources about your loan</li> <li>• Submit data about your case into a data collection system</li> <li>• Pull your credit report</li> <li>• Share information with the mortgage company</li> <li>• Share nonidentifying information with funders</li> </ul>
<b>Intake Application</b>	<b>Gathers the necessary information to assist in foreclosure intervention, including:</b> <ul style="list-style-type: none"> <li>• Homeowner contact information</li> <li>• Homeowner contact with the servicer</li> <li>• Mortgage information</li> <li>• Insurance taxes and home owner association dues information</li> <li>• Property information</li> </ul>
<b>Income and Expenses Worksheet</b>	<b>Provides necessary information for the counseling agency to help client develop the best foreclosure intervention plan.</b> <ul style="list-style-type: none"> <li>• This worksheet must be completed in full. If there is incomplete information, your appointment will be postponed until the information is complete</li> </ul>
<b>Hardship Affidavit</b>	<b>Describes client's hardship to the mortgage company. Includes:</b> <ul style="list-style-type: none"> <li>• Matter-of-fact description of what caused client's default</li> <li>• Overview of financial situation</li> <li>• Actions client has taken</li> </ul> <b>Be certain to avoid blaming others. Be short and to the point. Keep in mind it's a business decision for the mortgage company.</b>

### Client/Counselor Agreement Sample

\_\_\_\_\_(Organization)\_\_\_\_\_ and its counselors agree to provide the following services:

- Development of a spending plan
- Analysis of the mortgage default, including the amount and cause of default
- Presentation and explanation of reasonable options available to the homeowner
- Assistance communicating with the mortgage servicer
- Timely completion of promised action
- Explanation of collection and foreclosure process
- Identification of assistance resources
- Referrals to needed resources
- Confidentiality, honesty, respect and professionalism in all services

I/We, \_\_\_\_\_(Homeowners)\_\_\_\_\_, agree to the following terms of service:

- I/We will always provide honest and complete information to my/our counselor, whether verbally or in writing.
- I/We will provide all necessary documentation and follow-up information within the time frame requested.
- I/We will be on time for appointments and understand that if we are late for an appointment, the appointment will still end at the scheduled time.
- I/We will call within 6 hours of a scheduled appointment if I/we will be unable to attend an appointment.
- I/We will contact the counselor about any changes in our situation immediately.
- I/We understand that breaking this agreement may cause the counseling organization to sever its service assistance to me/us.

\_\_\_\_\_  
*Homeowner*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Homeowner*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Homeowner*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Homeowner*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Homeowner*

\_\_\_\_\_  
*Date*

# Sample Authorization Form

*NOTE: This is a sample document only. All documents your agency adopts should be reviewed by your agency's legal counsel to ensure compliance with applicable laws or regulations that govern your services or service area.*

**We recommend that the following statements be included in the third party authorization form.**

1. I understand that [name of organization] provides foreclosure mitigation counseling after which I will receive a written action plan that includes recommendations for handling my finances, and including referrals to other housing agencies as appropriate.
2. I understand that (name of organization) receives congressional funds through the National Foreclosure Mitigation Counseling (NFMC) program and as such is required to share some of my personal information with NFMC program administrators or their agents for purposes of program monitoring, compliance, and evaluation.
3. I give permission for NFMC program administrators and/or their agents to follow up with me between now and [date], for the purposes of program evaluation.
4. I acknowledge that I have received a copy of (organization name)'s Privacy Policy.

**THE FOLLOWING ARE OPTIONAL STATEMENTS THAT CAN BE INCLUDED IF APPLICABLE:**

1. I may be referred to other housing services at the organization or another agency or agencies as appropriate that may be able to assist with particular concerns that have been identified. I understand that I am not obligated to use any of the services offered to me.
2. A counselor may answer questions and provide information, but not give legal advice. If I want legal advice, I will be referred for appropriate assistance.
3. I understand that (organization name) provides information and education about numerous loan products and housing programs and I further understand that the housing counseling I receive from (organization name) in no way obligates me to choose any of these particular loan products or housing programs.

\_\_\_\_\_  
*Client's signature*

\_\_\_\_\_  
*Date*

# Sample Privacy Policy

*NOTE: This is a sample document only. All documents your agency adopts should be reviewed by your agency's legal counsel to ensure compliance with applicable laws or regulations that govern your services or service area.*

[Organization name] is committed to assuring the privacy of individuals and/or families who have contacted us for assistance. We realize that the concerns you bring to us are highly personal in nature. We assure you that all information shared both orally and in writing will be managed within legal and ethical considerations. Your "nonpublic personal information," such as your total debt information, income, living expenses, and personal information concerning your financial circumstances, will be provided to creditors, program monitors, and others only with your authorization and signature on the Foreclosure Mitigation Counseling Agreement. We may also use anonymous aggregated case file information for the purposes of evaluating our services, gathering valuable research information and designing future programs.

## **Types of information that we gather about you:**

- Information we receive from you orally, on applications or other forms, such as your name, address, social security number, assets, and income
- Information about your transactions with us, your creditors, or others, such as your account balance, payment history, parties to transactions and credit card usage
- Information we receive from a credit-reporting agency, such as your credit history

## **You may opt out of certain disclosures:**

1. You have the opportunity to opt out of disclosures of your nonpublic personal information to third parties (such as your creditors), that is, direct us not to make those disclosures.
2. If you choose to opt-out, we will not be able to answer questions from your creditors. If, at any time, you wish to change your decision with regard to your opt-out, you may call us at [phone number] and do so.

## **Release of your information to third parties**

So long as you have not opted out, we may disclose some or all of the information that we collect, as described above, to your creditors or third parties if we have determined that it would be helpful to you, would aid us in counseling you, or is a requirement of grant awards which make our services possible.

We may also disclose any nonpublic personal information about you or former customers to anyone as permitted by law (e.g., if we are compelled by legal process).

Within the organization, we restrict access to nonpublic personal information about you to the employees who need to know that information to provide services to you. We maintain physical, electronic, and procedural safeguards that comply with federal regulations in order to guard your nonpublic personal information.

## Sample Counseling and No Steering Agreement

1. I understand the [Agency] provides financial and mortgage readiness and I will receive a written action plan consisting of recommendations for handling my finances, possibly including referrals to other housing agencies as appropriate.
2. I acknowledge that I have received a copy of the [Agency] privacy policy.
3. I understand [the Agency] will close my case file after three attempts to communicate with me via email, telephone, and/or U.S. postal mail. I also understand that I have the option to request a copy of my file.
4. I understand I am not obligated to utilize any of the services offered to me and may be referred to other services offered by the agency or to an outside agency to assist with concerns that may have been identified.
5. Counselors may answer my questions and provide information, but will not give legal advice. If I want legal advice, the recommendation is that I seek legal assistance from the appropriate entities.
6. I understand the [Agency] provides information and education about numerous loan products and housing programs. I further understand that the housing counseling I receive from the [Agency] does not obligate me to choose any of these particular loan products or housing programs.
7. I understand the [Agency] will not make referrals to specific agencies, but will provide me a list of agencies and I will make my own decision.

# Hold Harmless Agreement

I give [the Agency] permission to use my name in any current and future publications or reporting. Furthermore, in view of the fact that [the Agency] is a nonprofit organization, I hereby release, hold harmless and waive all claims associated with these publications and marketing materials which I may have against [the Agency] and its employees.

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

[The Agency] and its employees are NOT attorneys. The information provided in this document is to be used as a resource and is based solely on the experiences of the agency’s counselors and training. This form is to be completed only for the purpose of providing foreclosure intervention and default counseling.

[Date]



## SAMPLE INTAKE APPLICATION (page 1)

All of the information that I/we provided in this worksheet is correct and factual. No information has been withheld. We understand the necessity for accurate and complete information and we will provide any needed information to complete this worksheet. We understand that deliberately providing inaccurate information or an unwillingness to provide the counselor with the necessary information or documents to assist us in a timely manner will result in a closing of our file.

\_\_\_\_\_  
*Homeowner (A) Signature*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Homeowner (B) Signature*

\_\_\_\_\_  
*Date*

### HOMEOWNER INFORMATION

Information	Homeowner A	Homeowner B
Name		
Birth date		
Social Security Number		
Property Address		
Mailing Address		
Phone Number		
Email Address		

What caused you to contact us?		Have you had previous workouts? <input type="checkbox"/> Yes <input type="checkbox"/> No  Dates and types of workouts:
What caused your situation?		
What steps have you already taken?		

## SAMPLE INTAKE APPLICATION (page 2)

### MORTGAGE AND PROPERTY INFORMATION

First Mortgage	Second Mortgage	Third Mortgage
Payment \$ _____ Do you pay taxes and insurance with your payment? <input type="checkbox"/> Yes <input type="checkbox"/> No Do you pay your association fees with your payment? <input type="checkbox"/> Yes <input type="checkbox"/> No Mortgage Company: _____  Interest Rate? _____ <input type="checkbox"/> Fixed <input type="checkbox"/> ARM Delinquent? <input type="checkbox"/> Yes <input type="checkbox"/> No Months Delinquent: _____ Amount Delinquent: \$ _____	Payment \$ _____ Mortgage Company: _____  Interest Rate? _____ <input type="checkbox"/> Fixed <input type="checkbox"/> ARM Delinquent? <input type="checkbox"/> Yes <input type="checkbox"/> No Months Delinquent: _____ Amount Delinquent: \$ _____	Payment \$ _____ Mortgage Company: _____  Interest Rate? _____ <input type="checkbox"/> Fixed <input type="checkbox"/> ARM Delinquent? <input type="checkbox"/> Yes <input type="checkbox"/> No Months Delinquent: _____ Amount Delinquent: \$ _____

Delinquent on HOA payments? ☐ Yes ☐ No Monthly Amt : \$ \_\_\_\_\_ Amount Delinquent \$ \_\_\_\_\_

Delinquent on Taxes? ☐ Yes ☐ No Annual Taxes: \$ \_\_\_\_\_ Amount Delinquent \$ \_\_\_\_\_

HO Insurance Lapsed? ☐ Yes ☐ No Annual Amt: \$ \_\_\_\_\_ Amount Delinquent \$ \_\_\_\_\_

Has home been refinanced? ☐ Yes ☐ No How many times? ☐ 1 ☐ 2 ☐ 3 ☐ 4 or more :  
 Date of last refinance \_\_\_\_\_

Type of Property ☐ Single Family ☐ 2- 4 Unit ☐ Townhouse ☐ Condo ☐ Cooperative ☐ Mobile Home ☐ Other

Property Condition

- ☐ Excellent
- ☐ Good
- ☐ Fair
- ☐ Poor

Estimated Value? \$ \_\_\_\_\_ Source: \_\_\_\_\_

Listed? ☐ Yes ☐ No List Price \$ \_\_\_\_\_

Time on Market? ☐ 0-3 months ☐ 3-6 months ☐ 6-12 months ☐ 12+ months

Real Estate Agent: \_\_\_\_\_

Contact Info: \_\_\_\_\_

### SAMPLE INCOME AND EXPENSE WORKSHEET

Income Source	Homeowner A Amount	Full Time?	Homeowner B Amount	Full Time?	Income Totals
Employment 1					
Employment 2					
Employment 3					
Social Security					
Retirement					
Unemployment					
Child/Spousal Support					
Other Income Sources					
<b>Totals</b>					

**Total  
Income**

Expenses	Monthly Amount	Amount Delinquent	Willing to Reduce? Y/N
Mortgage Payment Totals			
Car Payment Totals			
Credit Card Payment Totals			
Student Loan Totals			
Other Loan Totals			
Insurance Totals			
Utilities Totals			
Child Care/ Child Support			
Food			
Transportation			
Medical			
Home Maintenance			
Education			
Personal (hair, clothes, entertainment)			
Donation Costs (including tithes)			
Other Costs			
<b>Total Costs</b>			

## SAMPLE DEMOGRAPHICS WORKSHEET

This information is used by the funders of the program that makes this free service available. It also helps eliminate discrimination. It will only be used in aggregate form and will not be used in such a way to publicly identify you. Providing this information is optional.

### Race & Ethnicity Information

#### Gender

- ☐ Male  
☐ Female

#### Ethnicity

- ☐ Hispanic  
☐ Non-Hispanic

#### Single Race:

- ☐ American Indian / Alaskan Native  
☐ Asian  
☐ Black or African American  
☐ Native Hawaiian or Other Pacific Islander  
☐ White  
☐ Undisclosed

#### Multi Race:

- ☐ American Indian / Alaskan Native/White  
☐ American Indian / Alaskan Native/Black  
☐ Asian and White  
☐ Black or African American/White  
☐ Native Hawaiian /Other Pacific Islander/Black  
☐ Other Mixed Race \_\_\_\_\_

### Household Information

#### Head of Household

- ☐ Single  
☐ Female-headed single parent  
☐ Male-headed single parent  
☐ Married without dependents  
☐ Married with dependents  
☐ 2 or more unrelated adults  
☐ Other

#### Household Gross Annual Income

#### Number in Household

#### Ages of Household Members

---

## Agency Use Only

#### Area Median Income (AMI)

#### Percentage of AMI ((income/AMI)

- ☐ Less than 50%  
☐ 50—79%  
☐ 80—100%  
☐ Greater than 100%

## Sample Hardship Letter

Date: MM/DD/YY

Re: Hardship Explanation  
Borrowers: Annette and Ronald Moore  
Loan Number: 684592729333  
Property Address: 145 Glee Club Lane, Happyville, USA

We purchased our home five years ago and had never been late on our payments until four months ago. Ronald lost his job six months ago, but has recently been hired by another firm at a similar wage. I have a health issue that prevents me from working at this time.

We are accustomed to paying our bills, and it has been tough for us to accept that we were unable to meet our obligations. However, things have stabilized for us. We have been working with a local nonprofit counselor to review our financial situation. We have reduced our expenses and made other adjustments. This means we can return to making our payments, although we do not have the money to make our overdue payments.

Our loan is a fixed-rate loan, and while the value on our property has decreased in the last two years, it is still above our loan amount. Given the significant drop in our income over the last six months, we have been unable to save any money to put toward our delinquency. We are asking for a modification that would allow us to add our delinquent payments to our loan balance so that we can begin to make our mortgage payments again.

Thank you in advance for your time and consideration in this matter.

Sincerely,

*Annette Moore*  
*Ronald Moore*

# Hardship Affidavit

Do not expand and use this form, as the information with *Making Home Affordable* changes frequently. Go to the link below to access the Hardship Affidavit.

[https://www.hmpadmin.com/portal/programs/docs/hamp\\_borrower/hardshipaffidavitint.pdf](https://www.hmpadmin.com/portal/programs/docs/hamp_borrower/hardshipaffidavitint.pdf)

Print Form

**Making Home Affordable Program**  
**Hardship Affidavit**

**MAKING HOME AFFORDABLE**  
GOVERNMENT-OWNED MORTGAGE PROGRAM

**HARDSHIP AFFIDAVIT page 1** **COMPLETE ALL TWO PAGES OF THIS FORM**

Loan ID Number: \_\_\_\_\_ Service: \_\_\_\_\_

BORROWER		CO-BORROWER	
Borrower's name		Co-borrower's name	
Social Security number	Date of birth	Social Security number	Date of birth

Property address (include city, state and zip): \_\_\_\_\_

I want to: ☐ Keep the Property ☐ Sell the Property

The property is my: ☐ Primary Residence ☐ Second Home ☐ Investment Property

The property is: ☐ Owner Occupied ☐ Renter Occupied ☐ Vacant

**HARDSHIP AFFIDAVIT**

I (We) am (are) requesting review under the Making Home Affordable program.  
I am having difficulty making my monthly payment because of financial difficulties created by (check all that apply):

☐ My household income has been reduced. For example: unemployment, underemployment, reduced pay or hours, decline in business earnings, death, disability or divorce of a borrower or co-borrower.

☐ My monthly debt payments are excessive and I am overextended with my creditors. Debt includes credit cards, home equity or other debt.

☐ My expenses have increased. For example: monthly mortgage payment reset, high medical or health care costs, uninsured losses, increased utilities or property taxes.

☐ My cash reserves, including all liquid assets, are insufficient to maintain my current mortgage payment and cover basic living expenses at the same time.

☐ Other: \_\_\_\_\_

Explanation (continue on back of page 2 if necessary): \_\_\_\_\_

Have you filed for bankruptcy? ☐ Yes ☐ No If yes: Chapter 7 ☐ Chapter 13 Filing Date: \_\_\_\_\_

Has your bankruptcy been discharged? ☐ Yes ☐ No Bankruptcy case number: \_\_\_\_\_

**INFORMATION FOR GOVERNMENT MONITORING PURPOSES**

The following information is requested by the Federal government in order to monitor compliance with federal statutes that prohibit discrimination in housing. You are not required to furnish this information, but are encouraged to do so. The law provides that a lender or servicer may not discriminate either on the basis of this information, or on whether you choose to furnish it. If you furnish this information, please provide both ethnicity and race for race, you may check more than one designation. If you do not furnish ethnicity, race, or sex, the lender or servicer is required to note the information on the basis of visual observation or surname if you have made this request for a loan modification in person. If you do not wish to furnish the information, please check the box below.

<b>BORROWER</b> <input type="checkbox"/> I do not wish to furnish this information <b>Ethnicity:</b> <input type="checkbox"/> Hispanic or Latino <input type="checkbox"/> Not Hispanic or Latino <b>Race:</b> <input type="checkbox"/> American Indian or Alaska Native <input type="checkbox"/> Asian <input type="checkbox"/> Black or African American <input type="checkbox"/> Native Hawaiian or Other Pacific Islander <input type="checkbox"/> White <b>Sex:</b> <input type="checkbox"/> Female <input type="checkbox"/> Male	<b>CO-BORROWER</b> <input type="checkbox"/> I do not wish to furnish this information <b>Ethnicity:</b> <input type="checkbox"/> Hispanic or Latino <input type="checkbox"/> Not Hispanic or Latino <b>Race:</b> <input type="checkbox"/> American Indian or Alaska Native <input type="checkbox"/> Asian <input type="checkbox"/> Black or African American <input type="checkbox"/> Native Hawaiian or Other Pacific Islander <input type="checkbox"/> White <b>Sex:</b> <input type="checkbox"/> Female <input type="checkbox"/> Male
--	---

**To be completed by interviewer**

This request was taken by: ☐ Face-to-face interview ☐ Mail ☐ Telephone ☐ Internet

Interviewer's Name (print or type) & ID Number: \_\_\_\_\_

Interviewer's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Interviewer's Phone Number (include area code): \_\_\_\_\_

Name/Address of interviewer's Employer: \_\_\_\_\_

page 1 of 2

**HARDSHIP AFFIDAVIT page 2** **COMPLETE ALL TWO PAGES OF THIS FORM**

**ACKNOWLEDGEMENT AND AGREEMENT**

In making this request for consideration under the Making Home Affordable Program, I certify under penalty of perjury:

- That all of the information in this document is truthful and the event(s) identified on page 1 is/are the reason that I need to request a modification of the terms of my mortgage loan, short sale or deed-in-lieu of foreclosure.
- I understand that the Servicer, the U.S. Department of the Treasury, or their agents may investigate the accuracy of my statements, may require me to provide supporting documentation. I also understand that knowingly submitting false information may violate Federal law.
- I understand the Servicer will pull a current credit report on all borrowers obligated on the Note.
- I understand that if I have intentionally defaulted on my existing mortgage, engaged in fraud or misrepresented any fact(s) in connection with this document, the Servicer may cancel any Agreement under Making Home Affordable and may pursue foreclosure on my home.
- That, my property is owner-occupied. I intend to reside in this property for the next twelve months; I have not received a condemnation notice, and there has been no change in the ownership of the Property since I signed the documents for the mortgage that I want to modify.
- I am willing to provide all requested documents and to respond to all Servicer questions in a timely manner.
- I understand that the Servicer will use the information in this document to evaluate my eligibility for a loan modification or short sale or deed-in-lieu of foreclosure, but the Servicer is not obligated to offer me assistance based solely on the statements in this document.
- I am willing to commit to credit counseling if it is determined that my financial hardship is related to excessive debt.
- I understand that the Servicer will collect and record personal information, including, but not limited to, my name, address, telephone number, social security number, credit score, income, payment history, government monitoring information, and information about account balances and activity. I understand and consent to the disclosure of my personal information and the terms of any Making Home Affordable Agreement by Servicer to (a) the U.S. Department of the Treasury, (b) Fannie Mae and Freddie Mac in connection with their responsibilities under the Homeowner Affordability and Stability Plan; (c) any investor, insurer, guarantor or servicer that owns, insures, guarantees or services my first lien or subordinate lien (if applicable) mortgage loan(s); (d) companies that perform support services in conjunction with Making Home Affordable; and (e) any HUD-certified housing counselor.

Borrower Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Co-Borrower Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**HOMEOWNER'S HOTLINE**

If you have questions about this document or the modification process, please call your servicer.  
If you have questions about the program that your servicer cannot answer or need further counseling, you can call the Homeowner's HOPE™ Hotline at 1-888-995-HOPE (4673). The Hotline can help with questions about the program and offers free HUD-certified counseling services in English and Spanish.

**888-995-HOPE™**  
Homeowner's HOPE™ hotline

**NOTICE TO BORROWERS**

Be advised that by signing this document you understand that any documents and information you submit to your servicer in connection with the Making Home Affordable Program are under penalty of perjury. Any misstatement of material fact made in the completion of these documents including, but not limited to misstatement regarding your occupancy in your home, hardship circumstances, and/or income, expenses, or assets will subject you to potential criminal investigation and prosecution for the following crimes: perjury, false statements, mail fraud, and wire fraud. The information contained in these documents is subject to examination and verification. Any potential misrepresentation will be referred to the appropriate law enforcement authority for investigation and prosecution. By signing this document you certify, represent and agree that "Under penalty of perjury all documents and information have been provided to lender in connection with the Making Home Affordable Program, including the documents and information regarding my eligibility for the program, are true and correct."

If you are aware of fraud, waste, abuse, mismanagement or misrepresentation, affiliated with the Troubled Asset Relief Program, please contact the SGT/AB Hotline by calling 1-877-955-2009 toll-free, 202-422-4339 fax, or www.sgtab.gov. Mail can be sent to Hotline Office of the Special Inspector General for Troubled Asset Relief Program, 1801 L St. NW, Washington, DC 20220.

page 2 of 2

# Precounseling: Intake Package Review Checklist

## INTAKE APPLICATION REVIEW

When reviewing the intake application for completion, the following items should be considered:

- ☐ Intake Application signed and dated
- ☐ Homeowner Information section is completed with contact information
- ☐ Reason for default and reason for call are completed
- ☐ Homeowner contact with servicer is complete
- ☐ Mortgage information boxes are complete and correspond to number of Notes provided
- ☐ Escrow and HOA information are complete
- ☐ Refinance information is complete
- ☐ Property information is complete

## Income and Expenses Worksheet Review

- ☐ Income source and amount are complete and correspond to pay stubs and income awards and other proof of income provided
- ☐ Expense information is completed; no essential information has been disregarded (for instance, since everyone eats, there must be an amount in the food line)

## Intake Application Completion Checklist

All the following documents are in the intake package and complete:

- ☐ Intake Application
- ☐ Income and Expense Worksheet
- ☐ Hardship Affidavit
- ☐ Signed and dated Authorization Form
- ☐ Signed and dated Counselor/Client Agreement
- ☐ Copy of note(s)
- ☐ Copy of mortgage coupons or billings
- ☐ Copy of correspondence from the servicer or attorney
- ☐ Copies of paystubs
- ☐ Copy of last year's tax returns
- ☐ Copy of last two months' bank statements
- ☐ Copies of latest utility bills, credit card statements, car loan statements, student loan statements, and other consumer debt statements

## Information Request for Loan Servicer from Housing Counselor

Borrower(s):

Loan #:

Address:

Pursuant to the attached authorization by the borrower(s), please supply the following information about the above referenced account. We are also requesting a payoff statement and the past-year payment history. The information will be used to help the borrower propose a loss-mitigation plan.

Has the loan been referred to an attorney? ☐ Y ☐ N

Foreclosure Sale Date: \_\_\_\_\_

Redemption End Date: \_\_\_\_\_

Mortgage Investor: \_\_\_\_\_ ( )HAMP Participant

Investor Loan #: \_\_\_\_\_

PMI Company: \_\_\_\_\_

Current Interest Rate: \_\_\_\_\_

Monthly P&I: \_\_\_\_\_

Monthly Escrow Payment: \_\_\_\_\_

Is there forced placed Insurance? ☐ Y ☐ N

Total Mortgage Payment: \_\_\_\_\_

Next Payment Due: \_\_\_\_\_

Unpaid Principal Balance: \_\_\_\_\_

Escrow Balance: \_\_\_\_\_

Suspense Account Balance: \_\_\_\_\_

Late Charges: \_\_\_\_\_

Attorney Fees: \_\_\_\_\_

Foreclosure Costs: \_\_\_\_\_

Other Charges: \_\_\_\_\_

**Please include a payment history beginning: \_\_\_\_\_**



## Qualified Written Request Under RESPA by Borrower

\_\_\_\_\_ (Name of Borrower(s))

\_\_\_\_\_ (Address of Borrower(s))

\_\_\_\_\_

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

VIA CERTIFIED MAIL

\_\_\_\_\_ (Name of Servicer)

\_\_\_\_\_ (Name of Servicing Manager)

\_\_\_\_\_ (Address of Servicer)

\_\_\_\_\_

Attn: Mortgage Loan Accounting Department

Re: Loan # \_\_\_\_\_

Dear Sir or Madam:

You are the servicer of our mortgage loan at the above address. We dispute the amount that is owed and request that you send us information about the delinquencies, fees, costs and escrow accounting on our loan. This is a “qualified written request” pursuant to the Real Estate Settlement and Procedures Act (12 U.S.C. Sec. 2605(e)).

Specifically, we are requesting an itemization of the following:

- complete payment history, including but not limited to the dates and amounts of all the payments we have made on the loan to date;
- breakdown of the amount of claimed arrears or delinquencies;
- explanation of how the amount due on the Monthly Billing Statement (\$\_\_\_\_\_) was calculated and a explanation of why this amount was increased to \$\_\_\_\_\_ on \_\_\_\_\_ (date);
- payment dates, purpose of payment, and recipient of any and all foreclosure fees and costs that have been charged to our account;
- payment dates, purpose of payment, and recipient of all escrow items charged to our account since you took over the servicing;
- breakdown of the current escrow charge showing how it is calculated and the reasons for any increase within the last 24 months; and
- copy of any annual escrow statements and notices of a shortage, deficiency, or surplus, sent to us within the last three years.

Thank you for taking the time to acknowledge and answer this request as required by the Real Estate Settlement and Procedures Act.

Very truly yours,

# COUNSELOR AND FILE CHECKLISTS



## FORECLOSURE PREVENTION COUNSELOR FORM

### I. Counselor Checklist

	ACTION	DATE		ACTION	DATE
1.	<input type="checkbox"/> Initial intake conducted		24.	<input type="checkbox"/> Engaged in budget verification	
2.	<input type="checkbox"/> Supporting documents received		25.	<input type="checkbox"/> Documented Debt-to-Income ratio	
3.	<input type="checkbox"/> Copy of ID		26.	<input type="checkbox"/> Verified borrower progressing with Action Plan	
4.	<input type="checkbox"/> Authorization received and copied		27.	<input type="checkbox"/> Scheduled/conducted follow up appointment	
5.	<input type="checkbox"/> Chhaya authorization		28.	<input type="checkbox"/> Run for HAMP waterfall	
6.	<input type="checkbox"/> Intake and assessment agreement		29.	<input type="checkbox"/> Servicer contacted	
7.	<input type="checkbox"/> Privacy policy		30.	<input type="checkbox"/> Authorization to servicer sent	
8.	<input type="checkbox"/> Developed action plan		31.	<input type="checkbox"/> Hardship letter written	
9.	<input type="checkbox"/> Attended workshop		32.	<input type="checkbox"/> Workout package completed	
10.	<input type="checkbox"/> File opened on HCO		33.	<input type="checkbox"/> Workout package signed and sent	
11.	<input type="checkbox"/> Counseling appointment scheduled		34.	<input type="checkbox"/> Resources given to transition clients	
12.	<input type="checkbox"/> Level 1 counseling completed		35.	<input type="checkbox"/> Referral given to debt management services	
13.	<input type="checkbox"/> Level 2 counseling completed		36.	<input type="checkbox"/> Referral given to legal services	
14.	<input type="checkbox"/> Client counselor agreement form explained and signed		37.	<input type="checkbox"/> Re-submitted Workout package	
15.	<input type="checkbox"/> Loan information release signed		38.	<input type="checkbox"/> Case escalated	
16.	<input type="checkbox"/> Develop specific action plan		39.	<input type="checkbox"/> Applied for grants	
17.	<input type="checkbox"/> Copies of <b>ALL</b> authorizations given to client		40.	<input type="checkbox"/> Offer from re-submission accepted/rejected	
18.	<input type="checkbox"/> QWR if required		41.	<input type="checkbox"/> Modification agreement reviewed	
19.	<input type="checkbox"/> Credit report pulled and verified		42.	<input type="checkbox"/> Modification agreement accepted/rejected	
20.	<input type="checkbox"/> Checked for loan ownership (Freddie Mac/Fannie Mae/FHA)		43.	<input type="checkbox"/> Update NOTES on HCO & print out for file	
21.	<input type="checkbox"/> Checked for current property value		44.	<input type="checkbox"/> Case closing survey completed	
22.	<input type="checkbox"/> Checked for subprime status		46.	<input type="checkbox"/> Foreclosure Discontinuance Received	
23.	<input type="checkbox"/> Loan analyzed and explained		47.	<input type="checkbox"/> Case closed	



**NFMC Counseling Program Client File Checklist**

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

Counseling Organization: \_\_\_\_\_

Client Name(s): \_\_\_\_\_

Counselor: \_\_\_\_\_ Counseling Level(s) Billed: \_\_\_\_\_

\_\_\_\_\_ Client was given opportunity to complete Client Satisfaction Survey (required at all billing levels: 1,2)

To bill as a "Level One" counseling unit, NFMC client files **MUST** contain the following documents:

- \_\_\_\_\_ Intake Application
- \_\_\_\_\_ Signed Client Authorization Disclosure Form
- \_\_\_\_\_ Signed Client Counseling Agreement
- \_\_\_\_\_ Signed Privacy Policy
- \_\_\_\_\_ Making Homes Affordable (MHA) Program Eligibility Determination Checklist
- \_\_\_\_\_ Client Budget – Detailed listing expenses, debts and available sources of income
- \_\_\_\_\_ Written Action Plan (including written documentation that Plan was given/sent to client)

To bill as a "Level Two" counseling unit, NFMC client must contain the following items:

- \_\_\_\_\_ Signed Client Authorization (Client Agreement)
- \_\_\_\_\_ Signed Privacy Policy
- \_\_\_\_\_ Current Verified Budget (based on most current documentation)
- \_\_\_\_\_ Budget Verification Documentation (includes but not limited to copies of bank statements, pay stubs, copies of monthly bills, credit report)
- \_\_\_\_\_ Written Action Plan
- \_\_\_\_\_ Written Dated Documentation in Counseling Notes of Steps Taken Based on Action Plan (retain copies of any documentation evidencing steps taken)
- \_\_\_\_\_ Close-Out Documentation Form: Indicate close-out date, reason for close-out, and the supporting documentation

# NFMC Document Check List

Client Name:

File #:

Key: X if document received; O if document still needed

Date Received	Initials	Place an X or O	Documentation
			Two Pieces of Identification (Driver's License or State ID , and social security card)
			Copy of Most Recent Mortgage Statement/Breach Letter/Letter of Intent to Accelerate
			Copy of Current Homeowners Association Statement
			Proof of Homeowners Insurance and Property Tax Statement (if not escrowed)
			Signed and Dated Letter of Hardship
			Servicer Financial Worksheet or HAMP RMA Financial Hardship Affidavit (must be signed by all persons on the mortgage)
			IRS Form 4506T
			Current Proof of Income for the last 30 Days prior to submission date
			Other Income Sources / Award Letters / (SSI, Child Support, Etc.)
			2011 / 2010 Federal Income Tax Full Return with W2's and/or 1099s - signed and dated
			Profit and Loss if Self Employed CPA ___ Self Drafted ___
			Last 2 Months of Bank Statements from Checking / Savings ___ 1 ___ 2 ___ 3 (can be stamped copy from bank, all pages on all accounts, no on-line printouts of transaction history)
			Investment Accounts: 401k, 403b, IRA, Annuities, Etc.

Date Received	Initials	Place an X or O	Documentation
			Utility Bills (circle) Electric Gas/Oil Water Cable Cell Telephone
			Credit Card Bill _____
			Credit Card Bill _____
			Credit Card Bill _____
			Personal Loan _____
			Auto Loan _____
			Student Loan _____
			Real Estate Agreement (if up for sale)
			Current Year Copies of all Rental Agreements & Copies of the last 2 months Cancelled Checks and /or receipts for all rent received to verify income (only if applicable)
			____ Agency Release and Disclosure ____ Agency Intake ____ Budget ____ Action Plan ____ Third Party Authorization
			Loan Modification Agreement (if applicable)
			Other Detail: _____
			Checklist of Documents Received by Agency During Initial 1 to 1 Date: _____

Subsequent Document Received Date \_\_\_\_\_ Received By \_\_\_\_\_ Mail \_\_\_\_\_ or Fax \_\_\_\_\_

Subsequent Document Received Date \_\_\_\_\_ Received By \_\_\_\_\_ Mail \_\_\_\_\_ or Fax \_\_\_\_\_

Subsequent Document Received Date \_\_\_\_\_ Received By \_\_\_\_\_ Mail \_\_\_\_\_ or Fax \_\_\_\_\_

Subsequent Document Received Date \_\_\_\_\_ Received By \_\_\_\_\_ Mail \_\_\_\_\_ or Fax \_\_\_\_\_

Subsequent Document Received Date \_\_\_\_\_ Received By \_\_\_\_\_ Mail \_\_\_\_\_ or Fax \_\_\_\_\_

## **2. Triage**

### **2.1. Non-Modification Loss Mitigation**

#### **2.1.1. Forbearance Plans**

A forbearance plan is a temporary solution where monthly mortgage payments are reduced or suspended for a short period of time. A forbearance plan is useful at the beginning of a short-term hardship because it gives the homeowner time to adjust to the hardship before foreclosure fees and costs accrue. A forbearance plan does not, however, change the terms of the loan or reduce the amount that the borrower owes. As a result, the borrower will need to address the arrears after the forbearance period, either through a one-time lump sum payment, a repayment plan or a modification.

#### **FHA Forbearance Options**

FHA offers Special Forbearance plans to borrowers who are unemployed and at least three payments behind on their mortgage. The plans must be in writing, reduce or suspend mortgage payments, allow for up to at least 12 months of relief, and the borrower must be evaluated at the end of the forbearance period for a loss mitigation option that will cure the default.

#### **GSE Forbearance Options**

Freddie Mac provides separate requirements for short term and long term forbearance. In short term forbearance, if the borrower has an eligible hardship, the servicer must suspend payments for up to three months or reduce them for up to six months. (FDMC Guide §§ A65.18- A65.19.) In long term forbearance, reduction or suspension of payments is extended to a period of four to twelve months. Long term forbearance is allowed in the following circumstances: (1) the property or the borrower's place of employment has been damaged by a natural or man-made disaster; (2) a lawsuit that may jeopardize Freddie Mac's lien position is pending; (3) the borrower is deceased and the estate is in probate; or (4) the borrower is experiencing a hardship due to the long-term or permanent disability or serious illness of a borrower/co-borrower or dependent family member. (FDMC Guide §§ A65.22-A65.23.) Freddie Mac has special rules if the hardship is due to unemployment. Servicers must make an initial offer of a six-month forbearance. If, after six months, the borrower is still unemployed, the borrower may receive extended unemployment forbearance for up to six more months provided that the extended forbearance does not cause the delinquency to exceed 12 months of the Borrower's contractual monthly Mortgage payment. Borrowers in extended unemployment forbearance must make payments equal to 31% of their monthly income, not including any unemployment insurance payments. (FDMC Guide §§A65.26-A65.28.)

For Fannie Mae loans, forbearance is only allowed in certain circumstances, including, *inter alia*, natural disaster, death of the borrower or family member, divorce, unemployment, and substantial reduction in income. (FNMA Guide §§ VII, 403.)

Servicer may suspend or reduce payments for up to six months. (Id.) The servicer's ability to extend the term beyond six months is very limited. (Id.)

### MHA Servicers

The MHA handbook provides forbearance for unemployed borrowers through UP. To be eligible for UP, the homeowner must (1) request help before missing three payments, (2) be unemployed and eligible for unemployment benefits, and (3) have not previously received an UP forbearance or a HAMP modification. The UP forbearance period is the lesser of twelve months long or the period of unemployment. UP may also be used for loans secured by vacant or tenant occupied properties.

### **2.1.2. Repayment Plan Options**

A repayment plan is a plan through which the homeowner makes extra payments to catch up on previously missed payments. This is an option for homeowners who experienced short term hardships, but have recovered enough to make more than their previous mortgage payment. Note that a borrower can generally receive a 3 to 5 year repayment plan through a Chapter 13 bankruptcy. (See Section 3.6.8. for more details on bankruptcy.)

### FHA Loans

Although named as forbearance plans, FHA Informal Forbearance and Formal Forbearance function as repayment plans. The Informal Forbearance plan is an oral agreement covering a period of 3 months or less, during which the borrower is expected to bring the loan current. A Formal Forbearance plan is a written agreement lasting more than 3 months, but fewer than 6 months, and here too the borrower must pay off the arrears. To be eligible for a Formal Forbearance plan, the borrower's surplus income must be greater than \$300 and 15% of net income, and 85% of the borrower's surplus income must be sufficient to cure the arrears within the 6 month period. Unlike all other FHA loss mitigation options, to qualify for an Informal or Formal Forbearance, a delinquent borrower need not show a loss of income or increase in expenses.

### GSE Loans

Freddie Mac allows borrowers to adopt a repayment plan in which the borrower repays all arrears within a period of one to twelve months. (FDMC Guide §§ A65.15-A65.17.) Fannie Mae also allows borrower to repay arrears over a period of time. (FNMA Guide § VII, 404.) Generally, repayment plans are limited to a period of 12 months, but they may be extended to up to 18 or 36 months, depending on the pooling date of the loan. (Id.)



## MHA Servicers

MHA does not provide any guidance or requirements for repayment plans. As a result, servicers may provide repayment plans on terms of their own choosing, but are not required to do so.

### **2.1.3. Reinstatement**

A homeowner generally has a right to reinstate a delinquent loan by paying all missed payments, as well as the lender's fees and costs related to the delinquency. Of course, even if the payment on the mortgage is now affordable, most homeowners in default lack the funds to reinstate. Homeowners seeking reinstatement may be eligible for a gap loan. (See Section 3.5.2. for more information on gap loans).

## **2.2. Modifications**

A loan modification permanently changes the terms of the loan to cure the default and make the loan more affordable. Where available, this is the best option for most homeowners.

### **2.2.1. HAMP**

GSE Loans and loans serviced by MHA Servicers must provide GSE HAMP or MHA HAMP Tier 1, respectively. Although technically separate programs, the requirements for Fannie Mae HAMP, Freddie Mac HAMP and MHA HAMP Tier 1 are largely identical, and in this guide, these programs will be collectively referred to as HAMP.

To be eligible for HAMP, borrowers must meet the following criteria:

- The homeowner obtained his or her mortgage on or before January 1, 2009;
- The homeowner has a financial hardship and is either delinquent or in danger of falling behind;
- The house is the primary residence;
- The amount owed on the first mortgage is equal to or less than \$729,750;
- Payment on first mortgage is more than 31% of gross monthly income;
- The homeowner has sufficient, documented income to support the modified payment;
- The mortgage is not previously HAMP modified; and
- The homeowner must not have been convicted within the last 10 years of felony larceny, theft or forgery, money laundering or tax evasion, in connection with a mortgage or real estate transaction.

At the outset of the modification, the servicer determines the unpaid principal balance by capitalizing allowable arrears, including accrued interest and allowable fees and costs. Next, the servicer sets a target payment at 31% of the borrower's gross monthly

income. The target payment must include principal, interest, taxes, insurance and association fees. After making these determinations, the servicer performs the waterfall in an attempt to support the unpaid principal balance with the target payment.

The first step in the waterfall is interest rate reduction. In this step, the servicer reduces the current interest rate in decrements of 0.125% to achieve the target payment. However, the servicer may not reduce the interest rate below the 2% interest rate floor. If a reduction to 2% is insufficient to achieve the target payment, then the servicer sets the initial interest rate to 2% and moves to the next step of the waterfall, term extension.

In the term extension step, the servicer extends the mortgage term in one-month increments to achieve the target payment. But, the servicer may not extend the term beyond 480 months after the effective date of the modification. If an extension of the loan term to 480 months is insufficient to achieve the target payment, then the servicer sets the term of the loan to 480 months and moves to the next step of the waterfall, principal forbearance.

In the principal forbearance step, the servicer forbears a portion of the unpaid principal balance until the payment on the remaining interest-bearing balance creates the target payment. The servicer is not required to forbear more than the greater of (1) 30% of the capitalized unpaid principal balance, or (2) an amount resulting in a modified interest-bearing balance that would create a mark to market loan to value ratio equal to 100%. (In MHA HAMP Tier 1, servicers are permitted to forbear more than this amount. MHA Handbook v. 4.4, Ch. II, § 6.6.1. In the GSE HAMPs, the servicer may not forbear more than this amount without GSE approval. FNMA Guide § VII, 609.02.06; FDMC Guide § C65.6.) If the servicer is unable to achieve the target payment, then the borrower does not pass the HAMP waterfall and is ineligible. Eligibility for HAMP is subject to the Net Present Value (NPV) Test (see Section 2.2.7.).

### **2.2.2. Principal Reduction Alternative (PRA)**

PRA is a variation of HAMP Tier 1 available for non-GSE loans serviced by a MHA participating servicer. Loans held by Fannie Mae, Freddie Mac or insured by FHA are not generally eligible for principal reduction. PRA allows the borrower to receive principal reduction to as low as 115% loan to value ratio.

Under PRA, the servicer reduces the principal to the higher of (1) 115% of the value of the value of the home and (2) an amount sufficient to reach the target payment at the contract term and interest rate. If principal reduction is not sufficient to reach the target payment, then the servicer continues with the HAMP Tier 1 waterfall by reducing interest rate, extending term and forbearing principal to the extent necessary to reach the target payment. Servicers may increase or decrease the 115% loan to value ratio, but most adopt a uniform policy for all loans.

### **2.2.3. HAMP Tier 2**

HAMP Tier 2 is specific to non-GSE loans serviced by participating servicers. Homeowner eligibility is the same for HAMP Tier 2 as for HAMP, except that (1) the property may be a rental property that is not owner-occupied and (2) HAMP Tier 2 is available for borrowers who previously had a HAMP Tier 1 modification, but defaulted on it. However, a borrower is only eligible for a single HAMP Tier 2 modification, so if the borrower defaults on the HAMP Tier 2 modification, the borrower will not be eligible for another.

Unlike HAMP Tier 1, HAMP Tier 2 does not create a target payment. Instead, HAMP Tier 2 modifies the loan according to a preset process and then determines whether or not that modification (1) sufficiently reduces the payment and (2) creates an acceptably affordable payment.

After capitalizing the permissible arrears, a HAMP Tier 2 modification sets a fixed interest rate for the life of the loan. This rate is determined by adding a risk adjustment to the Freddie Mac Primary Mortgage Market Survey Rate for 30-year fixed rate mortgages rounded up to the nearest 0.125 percent. However, effective July 1, 2014, the risk adjustment is set to 0%, and the interest rate for HAMP Tier 2 modifications will be the Freddie Mac Primary Mortgage Market Survey Rate for 30-year fixed rate mortgages and rounded up to the nearest 0.125 percent. The servicer then extends the term to 480 months after the effective date of the modification. Finally, the servicer forbears principal to the lesser of (1) the amount to create a post-modification mark to market loan to value ratio of 115% or (2) 30% of the post-modification unpaid principal balance. (Under HAMP Tier 2's principal reduction alternative, the servicer may elect to forgive rather than forbear principal.)

After making these changes, the servicer calculates whether or not the modified principal and interest payment represents a payment reduction compared to the pre-modification monthly principal and interest. If the modification would not create such a reduction, then the borrower is not eligible for HAMP Tier 2. However, servicers may implement a minimum principal and interest payment reduction requirement provided that the minimum reduction is not greater than 10% of the pre-modification payment.

If the modification would sufficiently reduce the borrower's principal and interest payments, then the servicer must determine whether or not the modified loan creates an acceptably affordable payment. The servicer does this by measuring the borrower's front end debt to income (DTI) ratio. The DTI ratio is the borrower's monthly housing cost (principal, interest, taxes, insurance and association fees) divided by the borrower's gross monthly income. Each servicer can select a DTI range no wider than 10% to 55%, but no narrower than 25% to 42%. If the borrower falls within the servicer's DTI range, then the borrower is eligible for a HAMP Tier 2 modification. If the borrower falls outside of that DTI range, then borrower is not eligible for HAMP Tier 2 modification. Eligibility for HAMP Tier 2 is subject to the Net Present Value (NPV) Test (see Section 2.2.7.).

## **2.2.4. Standard Modifications**

Loans held by the GSEs are not eligible for HAMP Tier 2, but are, instead, eligible for Standard Modifications. Notably, Standard Modifications, unlike HAMP and HAMP Tier 2, do not require that the borrower pass an NPV test or require that the loan have been originated before January 1, 2009. Standard Modifications take different forms depending on the pre-modification mark to market loan to value ratio (MTMLTV) and on whether the modification is done through the Streamlined Process.

### **1. MTMLTV >80%**

For loans with MTMLTV above 80%, GSE Standard Modifications follow the same general waterfall steps as HAMP Tier 2: (1) capitalizing eligible arrears, (2) setting a fixed, market interest rate, (3) extending the term of the loan to 480 months from the modification date, and (4) forbearing principal to the lesser of (a) the amount needed to create a post-modification mark to market loan to value ratio of 115% or (b) 30% of the post-modification unpaid principal balance. However, while HAMP Tier 2 determines the interest rate by attaching a risk adjustment to the Freddie Mac Primary Mortgage Market Survey Rate for 30-year fixed rate mortgages, Fannie Mae and Freddie Mac both use in-house rates that are available online.

Additionally, the modification must produce (1) a principal and interest payment reduction and (2) a DTI ratio that is greater than or equal to 10% and less than or equal to 55%. These requirements differ slightly from the servicer specific principal and interest payment reduction and DTI ranges of HAMP Tier 2.

### **2. MTMLTV <80%**

Prior to April 1, 2014, loans with MTMLTV below 80% were not eligible for Standard Modifications. But now, loans with MTMLTV below 80% are eligible for an alternative Standard Modification without interest rate reduction or principal forbearance. The interest rate is set depending on the nature of the current interest rate. If the loan is a fixed rate loan, then the interest rate is not changed. If the loan is either an adjustable rate or a step-rate loan, then the interest rate is set to the greater of (1) the current interest rate or (2) the relevant GSE's standard modification interest rate.

Aside from these differences, Standard Modifications for loans with MTMLTV <80% are the same as those with higher MTMLTVs. The arrears are capitalized, and the term of the loan is extended to 480 months. The modification must produce (1) a principal and interest payment reduction, and (2) a DTI ratio that is greater than or equal to 10% and less than or equal to 55%.

### **3. Streamlined Process**

Both GSEs also provide modifications in streamlined form. Streamlined Modifications are not unique modification products, but instead alternate processes by which borrowers receive a Standard Modification. The servicer sends the borrower a solicitation for the Streamlined Modification program within 15 days of the borrower becoming eligible. The solicitation lists the amount of monthly payments that would be due under a Standard Modification and requires the borrower to contact the servicer to accept.

Streamlined Modifications are only offered to borrowers who are at least 90 days in default, but less than 720 days in default. Additionally, the borrower cannot be involved in another loss mitigation option, such as an active and performing trial payment period ("TPP"), forbearance, repayment plan, or approved liquidation workout. Although Fannie Mae generally allows Standard Modifications for mortgages subject to non-routine litigation, it does not allow Streamlined Modifications in these situations.

The terms of the Streamlined Modification are calculated in the same way that Standard Modifications are calculated, including the same MTMLTV analysis. Streamlined Modifications must create a principal and interest payment reduction, but because the modification is provided without an application, the DTI range requirement does not apply.

#### **2.2.5. 2MP (for Second Mortgages)**

If the borrower has a second mortgage and receives a HAMP, HAMP Tier 2 or Standard Modification on the first mortgage, then the borrower's second mortgage may be eligible for modification under the 2MP program. To be eligible for 2MP, the second mortgage must have been originated on or before January 1, 2009 and must be serviced by a servicer that participates in 2MP. Additionally, to be eligible for modification, the second mortgage must have an unpaid principal balance ("UPB") of at least \$5,000 and a pre-modification monthly payment of at least \$100. The servicer of the second mortgage may restrict 2MP eligibility to cases in which the modified payment under the first mortgage meets the servicer's HAMP Tier 2 DTI range. 2MP is not subject to an NPV test and does not require that the borrower be in default or imminent risk of default. The borrower is not required to submit an application or provide financial documents to receive a 2MP modification. A 2MP modification does not attempt to reach a target payment, but instead creates a modified loan through a series of steps based on the terms of the first modification. The nature of a 2MP modification depends on whether or not the second mortgage is amortizing.

##### **1. Amortizing Second Liens**

When the second lien is an amortizing loan, the servicer begins by capitalizing arrears. Next the servicer reduces the interest rate. The interest rate is set to 1.0% for the five years of the modified term. After the first five years, the interest is set to the interest rate of the first lien modification. If the first lien modification is a step-rate modification, then the interest rate on the 2MP modification will adjust accordingly. Next, if the

original term of the second lien is shorter than the remaining term of the modified first lien, the 2MP servicer must extend the term of the second lien to match, at a minimum, the term of the modified first lien. Finally, the 2MP servicer must forbear or forgive principal in at least the same proportion as the first lien modification.

## 2. Interest-Only Second Liens

If the second lien features non-amortizing payments, then the servicer must still capitalize arrears, extend term and forbear or forgive principal in the same manner. However, the servicer may either convert the lien into an amortizing mortgage or continue with the interest-only payment. If the servicer continues with a non-amortizing payment, then the interest rate will be set at 2% for the first five years before adjusting with the first lien modification. The servicer must begin to amortize the second lien at the later of (1) the time specified in the original loan documents and (2) five years after the modification date. However, if the second lien is interest-only until maturity, then the servicer must begin amortizing the loan after five years.

If a borrower is delinquent on a second lien mortgage and is not eligible for 2MP, then the borrower may have other options. Borrowers in this situation should consider applying for a gap loan and/or negotiating a short payoff of the second mortgage. (See Section 3.6.2.) The borrower may also be able to strip the second lien mortgage in bankruptcy (See Section 3.6.8.)

### **2.2.6. FHA Modifications and FHA-HAMP**

FHA insured loans are not eligible for HAMP or Standard Modifications. Modifications of FHA loans are available only when the borrower is not eligible for a Formal or Informal Forbearance as described above (see Section 2.1.2.). Modifications of FHA Loans take two forms: (1) the FHA Loan Modification and (2) FHA-HAMP. FHA modifications are not subject to an NPV Test.

#### 1. FHA Loan Modification

Borrowers who have experienced a verifiable loss of income or increase in expenses, but are ineligible for a forbearance plan, must be reviewed for a FHA Loan Modification. An FHA Loan Modification capitalizes any arrears, sets the interest rate at the Market Rate and re-amortizes the loan over 30 years. Legal fees and foreclosure costs can be capitalized, but late fees may not be charged and HUD will only reimburse legal fees up to a set maximum. Term extension is limited to 30 years due to HUD regulations and because 30 years is the maximum allowable term for a modified mortgage in a Ginnie Mae mortgage pool. To be eligible for a FHA Loan Modification, the borrower must be in default, and an adjustment to the borrower's mortgage terms in the manner described must reduce the borrower's monthly payment by \$100 and 10%. Additionally, as mentioned above, a borrower must have surplus income of at least \$300 and 15% of net income.

## 2. FHA-HAMP

Borrowers ineligible for the above-mentioned loss mitigation options will be reviewed for FHA-HAMP. Like an FHA Loan Modification, FHA-HAMP requires that the borrower have experienced a verifiable loss of income or increase in expenses. FHA-HAMP also requires that the first payment on the loan was due at least a year prior to evaluation and that the borrower has made at least 4 payments. But unlike the FHA Loan Modification, borrowers in imminent risk of default are eligible for FHA-HAMP. Within FHA-HAMP, loss mitigation takes three distinct forms:

- the Stand-Alone Partial Claim,
- the Stand-Alone Loan Modification and
- a modification coupled with a Partial Claim.

The Partial Claim is unique to FHA loans. It is a credit insurance claim that HUD pays out to the lender under the terms of the FHA program to bring the loan current. Because the payment is in an amount less than the total insured mortgage balance, it is considered a “Partial Claim.” A Partial Claim can be used to cover arrears, legal fees, foreclosure related costs, and principal deferment. It creates a second mortgage payable to HUD, on which no interest is charged, that comes due with the first mortgage or when the borrower no longer owns the property. When a Partial Claim is awarded, the lender advances the funds to the borrower, and then HUD reimburses the lender and provides an incentive payment. The size of a Partial Claim is limited to 30% of the unpaid principal balance at the time the borrower defaulted less the amount of any previously awarded Partial Claim.

A Stand-Alone Partial Claim is available where the terms of the mortgage are otherwise favorable, but the borrower needs help reinstating the mortgage. To qualify for a Stand-Alone Partial Claim, three conditions must be met: (1) the current interest rate on the loan is at or below the Market Rate; (2) borrower’s current payment is at or below the target payment, which is defined below; and (3) the borrower meets all FHA-HAMP eligibility requirements. Given the requirements that the interest rate be low and the payments affordable, the Stand-Alone Partial Claim is likely designed to assist borrowers who have fallen behind on loans previously modified. A borrower who receives a Stand-Alone Partial claim will receive a Partial Claim in an amount sufficient to reinstate the mortgage. The terms of the mortgage will not be changed.

Borrowers who do not qualify for a Stand-Alone Partial Claim are evaluated for a Stand-Alone Loan Modification. A Stand-Alone Loan Modification is identical to a FHA Loan Modification. The arrears are capitalized, the term is extended to 360 months and the interest rate is set to the Market Rate. If this modification produces a payment at or below the borrower’s target payment, then the borrower will receive this modification. If this modification is insufficient to reach the target payment, then the loan is evaluated under the next step of the waterfall.

In the next step, the available Partial Claim is used to write down the amortizing principal balance to the extent necessary to reach the target payment. If the Partial Claim remaining is sufficient, then the remaining interest-bearing principal balance is amortized over 30 years at the Market Rate. This calculation results in a payment at the borrower's target. If the remaining Partial Claim is insufficient, then the loan is evaluated under the last step of the waterfall.

The last step of the waterfall increases the monthly payment to an amount necessary to pay off the amortizing principal balance remaining after using the entire Partial Claim. FHA allows for a modification that creates a payment above the target, so long as it does not give the borrower a front-end DTI above 40%. DTI is calculated by dividing the borrower's total monthly payment (including taxes, insurance, MIP, and condo/HOA fees) by the borrower's gross monthly income. If a payment equal to 40% of the borrower's gross monthly income is insufficient to cover the amortizing principal balance, then the borrower is not eligible for FHA- HAMP.

### 3. A Note on Capitalization of Arrears under FHA-HAMP

When FHA-HAMP was overhauled by Mortgagee Letter 2012-22, servicers and the National Servicing Center understood that arrears could not be capitalized into the Partial Claim. As a result, FHA-HAMP worked under a framework in which the Partial Claim would be used to effectively reinstate the mortgage and the remaining balance of the mortgage would be modified. This led to situations in which borrowers who could afford to pay the balance of their mortgages at a modified rate and term were denied because their arrears exceeded the maximum available Partial Claim. In September 2013, HUD issued Mortgagee Letter 2013-32, which superseded Mortgagee Letter 2012-22 in its entirety. Because Mortgagee Letter 2013-32 contained additional language regarding capitalization, many consumer advocates believed that it enabled capitalization of arrears into the amortizing balance of the modified loan when the arrears exceeded the maximum available Partial Claim. However, the National Servicing Center disagreed and believed that the language clarified the previous rule.

In February 2014, HUD issued a FAQ for Mortgagee Letters 2012-22 and 2013-32 stating that capitalization of arrears into the amortizing balance is allowed and given preference over use of the Partial Claim. This is the current framework described above. The result of the FAQ is a modification framework that differs from both the system that consumer advocates had been requesting and the system that the National Servicing Center had been enforcing. Moreover, because the FAQ was issued to describe a pre-existing mortgagee letter, the FAQ appeared to effect a change in the loan modification rules retroactively. As a result, all denials on the basis that the arrears exceed the maximum available Partial Claim amount are improper. HUD attempted to clarify the impact of the FAQ in a concurrent memorandum. The memorandum acknowledges a widespread misinterpretation of the relevant mortgagee letters and states that FHA will not seek damages against violations occurring prior to May 1, 2014. The memorandum further required servicers to review wrongly denied borrowers upon



request from the borrower or a representative of the borrower. However, in practice, servicers have been reluctant to review these affected borrowers.

### **2.2.7. Net Present Value (NPV) Test**

The Net Present Value Test (NPV) is a calculation which indicates how much a mortgage is worth today. Investors will compare what a mortgage is worth today with what a mortgage is worth after a modification. If the mortgage is worth more after the modification, it is likely that the NPV will be positive and the investor may have to modify the mortgage. If the NPV is negative, the investor does not have to modify the mortgage. Borrowers applying for HAMP or HAMP Tier 2 modification must pass the NPV test.

If a servicer runs an NPV test and declines a borrower for a loss mitigation option, then the servicer must provide all of the inputs used in the NPV test. The website <https://CheckMyNPV.com> can be used by homeowners who have been denied a HAMP modification because of their NPV result. CheckMyNPV.com provides only an estimate of a mortgage servicer's NPV evaluation, but it can be useful to ensure that a denial based on NPV negativity is bona fide. Additionally, if one of the NPV inputs is undisputed (for example, a property valuation), then CheckMyNPV.com can be used to see whether changing that input would produce a different result.

### **2.2.8. Online Resources for Modification Analysis**

MFY Legal Services, Inc. has created useful tools for understanding whether a homeowner is likely to qualify for a HAMP modification, a HAMP Tier 2 modification, a Standard Modification or an FHA loss mitigation option. These worksheets aid the waterfall analysis, but do not run the NPV test where required.

FHA loans should be analyzed using the FHA Waterfall Worksheet. While non-FHA loans held by GSE or serviced by an MHA participating servicer should be analyzed using the HAMP and GSE Waterfall Worksheet.

*Tip:* some organizations print out the MFY worksheet to accompany the advocacy letter when submitting packages to strengthen the application.

Both worksheets and their user's guides are available at:

<http://www.mfy.org/projects/foreclosure-prevention-project/>

### **2.2.9. Non-HAMP Modifications**

While HAMP is usually the best option for a modification, counselors need to be prepared for situations where HAMP is unavailable or a homeowner is properly denied a HAMP modification but will then be considered for a non-HAMP or in-house modification.

When a servicer considers a homeowner for a non-HAMP modification, the servicer will look to the budget to determine whether or not the modification is affordable. There may also be additional steps that the counselor and the homeowner will have to take so that the homeowner can be considered for the non-HAMP modification. Outside of HAMP, the servicer can request more information, can consider a variety of factors and can require a down payment from the homeowner. Counselors should help a client prepare for these issues.

The counselor should discuss this with the homeowner and be prepared to offer an alternative to HAMP when applying for a HAMP modification. The counselor should craft a proposal which shows a surplus in the budget so if the homeowner is denied for HAMP, he or she can still qualify for an in-house modification.

## Loss Mitigation Options Chart

© 2014 MFY Legal Services, Inc.

	<b>MHA HAMP Tier 1</b>	<b>GSE HAMP</b>	<b>MHA HAMP Tier 2</b>	<b>GSE Standard</b>	<b>FHA-HAMP</b>
<b>Loan Owner Restrictions</b>	Not a GSE or Government Loan	Held by Fannie Mae or Freddie Mac	Not a GSE or Government Loan	Held by Fannie Mae or Freddie Mac	Insured by FHA
<b>Servicer Restrictions</b>	Participating Servicer	None	Participating Servicer	None	None
<b>Property Type</b>	1-4 Family Residential	1-4 Family Residential	1-4 Family Residential	1-4 Family Residential	1-4 Family Residential
<b>Origination Date Restrictions</b>	Earlier than 1/1/2009	Earlier than 1/1/2009	Earlier than 1/1/2009	12 months before evaluation date	12 months before evaluation date
<b>Priority</b>	First	First	Second	Second	First
<b>Owner Occupancy</b>	Required	Required	Not Required	Not Required	Required
<b>Effect of Prior Modification</b>	Maximum of one Tier 1 Modification	Maximum of one GSE HAMP Modification	Maximum of one Tier 2 Modification	Max of 2 Total Modifications Must stay current 1 year	May modify again 24 months later
<b>Subject to NPV Test</b>	Yes	Yes	Yes	No	No
<b>Post Modification DTI Minimum</b>	Always 31%	Always 31%	Servicer Specific: 10-25%	10% (Except Streamlined Offers)	None
<b>Post Modification DTI Maximum</b>			Servicer Specific: 42-55%	55% (Except Streamlined Offers)	40%
<b>Post Modification Interest Rate</b>	Step Rate: As low as to 2%, adjusting up to PMMS.	Step Rate: As low as to 2%, adjusting up to PMMS.	<u>Before 7/1/2014</u> PMMS + .5% <u>After 7/1/2014</u> PMMS	<u>If MTMLTV &gt;80%</u> Standard Modification Rate	PMMS + .25%
				<u>If MTMLTV &lt;80%</u> Greater of: (1) Contract Rate and (2) Standard Mod Rate	
<b>Post Mod Term</b>	Up to 40 years	Up to 40 years	40 years	40 years	30 years
<b>Forbearance</b>	<u>Only if Required:</u> Greater of : (1) 30% of UPB and (2) to value	<u>Only if Required:</u> Greater of : (1) 30% of UPB and (2) to value	Lesser of: (1) 30% of UPB and (2) to 115% of value	<u>If MTMLTV &gt;80%</u> Lesser of: (1) 30% of UPB and (2) to 115% of value	<u>Only if Required</u> Up to 30% of UPB (In the form of a Partial Claim)
				<u>If MTMLTV &lt;80%</u> None	
<b>Monthly P&amp;I Reduction Required</b>	Required	Required	<u>Before 7/1/2014</u> >10% <u>After 7/1/2014</u> Servicer Specific: >0% - >10%	Required	Not Required

### Abbreviations

MTMLTV - Mark to Market Loan to Value Ratio; PMMS - Freddie Mac Primary Mortgage Market Survey Rate; DTI - Front End Debt to Income Ratio

## **2.3. Refinances**

### **2.3.1. Reverse Mortgages**

A Home Equity Conversion Mortgage (HECM), commonly known as a reverse mortgage, is a combination financial and actuarial product that allows the homeowner to borrow money with a mortgage that does not come due until the homeowner passes away or sells the property. If the homeowner is age 62 or older, has a substantial amount of equity and is currently living in the home the program allows the homeowner to borrow against the equity in his or her home.

Some concerns with reverse mortgages include compounding interest and large fees that increase the size of the loan over time, seniors not being aware of their responsibilities, and unknowing heirs being threatened with foreclosure when the loan becomes due after the death of the borrower.

#### **Eligibility:**

- Youngest borrower must be 62 years of age or older
- Homeowner must have a substantial amount of equity
- Homeowner must occupy the property as a principal residence
- Homeowner cannot be delinquent on any federal debt
- Homeowner must participate in a consumer information session given by an approved HECM counselor

#### **Financial Requirements:**

- No income, credit checks, or employment qualifications are required of the borrower.
- No repayment as long as the property is the principal residence and the obligations of the mortgage are met.
- Closing costs may be financed in the mortgage.

#### **The borrower is still responsible for:**

- Property taxes
- Hazard insurance premiums, including flood insurance if the borrower lives in a flood zone
- Mortgage insurance
- Home maintenance costs

To find a HECM counselor, you can go to  
[https://entp.hud.gov/idapp/html/hecm\\_agency\\_look.cfm](https://entp.hud.gov/idapp/html/hecm_agency_look.cfm).

Other types of reverse mortgages are proprietary or single-purpose, but these account for a small fraction of reverse mortgages.

### **2.3.2. Home Affordable Refinance Program**

The Home Affordable Refinance Program (HARP) is a program for borrowers with GSE loans who are current on their mortgage. HARP allows those borrowers to refinance to a lower rate (or from an adjustable rate to a fixed rate), even if they do not have equity in the property. HARP is available for both primary residences and rental/investment properties. Origination fees do apply, but are financed, rather than paid out of pocket.

#### **Eligibility**

- The mortgage must be owned or guaranteed by Freddie Mac or Fannie Mae.
- The mortgage must have been sold to Fannie Mae or Freddie Mac on or before May 31, 2009.
- The mortgage cannot have been refinanced under HARP previously unless it is a Fannie Mae loan that was refinanced under HARP from March-May, 2009.
- The current loan-to-value (LTV) ratio must be greater than 80%.
- The borrower must be current on the mortgage at the time of the refinance, with a good payment history in the past 12 months.

Borrowers apply through a HARP approved lender. If the borrower's current servicer is a HARP approved lender, then the borrower can apply through that servicer.

Otherwise, the borrower can find a HARP approved lender. A list of HARP approved lenders can be found on HARP's website – <http://www.harp.gov>.

### **2.3.3. FHA Refinance Programs**

#### **FHA Streamline Refinance**

The FHA Streamline Refinance is a program analogous to HARP for FHA loans. In the FHA Streamline Refinance, the borrower is refinanced either into a lower interest rate or from an adjustable rate to a fixed rate. As with HARP, origination fees do apply, but are financed, rather than paid out of pocket.

The basic requirements:

- The mortgage must already be FHA insured.
- The homeowner must have a perfect payment history stretching back 12 months.
- The refinance is to result in a lower monthly principal and interest payments.
- There is no verification of employment, nor are pay stubs, W-2s or tax returns required for approval.
- The homeowner can be unemployed and get approved for a FHA Streamline Refinance so long as he or she still meets the other program requirements.
- FHA does not verify credit scores as part of the FHA Streamline Refinance program.
- No cash may be taken out on mortgages refinanced using the streamline refinance process.

- The homeowner must demonstrate that there's a net tangible benefit in the refinance.
  - What is considered a net tangible benefit can vary from servicer to servicer but refinancing from an ARM into a fixed rate loan could fall into that category.

### FHA Short Refinance

An FHA Short Refinance is an option for homeowners who owe more than the value of their home. The existing loan to be refinanced must not be insured by FHA or any other government agency. Participation in FHA's refinance program requires the consent of all lien holders.

The basic requirements:

- The property must be the homeowner's primary residence.
- The homeowner must be in a negative equity position;
- The homeowner must be current on their existing mortgage.
- The homeowner must qualify for the new loan under standard FHA underwriting requirements and have a credit score equal to or greater than 500.
- The borrower's existing first lien holder must agree to write off at least 10% of their unpaid principal balance,
- The refinanced FHA-insured first mortgage must have a loan-to-value ratio of no more than 97.75 percent.
- Non-extinguished existing subordinate mortgages must be re-subordinated to the new loan.
- Post-refinance, the borrower's combined loan-to-value ratio to no greater than 115%. (Second loans may be eligible for extinguishment under FHA-2LP.)
- The homeowner's total monthly mortgage payment, including the first and any subordinate mortgage(s), cannot be greater than 31 percent of gross monthly income and total debt, including all recurring debts, cannot be greater than 50 percent of gross monthly income.

## **2.4. Non-Retention Options**

Homeowners may need assistance with a soft landing or graceful exit from the home if one of the following is true:

- The homeowner has an incurable default and cannot be helped to stay in the home.
- The homeowner does not want to stay in the home.
- The homeowner has been denied a modification.

### **2.4.1. Market Sale**

Homeowners can pursue a market sale of the home if they have equity in their home. This is generally the best outcome for a homeowner who is not able to stay in the home.

#### Key issues to consider:

- The homeowners should beware of scams such as “We Buy Homes” Scams.
- The homeowner will need to retain a real estate agent (please see the last page for our list) and list the property. Make sure homeowner understands the importance of doing this in a timely manner if keeping the home is not an option. The client may want to delay this process if he or she still has hopes to obtaining a modification but delays can lead to additional costs.
- The homeowner must be prepared to find other housing.

### **2.4.2. Home Affordable Foreclosure Alternatives (HAFA)**

HAFA is the Making Home Affordable Program for homeowners looking to make a graceful exit from the home. Homeowners may be eligible for a short sale or a deed-in-lieu of foreclosure.

There are no occupancy requirements for HAFA eligibility but borrower relocation incentives will only be paid to a borrower or tenant who is occupying the property at that time and needs to relocate.

#### General Eligibility

- The homeowner does not qualify for HAMP,
- The homeowner does not successfully complete a HAMP trial period,
- The homeowner is delinquent on a HAMP modification, or
- The homeowner requests a short sale or deed-in-lieu of foreclosure.

#### Additional features

- There is a financial incentive for homeowners. They can receive up to \$3,000 in relocation assistance.
- The homeowner is released from future liability.
- The program encourages cooperation with subordinate lien holders.
- The homeowner must pay monthly mortgage payments of 31% of gross monthly income while HAFA is in process.

### **2.4.3. Short Sale**

A short sale is where the servicer allows the homeowner to list and sell the mortgaged property for less than the total amount due on the first mortgage without needing to pay the difference. A short sale allows the homeowner to accelerate the process and avoid extending the damage to his or her credit. In exchange, the homeowner agrees to turn over the property to the purchaser.

Homeowners and counselors must be careful to ensure that the short sale agreement includes release of the personal liability of the mortgage note and not merely a release of the lien.

#### Requirements

- The homeowner must owe more than the home is worth.
- All fees, including the closing costs, are paid out of the proceeds of the sale.
- The homeowner needs the permission of the servicer to do a short sale.
- The homeowner will need to provide a letter of authorization to permit the servicer to discuss the sale with a real estate broker and/or attorney.
- The homeowner will need to provide a hardship letter detailing the circumstances leading to the short sale.
- The homeowner will need to provide the listing agreement.

#### **2.4.4. Deed-in-Lieu of Foreclosure**

A Deed-in-Lieu of Foreclosure transaction is one in which the homeowner voluntarily transfers ownership of property to the servicer in full satisfaction of the amount due, provided that the title is free and clear of mortgages, liens and encumbrances. Like a short sale, a deed-in-lieu can decrease the cost and emotional trauma of foreclosure and provide the homeowner with cash for keys.

Generally, the servicer will require that the homeowner make a good faith effort to sell the property to a third party before accepting a deed-in-lieu. The servicer has to give the homeowner permission to conduct a deed-in-lieu.

The homeowner should have a written document stating that at the transfer of the property the loan is fully satisfied.

*Tip:* most servicers offer a “cash for keys” program that will assist homeowners with their relocation costs in exchange for vacating the premises on an agreed-upon date and leaving it in a clean condition.

#### **2.4.5. Deficiency Judgment and Taxes**

Deficiency Judgment. The lender may be entitled to a deficiency judgment for difference between the amount owed on the mortgage and the value of the home. In New York, a lender seeking a default judgment must apply for one before the close of the case. It is important that homeowners talk to an attorney to understand whether or not the lender is seeking a deficiency judgment.

In most cases, the lender will not pursue the deficiency judgment in the foreclosure action, and HAFA transactions require a release of liability for short sales and deeds-in-lieu. If a lender does decide to pursue a default judgment, the homeowner may wish to speak to a bankruptcy attorney. (See Section 3.6.8. for more information about bankruptcy.)



Taxes. The Mortgage Debt Relief Act of 2007 that makes the forgiveness of debt by a lender a non-taxable event for many principal residences has expired. You may want to recommend clients consult with a CPA to determine their tax consequences and keep updated on its legislative status. Homeowners who experience a foreclosure are likely to be insolvent under IRS rules and not taxed for forgiveness of debt.

## **2.5. Tax Liens**

Homeowners sometimes face liens from city debts, most commonly unpaid property taxes and unpaid water and sewer charges. The City periodically sells unpaid debts to private bidders, who can then add high fees and interest onto the amount and bring a suit for foreclosure based on the higher amount. Before the lien is sold by the City, homeowners receive notices of intent to sell the lien.

Homeowners who have liens that are scheduled to be sold should contact the City about entering a payment plan or applying for an exemption from the lien sale. Otherwise, paying the debt after the lien is sold to a debt buyer will be more burdensome. Exemptions exist for low-income senior citizens, persons with disabilities, active duty military and veterans. Counselors may also be able to help the homeowner payoff the lien completely using a gap loan. (See Section 3.6.2.)

If the lien has already been sold and a foreclosure action has been brought, then the counselor should refer the client to legal services. (See Section 3.6.3.)

## **3. Counseling**

### **3.1. Setting Expectations**

It is important that after triaging a case for its likely outcome, counselors help homeowners develop realistic expectations, both as to the process and to the outcome. Counselors will often see homeowners who have expectations that are unrealistic given the facts of their situation. For example, homeowners with FHA loans may enter the process expecting a HAMP modification with a 2% interest rate and payments at 31% of their income. However, a borrower with an FHA loan can only reasonably expect a modification at the market rate, and payments under FHA-HAMP can reach up to 40% of the borrower's income. Having a detailed conversation about what to expect at the outset of the case saves a difficult conversation later in the process, when the homeowner may have more firmly built up his or her expectations.

In terms of fees, counselors should reiterate that they are prohibited from charging homeowners within the foreclosure prevention program. This further distinguishes legitimate housing counseling agencies from scammers.

#### **3.1.1. Discussing Options**

Counselors should make sure that homeowners understand the pros and cons of each of the loss mitigation options presented to the client.

Managing a client's expectations is also important. Including transitional options such as short sales will help clients realize that loan modifications are not a guarantee and that they may need to start thinking about alternatives down the line. Making sure that the client knows the steps of the loss mitigation process and the lengthy timeline from the onset will help with managing expectations.

#### **Modification**

- Pros
  - Allows for a permanent change to the terms of the loan if a hardship and affordability is shown
  - Allows the homeowner to become current with better terms
- Cons
  - Not always a good choice if the homeowner does not want to stay in the home long term
  - Involves a long term financial commitment to a house that may be underwater.
  - Other financial issues may mean that even a good modification is unaffordable
  - May not be a good choice if there is a large balloon payment
  - May not be a good choice if the HAMP interest rate reset in 5 years will create a hardship or make the modification unaffordable

### Forbearance

- Pros
  - Gives the homeowner time to address a temporary hardship
  - May be helpful for someone who is unemployed
  - Provides the homeowner time
- Cons
  - Negative impact on credit score
  - Homeowner is building up arrears on a home that he or she may not be able to pay back when it becomes due
  - Many forbearance agreements ask homeowners to waive many rights (have the homeowner meet with a legal services attorney before waiving any substantial rights).

### Short Sale or Deed-in-Lieu

- Pros
  - Homeowner avoids foreclosure
  - Homeowner retains some control over the process
  - Homeowner takes damage to credit immediately, instead of undergoing the lengthy foreclosure process
- Cons
  - Negative impact on credit
  - Homeowner must leave home sooner
  - Need bank's approval
  - Loan forgiveness may have tax consequences

### **3.1.2. Delivering Bad News**

It's difficult to explain to homeowners that there are not any options available to help them keep their home. However, it is in the best interest of the client to hear the truth, and it is important to be honest with clients. Counselors should avoid setting clients up for failure or disappointment by keeping negative information from them.

### The benefits of being honest

Being honest with a homeowner has the following benefits:

- It gives the homeowner time to plan and cope with the situation.
- It gives the homeowner the time and help needed to find other services and resources.
- It releases the counselor from feeling they should make everything better.

### Guidelines for delivering bad news

- Confirm the facts and make sure that you are correct in your analysis of the homeowner's situation. Explore all options available. Ask for a second opinion, if necessary.

- Create a helpful environment for the homeowner. Allow adequate time to present the information and try to prevent interruptions.
- Don't be vague about the reality of the situation and the options available to the homeowner.
- Offer the hope of a fresh start.
- Offer advice on moving forward and have referral information readily available.
- Allow time for the homeowner to ask their questions and get any information they need.

#### Steps to breaking bad news

- Step 1: Setting, Listening Skills
- Step 2: Personal Perception
- Step 3: Invite Client to Share Information
- Step 4: Knowledge Transmission
- Step 5: Explore Other Options
- Step 6: Summarize & Strategize

#### Topics to discuss with soft landing homeowners

- Review the foreclosure process and timeline.
- Make sure that the client is reviewed for legal issues.
- Legal services may be able to help the homeowner extend their stay in the home post-foreclosure so that they can plan their exit.
- See if the homeowner can receive money from the servicer for their transition and relocation, such as participating in their "cash for keys" program
- Discuss the consequences of foreclosure and the consequences of walking away from the home.
- Discuss the need to find alternative housing.
- Discuss the need for proper budgeting and financial management. Refer the homeowner to OFE, if necessary.

### **3.1.3. Empathy vs. Sympathy**

Counselors should use empathy rather than sympathy when speaking with clients.

Feeling sympathy for someone means feeling pity and sorrow for their misfortune. Sympathy is associated with seeing a person as helpless and as a victim.

Instead, show clients empathy. Empathy is the ability to understand and share the feelings of another. Being empathetic includes helping a person through an experience and empowering them to deal with their situation.

Clients should come away feeling as if someone has assisted them, listened to them and helped them deal with their situation.

**Counselors are not:**

- Prejudicial
- Sympathetic
- Enabling
- Judgmental
- Negative

**Counselors are:**

- Open minded
- Empathetic
- Teachers
- Resources
- Human

### **3.2. Preparing Application Packages**

A well-organized, carefully arranged modification application package is crucial to helping homeowners receive an affordable and appropriate modification. Counselors should take time to create a complete package that proves affordability, documents the homeowner's hardship and presents a solid case for modifying the mortgage.

Partial packages should not be submitted. They don't get reviewed and they will complicate the process. Counselors should make this clear to homeowners when gathering information and preparing the package.

A complete package includes making sure that all documents are filled in completely. The standard HAMP documents should be perfected.

The following documents should be reviewed carefully to make sure all information is filled in and accurate.

- 4506-T or 4506T-EZ
- Application Form
  - Request for Modification and Affidavit for MHA Servicers
  - Form 710 for GSE Loans
  - Servicer may require its own form or forms
- Hardship Affidavit
- Proof of Hardship (if applicable)
- Proof of Income
- Dodd-Frank Certification Form
- Third-Party Affidavit

#### **3.2.1. Prove it**

A homeowner must show the servicer that a lower mortgage payment is sustainable and in the servicer's best interest.

The homeowner should:

- Disclose all income and debt and provide documentation of the income, and

- Circle deposited income on bank statements (more and more servicers are requiring this practice).

Income is properly documented based on the source and nature of the income. Evaluation of borrower income is discussed below in Section 3.3.

With this information the counselor needs to present a case that shows a homeowner's ability to make payments on a modified mortgage. The waterfall worksheet should be used to understand how the mortgage should be modified.

### **3.2.2. Proposed Financial Statement or Budget**

A prepared financial proposal should be crafted to show all income and expenses and to demonstrate how the new, lower house payment allows for a surplus to pay the bills and provide for emergencies and miscellaneous expenses. In general, FHA loans would require a surplus in the proposed statement.

The goal is to show the lender that the re-default risk is low. Label the financial statement "PROPOSED."

*Tip:* sometimes a cause for higher mortgage payments is the inclusion of force-placed insurance in the escrow amount. You can lower the payments by having your client obtain their own policy to replace the force-placed insurance. For guidance, please see Section 3.4.2.

### **3.2.3. Hardship**

#### Define the Hardship

The homeowner should have a clear and viable hardship.

Acceptable hardships include:

- Divorce/separation
- Military Service
- Death of a Family Member
- Job Loss
- Reduction in Income
- Medical Expenses
- Illness
- Incarceration
- Job Transfer
- Unaffordable Rate Resets

Unacceptable hardships include:

- Loss of equity

- Wanting a lower rate
- Unnecessary expenses such as boats, new cars, skydiving lessons, vacations, etc.

#### Detail the Hardship

- What event or series of events caused the financial hardship?
- When did the hardship occur?
- Is the hardship temporary or permanent?
  - A temporary hardship could be medical bills not covered by insurance, an injury or short-term illness, or a job layoff.
  - A permanent hardship is a death in the family or a divorce or separation.
- Are they behind on their house payments?
- Can they afford to make a house payment?
- What are they doing to address the root cause(s) of the hardship and recover their financial footing (if applicable)?

#### Document the Hardship

Certain hardships require documentary support. For example, hardship due to divorce requires the production of a divorce decree. Death of a wage earner in the household requires the production of the death certificate. Other hardships, such as temporary unemployment, reduction in income and increase in housing expenses, do not require such a production of documents.

### **3.2.4. Completing the Package**

Counselors should prepare for the file to list the information provided and address any apparent insufficiencies or discrepancies.

Cover Letter. The cover letter should list everything that is included in the package and the documents should be listed clearly and in order. This will make it easier for the servicer to verify that all of the relevant information has been received. In the event that the case later needs to be escalated.

Advocacy letter. The advocacy letter should explain why a modification would create an affordable situation. Include a proposed interest rate, proposed loan term and/or proposed forbearance. The counselor should make it as clear as possible to the servicer what the homeowner is requesting.

Letters of Explanation Counselors should take care to craft detailed letters that will assist the servicer in evaluating the homeowner for a modification and describing any apparent discrepancies between the amounts listed in the RMA and proven with documentation.

## LOAN MODIFICATION APPLICATION

To: Bank of America

From: Dan Counselor

Date: October 28, 2014

# of pages included: 25

Re: John Doe's Modification Request

---

Property Address: 123 Any Street, Anywhere, USA

Account/Loan #: xxx1234

I have [faxed] [emailed] for your review the following financial documents:

- 3<sup>rd</sup> Party Letter of Authorization
- HAMP RMA
- 4506-T
- Borrower's Financial Worksheet
- Hardship Letter and Affidavit
- Estimated Property Value
- Proposal to modify the loan
- HAMP Waterfall
- 1040 and W-2 tax forms
- Most recent paystubs
- Bank statements
- Proof of occupancy
- Signed lease agreement, if necessary

If you have any questions, please call 123-456-7890 or email me at [d.counselor@counselingagency.org](mailto:d.counselor@counselingagency.org).

Thank you.



### THIRD PARTY AUTHORIZATION and AGREEMENT to RELEASE

---

Loan Number :

Servicer Name :

Property Address :

I/we do hereby authorize (my lender / mortgage servicer) to release or otherwise provide information to

In his/her capacity as

Name(required)

Company (if applicable)

Relationship (required)

Phone Number(required)

public and non-public personal financial information contained in my loan account which may include, but is not limited to, loan balances, final payoff statement, loan payment history, payment activity, and/or property information.

I/we, the borrower(s), understand the lender/mortgage servicer, will take reasonable steps to verify the identity of the 3rd party authorized above, but will have no responsibility or liability to verify the true identity of the requestor when he/she asks to discuss my account or seeks information about my account. Nor shall the lender/mortgage servicer, have any responsibility or liability for what the requestor may do with the information he/she obtains concerning my account.

I/we, the borrower(s) do hereby indemnify and forever hold harmless the lender/mortgage servicer, from all actions and causes of actions, suits, claims, attorney fees, or demands against the lender/servicer which I/we and/or my heirs may have resulting from the lender/mortgage servicer discussing my loan account and/or providing any information concerning the loan account to the above names requestor or person identifying themselves to be that requestor.

I/we the borrower(s) agree to this Authorization and the terms of the Release as stated above, All the borrower(s) have signed and dated below.

Printed Borrower Name

Printed CoBorrower Name

Date :

Borrower Signature

CoBorrower Signature

Date :

# Making Home Affordable Program Request For Mortgage Assistance (RMA)

If you are experiencing a financial hardship and need help, you must complete and submit this form along with other required documentation to be considered for foreclosure prevention options under the Making Home Affordable (MHA) Program. You must provide information about yourself and your intentions to either keep or transition out of your property; a description of the hardship that prevents you from paying your mortgage(s); information about **all** of your income, expenses and financial assets; whether you have declared bankruptcy; and information about the mortgage(s) on your principal residence and other single family real estate that you own. Finally, you will need to return to your loan servicer (1) this completed, signed and dated Request for Mortgage Assistance (RMA); and (2) completed and signed IRS Form 4506-T or 4506T-EZ; and (3) all required income documentation identified in Section 4.

**When you sign and date this form, you will make important certifications, representations and agreements, including certifying that all of the information in this RMA is accurate and truthful.**

## SECTION 1: BORROWER INFORMATION

### BORROWER

BORROWER'S NAME

SOCIAL SECURITY NUMBER

DATE OF BIRTH (MM/DD/YY)

HOME PHONE NUMBER WITH AREA CODE

CELL OR WORK NUMBER WITH AREA CODE

MAILING ADDRESS

EMAIL ADDRESS

### CO-BORROWER

CO-BORROWER'S NAME

SOCIAL SECURITY NUMBER

DATE OF BIRTH (MM/DD/YY)

HOME PHONE NUMBER WITH AREA CODE

CELL OR WORK NUMBER WITH AREA CODE

MAILING ADDRESS (IF SAME AS BORROWER, WRITE "SAME")

EMAIL ADDRESS

Has any borrower filed for bankruptcy? ☐ Chapter 7 ☐ Chapter 13

Filing Date: \_\_\_\_\_ Bankruptcy case number: \_\_\_\_\_

Has your bankruptcy been discharged? ☐ Yes ☐ No

Is any borrower a servicemember? ☐ Yes ☐ No

Have you recently been deployed away from your principal residence or recently received a permanent change of station order? ☐ Yes ☐ No

How many single family properties other than your principal residence do you and/or any co-borrower(s) own individually, jointly, or with others? \_\_\_\_\_

Has the mortgage on your principal residence ever had a Home Affordable Modification Program (HAMP) trial period plan or permanent modification? ☐ Yes ☐ No

Has the mortgage on any other property that you or any co-borrower own had a permanent HAMP modification? ☐ Yes ☐ No If "Yes", how many? \_\_\_\_\_

Are you or any co-borrower currently in or being considered for a HAMP trial period plan on a property other than your principal residence? ☐ Yes ☐ No

## SECTION 2: HARDSHIP AFFIDAVIT

I (We) am/are requesting review under MHA.

I am having difficulty making my monthly payment because of financial difficulties created by (check all that apply):

☐ My household income has been reduced. For example: reduced pay or hours, decline in business or self employment earnings, death, disability or divorce of a borrower or co-borrower.

☐ My expenses have increased. For example: monthly mortgage payment reset, high medical or health care costs, uninsured losses, increased utilities or property taxes.

☐ I am unemployed and (a) I am receiving/will receive unemployment benefits or (b) my unemployment benefits ended less than 6 months ago.

☐ My monthly debt payments are excessive and I am overextended with my creditors. Debt includes credit cards, home equity or other debt.

☐ My cash reserves, including all liquid assets, are insufficient to maintain my current mortgage payment and cover basic living expenses at the same time.

Other: \_\_\_\_\_

Explanation (continue on a separate sheet of paper if necessary):



**SECTION 3: PRINCIPAL RESIDENCE INFORMATION**

(This section is required even if you are not seeking mortgage assistance on your principal residence)

I am requesting mortgage assistance with my principal residence ☐ Yes ☐ NoIf "yes", I want to: ☐ Keep the property ☐ Sell the property

Property Address: \_\_\_\_\_ Loan I.D. Number: \_\_\_\_\_

Other mortgages or liens on the property? ☐ Yes ☐ No Lien Holder / Servicer Name: \_\_\_\_\_ Loan I.D. Number: \_\_\_\_\_Do you have condominium or homeowner association (HOA) fees? ☐ Yes ☐ No If "Yes", Monthly Fee \$ \_\_\_\_\_ Are fees paid current? ☐ Yes ☐ No

Name and address that fees are paid to: \_\_\_\_\_

Does your mortgage payment include taxes and Insurance? ☐ Yes ☐ No If "No", are the taxes and insurance paid current? ☐ Yes ☐ No

Annual Homeowner's Insurance \$ \_\_\_\_\_

Is the property listed for sale? ☐ Yes ☐ No If "Yes", Listing Agent's Name: \_\_\_\_\_ Phone Number: \_\_\_\_\_List date? \_\_\_\_\_ Have you received a purchase offer? ☐ Yes ☐ No Amount of Offer \$ \_\_\_\_\_ Closing Date: \_\_\_\_\_**Complete this section ONLY if you are requesting mortgage assistance with a property that is not your principal residence.**

Principal residence servicer name: \_\_\_\_\_ Principal residence servicer phone number: \_\_\_\_\_

Is the mortgage on your principal residence paid? ☐ Yes ☐ No if "No", number of months your payment is past due (if known): \_\_\_\_\_**SECTION 4: COMBINED INCOME AND EXPENSE OF BORROWER AND CO-BORROWER**

Monthly Household Income		Monthly Household Expenses/Debt (*Principal Residence Expense Only)		Household Assets	
Monthly Gross wages	\$	First Mortgage Principal & Interest Payment*	\$	Checking Account(s)	\$
Overtime	\$	Second Mortgage Principal & Interest Payment*	\$	Checking Account(s)	\$
Self employment Income	\$	Homeowner's Insurance*	\$	Savings / Money Market	\$
Unemployment Income	\$	Property Taxes*	\$	CDs	\$
Untaxed Social Security / SSD	\$	HOA/Condo Fees*	\$	Stocks / Bonds	\$
Food Stamps/Welfare	\$	Credit Cards/Installment debt (total min. payment)	\$	Other Cash on Hand	\$
Taxable Social Security or retirement income	\$	Child Support / Alimony	\$		
Child Support / Alimony**	\$	Car Payments	\$		
Tips, commissions, bonus and overtime	\$	Mortgage Payments other properties****	\$		
Gross Rents Received ***	\$	Other	\$	Value of all Real Estate except principal residence	\$
Other	\$			Other	\$
<b>Total (Gross income)</b>	<b>\$</b>	<b>Total Debt/Expenses</b>	<b>\$</b>	<b>Total Assets</b>	<b>\$</b>

\*\* Alimony, child support or separate maintenance income need not be disclosed if you do not choose to have it considered for repaying your mortgage debt.

\*\*\* Include rental income received from all properties you own EXCEPT a property for which you are seeking mortgage assistance in Section 6.

\*\*\*\* Include mortgage payments on all properties you own EXCEPT your principal residence and the property for which you are seeking mortgage assistance in Section 6.



**Required Income Documentation**

(Your servicer may request additional documentation to complete your evaluation for MHA)

All Borrowers	<input type="checkbox"/> Include a signed IRS Form 4506-T or 4506T-EZ
<input type="checkbox"/> Do you earn a wage? Borrower Hire Date (MM/DD/YY) _____ Co-borrower Hire Date (MM/DD/YY) _____	<input type="checkbox"/> For each borrower who is a salaried employee or hourly wage earner, provide the most recent pay stub(s) that reflects at least 30 days of year-to-date income.
<input type="checkbox"/> Are you self-employed?	<input type="checkbox"/> Provide your most recent signed and dated quarterly or year-to date profit and loss statement.
<input type="checkbox"/> Do you receive tips, commissions, bonuses, housing allowance or overtime?	<input type="checkbox"/> Describe the type of income, how frequently you receive the income and third party documentation describing the income (e.g., employment contracts or printouts documenting tip income).
<input type="checkbox"/> Do you receive social security, disability, death benefits, pension, public assistance or adoption assistance?	<input type="checkbox"/> Provide documentation showing the amount and frequency of the benefits, such as letters, exhibits, disability policy or benefits statement from the provider and receipt of payment (such as two most recent bank statements or deposit advices).
<input type="checkbox"/> Do you receive alimony, child support, or separation maintenance payments?	<input type="checkbox"/> Provide a copy of the divorce decree, separation agreement, or other written legal agreement filed with the court that states the amount of the payments and the period of time that you are entitled to receive them. AND <input type="checkbox"/> Copies of your two most recent bank statements or deposit advices showing you have received payment. <b>Notice: Alimony, child support or separate maintenance income need not be disclosed if you do not choose to have it considered for repaying your mortgage debt.</b>
<input type="checkbox"/> Do you have income from rental properties that are not your principal residence?	<input type="checkbox"/> Provide your most recent Federal Tax return with all schedules, including Schedule E. <input type="checkbox"/> If rental income is not reported on Schedule E, provide a copy of the current lease agreement with bank statements showing deposit of rent checks.

**SECTION 5: OTHER PROPERTIES OWNED**

(You must provide information about all properties that you or the co-borrower own, other than your principal residence and any property described in Section 6 below. Use additional sheets if necessary.)

**Other Property #1**

Property Address: \_\_\_\_\_ Loan I.D. Number: \_\_\_\_\_

Servicer Name: \_\_\_\_\_ Mortgage Balance \$ \_\_\_\_\_ Current Value \$ \_\_\_\_\_

Property is: ☐ Vacant ☐ Second or seasonal home ☐ Rented Gross Monthly Rent \$ \_\_\_\_\_ Monthly mortgage payment\* \$ \_\_\_\_\_

**Other Property #2**

Property Address: \_\_\_\_\_ Loan I.D. Number: \_\_\_\_\_

Servicer Name: \_\_\_\_\_ Mortgage Balance \$ \_\_\_\_\_ Current Value \$ \_\_\_\_\_

Property is: ☐ Vacant ☐ Second or seasonal home ☐ Rented Gross Monthly Rent \$ \_\_\_\_\_ Monthly mortgage payment\* \$ \_\_\_\_\_

**Other Property #3**

Property Address: \_\_\_\_\_ Loan I.D. Number: \_\_\_\_\_

Servicer Name: \_\_\_\_\_ Mortgage Balance \$ \_\_\_\_\_ Current Value \$ \_\_\_\_\_

Property is: ☐ Vacant ☐ Second or seasonal home ☐ Rented Gross Monthly Rent \$ \_\_\_\_\_ Monthly mortgage payment\* \$ \_\_\_\_\_

\* The amount of the monthly payment made to your lender – including, if applicable, monthly principal, interest, real property taxes and insurance premiums..



**SECTION 6: OTHER PROPERTY FOR WHICH ASSISTANCE IS REQUESTED**(Complete this section **ONLY** if you are requesting mortgage assistance with a property that is not your principal residence.)I am requesting mortgage assistance with a rental property. ☐ Yes ☐ NoI am requesting mortgage assistance with a second or seasonal home. ☐ Yes ☐ NoIf "Yes" to either, I want to: ☐ Keep the property ☐ Sell the property

Property Address: \_\_\_\_\_ Loan I.D. Number: \_\_\_\_\_

Do you have a second mortgage on the property ☐ Yes ☐ No If "Yes", Servicer Name: \_\_\_\_\_ Loan I.D. Number: \_\_\_\_\_Do you have condominium or homeowner association (HOA) fees? ☐ Yes ☐ No If "Yes", Monthly Fee \$ \_\_\_\_\_ Are HOA fees paid current? ☐ Yes ☐ No

Name and address that fees are paid to: \_\_\_\_\_

Does your mortgage payment include taxes and insurance? ☐ Yes ☐ No If "No", are the taxes and insurance paid current? ☐ Yes ☐ No

Annual Homeowner's Insurance \$ \_\_\_\_\_ Annual Property Taxes \$ \_\_\_\_\_

If requesting assistance with a rental property, property is currently: ☐ Vacant and available for rent.  
☐ Occupied without rent by your legal dependent, parent or grandparent as their principal residence.  
☐ Occupied by a tenant as their principal residence.  
☐ Other \_\_\_\_\_

If rental property is occupied by a tenant: Term of lease / occupancy \_\_\_\_ / \_\_\_\_ / \_\_\_\_ - \_\_\_\_ / \_\_\_\_ / \_\_\_\_ Gross Monthly Rent \$ \_\_\_\_\_  
MM / DD / YYYY MM / DD / YYYYIf rental property is vacant, describe efforts to rent property: \_\_\_\_\_  
\_\_\_\_\_If applicable, describe relationship of and duration of non-rent paying occupant of rental property: \_\_\_\_\_  
\_\_\_\_\_Is the property for sale? ☐ Yes ☐ No If "Yes", Listing Agent's Name: \_\_\_\_\_ Phone Number: \_\_\_\_\_List date? \_\_\_\_\_ Have you received a purchase offer? ☐ Yes ☐ No Amount of Offer \$ \_\_\_\_\_ Closing Date: \_\_\_\_\_**RENTAL PROPERTY CERTIFICATION**

(You must complete this certification if you are requesting a mortgage modification with respect to a rental property.)

☐ By checking this box and initialing below, I am requesting a mortgage modification under MHA with respect to the rental property described in this Section 6 and I hereby certify under penalty of perjury that each of the following statements is true and correct with respect to that property:

1. I intend to rent the property to a tenant or tenants for at least five years following the effective date of my mortgage modification. I understand that the servicer, the U.S. Department of the Treasury, or their respective agents may ask me to provide evidence of my intention to rent the property during such time. I further understand that such evidence must show that I used reasonable efforts to rent the property to a tenant or tenants on a year-round basis, if the property is or becomes vacant during such five-year period.

Note: The term "reasonable efforts" includes, without limitation, advertising the property for rent in local newspapers, websites or other commonly used forms of written or electronic media, and/or engaging a real estate or other professional to assist in renting the property, in either case, at or below market rent.

2. The property is not my secondary residence and I do not intend to use the property as a secondary residence for at least five years following the effective date of my mortgage modification. I understand that if I do use the property as a secondary residence during such five-year period, my use of the property may be considered to be inconsistent with the certifications I have made herein.

Note: The term "secondary residence" includes, without limitation, a second home, vacation home or other type of residence that I personally use or occupy on a part-time, seasonal or other basis.

3. I do not own more than five (5) single-family homes (i.e., one-to-four unit properties) (exclusive of my principal residence).

**Notwithstanding the foregoing certifications, I may at any time sell the property, occupy it as my principal residence, or permit my legal dependent, parent or grandparent to occupy it as their principal residence with no rent charged or collected, none of which will be considered to be inconsistent with the certifications made herein.**

This certification is effective on the earlier of the date listed below or the date the RMA is received by your servicer.

Initials: Borrower \_\_\_\_\_ Co-borrower \_\_\_\_\_



## SECTION 7: DODD -FRANK CERTIFICATION

The following information is requested by the federal government in accordance with the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111-203). **You are required to furnish this information.** The law provides that no person shall be eligible to begin receiving assistance from the Making Home Affordable Program, authorized under the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5201 et seq.), or any other mortgage assistance program authorized or funded by that Act, if such person, in connection with a mortgage or real estate transaction, has been convicted, within the last 10 years, of any one of the following: (A) felony larceny, theft, fraud, or forgery, (B) money laundering or (C) tax evasion.

I/we certify under penalty of perjury that I/we have not been convicted within the last 10 years of any one of the following in connection with a mortgage or real estate transaction:

- (a) felony larceny, theft, fraud, or forgery,
- (b) money laundering or
- (c) tax evasion.

I/we understand that the servicer, the U.S. Department of the Treasury, or their respective agents may investigate the accuracy of my statements by performing routine background checks, including automated searches of federal, state and county databases, to confirm that I/we have not been convicted of such crimes. I/ we also understand that knowingly submitting false information may violate Federal law. This certification is effective on the earlier of the date listed below or the date this RMA is received by your servicer.

## SECTION 8: INFORMATION FOR GOVERNMENT MONITORING PURPOSES

The following information is requested by the federal government in order to monitor compliance with federal statutes that prohibit discrimination in housing. **You are not required to furnish this information, but are encouraged to do so. The law provides that a lender or servicer may not discriminate either on the basis of this information, or on whether you choose to furnish it.** If you furnish the information, please provide both ethnicity and race. For race, you may check more than one designation. If you do not furnish ethnicity, race, or sex, the lender or servicer is required to note the information on the basis of visual observation or surname if you have made this request for a loan modification in person. **If you do not wish to furnish the information, please check the box below.**

<b>BORROWER</b> <input type="checkbox"/> I do not wish to furnish this information	<b>CO-BORROWER</b> <input type="checkbox"/> I do not wish to furnish this information
<b>Ethnicity:</b> <input type="checkbox"/> Hispanic or Latino <input type="checkbox"/> Not Hispanic or Latino <b>Race:</b> <input type="checkbox"/> American Indian or Alaska Native <input type="checkbox"/> Asian <input type="checkbox"/> Black or African American <input type="checkbox"/> Native Hawaiian or Other Pacific Islander <input type="checkbox"/> White <b>Sex:</b> <input type="checkbox"/> Female <input type="checkbox"/> Male	<b>Ethnicity:</b> <input type="checkbox"/> Hispanic or Latino <input type="checkbox"/> Not Hispanic or Latino <b>Race:</b> <input type="checkbox"/> American Indian or Alaska Native <input type="checkbox"/> Asian <input type="checkbox"/> Black or African American <input type="checkbox"/> Native Hawaiian or Other Pacific Islander <input type="checkbox"/> White <b>Sex:</b> <input type="checkbox"/> Female <input type="checkbox"/> Male

To be completed by interviewer		<i>Name/Address of Interviewer's Employer</i>
This request was taken by:	Interviewer's Name (print or type) & ID Number	
<input type="checkbox"/> Face-to-face Interview <input type="checkbox"/> Mail <input type="checkbox"/> Telephone <input type="checkbox"/> Internet	Interviewer's Signature _____ Date _____  Interviewer's Phone Number (include area code) _____	

## SECTION 9: BORROWER AND CO-BORROWER ACKNOWLEDGEMENT AND AGREEMENT

1. I certify that all of the information in this RMA is truthful and the hardship(s) identified above has contributed to submission of this request for mortgage relief.
2. I understand and acknowledge that the Servicer, the U.S. Department of the Treasury, the owner or guarantor of my mortgage loan, or their respective agents may investigate the accuracy of my statements, may require me to provide additional supporting documentation and that knowingly submitting false information may violate Federal and other applicable law.
3. I authorize and give permission to the Servicer, the U.S. Department of the Treasury, and their respective agents, to assemble and use a current consumer report on all borrowers obligated on the loan, to investigate each borrower's eligibility for MHA and the accuracy of my statements and any documentation that I provide in connection with my request for assistance. I understand that these consumer reports may include, without limitation, a credit report, and be assembled and used at any point during the application process to assess each borrower's eligibility thereafter.
4. I understand that if I have intentionally defaulted on my existing mortgage, engaged in fraud or if it is determined that any of my statements or any information contained in the documentation that I provide are materially false and that I was ineligible for assistance under MHA, the Servicer, the U.S. Department of the Treasury, or their respective agents may terminate my participation in MHA, including any right to future benefits and incentives that otherwise would have been available under the program, and also may seek other remedies available at law and in equity, such as recouping any benefits or incentives previously received.
5. I certify that any property for which I am requesting assistance is a habitable residential property that is not subject to a condemnation notice.
6. I certify that I am willing to provide all requested documents and to respond to all Servicer communications in a timely manner. I understand that time is of the essence.
7. I understand that the Servicer will use the information I provide to evaluate my eligibility for available relief options and foreclosure alternatives, but the Servicer is not obligated to offer me assistance based solely on the representations in this document or other documentation submitted in connection with my request.
8. I am willing to commit to credit counseling if it is determined that my financial hardship is related to excessive debt.
9. If I am eligible for assistance under MHA, and I accept and agree to all terms of an MHA notice, plan, or agreement, I also agree that the terms of this Acknowledgment and Agreement are incorporated into such notice, plan, or agreement by reference as if set forth therein in full. My first timely payment, if required, following my servicer's determination and notification of my eligibility or prequalification for MHA assistance will serve as my acceptance of the terms set forth in the notice, plan, or agreement sent to me.
10. I understand that my Servicer will collect and record personal information that I submit in this RMA and during the evaluation process, including, but not limited to, my name, address, telephone number, social security number, credit score, income, payment history, government monitoring information, and information about my account balances and activity. I understand and consent to the Servicer's disclosure of my personal information and the terms of any MHA notice, plan or agreement to the U.S. Department of the Treasury and its agents, Fannie Mae and Freddie Mac in connection with their responsibilities under MHA, companies that perform support services in conjunction with MHA, any investor, insurer, guarantor, or servicer that owns, insures, guarantees, or services my first lien or subordinate lien (if applicable) mortgage loan(s) and to any HUD-certified housing counselor.
11. I consent to being contacted concerning this request for mortgage assistance at any e-mail address or cellular or mobile telephone number I have provided to the Servicer. This includes text messages and telephone calls to my cellular or mobile telephone.

The undersigned certifies under penalty of perjury that all statements in this document are true and correct.

\_\_\_\_\_  
Borrower Signature

\_\_\_\_\_  
Social Security Number

\_\_\_\_\_  
Date of Birth

\_\_\_\_\_  
Date

\_\_\_\_\_  
Co-borrower Signature

\_\_\_\_\_  
Social Security Number

\_\_\_\_\_  
Date of Birth

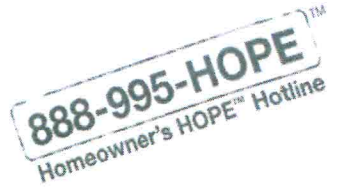
\_\_\_\_\_  
Date



## HOMEOWNER'S HOTLINE

*If you have questions about this document or the Making Home Affordable Program, please call your servicer.  
If you have questions about the program that your servicer cannot answer or need further counseling, you can call the Homeowner's HOPE™ Hotline at 1-888-995-HOPE (4673).*

*The Hotline can help with questions about the program and offers free HUD-certified counseling services in English and Spanish.*



## NOTICE TO BORROWERS

Be advised that by signing this document you understand that any documents and information you submit to your servicer in connection with the Making Home Affordable Program are under penalty of perjury. Any misstatement of material fact made in the completion of these documents including but not limited to misstatement regarding your occupancy of your property, hardship circumstances, and/or income, expenses, or assets will subject you to potential criminal investigation and prosecution for the following crimes: perjury, false statements, mail fraud, and wire fraud. The information contained in these documents is subject to examination and verification. Any potential misrepresentation will be referred to the appropriate law enforcement authority for investigation and prosecution. By signing this document you certify, represent and agree that: "Under penalty of perjury, all documents and information I have provided to my Servicer in connection with the Making Home Affordable Program, including the documents and information regarding my eligibility for the program, are true and correct."

If you are aware of fraud, waste, abuse, mismanagement or misrepresentations affiliated with the Troubled Asset Relief Program, please contact the SIGTARP Hotline by calling 1-877-SIG-2009 (toll-free), 202-622-4559 (fax), or [www.sigtar.gov](http://www.sigtar.gov) and provide them with your name, our name as your servicer, your property address, loan number and the reason for escalation. Mail can be sent to Hotline Office of the Special Inspector General for Troubled Asset Relief Program, 1801 L St. NW, Washington, DC 20220.

### **Beware of Foreclosure Rescue Scams. Help is FREE!**

- **There is never a fee to get assistance or information about the Making Home Affordable Program from your lender or a HUD-approved housing counselor.**
- **Beware of any person or organization that asks you to pay a fee in exchange for housing counseling services or modification of a delinquent loan.**
- **Beware of anyone who says they can "save" your home if you sign or transfer over the deed to your house. Do not sign over the deed to your property to any organization or individual unless you are working directly with your mortgage company to forgive your debt.**
- **Never make your mortgage payments to anyone other than your mortgage company without their approval.**





## Request for Transcript of Tax Return

OMB No. 1545-1872

▶ Request may be rejected if the form is incomplete or illegible.

**Tip.** Use Form 4506-T to order a transcript or other return information free of charge. See the product list below. You can quickly request transcripts by using our automated self-help service tools. Please visit us at [IRS.gov](http://IRS.gov) and click on "Order a Transcript" or call 1-800-908-9946. If you need a copy of your return, use **Form 4506, Request for Copy of Tax Return**. There is a fee to get a copy of your return.

<b>1a</b> Name shown on tax return. If a joint return, enter the name shown first.	<b>1b</b> First social security number on tax return, individual taxpayer identification number, or employer identification number (see instructions)
<b>2a</b> If a joint return, enter spouse's name shown on tax return.	<b>2b</b> Second social security number or individual taxpayer identification number if joint tax return
<b>3</b> Current name, address (including apt., room, or suite no.), city, state, and ZIP code (see instructions)	
<b>4</b> Previous address shown on the last return filed if different from line 3 (see instructions)	
<b>5</b> If the transcript or tax information is to be mailed to a third party (such as a mortgage company), enter the third party's name, address, and telephone number.	

**Caution.** If the tax transcript is being mailed to a third party, ensure that you have filled in lines 6 through 9 before signing. Sign and date the form once you have filled in these lines. Completing these steps helps to protect your privacy. Once the IRS discloses your IRS transcript to the third party listed on line 5, the IRS has no control over what the third party does with the information. If you would like to limit the third party's authority to disclose your transcript information, you can specify this limitation in your written agreement with the third party.

- 6 Transcript requested.** Enter the tax form number here (1040, 1065, 1120, etc.) and check the appropriate box below. Enter only one tax form number per request. ▶
- a Return Transcript**, which includes most of the line items of a tax return as filed with the IRS. A tax return transcript does not reflect changes made to the account after the return is processed. Transcripts are only available for the following returns: Form 1040 series, Form 1065, Form 1120, Form 1120A, Form 1120H, Form 1120L, and Form 1120S. Return transcripts are available for the current year and returns processed during the prior 3 processing years. Most requests will be processed within 10 business days ☐
  - b Account Transcript**, which contains information on the financial status of the account, such as payments made on the account, penalty assessments, and adjustments made by you or the IRS after the return was filed. Return information is limited to items such as tax liability and estimated tax payments. Account transcripts are available for most returns. Most requests will be processed within 30 calendar days ☐
  - c Record of Account**, which provides the most detailed information as it is a combination of the Return Transcript and the Account Transcript. Available for current year and 3 prior tax years. Most requests will be processed within 30 calendar days ☐
- 7 Verification of Nonfiling**, which is proof from the IRS that you **did not** file a return for the year. Current year requests are only available after June 15th. There are no availability restrictions on prior year requests. Most requests will be processed within 10 business days ☐
- 8 Form W-2, Form 1099 series, Form 1098 series, or Form 5498 series transcript.** The IRS can provide a transcript that includes data from these information returns. State or local information is not included with the Form W-2 information. The IRS may be able to provide this transcript information for up to 10 years. Information for the current year is generally not available until the year after it is filed with the IRS. For example, W-2 information for 2010, filed in 2011, will not be available from the IRS until 2012. If you need W-2 information for retirement purposes, you should contact the Social Security Administration at 1-800-772-1213. Most requests will be processed within 45 days ☐

**Caution.** If you need a copy of Form W-2 or Form 1099, you should first contact the payer. To get a copy of the Form W-2 or Form 1099 filed with your return, you must use Form 4506 and request a copy of your return, which includes all attachments.

- 9 Year or period requested.** Enter the ending date of the year or period, using the mm/dd/yyyy format. If you are requesting more than four years or periods, you must attach another Form 4506-T. For requests relating to quarterly tax returns, such as Form 941, you must enter each quarter or tax period separately.

Check this box if you have notified the IRS or the IRS has notified you that one of the years for which you are requesting a transcript involved **identity theft** on your federal tax return ☐

**Caution.** Do not sign this form unless all applicable lines have been completed.

**Signature of taxpayer(s).** I declare that I am either the taxpayer whose name is shown on line 1a or 2a, or a person authorized to obtain the tax information requested. If the request applies to a joint return, **either** husband or wife must sign. If signed by a corporate officer, partner, guardian, tax matters partner, executor, receiver, administrator, trustee, or party other than the taxpayer, I certify that I have the authority to execute Form 4506-T on behalf of the taxpayer. **Note.** For transcripts being sent to a third party, this form must be received within 120 days of the signature date.

<b>Signature</b> (see instructions)	Date
<b>Title</b> (if line 1a above is a corporation, partnership, estate, or trust)	
<b>Spouse's signature</b>	Date

Phone number of taxpayer on line 1a or 2a

**Sign Here**



Section references are to the Internal Revenue Code unless otherwise noted.

## What's New

The IRS has created a page on IRS.gov for information about Form 4506-T at [www.irs.gov/form4506](http://www.irs.gov/form4506). Information about any recent developments affecting Form 4506-T (such as legislation enacted after we released it) will be posted on that page.

## General Instructions

**CAUTION.** Do not sign this form unless all applicable lines have been completed.

**Purpose of form.** Use Form 4506-T to request tax return information. You can also designate (on line 5) a third party to receive the information. Taxpayers using a tax year beginning in one calendar year and ending in the following year (fiscal tax year) must file Form 4506-T to request a return transcript.

**Note.** If you are unsure of which type of transcript you need, request the Record of Account, as it provides the most detailed information.

**Tip.** Use Form 4506, Request for Copy of Tax Return, to request copies of tax returns.

**Where to file.** Mail or fax Form 4506-T to the address below for the state you lived in, or the state your business was in, when that return was filed. There are two address charts: one for individual transcripts (Form 1040 series and Form W-2) and one for all other transcripts.

If you are requesting more than one transcript or other product and the chart below shows two different addresses, send your request to the address based on the address of your most recent return.

**Automated transcript request.** You can quickly request transcripts by using our automated self-help service tools. Please visit us at IRS.gov and click on "Order a Transcript" or call 1-800-908-9946.

## Chart for individual transcripts (Form 1040 series and Form W-2 and Form 1099)

If you filed an individual return and lived in:	Mail or fax to the "Internal Revenue Service" at:
Alabama, Kentucky, Louisiana, Mississippi, Tennessee, Texas, a foreign country, American Samoa, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, or A.P.O. or F.P.O. address	RAIVS Team Stop 6716 AUSC Austin, TX 73301  512-460-2272
Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, Wisconsin, Wyoming	RAIVS Team Stop 37106 Fresno, CA 93888  559-456-5876
Connecticut, Delaware, District of Columbia, Florida, Georgia, Maine, Maryland, Massachusetts, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia	RAIVS Team Stop 6705 P-6 Kansas City, MO 64999  816-292-6102

## Chart for all other transcripts

If you lived in or your business was in:	Mail or fax to the "Internal Revenue Service" at:
Alabama, Alaska, Arizona, Arkansas, California, Colorado, Florida, Hawaii, Idaho, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wyoming, a foreign country, or A.P.O. or F.P.O. address	RAIVS Team P.O. Box 9941 Mail Stop 6734 Ogden, UT 84409  801-620-6922
Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin	RAIVS Team P.O. Box 145500 Stop 2800 F Cincinnati, OH 45250  859-669-3592

**Line 1b.** Enter your employer identification number (EIN) if your request relates to a business return. Otherwise, enter the first social security number (SSN) or your individual taxpayer identification number (ITIN) shown on the return. For example, if you are requesting Form 1040 that includes Schedule C (Form 1040), enter your SSN.

**Line 3.** Enter your current address. If you use a P. O. box, include it on this line.

**Line 4.** Enter the address shown on the last return filed if different from the address entered on line 3.

**Note.** If the address on lines 3 and 4 are different and you have not changed your address with the IRS, file Form 8822, Change of Address.

**Line 6.** Enter only one tax form number per request.

**Signature and date.** Form 4506-T must be signed and dated by the taxpayer listed on line 1a or 2a. If you completed line 5 requesting the information be sent to a third party, the IRS must receive Form 4506-T within 120 days of the date signed by the taxpayer or it will be rejected. Ensure that all applicable lines are completed before signing.

**Individuals.** Transcripts of jointly filed tax returns may be furnished to either spouse. Only one signature is required. Sign Form 4506-T exactly as your name appeared on the original return. If you changed your name, also sign your current name.

**Corporations.** Generally, Form 4506-T can be signed by: (1) an officer having legal authority to bind the corporation, (2) any person designated by the board of directors or other governing body, or (3) any officer or employee on written request by any principal officer and attested to by the secretary or other officer.

**Partnerships.** Generally, Form 4506-T can be signed by any person who was a member of the partnership during any part of the tax period requested on line 9.

**All others.** See section 6103(e) if the taxpayer has died, is insolvent, is a dissolved corporation, or if a trustee, guardian, executor, receiver, or administrator is acting for the taxpayer.

**Documentation.** For entities other than individuals, you must attach the authorization document. For example, this could be the letter from the principal officer authorizing an employee of the corporation or the letters testamentary authorizing an individual to act for an estate.

## Privacy Act and Paperwork Reduction Act

**Notice.** We ask for the information on this form to establish your right to gain access to the requested tax information under the Internal Revenue Code. We need this information to properly identify the tax information and respond to your request. You are not required to request any transcript; if you do request a transcript, sections 6103 and 6109 and their regulations require you to provide this information, including your SSN or EIN. If you do not provide this information, we may not be able to process your request. Providing false or fraudulent information may subject you to penalties.

Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation, and cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file Form 4506-T will vary depending on individual circumstances. The estimated average time is: **Learning about the law or the form**, 10 min.; **Preparing the form**, 12 min.; and **Copying, assembling, and sending the form to the IRS**, 20 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making Form 4506-T simpler, we would be happy to hear from you. You can write to:

Internal Revenue Service  
Tax Products Coordinating Committee  
SE:W:CAR:MP:T:M:S  
1111 Constitution Ave. NW, IR-6526  
Washington, DC 20224

Do not send the form to this address. Instead, see *Where to file* on this page.

Borrower Name: \_\_\_\_\_  
Loan Number: \_\_\_\_\_

### FINANCIAL WORKSHEET

#### BORROWER INFORMATION

Property Address: _____	
_____	
Hm #: _____	Wk #: _____
Cell #: _____	
Best time to call: _____	E mail: _____

<b>Homeowner Questionnaire:</b>	
Do you currently occupy the home	<input type="checkbox"/> Yes <input type="checkbox"/> No
Is this the only home you own	<input type="checkbox"/> Yes <input type="checkbox"/> No
Are you interested in retaining your home	<input type="checkbox"/> Yes <input type="checkbox"/> No
What was the reason for your default?	
Has this situation been resolved such that you can resume making payments?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Are you in Active Bankruptcy	<input type="checkbox"/> Yes <input type="checkbox"/> No
Is this house vacant	<input type="checkbox"/> Yes <input type="checkbox"/> No

Borrower Name: _____	Social Security # _____
Co-Borrower Name: _____	Social Security # _____
Mailing Address: _____	

#### EMPLOYMENT INFORMATION

##### BORROWER

Employer: \_\_\_\_\_  
Position: \_\_\_\_\_

##### CO-BORROWER

Employer: \_\_\_\_\_  
Position: \_\_\_\_\_

#### INCOME DATA

HOUSEHOLD INCOME	PRIMARY HOMEOWNER		ADDITIONAL OCCUPANT(S)	
	CURRENT		CURRENT	
	Gross	Net	Gross	Net
Employment Income	\$		\$	
Disability	\$		\$	
Rental Income	\$		\$	
Unemployment	\$		\$	
Child Support / Alimony	\$		\$	
Other	\$		\$	
<b>TOTAL MONTHLY INCOME</b>	\$	\$	\$	

Income Frequency: (please check one)

Primary Homeowner:  
☐ Weekly ☐ Bi-Weekly ☐ Semi Monthly ☐ Monthly ☐ Quarterly ☐ Yearly  
Additional Occupant(s):  
☐ Weekly ☐ Bi-Weekly ☐ Semi Monthly ☐ Monthly ☐ Quarterly ☐ Yearly

Current Employment Status Primary Homeowner: (please check one)

☐ Employed Full-Time ☐ Employed Part-Time ☐ Unemployed/Not Working ☐ Self-Employed ☐ Retired  
Current Employment Status Additional Occupant(s): (please check one)  
☐ Employed Full-Time ☐ Employed Part-Time ☐ Unemployed/Not Working ☐ Self-Employed ☐ Retired

#### ASSETS / LIABILITIES

DESCRIPTION	ESTIMATED VALUE	AMOUNT OWED	NET VALUE
Automobile			
Make / Model			
Deposit Accounts – Checking / Savings			
IRA / KEOUGH Accounts			
401K Savings Plan			
Stocks / Bonds / CDs			

Borrower Name: \_\_\_\_\_  
Loan Number: \_\_\_\_\_

### HOUSEHOLD LIABILITIES AND EXPENSES

EXPENSES	MONTHLY PAYMENT	BALANCE DUE
ALIMONY / CHILD SUPPORT	\$	\$
AUTOMOBILE EXPENSES (Gas, Maintenance)	\$	\$
CHILD CARE/ELDER CARE	\$	\$
OTHER MORTGAGE(S)	\$	\$
EDUCATION	\$	\$
FOOD - FAMILY	\$	\$
MEDICAL / DENTAL	\$	\$
PETS	\$	\$
SPENDING MONEY	\$	\$
OTHER EXPENSE	\$	\$
AUTO INSURANCE	\$	\$
HEALTH INSURANCE	\$	\$
LIFE INSURANCE	\$	\$
HOSPITAL	\$	\$
PRESCRIPTIONS	\$	\$
CABLE	\$	\$
ELECTRICITY	\$	\$
GAS	\$	\$
TELEPHONE/ CELL PHONE / INTERNET	\$	\$
WATER / SEWAGE	\$	\$
CLOTHING	\$	\$
DRY CLEANING	\$	\$
MONTHLY PARKING	\$	\$
CLUB OR UNION DUES	\$	\$
SCHOOL OR WORK LUNCHESES PURCHASED	\$	\$
HOA DUES	\$	\$
OTHER	\$	\$
<b>DEBT</b>	\$	\$
AUTOMOBILE LOANS	\$	\$
AUTOMOBILE LOANS	\$	\$
CREDIT CARDS	\$	\$
INSTALLMENT LOANS	\$	\$
MORTGAGE PAYMENT	\$	\$
2 <sup>ND</sup> LIEN MORTGAGE PAYMENT	\$	\$
PROPERTY TAXES AND INSURANCE (if not included in mortgage payment)	\$	\$
PERSONAL LOANS	\$	\$
OTHER SECURED DEBT	\$	\$
OTHER UNSECURED DEBT	\$	\$
OTHER	\$	\$
<b>TOTAL EXPENSES/DEBT</b>	<b>\$</b>	<b>\$</b>

Total Net Income: \$ \_\_\_\_\_ Expenses: \$ \_\_\_\_\_ = Surplus: \_\_\_\_\_

<b>UPFRONT FUNDS AVAILABLE</b>	Amount: \$ _____
--------------------------------	------------------

**BORROWER:**

\_\_\_\_\_, 2010  
Signature \_\_\_\_\_ Date \_\_\_\_\_

Name (please print) \_\_\_\_\_

**CO-BORROWER:**

\_\_\_\_\_, 2010  
Signature \_\_\_\_\_ Date \_\_\_\_\_

Name (please print) \_\_\_\_\_

October 28, 2009

Loan # xxxx11466

Bank of America  
Attn: Home Retention Department

Re: John Doe  
Loan #xxx1466  
123 Any Street  
Anywhere, USA

#### HARDSHIP LETTER

I am writing this letter to explain the unfortunate set of circumstances that have caused me to become delinquent on my mortgage. I am requesting that you review my current financial situation in order to see if I qualify to work out a modification of my current mortgage.

I am having trouble making the monthly payments under the previously agreed upon terms because of financial difficulties created by a change in my living situation. When I originally bought my home, my mother lived with me. She was incredibly supportive to me from a financial standpoint. On April 7, 2009, she had several strokes leaving her unable to work and reliant upon me for financial assistance. I can no longer care for her at home and work so she moved to an assisted living facility on August 1, 2009. She can no longer assist me financially. As a result, my household income has dropped significantly.

I have been working with XYZ counseling agency and have made serious cutbacks in my family's budget. I am still not able to meet my monthly obligations at my current mortgage payment. My home value has dropped considerably and it is now worth less than I owe on it. I cannot sell it and I don't want to. I am committed to maintaining ownership of my house. I believe that this is evident in the sacrifices that my mother and I have made in order to come this far. I am willing to work with you in any way necessary to reach a payment that is affordable at my current income.

I would like to be considered under the Making Home Affordable Mortgage Program. Under this program, I would be able to sustain my mortgage payment and meet my other obligations as shown in my budget. I am currently 90 days delinquent which is very distressing to me as I believe strongly in meeting my financial obligations. I am serious about rectifying this situation and hope that you will be able to help me.

Thank you for your kind consideration of my situation,

Sincerely,

John Doe



▶ Loan I.D. Number \_\_\_\_\_ ▶ Servicer \_\_\_\_\_

BORROWER	CO-BORROWER
Borrower's name	Co-borrower's name
Social Security Number	Social Security Number

Property address (include city, state and zip): \_\_\_\_\_

<i>I want to:</i>	<input type="checkbox"/> Keep the Property	<input type="checkbox"/> Sell the Property	
<i>The property is my:</i>	<input type="checkbox"/> Principal Residence	<input type="checkbox"/> Second Home / Seasonal Rental	<input type="checkbox"/> Year-Round Rental
<i>The property is:</i>	<input type="checkbox"/> Owner Occupied	<input type="checkbox"/> Tenant Occupied	<input type="checkbox"/> Vacant <input type="checkbox"/> Other _____

**HARDSHIP AFFIDAVIT**

I (We) am/are requesting review under the Making Home Affordable (MHA) Program.  
I am having difficulty making my monthly payment because of financial difficulties created by (check all that apply):

<input type="checkbox"/> My household income has been reduced. For example: reduced pay or hours, decline in business earnings, death, disability or divorce of a borrower or co-borrower.	<input type="checkbox"/> My monthly debt payments are excessive and I am overextended with my creditors. Debt includes credit cards, home equity or other debt.
<input type="checkbox"/> My expenses have increased. For example: monthly mortgage payment reset, high medical or health care costs, uninsured losses, increased utilities or property taxes.	<input type="checkbox"/> My cash reserves, including all liquid assets, are insufficient to maintain my current mortgage payment and cover basic living expenses at the same time.
<input type="checkbox"/> I am unemployed and (a) I am receiving/will receive unemployment benefits or (b) my unemployment benefits ended less than 6 months ago.	<input type="checkbox"/> Other: _____

Explanation (continue on back of page 3 if necessary): \_\_\_\_\_

Have you filed for bankruptcy? ☐ Yes ☐ No If yes: ☐ Chapter 7 ☐ Chapter 13 Filing Date: \_\_\_\_\_  
Has your bankruptcy been discharged? ☐ Yes ☐ No Bankruptcy case number \_\_\_\_\_

How many single-family properties, other than your personal residence, do you and/or your co-borrower(s) own individually, jointly, or with others? \_\_\_\_\_

Has the mortgage on your principle residence ever had a Home Affordable Modification Program (HAMP) trial-period plan or permanent modification? ☐ Yes ☐ No

Has the mortgage or any other property that you or any co-borrower own had a permanent HAMP modification? ☐ Yes ☐ No  
If "Yes", how many? \_\_\_\_\_

**DODD-FRANK CERTIFICATION**

The following information is requested by the federal government in accordance with the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111-203). **You are required to furnish this information.** The law provides that no person shall be eligible to begin receiving assistance from the Making Home Affordable Program, authorized under the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5201 et seq.), or any other mortgage assistance program authorized or funded by that Act, if such person, in connection with a mortgage or real estate transaction, has been convicted, within the last 10 years, of any one of the following: (A) felony larceny, theft, fraud, or forgery, (B) money laundering or (C) tax evasion.

I/we certify under penalty of perjury that I/we have not been convicted within the last 10 years of any one of the following in connection with a mortgage or real estate transaction:

- (a) felony larceny, theft, fraud, or forgery,
- (b) money laundering or
- (c) tax evasion.

I/we understand that the servicer, the U.S. Department of the Treasury, or their respective agents may investigate the accuracy of my statements by performing routine background checks, including automated searches of federal, state and county databases, to confirm that I/we have not been convicted of such crimes. I/we also understand that knowingly submitting false information may violate Federal law.

This certification is effective on the earlier of the date listed below or the date this hardship affidavit is received by your servicer.

## RENTAL PROPERTY CERTIFICATION

**You must complete this certification if you are requesting a mortgage modification with respect to a rental property.**

- ☐ By checking this box and initialing below, I am requesting a mortgage modification under MHA with respect to the rental property having the address set forth above and I hereby certify under penalty of perjury that each of the following statements is true and correct with respect to that property:

1. I intend to rent the property to a tenant or tenants for at least five years following the effective date of my mortgage modification. I understand that the servicer, the U.S. Department of the Treasury, or their respective agents may ask me to provide evidence of my intention to rent the property during such time. I further understand that such evidence must show that I used reasonable efforts to rent the property to a tenant or tenants on a year-round basis, if the property is or becomes vacant during such five-year period.

*Note: The term "reasonable efforts" includes, without limitation, advertising the property for rent in local newspapers, websites or other commonly used forms of written or electronic media, and/or engaging a real estate or other professional to assist in renting the property, in either case, at or below market rent.*

2. The property is not my secondary residence and I do not intend to use the property as a secondary residence for at least five years following the effective date of my mortgage modification. I understand that if I do use the property as a secondary residence during such five-year period, my use of the property may be considered to be inconsistent with the certifications I have made herein.

*Note: The term "secondary residence" includes, without limitation, a second home, vacation home or other type of residence that I personally use or occupy on a part-time, seasonal or other basis.*

3. I do not own more than five (5) single-family homes (i.e., one-to-four unit properties) (exclusive of my principal residence).

**Notwithstanding the foregoing certifications, I may at any time sell the property, occupy it as my principal residence, or permit my legal dependent, parent or grandparent to occupy it as their principal residence with no rent charged or collected, none of which will be considered to be inconsistent with the certifications made herein.**

This certification is effective on the earlier of the date listed below or the date the Hardship Affidavit is received by your servicer.

Initials: Borrower \_\_\_\_\_ Co-borrower \_\_\_\_\_

## INFORMATION FOR GOVERNMENT MONITORING PURPOSES

The following information is requested by the federal government in order to monitor compliance with federal statutes that prohibit discrimination in housing. **You are not required to furnish this information, but are encouraged to do so. The law provides that a lender or servicer may not discriminate either on the basis of this information, or on whether you choose to furnish it.** If you furnish the information, please provide both ethnicity and race. For race, you may check more than one designation. If you do not furnish ethnicity, race, or sex, the lender or servicer is required to note the information on the basis of visual observation or surname if you have made this request for a loan modification in person. **If you do not wish to furnish the information, please check the box below.**

BORROWER	<input type="checkbox"/> I do not wish to furnish this information	CO-BORROWER	<input type="checkbox"/> I do not wish to furnish this information
Ethnicity:	<input type="checkbox"/> Hispanic or Latino <input type="checkbox"/> Not Hispanic or Latino	Ethnicity:	<input type="checkbox"/> Hispanic or Latino <input type="checkbox"/> Not Hispanic or Latino
Race:	<input type="checkbox"/> American Indian or Alaska Native <input type="checkbox"/> Asian <input type="checkbox"/> Black or African American <input type="checkbox"/> Native Hawaiian or Other Pacific Islander <input type="checkbox"/> White	Race:	<input type="checkbox"/> American Indian or Alaska Native <input type="checkbox"/> Asian <input type="checkbox"/> Black or African American <input type="checkbox"/> Native Hawaiian or Other Pacific Islander <input type="checkbox"/> White
Sex:	<input type="checkbox"/> Female <input type="checkbox"/> Male	Sex:	<input type="checkbox"/> Female <input type="checkbox"/> Male

## To be completed by interviewer

This request was taken by: <input type="checkbox"/> Face-to-face interview <input type="checkbox"/> Mail <input type="checkbox"/> Telephone <input type="checkbox"/> Internet	Interviewer's Name (print or type) & ID Number	Name/Address of Interviewer's Employer
	Interviewer's Signature      Date	
	Interviewer's Phone Number (include area code)	

**ACKNOWLEDGEMENT AND AGREEMENT**

1. That all of the information in this document is truthful and the event(s) identified on page 1 is/are the reason that I need to request a modification or forbearance of the terms of my mortgage loan, short sale or deed-in-lieu of foreclosure.
2. I understand and acknowledge that the Servicer, the U.S. Department of the Treasury, the owner or guarantor of my mortgage loan, or their respective agents may investigate the accuracy of my statements, may require me to provide additional supporting documentation and that knowingly submitting false information may violate Federal or other applicable law.
3. I authorize and give permission to the Servicer, the U.S. Department of the Treasury, and their respective agents, to assemble and use a current consumer report on all borrowers obligated on the loan, to investigate each borrower's eligibility for MHA and the accuracy of my statements and any documentation that I provide in connection with my request for assistance. I understand that these consumer reports may include, without limitation, a credit report, and be assembled and used at any point during the application process to assess each borrower's eligibility thereafter.
4. I understand that if I have intentionally defaulted on my existing mortgage, engaged in fraud or if it is determined that any of my statements or any information contained in the documentation that I provide are materially false and that I was ineligible for assistance under MHA, the Servicer, the U.S. Department of the Treasury, or their respective agents may terminate my participation in MHA, including any right to future benefits and incentives that otherwise would have been available under the program, and also may seek other remedies available at law and in equity, such as recouping any benefits or incentives previously received.
5. I certify that any property for which I am requesting assistance is a habitable residential property that is not subject to a condemnation notice.
6. I certify that I am willing to provide all requested documents and to respond to all Servicer communications in a timely manner. I understand that time is of the essence.
7. I understand that the Servicer will use the information I provide to evaluate my eligibility for available relief options and foreclosure alternatives, but the Servicer is not obligated to offer me assistance based solely on the representations in this document or other documentation submitted in connection with my request.
8. I am willing to commit to credit counseling if it is determined that my financial hardship is related to excessive debt.
9. If I am eligible for assistance under MHA, and I accept and agree to all terms of an MHA notice, plan, or agreement, I also agree that the terms of this Acknowledgment and Agreement are incorporated into such notice, plan, or agreement by reference as if set forth therein in full. My first timely payment, if required, following my servicer's determination and notification of my eligibility or prequalification for MHA assistance will serve as my acceptance of the terms set forth in the notice, plan, or agreement sent to me.
10. I understand that my Servicer will collect and record personal information that I submit in this Hardship Affidavit and during the evaluation process, including, but not limited to, my name, address, telephone number, social security number, credit score, income, payment history, government monitoring information, and information about my account balances and activity. I understand and consent to the Servicer's disclosure of my personal information and the terms of any MHA notice, plan or agreement to the U.S. Department of the Treasury and its agents, Fannie Mae and Freddie Mac in connection with their responsibilities under MHA, companies that perform support services in conjunction with MHA, any investor, insurer, guarantor, or servicer that owns, insures, guarantees, or services my first lien or subordinate lien (if applicable) mortgage loan(s) and to any HUD-certified housing counselor.
11. I consent to being contacted concerning this request for mortgage assistance at any e-mail address or cellular or mobile telephone number I have provided to the Servicer. This includes text messages and telephone calls to my cellular or mobile telephone.

The undersigned certifies under penalty of perjury that all statements in this document are true and correct.

Borrower Signature

Social Security Number

Date of Birth

Date

Co-borrower Signature

Social Security Number

Date of Birth

Date

**HOMEOWNER'S HOTLINE**

If you have questions about this document or the Making Home Affordable Program, please call your servicer.

If you have questions about the program that your servicer cannot answer or need further counseling, you can call the Homeowner's HOPE™ Hotline at 1-888-995-HOPE (4673). The Hotline can help with questions about the program and offers free HUD-certified counseling services in English and Spanish.

**NOTICE TO BORROWERS**

Be advised that by signing this document you understand that any documents and information you submit to your servicer in connection with the Making Home Affordable Program are under penalty of perjury. Any misstatement of material fact made in the completion of these documents including but not limited to misstatement regarding your occupancy of your property, hardship circumstances, and/or income, expenses, or assets will subject you to potential criminal investigation and prosecution for the following crimes: perjury, false statements, mail fraud, and wire fraud. The information contained in these documents is subject to examination and verification. Any potential misrepresentation will be referred to the appropriate law enforcement authority for investigation and prosecution. By signing this document you certify, represent and agree that: "Under penalty of perjury, all documents and information I have provided to my Servicer in connection with the Making Home Affordable Program, including the documents and information regarding my eligibility for the program, are true and correct."

If you are aware of fraud, waste, abuse, mismanagement or misrepresentations affiliated with the Troubled Asset Relief Program, please contact the SIGTARP Hotline by calling 1-877-SIG-2009 (toll-free), 202-622-4559 (fax), or [www.sigtar.gov](http://www.sigtar.gov) and provide them with your name, our name as your servicer, your property address, loan number and the reason for escalation. Mail can be sent to Hotline Office of the Special Inspector General for Troubled Asset Relief Program, 1801 L St. NW, Washington, DC 20220



Beware of Foreclosure Rescue Scams. Help is FREE!

There is never a fee to get assistance or information about the Making Home Affordable Program from your lender or a HUD-approved housing counselor.

Beware of any person or organization that asks you to pay a fee in exchange for housing counseling services or modification of a delinquent loan

Beware of anyone who says they can "save" your home if you sign or transfer over the deed to your house. Do not sign over the deed to your property to any organization or individual unless you are working directly with your mortgage company to forgive your debt.

Never make your mortgage payments to anyone other than your mortgage company without their approval.



Mortgage Center  
 FHA Home Refinance Loan Benefits  
 Take advantage of the many benefits of government insured home financing.  
 Lower payments. But don't forget, lower credit and income guidelines.

Product	Rate	APR
30-yr Fixed	5.12%	5.76%
FHA Refinance	5.12%	5.76%
2.10% 5/1 ARM	4.90%	4.97%

ditech

1-800-107-1111

Personalized Homepage    Saved Searches    Sign up    Sign in

**cyberhomes**

HOME    NEWS & ADVICE    BLOG    MAPS    MOVING    RENTALS    HOME FINANCE    CREDIT    ABOUT OUR DATA

Home Values

Search options

Distressed home

Neighborhood

Back to search results  
 Prev    Next

**\$241,481**

4 Bedrooms  
 2 Bathrooms  
 Home Size  
 2,188 Sq feet

Home Type  
 Single Family  
 Days on Market

Mortgage rates: As low as 3.8% APR. Lock in today

#### Home Facts

	Public Facts	Listing Facts
Estimate Range	—	—
Bedrooms	4	4
Bathrooms	3	3
Living Area	2,188 Sq feet	2,188 Sq feet
Lot Size	7,612 Sq feet	—
Type	Single Family	Single Family
Parcel	—	—
County	—	—
Year Built	2001	2002
Total Rooms	7	—
Heating	Yes	—
Cooling	Yes	—
Number of Stories	2	—
Legal Description	—	—

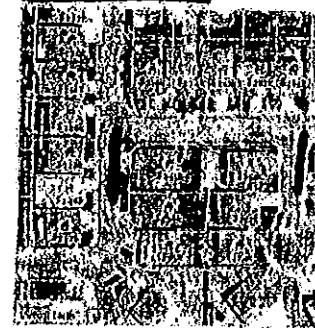
#### Sales and Tax Info

Sales History	Sales Price
11/2/2004	\$435,000
5/20/2002	\$300,000
Tax Year	Improvements + Land    Total
2008	\$260,513 + \$64,520 = \$325,033
2007	\$388,312 + \$83,232 = \$471,544
2006	\$362,000 + \$81,600 = \$443,600
2005	\$355,000 + \$80,000 = \$435,000

#### Listing Details

Listing ID: [REDACTED]  
 Buybackhomes

More Listing Info from  
 Buybackhomes



of Distressed Homes    of Homes  
 Choose a topic to view as results:  
 None

**Tired of Paying Retail?**  
**Buy Direct.**  
**DirectBuy** - The nation's leading online retailer of home appliances and electronics.

#### Mortgage Rates for \$500K Purchase by Rate

Mortgage Type	Today	Last Week
30-yr fixed mtg	6.1%	6.06%
15-yr fixed mtg	4.66%	4.52%
30-yr fixed jumbo mtg	6.7%	6.74%
5/1 ARM	4.11%	4.14%
6/1 jumbo ARM	4.75%	4.78%

95543

Updated 10/26/2009

Find lenders in your area

October 28, 2009

Loan #xxx1466

COUNSELOR PROPOSAL

Dear Bank of America:

John Doe has been my client since August 2009. He came to see me shortly after he defaulted on his first mortgage payment. Mr. Doe has worked diligently on his budget and done everything possible to meet his mortgage payment under his current circumstances. He has managed to free up some funds through his sacrifices, but still has a deficit. The current rate and terms of his mortgage are obviously unaffordable for him. However, a loan modification under HAMP would cure his default and be sustainable under his current income.

I have helped him to prepare his application and financial statements. We are enclosing supporting documents of bank statements and pay stubs which demonstrate how under his present financial circumstances, he would be able to afford the following terms:

2% = proposed initial fixed interest rate

\$341,605 = proposed principal balance

\$43,394.18 = proposed forbearance

40 years = proposed term

I have attached an Estimated Home Value Report which shows that Mr. Doe's home is worth approximately \$241,000. You would probably only recover about \$210,000 before fees and real estate commissions if the home were foreclosed. Modifying the loan terms would be a win/win situation for all parties.

Please do not hesitate to call me if you have any questions regarding Mr. Doe's application.

Thank you for your consideration of our proposed modification.

Very truly yours,

*D. Counselor*

Dan Counselor

# HAMP Waterfall

Requires Input

Gross Monthly Income \$ 6,200.00

Current PITIA Monthly Payment

Principal	\$ 5,500.00	+
Interest	\$ 660.00	+
Taxes	\$ -	+
Insurance	\$ -	+
Association Fee	\$ -	+
Current Monthly PITIA Pmt	6,160.00	=

Remaining Term on Loan(mos)

264

Capitalize the Arrearage

Current Principal Balance	440,000.00	+
Eligible Arrearages	12,098.00	+
Actual Prin. Balance or UPB	452,098.00	=

Target 31% Front End DTI

31% of Gross Monthly Income 1,922.00 Target PITIA

Subtract TIA 1,262.00 TARGET PI PAYMENT

Interest Rate That Meets Target PI Payment -2.6349%

If Interest Rate is Less Than 2.00%, then go to next Step

Next Step if Interest Rate is Less Than 2%

Increase Term Up To 480 months to Reach Target PI Pmt

Rate	2.00%
Current Term	264
Target PI Payment	1,262.00
UPB	452,098.00
Term Needed to Reach Target PI Payment	546 months

If Term is Greater Than 480 Months, Go To Next Step

Forbear Principal-up to 30% Max ( 2% and 40 Yr Term)

30% of Unpaid Principal Balance - Max 135,629.40

Principal Balance Need to Reach Target PI Payment \$416,741.46

Current Unpaid Principal Balance (UPB) 452,098.00  
Forbearance Needed to Reach Target PI Payment 35,356.54

Is Needed Forbearance Less Than 30% Maximum YES

**2 MOST  
RECENT BANK  
STATEMENTS**  
(with rent deposits  
circled if no other  
proof)

# 2 MONTHS OF CURRENT PAY STUBS

(some servicers ask for  
30 days)

# PROOF OF OCCUPANCY

(such as utility bill,  
property tax bill, etc.)

# SIGNED LEASE AGREEMENT

(if tenants not shown in  
Schedule E)

# 1040 AND W-2s



# **Plan B Non-HAMP Modification**

December 2, 2010

Loan #xxx1466

ALTERNATIVE NON-HAMP COUNSELOR PROPOSAL

Dear Bank of America:

John Doe has been my client since August 2009. He came to see me shortly after he defaulted on his first mortgage payment. Mr. Doe has worked diligently on his budget and done everything possible to meet his mortgage payment under his current circumstances. He has managed to free up some funds through his sacrifices, but still has a deficit. The current rate and terms of his mortgage are obviously unaffordable for him. However, a loan modification under HAMP would cure his default and be sustainable under his current income.

I have helped him to prepare his application and financial statements. We are enclosing supporting documents of bank statements and pay stubs which demonstrate how under his present financial circumstances, he would be able to afford the following terms:

3% = Fixed interest rate

\$269,500 = Proposed principal loan amount

\$115,000 = proposed forbearance (equal to 30% of unpaid balance)

30 years = proposed term

The proposed modification would result in a payment of \$1286.22/month and create a budget surplus of \$106.78. Mr. Doe is committed to lowering his discretionary expenses which leads me to believe that this would be an affordable and sustainable alternative for him.

I have attached an Estimated Home Value Report which shows that Mr. Doe's home is worth approximately \$241,000. You would probably only recover about \$210,000 before fees and real estate commissions if the home were foreclosed. Modifying the loan terms would be a win/win situation for all parties.

Please do not hesitate to call me if you have any questions regarding Mr. Doe's application.

Thank you for your consideration of our proposed modification.

Very truly yours,

*D. Counselor*

Dan Counselor

# Home Mortgage Calculator

<http://www.vertex42.com/Calculators/home-mortgage-calculator.html>

Vertex42

© 2007 Vertex42 LLC

## Mortgage Information

Loan Amount	269,500.00
Annual Interest Rate	3.00%
Term Length (In Years)	30
First Payment Date	4/1/2010
Compound Period	Monthly
Payment Frequency	Monthly
Monthly Payment	\$ 1,136.22

Home Value or Price	\$ 269,500
Est. Yearly Property Taxes	\$ 1,200
Est. Yearly H.O. Insurance	\$ 600
Monthly PMI	\$
PITI Payment	\$ 1,286.22

## Extra Payments

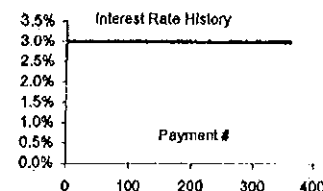
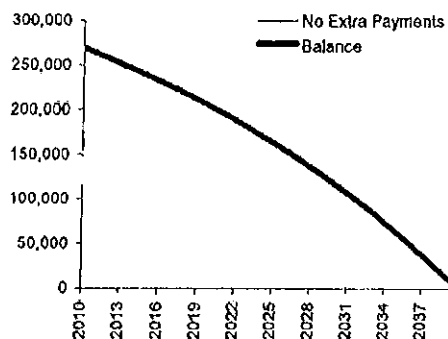
Extra Payment	\$ -
Payment Interval	1
Extra Annual Payment	\$ -
Starting Payment #	5
Total Extra Payments	0.00
Interest Savings	\$ 0.00

## Balance at a Specified Year

Balance at Year ...	5
Date	3/1/2015
Interest Paid	38,276.02
Principal Paid	29,897.18
Outstanding Balance	239,602.82

## Fixed-Rate or ARM

Variable or Fixed Rate	Fixed Rate
3.00% Fixed Rate	3.00%
5.00% Fixed Rate	5.00%
7.00% Fixed Rate	7.00%
9.00% Fixed Rate	9.00%
11.00% Fixed Rate	11.00%
13.00% Fixed Rate	13.00%
15.00% Fixed Rate	15.00%
17.00% Fixed Rate	17.00%
19.00% Fixed Rate	19.00%
21.00% Fixed Rate	21.00%
23.00% Fixed Rate	23.00%
25.00% Fixed Rate	25.00%



## Summary

Total Payments	409,040.85
Total Interest	139,540.85

Years Until Paid Off	30
Last Payment Date	3/1/2040

## Tax Deduction

Tax Bracket	25.00%
Effective Interest Rate	2.250%
Total Tax Returned	34,885

## Payment Schedule

Payment No.	Payment Date	Interest Rate	Interest Due	Payment Due	Extra Payments	Additional Payments	Principal Paid	Balance	Tax Returned	Cumulative Tax Returned
								\$269,500.00		
1	4/1/2010	3.000%	673.75	1,136.22	0.00		462.47	269,037.53	168.44	168.44
2	5/1/2010	3.000%	672.59	1,136.22	0.00		463.63	268,573.90	168.15	336.59
3	6/1/2010	3.000%	671.43	1,136.22	0.00		464.79	268,109.11	167.86	504.44
4	7/1/2010	3.000%	670.27	1,136.22	0.00		465.95	267,643.16	167.57	672.01
5	8/1/2010	3.000%	669.11	1,136.22	0.00		467.11	267,176.05	167.28	839.29
6	9/1/2010	3.000%	667.94	1,136.22	0.00		468.28	266,707.77	166.99	1,006.27
7	10/1/2010	3.000%	666.77	1,136.22	0.00		469.45	266,238.32	166.69	1,172.97
8	11/1/2010	3.000%	665.60	1,136.22	0.00		470.62	265,767.70	166.40	1,339.37
9	12/1/2010	3.000%	664.42	1,136.22	0.00		471.80	265,295.90	166.11	1,505.47
10	1/1/2011	3.000%	663.24	1,136.22	0.00		472.98	264,822.92	165.81	1,671.28
11	2/1/2011	3.000%	662.06	1,136.22	0.00		474.16	264,348.76	165.52	1,836.80
12	3/1/2011	3.000%	660.87	1,136.22	0.00		475.35	263,873.41	165.22	2,002.01
13	4/1/2011	3.000%	659.68	1,136.22	0.00		476.54	263,396.87	164.92	2,166.93
14	5/1/2011	3.000%	658.49	1,136.22	0.00		477.73	262,919.14	164.62	2,331.56
15	6/1/2011	3.000%	657.30	1,136.22	0.00		478.92	262,440.22	164.33	2,495.88
16	7/1/2011	3.000%	656.10	1,136.22	0.00		480.12	261,960.10	164.03	2,659.91
17	8/1/2011	3.000%	654.90	1,136.22	0.00		481.32	261,478.78	163.73	2,823.63
18	9/1/2011	3.000%	653.70	1,136.22	0.00		482.52	260,996.26	163.43	2,987.06
19	10/1/2011	3.000%	652.49	1,136.22	0.00		483.73	260,512.53	163.12	3,150.18
20	11/1/2011	3.000%	651.28	1,136.22	0.00		484.94	260,027.59	162.82	3,313.00
21	12/1/2011	3.000%	650.07	1,136.22	0.00		486.15	259,541.44	162.52	3,475.52
22	1/1/2012	3.000%	648.85	1,136.22	0.00		487.37	259,054.07	162.21	3,637.73
23	2/1/2012	3.000%	647.64	1,136.22	0.00		488.58	258,565.49	161.91	3,799.64
24	3/1/2012	3.000%	646.41	1,136.22	0.00		489.81	258,075.68	161.60	3,961.24
25	4/1/2012	3.000%	645.19	1,136.22	0.00		491.03	257,584.65	161.30	4,122.54
26	5/1/2012	3.000%	643.96	1,136.22	0.00		492.26	257,092.39	160.99	4,283.53
27	6/1/2012	3.000%	642.73	1,136.22	0.00		493.49	256,598.90	160.68	4,444.21
28	7/1/2012	3.000%	641.50	1,136.22	0.00		494.72	256,104.18	160.38	4,604.59
29	8/1/2012	3.000%	640.26	1,136.22	0.00		495.96	255,608.22	160.07	4,764.65

*Tip:* each page of the application package should list the loan number and homeowner name to ensure that all documents are kept together.

### **3.2.5. Using the Credit Report**

The lender will run a credit report to verify the information provided in the application package. So, it's important that the counselor review the credit report to verify the client's debts, evaluate post-modification affordability and see if there are any judgments or liens that may impact the modification process. The counselor should confirm and calculate the debt to income ratio using the credit report (see Section 1.3.).

## **3.3. Evaluating Borrower Income**

### **3.3.1. Allowable Income**

Monthly gross income is the borrower's income amount before any payroll deductions and includes:

- Wages and salaries, overtime pay, commissions, fees, tips, bonuses, housing allowances, and/or other compensation for personal services;
- Social Security payments, food stamps and adoption subsidies, including those received by adults on behalf of minors or by minors intended for their own support;
- Monthly income from annuities, insurance policies, retirement funds, pensions and disability or death benefits;
- Alimony, separation maintenance and child support income;
- Non-borrower household income; and
- Rental income and other miscellaneous sources of income.

If only net income is available, the servicer must multiply the net income amount by 1.25 (125 percent) to estimate the monthly gross income. All non-taxed income, including non-taxed social security income, is considered net income.

### **3.3.2. Employment Income**

Income from employment must be shown through consecutive paystubs covering a period of a month and showing year to date earnings. Gross earnings must be standardized to a monthly rate. The calculations for this standardization are below.

#### Hourly wage earner

Hourly rate x # hours worked per week = weekly pay  
Weekly pay x 52 weeks / 12 months = Monthly Income

#### Weekly salary

Weekly rate x 52 weeks / 12 months = Monthly Income

#### Biweekly salary (every other week)

$\text{Biweekly rate} \times 26 \text{ pay periods} / 12 \text{ months} = \text{Monthly Income}$

Bimonthly salary (twice a month)

$\text{Bimonthly rate} \times 2 = \text{Monthly income}$

It is essential that your income data is correct and up to date. Remember that the underwriter is trying to establish the borrower's willingness and ability to repay a modified loan.

Look at the dates for the pay periods to be sure that you are calculating income correctly. For instance, if you have a borrower that earns \$2,500 per pay period, and is compensated on a bi-weekly basis, then that borrower earns \$2,500 multiplied by 26 pay periods per year divided by 12 months equals a monthly salary of \$5,416.67. If the borrower is paid semi-monthly (on the first and fifteenth of the month, for example), and earns the same \$2,500 per pay period, his or her monthly income is \$5,000.

When reviewing a paycheck stub, check to see if the borrower has any deductions for debts that are payroll-deducted. Some of these, such as child support or a credit union loan, may not be reflected in the borrower's credit report but should be counted as monthly recurring obligations when you calculate the borrower's debt-to-income ratio.

Unreimbursed employee expenses are deducted from employment income if claimed on the borrower's taxes. Be sure to look at the borrower's taxes to see if the borrower has claimed large amounts of unreimbursed expenses on their taxes.

### **3.3.3. Overtime and Bonus Income**

Overtime and bonus income requirements:

- Calculated on a two-year average
- Borrower must ensure it will continue
- Lesser documentation required with Desktop Underwriter
- May not use overtime or bonus income from a new job even when the previous job paid this type of income
- No projected income for bonus recipients

In order to consider overtime or bonus income as stable and recurring, the borrower must have a two-year history of having earned it from the same employer.

The servicer must also be assured that this type of income is likely to continue in the future. If the borrower has a new job with overtime or bonus income and also earned overtime or bonus on their previous job, do not average the income from the former job.

The underwriter cannot be assured that the new employer is going to have the same amount of overtime for the borrower or the same bonus structure – even if it is the same line of work.

Also, do not count bonus income that the borrower has not yet received.

#### **3.3.4. Commission Income**

- If commission income is > 25% of gross income, must review tax returns
- Average two years (no year-to-date)
- Less than two years; at least one full year on returns
- Establish an “earnings trend” – if declining, may not average

If 25% or more of the borrower’s income is derived from commissions, you will need to analyze the borrower’s most recent two years Federal income tax returns. Using these tax returns, average the two years of commission income minus any unreimbursed business expenses that are shown on IRS Form 2106.

In calculating commission income, do not use any year-to-date commission income from pay stubs.

When you average income, you also need to be aware of the earnings trend. Is the income increasing from year-to-year? If so, average both years. If you note a decline from the previous year, you may need to investigate the causes before determining how to calculate the borrower’s income in a way that represents their actual current earnings.

#### **3.3.5. Part Time Income & Second Jobs**

Requirements:

- Uninterrupted employment for two years
- If going from part-time to full, must verify
- Less than two years acceptable if:
  - Not less than 12 months
  - Borrower returned to workforce
  - Took part-time job to supplement lost overtime income

All part time or second job income needs a two year history to be counted as stable and recurring income.

If a borrower who has been working part time indicates that they are going to increase their hours to full time, you must verify with his or her employer the number of hours they will be scheduled to work per week and the likelihood of continuance.

In some instances, it may be acceptable to use income to qualify a borrower who has worked a part time job for less than two years. This may be a borrower who has recently returned to the work force or who has taken another job to supplement previous part-time income or overtime income from his or her primary job that has been discontinued.

### **3.3.6. Self-Employment Income**

- 25% or greater ownership in business
- Sole Proprietorship, Partnership, S-Corp, or Corporation
- 2 years of income tax returns
- No longer need a profit and loss statement
- Desktop Underwriter may require reduced documentation

Typically, you will review the borrower's most recent two years filed Federal income tax returns. Income is reported to the IRS according to the manner in which the business is organized.

A Sole Proprietor is required to report his or her income on IRS Form 1040, Schedule C or IRS Form 1040-EZ, Schedule C-EZ.

If the business is organized as a Partnership (whether limited or general), the partnership files IRS Form 1065 Partnership Return. The borrower's portion of the partnership income will be distributed to him or her via IRS Form K-1, and he or she will pay taxes on this portion of the partnership income on the personal tax return IRS Form 1040, Schedule E.

If the business is organized as an S Corporation, the S Corporation files IRS Form 1120-S and the borrower will receive IRS Form K-1 and will File IRS Form 1040, Schedule E to report his or her share of the S Corporation income. A Corporation files IRS Form 1120 and pays corporate taxes on its business income. The borrower may earn W-2 income from the corporation as well as dividends and interest.

You may calculate his or her wages from an average of the two most recent W-2 forms. Dividend and interest income from the corporation will be disclosed on Schedule B of IRS Form 1040.

Remember that in underwriting the risk of a loan application the underwriter must review all the data presented. If the borrower's income appears to be declining from year to year, the reason for the decline needs to be determined and analyzed.

It may be more prudent to take an average of only the most recent twelve months income if this portrays a more realistic assessment of the borrower's income.

### **3.3.7. Rental Income**

Borrowers who receive rental income must provide evidence of that income, which is generally documented on IRS Schedule E (Supplemental Income and Loss) of the borrower's tax return for the most recent tax year.

When Schedule E is not available to document rental income because the property was not previously rented, servicers may accept a current lease agreement and bank

statements or cancelled rent checks. Be sure to use a letter of explanation to address any discrepancy between the Schedule E and the current state of the rental unit.

If the borrower is using income from the rental of a portion of the borrower's principal residence, the income will be calculated at 75 percent of the monthly gross rental income, with the remaining 25 percent considered vacancy loss and maintenance expense.

If the borrower is using rental income from properties other than the borrower's principal residence, the income to be calculated for HAMP purposes should be 75 percent of the monthly gross rental income, reduced by the monthly debt service on the property (i.e., principal, interest, taxes, insurance, including mortgage insurance, and association fees).

Rental income should not be included in a borrower's monthly gross income if there is currently no income due to vacancy (even if rental income was identified in their tax return or tax transcript). The servicer must reconcile any differences between what the borrower communicates and the borrower's information. For example, the servicer might choose to perform a property inspection of the rental property.

### **3.4 Budget Development**

After counselors receive documents verifying the homeowner's income and mortgage, they should also help create and review an Income and Expense Worksheet with the homeowner. If an estimated budget was completed at intake, a more accurate budget needs to be developed as part of the homeowner's Action Plan.

Many homeowners struggling to make their mortgage payments have sufficient funds or income, but are still unable to make the payments. This may be due to unaccounted spending, insufficient income, or high debts, which may hamper their chances for a loan modification or repayment plans.

#### **3.4.1. Interim or Crisis Budget**

If there is a gap in the budget or negative net income after the expenses have been accounted for, further interim expense reductions or income boosters may be necessary. Creating a temporary budget plan to maximize income and address debt delinquencies is useful for homeowners who had a recently-resolved setback, but may not be very useful for permanent setbacks such as disability. An interim budget is an aggressive reduction on spending that may only be sustainable for a few months, especially when the homeowner is sacrificing lifestyle costs such as turning off cable or delaying home and wardrobe improvement.

Counselors can help prioritize obligations that need to be paid first, and see what types of reductions are possible for each type of expense, which includes other debts. This can be done gradually or all at once, but the final goal of an interim budget is to guide



homeowners to become current on all their monthly obligations and to live within their means.

### **3.4.2. Savings Account**

Clients not paying their mortgage payments should start contributing money to a separate savings account or an escrow account regularly to build up cushion and to prove that they are able to make the new mortgage payments. The bank statements can further evidence to the servicers their ability to pay the lower, modified mortgage amount and can be included with the budget. It is also beneficial for clients to develop this routine and have emergency cushion to help with their house payments when necessary.

When possible, the client should submit their monthly statements to the counselor so that the counselor can better track their ability to save.

### **3.4.3 Force-Placed Insurance**

Force-placed insurance can increase the amount of mortgage payments every month and can prevent a modification if the monthly insurance amount eats up too much of the target payment. Although it is authorized by the mortgage document, it is better if a homeowner does not have force-placed insurance imposed on them by the mortgage companies within their escrow portion of their mortgage payments.

This type of costly policy increases the mortgage payment amounts and can be avoided by having the homeowner purchase their own voluntary insurance policy that meets the minimum standards laid out in their mortgage documents, then sending proof of that policy to the mortgage servicer.

Some things to keep in mind when dealing with force-placed insurance are:

- It is illegal for servicers to tell homeowners to wait until the force-placed policy has lapsed before the homeowner can apply their own policy.
- Report to DFS (See Section 3.5.3) if the servicer makes proving the homeowner-purchased insurance coverage difficult, or does not refund any force-placed premiums charged during the time the homeowner has his/her own coverage.
- For homeowners in foreclosure, their new policy may be more expensive than their previous one that they purchased before a foreclosure was initiated due to their damaged credit.
- If the homeowner is unable to find voluntary homeowner's insurance policy, there is a last resort, minimal-coverage insurance plan that is still less expensive than force-placed insurance called FAIR plan.

### **3.5. Complaint Forms**

There are several entities that receive complaints from counselors and clients with respect to poor servicing. Counselors should be aware of the various complaint forms so that they can best assist clients.

#### **3.5.1. Consumer Financial Protection Bureau (CFPB)**

The central mission of the Consumer Financial Protection Bureau (CFPB) is to make markets for consumer financial products and services work for Americans — whether they are applying for a mortgage, choosing among credit cards, or using any number of other consumer financial products.

The CFPB's mortgage servicing rules were recently enacted to provide better protection for homeowners. These rules have a broader application than the National Mortgage Settlement and have greater enforcement potential. A summary of the rules by the CFPB is included in the next page.

The CFPB accepts complaints regarding mortgages, credit cards, bank accounts, consumer loans and student loans. They will forward this complaint to the company and work to obtain a response from it.

To submit a complaint, go to: <http://www.consumerfinance.gov/complaint/> and follow the five steps:

1. Describe the issues
2. Explain the desired solution
3. Provide your contact information
4. Provide information about the servicer and documents related to your complaint
5. Submit

You can create a password and track the status of your complaint online.

## Summary of the CFPB foreclosure avoidance procedures

In response to the poor experience of many distressed borrowers during the mortgage crisis, the CFPB is putting in place new procedures to facilitate borrowers' access to foreclosure avoidance options. The new rules are designed to provide consistent and meaningful protections for borrowers, and to give industry necessary flexibility. The following summary highlights the key provisions.

### Foreclosure process

The new CFPB mortgage rules provide important new federal protections to borrowers to help ensure they are able to apply for all the foreclosure avoidance options available to them. The rules end the worst runarounds and eliminate some of the worst surprises of the mortgage crisis.

### Servicers required to contact borrowers

By 36 days after a homeowner misses a payment or can't pay the full amount, the servicer must make a good faith effort to establish contact by telephone or at an in-person meeting. Servicers must reach out to borrowers every time they miss payments. If the borrower's situation calls for it, the servicer must tell the borrower about loan modification or workout options available to the borrower.

Before a borrower becomes 45 days delinquent, the servicer must send a written notice to the borrower or borrower's agent encouraging the borrower to contact the servicer, providing the phone number for the personnel assigned to the borrower, and giving the borrower examples of loss mitigation options the servicer offers. The borrower must also receive information about how to find a housing counselor.

Any periodic mortgage statements the borrower receives after he or she is 45 days late must include, among other things, information on the possible risks

the borrower faces including expenses associated with the delinquency; information on whether the servicer has initiated the foreclosure process; the phone number and website where the borrower can find a HUD-approved housing counseling agency; and information about any loss mitigation programs the borrower has already agreed to.

### Foreclosure restrictions

A mortgage servicer may not make a first notice or filing for foreclosure until the borrower is more than 120 days delinquent. The 120-day period under the rules is designed to give borrowers time to learn about workout options and file an application for mortgage assistance. In addition, if the borrower has already submitted a complete application for mortgage assistance – often called a loss mitigation application – the mortgage servicer may not begin the foreclosure process while a borrower is being evaluated for a loss mitigation plan. Of course, a loss mitigation plan might not prevent foreclosure if the borrower stops making payments under the plan.

### Servicer personnel and information requirements

The CFPB's new rules are intended to make sure homeowners no longer have to worry about dealing with servicers who cannot access important information about the borrower's loan.

The CFPB rules require servicers to assign personnel to help delinquent borrowers and to make sure those employees, among other things, give accurate information about loss mitigation options, explain correctly what a borrower must do to apply for workout options, tell the borrower the status of a loss mitigation application, and be able to quickly locate the written information the borrower has submitted in connection with a loss mitigation application.

Servicers must also be able to tell homeowners the circumstances under which the servicer may make a referral to foreclosure. This information is critical to

helping homeowners file applications for foreclosure avoidance assistance in time to preserve their rights under the new rules.

## Timelines for distressed borrowers

Timing is very important in getting the maximum assistance in resolving a delinquent loan. The earlier borrowers seek help, the more protections they have under the new CFPB rules.

Borrowers have the most protections if a complete application for mortgage assistance is submitted within 120 days of the first missed payment because the servicer is not allowed to start a foreclosure process during those 120 days.

If a servicer receives a complete application for loss mitigation options 45 days or more before a scheduled foreclosure sale, the servicer must acknowledge receipt of the application in writing and determine if the application is complete. If the application is not complete, the servicer must tell the borrower what additional information and documents must be provided. (If a servicer receives an application less than 45 days before a foreclosure sale, the borrower is not entitled to a written notice that their application has been received.)

If a servicer receives a complete application 90 days or more before a scheduled foreclosure sale, the servicer must give the borrower at least 14 days to accept or reject an offer of a loss mitigation option. In addition, if a servicer receives a complete application 90 days or more before a scheduled foreclosure sale, the borrower may appeal the denial for any loan modification. The borrower has 14 days to file an appeal.

A complete application received by a servicer 37 days or more before a scheduled foreclosure sale will be evaluated for loss mitigation options available to the borrower. The servicer must give the borrower written notice of the decision, though the contents of the letter will depend on whether or not the servicer determines that the borrower qualifies for a workout option.

## Servicers are required to explain their decisions to borrowers

Servicers are required to evaluate the borrower for all the foreclosure avoidance options that the borrower may qualify for, assuming a borrower submits a complete application early enough. Servicers, lenders, and investors are not required to offer any specific loss mitigation options.

When servicers deny a borrower for a loan modification option, they must give specific reasons for the denial. For example, if a borrower is denied a loan modification option because of an investor requirement, the servicer must explain the requirement.

## Borrowers who sought help before may apply again for loss mitigation under the new rules

Borrowers are entitled to loss mitigation evaluations under the new rules, even if they applied for and were rejected for loss mitigation before the new rules took effect, provided they file their complete applications more than 37 days before a scheduled foreclosure sale.

## The CFPB accepts consumer complaints about mortgages

The CFPB accepts complaints about mortgages, so if you have a problem, you can submit a complaint with the CFPB. The CFPB will forward your complaint to the company and work to get you a response from them. Consumers may submit a complaint by calling **(855) 411-2372 (CFPB)** or by completing the complaint form at **[consumerfinance.gov/complaint](https://consumerfinance.gov/complaint)**. The CFPB will also be conducting enforcement and supervisory activities to make sure servicers comply with the new rules.

### 3.5.2. Office of the Attorney General

The attorneys general of 49 states and the District of Columbia and Ally/GMAC, Bank of America, Citi, JPMorgan Chase, Ocwen and Wells Fargo, reached agreement on a mortgage settlement that created new servicing standards and provided loan modification relief to distressed homeowners and funding for state and federal governments.

The settlement established nationwide reforms to mortgage servicing standards which require better communication with borrowers, a single point of contact, adequate staffing levels and training, and appropriate standards for executing documents in foreclosure cases.

A Monitor has been appointed to oversee servicer compliance. Advocates can report client servicing issues to [www.mortgageoversight.com/report-client-issues/](http://www.mortgageoversight.com/report-client-issues/)

By sharing your client's information, the Monitor can better enforce the mortgage servicing standards outlined in the agreement. The information you provide can make the settlement more meaningful for all homeowners because the agreement gives the Monitor additional enforcement tools when he identifies systemic violations.

Please note that the Monitor will not contact a servicer on behalf of an individual client to resolve individual complaints.

#### Loan Modification Timelines Under 49-State Attorney General Settlement

(Section references re to Appendix A of the settlement)  
("days" refers to calendar days unless otherwise noted)

For 1<sup>st</sup> liens:

- Servicer must send written acknowledgement of the receipt of documentation within 3 business days. (IV.F.1)
- Servicer must notify borrower of any missing documents within 5 business days of receipt of application. (IV.F.2)
- Borrower has 30 days to submit missing documentation. (IV.F.3)
- Servicer must make a decision on a complete modification application within 30 days. (IV.F.4)
- For in-house (proprietary) modifications, servicer cannot deem financial documents "stale" before 90 days from the date the documents were received, unless servicer learns of a material change in borrower's circumstances or investor requirements mandate a shorter time. (IV.F.6)
- Servicers must notify borrower of a loan modification denial within 10 business days of the denial decision, using a prescribed form. (IV.F.7)
- The denial notice must give borrower 30 days from date of letter to provide evidence that the eligibility determination was in error. (IV.G.2.a.)

- If the denial is due to investor restriction, the denial notice must disclose the name of the investor and summarize the reasons for the investor denial. (IV.G.2.b.)
- If the denial was due to NPV, the denial notice must state the monthly gross income and property value used. (IV.G.2.c.)

#### Appeal Process (for 1<sup>st</sup> liens only) (IV.G.3.)

- Borrowers have 30 days to request an appeal of a modification denial (absent contrary investor restriction). (IV.G.3.a.)
- If the denial was for NPV and borrower disagrees with property value used, borrower can request an appraisal at borrower's expense, consistent with HAMP directive 10-15.
- Servicer must use that value in the NPV analysis. (IV.G.3.b.)
- Servicer shall use "best effort" to communicate decision on the appeal to borrower within 30 days of receipt of information. (IV.G.3.c.)

#### General Loss Mitigation Requirements (IV.H.)

- Servicer must give borrower a counter-signed loan modification agreement within 45 days of receipt of the signed agreement from the borrower. (IV.H.7.)
- Servicer may not recommend that borrowers go into default in order to qualify for loss mitigation. (IV.H.8.)
- Servicers may not discourage borrowers from working with non-profit housing counselors. (IV.H.9.)
- Servicers may not require borrowers to waive claims or defenses as a condition of a modification (unless the case is in litigation and the borrower would not otherwise have qualified for loss mitigation). (IV.H.10.)
- Servicers must give borrower a pre-paid return envelope for return of a loan modification application. (IV.H.11.)

#### NPV-Positive Modifications Are Mandatory

Servicer **shall** offer and "facilitate" loan modifications for borrowers when the loan modification is net-present-value (NPV) positive and meets other investor, guarantor, insurer and program requirements. (IV.A.2.)

#### New York State Attorney General Complaint Form

The New York State Office of the Attorney General (OAG) has created a complaint form to report violations of the National Mortgage Settlement.

The OAG will use this information to track patterns of potential violations in its efforts to enforce the National Mortgage Settlement. It is not an escalation request or request for mediation or other intervention by the OAG.



**ATTORNEY GENERAL ERIC T. SCHNEIDERMAN**  
**STATE OF NEW YORK**  
**OFFICE OF THE ATTORNEY GENERAL**  
**BUREAU OF CONSUMER FRAUDS AND PROTECTION**  
120 Broadway, 3rd Floor  
New York, NY 10271-0332  
Tel. (212) 416-8345 Fax (212) 416-8787

## COMPLAINT FORM

Consumer Hotline For Hearing Impaired  
1 (800) 771-7755 TDD (800) 788-9898  
<http://www.ag.ny.gov>

1. PLEASE BE SURE TO COMPLAIN TO THE COMPANY OR INDIVIDUAL BEFORE FILING.
2. PLEASE TYPE OR PRINT CLEARLY IN DARK INK.
3. YOU MUST COMPLETE THE ENTIRE FORM. INCOMPLETE OR UNCLEAR FORMS WILL BE RETURNED TO YOU.
4. MAKE SURE YOU ENCLOSE COPIES OF IMPORTANT PAPERS CONCERNING YOUR TRANSACTION.

### CONSUMER

YOUR NAME		HOME TELEPHONE NUMBER	
STREET ADDRESS		BUSINESS TELEPHONE NUMBER	
CITY/TOWN	COUNTY	STATE	ZIP

### COMPLAINT

NAME OF SELLER OR PROVIDER OF SERVICES		NAME OF OTHER SELLER OR PROVIDER OF SERVICES	
STREET ADDRESS		STREET ADDRESS	
CITY/TOWN	STATE	ZIP	CITY/TOWN
TELEPHONE NUMBER		TELEPHONE NUMBER	
DATE OF TRANSACTION	COST OF PRODUCT OR SERVICE \$	HOW PAID (Check those which apply) <input type="checkbox"/> Cash <input type="checkbox"/> Check <input type="checkbox"/> Credit Card <input type="checkbox"/> Other _____	
DID YOU SIGN A CONTRACT? <input type="checkbox"/> Yes <input type="checkbox"/> No	WHERE DID YOU SIGN THE CONTRACT?		DATE SIGNED
WAS PRODUCT OR SERVICE ADVERTISED? <input type="checkbox"/> Yes <input type="checkbox"/> No	WHERE WAS IT ADVERTISED?		DATE ADVERTISED
TYPE OF COMPLAINT (e.g. car, mail order, etc. Use the reverse side of this form to provide details)			
DATE YOU COMPLAINED TO THE COMPANY OR INDIVIDUAL _____ <input type="checkbox"/> By Mail <input type="checkbox"/> By Telephone <input type="checkbox"/> In Person		PERSON CONTACTED	JOB TITLE
NATURE OF RESPONSE			DATE OF RESPONSE
HAS MATTER BEEN SUBMITTED TO ANOTHER AGENCY OR ATTORNEY? (If "Yes," give name and address) <input type="checkbox"/> Yes <input type="checkbox"/> No			
IS COURT ACTION PENDING? (Please describe as necessary) <input type="checkbox"/> Yes <input type="checkbox"/> No			

### ADDITIONAL INFORMATION

MANUFACTURER OF PRODUCT	PRODUCT MODEL OR SERIAL NUMBER
ADDRESS	WARRANTY EXPIRATION DATE
DID BUSINESS ARRANGE FINANCING? (If "Yes," give name and address of bank or finance company) <input type="checkbox"/> Yes <input type="checkbox"/> No _____	

PLEASE DESCRIBE COMPLAINT ON REVERSE SIDE

[illegible]

WHAT FORM OF RELIEF ARE YOU SEEKING? (e.g., exchange, repair or money back, etc.) \_\_\_\_\_

WHO REFERRED YOU TO THIS OFFICE? \_\_\_\_\_

**READ THE FOLLOWING BEFORE SIGNING BELOW**

PLEASE ATTACH TO THIS FORM **PHOTOCOPIES** of any papers involved (contracts, warranties, bills received, canceled checks, correspondence, etc.). **DO NOT SEND ORIGINALS.**

**NOTE:** In order to resolve your complaint, we may send a copy of this form to the person or firm about whom you are complaining.

In filing this complaint, I understand that the Attorney General is not my private attorney, but represents the public in enforcing laws designed to protect the public from misleading or unlawful business practices. I also understand that if I have any questions concerning my legal rights or responsibilities, I should contact a private attorney. I have no objection to the contents of this complaint being forwarded to the business or person the complaint is directed against. The above complaint is true and accurate to the best of my knowledge.

I also understand that any false statements made in this complaint are punishable as a Class A Misdemeanor under Section 175.30 and/or Section 210.45 of the Penal Law.

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

## HAVE YOU ENCLOSED COPIES OF IMPORTANT PAPERS?

**Return to:      Office of the Attorney General  
Bureau of Consumer Frauds and Protection  
120 Broadway, 3rd Floor  
New York, NY 10271-0332**



## **Loan Modification Timelines Under 49-State Attorney General Settlement**

(Section references re to Appendix A of the settlement)

("days" refers to calendar days unless otherwise noted)

For 1<sup>st</sup> liens:

- Servicer must send written acknowledgement of the receipt of documentation within 3 business days. (IV.F.1)
- Servicer must notify borrower of any missing documents within 5 business days of receipt of application. (IV.F.2)
- Borrower has 30 days to submit missing documentation. (IV.F.3)
- Servicer must make a decision on a complete modification application within 30 days. (IV.F.4)
- For in-house (proprietary) modifications, servicer cannot deem financial documents "stale" before 90 days from the date the documents were received, unless servicer learns of a material change in borrower's circumstances or investor requirements mandate a shorter time. (IV.F.6)
- Servicers must notify borrower of a loan modification denial within 10 business days of the denial decision, using a prescribed form. (IV.F.7)
- The denial notice must give borrower 30 days from date of letter to provide evidence that the eligibility determination was in error. (IV.G.2.a.)
- If the denial is due to investor restriction, the denial notice must disclose the name of the investor and summarize the reasons for the investor denial. (IV.G.2.b.)
- If the denial was due to NPV, the denial notice must state the monthly gross income and property value used. (IV.G.2.c.)

### **Appeal Process (for 1<sup>st</sup> liens only)** (IV.G.3.)

- Borrowers have 30 days to request an appeal of a modification denial (absent contrary investor restriction). (IV.G.3.a.)
- If the denial was for NPV and borrower disagrees with property value used, borrower can request an appraisal at borrower's expense, consistent with HAMP directive 10-15. Servicer must use that value in the NPV analysis. (IV.G.3.b.)
- Servicer shall use "best effort" to communicate decision on the appeal to borrower within 30 days of receipt of information. (IV.G.3.c.)

### **General Loss Mitigation Requirements (IV.H.)**

- Servicer must give borrower a counter-signed loan modification agreement within 45 days of receipt of the signed agreement from the borrower. (IV.H.7.)
- Servicer may not recommend that borrowers go into default in order to qualify for loss mitigation. (IV.H.8.)
- Servicers may not discourage borrowers from working with non-profit housing counselors. (IV.H.9.)
- Servicers may not require borrowers to waive claims or defenses as a condition of a modification (unless the case is in litigation and the borrower would not otherwise have qualified for loss mitigation). (IV.H.10.)
- Servicers must give borrower a pre-paid return envelope for return of a loan modification application. (IV.H.11.)

### **NPV-Positive Modifications Are Mandatory:**

Servicer **shall** offer and “facilitate” loan modifications for borrowers when the loan modification is net-present-value (NPV) positive and meets other investor, guarantor, insurer and program requirements. (IV.A.2.)

### 3.5.3. Department of Financial Services (DFS)

DFS has agreements with Goldman Sachs Bank, Ocwen Financial Corp and Litton Loan Servicing LP, Morgan Stanley, Saxon, AHMSI & Vericrest.

Complete the Department of Financial Services (DFS) online complaint form, which is found here: <http://www.dfs.ny.gov/consumer/fileacomplaint.htm>. Include this form and any supporting documentation as attachments to your complaint.

Check all sections that apply and providing requested information if available. You also may explain your complaint in the blank spaces provided.

Some notes on completing DFS' online complaint form:

- Check the box at the top of the online form indicating you are a representative filling out the form and enter your client's name into the authorization box.
- If you want DFS to respond to you as an advocate and not your client directly, in the Section entitled "What is the address of the person you are filing this complaint on behalf of?" enter your information into the phone, fax and email sections since there are no similar spaces in the next section where you enter your business name, your name and address.
- Under the "Product or service you are complaining about" drop down, choose foreclosure/mortgage default.
- In the "How were you referred to DFS" box, enter Joy Feigenbaum.
- In the "What do you think would be a fair resolution" box enter what you ultimately want to have happen.
- In the "Enter the details of your complaint" box, write "Mortgage servicing complaint, see attached." You can also add the general gist of your complaint here if you want.
- When complete, hit the review button at the bottom. You will now be able to attach supporting documents and a copy of the advocate complaint form. We recommend that you upload and attach pdfs of the documents.
- Click "I agree" to the terms and hit the submit button. You should receive confirmation that the complaint is submitted and a complaint number. Print this for your records. Please note that you will also receive an email if you supplied your email address and within a few days you will receive a complaint acknowledgment by mail with a file number.
- Please note the complaint number and file number do not match, but further communication about the complaint with DFS will require the file number. The letter will not state the client's name only the institution you complained about. Thus, it can be difficult to match your client to their complaint if you are filing a lot of complaints.

Please note: This form focuses on only a few of DFS's servicing regulations. The complete regulations are found here:

<http://www.dfs.ny.gov/legal/regulations/emergency/banking/ar419tx.htm>.

You may complain about violations of other servicing regulations by filing a complaint directly with DFS using the DFS complaint form found online here:

<http://www.dfs.ny.gov/consumer/fileacomplaint.htm>

**LOAN SERVICING COMPLAINT INSTRUCTIONS:**

1. Complete this form by checking all sections that apply and providing requested information if available. You also may explain your complaint in the blank spaces provided.
2. Attach supporting documentation if available.
3. Complete the Department of Financial Services (DFS) online complaint form, which is found here: <http://www.dfs.ny.gov/consumer/fileacomplaint.htm>. Include this form and any supporting documentation as attachments to your complaint. Some notes on completing DFS' online complaint form:
  - a. Check the box at the top of the online form indicating you are a representative filling out the form and enter your client's name into the authorization box.
  - b. If you want DFS to respond to you as an advocate and not your client directly, in the Section entitled "*What is the address of the person you are filing this complaint on behalf of?*," enter your information into the phone, fax and email sections since there are no similar spaces in the next section where you enter your business name, your name and address.
  - c. Under the "*Product or service you are complaining about*" drop down, choose foreclosure/mortgage default.
  - d. In the "*How were you referred to DFS*" box, enter Joy Feigenbaum.
  - e. In the "*What do you think would be a fair resolution*" box enter what you ultimately want to have happen.
  - f. In the "*Enter the details of your complaint*" box, write "Mortgage servicing complaint, see attached." You can also add the general gist of your complaint here if you want.
  - g. When complete, hit the review button at the bottom. You will now be able to attach supporting documents and a copy of the advocate complaint form. We recommend that you upload and attach pdfs of the documents.
  - h. Click "I agree" to the terms and hit the submit button. You should receive confirmation that the complaint is submitted and a complaint number. Print this for your records. Please note that you will also receive an email if you supplied your email address and within a few days you will receive a complaint acknowledgment by mail with a file number. Please note the complaint number and file number do not match, but further communication about the complaint with DFS will require the file number. The letter will not state the client's name only the institution you complained about. Thus, it can be difficult to match your client to their complaint if you are filing a lot of complaints.
4. With permission from your client, send a copy of your complaint form to Jen Sinton at South Brooklyn Legal Services by fax to 718-246-3268 or email to [jsinton@sbls.org](mailto:jsinton@sbls.org) so advocates can keep track of complaints being submitted to DFS.
5. Please note: This form focuses on only a few of DFS's servicing regulations. The complete regulations are found here: <http://www.dfs.ny.gov/legal/regulations/emergency/banking/ar419tx.htm>. You may complain about violations of other servicing regulations by filing a complaint directly with DFS using the DFS complaint form found online here: <http://www.dfs.ny.gov/consumer/fileacomplaint.htm>.

Loan Servicing Complaint

NAME: \_\_\_\_\_ DATE: \_\_\_\_\_

PROPERTY ADDRESS: \_\_\_\_\_ PHONE: \_\_\_\_\_

LOAN SERVICER: \_\_\_\_\_ LOAN NUMBER: \_\_\_\_\_

This form is submitted by:

☐ Borrower: \_\_\_\_\_

☐ Authorized Representative on behalf of borrower:

Name: \_\_\_\_\_ Organization: \_\_\_\_\_

Contact information: \_\_\_\_\_

**(1) \_\_\_\_\_ DELAYED CONVERSION OF TRIAL PERIOD PLAN TO PERMANENT HAMP LOAN MODIFICATION**

My loan servicer failed to convert my HAMP trial period plan to a permanent HAMP modification at the conclusion of the three month trial period, as required under both the terms of the Trial Period Plan offer and the MHA Handbook. I made three payments as required on the following dates \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_. This conduct constitutes a violation of § 419.11(b).

☐ I also made \_\_\_\_\_ additional trial period payments totaling \$ \_\_\_\_\_

☐ Attached is a copy of the trial period plan and proof of payments.

**(2) \_\_\_\_\_ FEES**

**(a)** ☐ **Failing to provide a fee schedule:** My loan servicer failed to make a schedule of standard or common fees: ☐ available on its website and/or ☐ upon request which constitutes a violation of § 419.10(a). (Attached is a copy of my request.)

**(b)** ☐ **Charging impermissible servicing fees [check all that apply]:** My loan servicer

- ☐ collected a fee for a service that was not actually performed,
- ☐ the fee was not expressly authorized and/or was not clearly and conspicuously disclosed in the loan documents,
- ☐ the fee is prohibited by law, and/or
- ☐ the amount of the fee is unreasonable in relation to the specific service I requested. This conduct constitutes a violation of § 419.10(b).

Comments (for example, explain which law prohibits the fee or what fee was charged and why it was unreasonable): \_\_\_\_\_

**(c)** ☐ **Charging unreasonable attorney's fees for foreclosure work:** My loan servicer charged unreasonable attorney's fees for my foreclosure because the fees exceeded the reasonable and customary fees for such work. This conduct constitutes a violation of § 419.10(c).

(3) \_\_\_\_\_ **FAILURE TO PROVIDE ADEQUATE NOTICE**

- (a) ☐ **Failure to Provide Acknowledgement of Receipt of Initial Package OR Letter Identifying Documents Still Needed Within 10 Business Days of Submitting Initial Package:** My loan servicer failed to provide me or my authorized representative with a letter acknowledging receipt of my loan modification application package or a letter requesting additional documentation within 10 days of receipt.

I submitted my loan modification application on \_\_\_\_\_.

☐ I received a response on \_\_\_\_\_.

☐ I have received no response to date.

This conduct constitutes a violation of § 419.11(c).

- (b) ☐ **Failure to Provide Written Notice of Final Determination of Loan Modification Request:** My loan servicer failed to provide me or my authorized representative with a letter or other documentation of a final determination on my loan modification request within 30 days of receipt of all documents it needed from me and other persons. I submitted my loan modification application on \_\_\_\_\_. The servicer had all documents it required (or are required under HAMP) to process a loan modification application by \_\_\_\_\_. This conduct constitutes a violation of § 419.11(d).

- (c) ☐ **Failure to Provide Explanation of Capitalized Arrears:** My servicer approved me for a loan modification or trial period plan but failed to provide me with an explanation of the foreclosure fees, escrow advances, attorneys' fees and costs, and interest that the servicer will capitalize into my new principal balance. This is a violation of § 419.11(d) because servicer has not disclosed to me the material terms, costs or risks associated with the loan modification.

(4) \_\_\_\_\_ **UNFAIR, DUPLICATIVE, AND MULTIPLE REQUESTS FOR ADDITIONAL INFORMATION**

My loan servicer (check all that apply):

- ☐ Has asked me to re-submit information that I already provided;
- ☐ Has made multiple, successive requests for information over a period of time rather than informing me of all additional documents needed within 10 business days of my application (or within \_\_\_\_ days of my HAMP application).

This conduct violates the servicer's duty to act with reasonable skill, care and diligence, is an unfair or deceptive business practice, and violates the servicer's duty "to ensure that borrowers are not required to submit multiple copies of the required documents during consideration for a loss mitigation option" pursuant to § 419.11(a).

(5) \_\_\_\_\_ **IMPROPER HAMP DENIAL**

My loan servicer denied my HAMP application improperly under the rules of the current version of the MHA Handbook (check all sections that apply). This conduct constitutes a violation of § 419.11(b):

- (a) ☐ **Improper Denial for Lack of Notice:** I am told that my HAMP application was denied but I never received written notice of the denial.
- (b) ☐ **Improper Denial for “Incomplete Information” and/or “Failure to Submit Documents”:** I provided the following documents in my initial package:

I provided the following additional documents within \_\_\_\_\_ days of receipt of the servicer’s request for additional documents:

*You may wish to attach the documents you provided and any request by the servicer for additional documents.*

- (c) ☐ **Improper Denial for “Trial Period Plan Payment Default”:** My trial period plan payments were due on \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_. I made three trial period plan payments on \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_. I did not default on the trial period plan.
- (d) ☐ **Improper Denial for “Non-acceptance of Offer or Withdrawal of Request for Assistance”:** I accepted the trial period plan offer on \_\_\_\_\_, and made the first trial period payment on \_\_\_\_\_. I never withdrew my request for assistance.
- (e) ☐ **Improper Denial for “Excessive Forbearance” or “Excessive Principal Forbearance”:** The servicer does not need to forbear more than 30% of the capitalized principal balance in order to get my payment down to 31% of my gross monthly income. The servicer calculated my gross monthly income at \_\_\_\_\_ per month. The target monthly payment is \_\_\_\_\_. The capitalized principal balance is \_\_\_\_\_. The servicer need only forbear on \_\_\_\_\_%, which is less than 30%, in order to get the modified monthly payment down to 31% of my gross monthly income as calculated by the servicer. This percentage of forbearance is permissible according to Section 6.6.1 of the MHA Handbook, Version 4, pg. 83.
- (f) ☐ **Improper Denial for Failing the Net Present Value Test:** The servicer used inaccurate numbers when conducting the NPV test by (circle all that apply): (a) using an inflated property value (the actual property value is \_\_\_\_\_, according to the attached property valuation), or (b) using a low and/or inaccurate income figure (my actual income is \_\_\_\_\_ according to the attached pay stubs or other financial documents).
- (g) ☐ **Improper Denial Caused By Inaccurate Income Calculation:** The servicer miscalculated my income when denying my HAMP application. *Comments (you may wish to explain what your income is and what was wrong with the servicer’s calculation):*

---

---



**(6) \_\_\_\_\_ DUTY OF FAIR DEALING & GOOD FAITH LOSS MITIGATION**

A servicer has a duty of good faith and fair dealing in its communication, transactions, and course of dealings with me in connection with the servicing of my loan under § 419.2. Despite this duty, my servicer:

- ☐ has failed to comply with NY CPLR § 3408 (settlement conferences) and § 419.11(k) by
  - ☐ Sending attorneys who are not authorized to resolve the foreclosure;
  - ☐ Not negotiating in good faith as I have had \_\_\_\_\_ conferences without resolution allowing fees and interest to unnecessarily accrue;
  - ☐ Failing to bring to the conferences payment history, itemization of amounts due, copies of the note and mortgage or failing to produce the name, address, and telephone number of the legal owner of the mortgage and note.
- ☐ continues to harass me with numerous collection calls and/or misleading collection letters
- ☐ has failed to provide me with a loss mitigation contact with whom to communicate and negotiate [§ 419.11(f)] or the designated contact has changed multiple times in a short period of time.

This conduct constitutes a violation of § 419.2.

**(7) \_\_\_\_\_ DUAL TRACKING**

I requested loss mitigation and submitted an application on \_\_\_\_\_. Despite the requirement that my loan servicer should avoid initiating a foreclosure action when I have applied for and am being considered for loss mitigation, a foreclosure action was filed on \_\_\_\_\_ with the Index Number \_\_\_\_\_. This conduct constitutes a violation of § 419.11(k).

**(8) \_\_\_\_\_ CONSUMER COMPLAINTS AND INQUIRIES**

On \_\_\_\_\_, I sent my servicer a Qualified Written Request (QWR) or other written inquiry requesting:

- 
- ☐ I never received a response.
  - ☐ The response was untimely; and/or
  - ☐ The response did not address my request because:
- 

This conduct constitutes a violation of § 419.4.

**(9) \_\_\_\_\_ WAIVER OF LEGAL DEFENSES SOUGHT BY SERVICER**

In violation of § 419.11(h), my loan servicer required me to waive legal claims and defenses as a condition of a loan modification, forbearance, or repayment plan offered to me.

*Although my servicer might not have registered with the Department, it must still comply with the regulations at Part 419. Section 419.1(e) defines a servicer as "a person engaging in the servicing of mortgage loans in this state whether or not registered or required to be registered pursuant to paragraph (b-1) of subdivision two of Banking Law section 590" (emphasis added). The Department should subject my servicer to fines pursuant to section 418.10 unless and until my servicer complies with its obligations.*

### **3.6. Using Network Resources**

The second volume of the Resource Guide provides links to organizations, programs and various resources that may be helpful in assisting clients.

#### **3.6.1. Providing Referrals**

An important part of being a counselor is knowing when to refer homeowners to other services. Counselors cannot help homeowners with all of their problems and counselors should be prepared to offer referrals and information regarding services that their agency does not offer.

Best practice: Having a pre-made referral form makes it easy and efficient to refer clients to other services in the community. See the next page for an example of a referral form from a community group.



Sustaining Homes  
Strengthening Communities

37-43 77th Street, 2nd floor | Jackson Heights, NY 11372 | (718) 478-3848 | info@chhayacdc.org | www.chhayacdc.org

## REFERRAL SERVICES

Client Name: \_\_\_\_\_

Counselor Name: \_\_\_\_\_ Counselor e-mail: \_\_\_\_\_

Counselor ext.: \_\_\_\_\_ Referral Date: \_\_\_\_\_

Program: ☐ Housing- tenant related ☐ Housing- landlord related  
☐ Housing-Affordable/public housing ☐ Homeownership  
☐ Foreclosure Prevention ☐ Credit Counseling  
☐ Entitlements/Benefits ☐ ADU  
☐ Other Referral- specify \_\_\_\_\_

Referral to:

<input type="checkbox"/> CIANA: 718-545-4040	<input type="checkbox"/> NICE: 718-205-8796
<input type="checkbox"/> DRUM: 718-205-3036	<input type="checkbox"/> NYC Family Justice Center in Queens: 718-575-4500
<input type="checkbox"/> Green Path: 1866-476-7284	<input type="checkbox"/> Queens County Bar Association: 718-291-4500
<input type="checkbox"/> Housing Court Answers, Queens county court: Carl Peterson: 718-657-0599	<input type="checkbox"/> Queens Community House (ESL classes in Jackson Heights): 718-898-7461
<input type="checkbox"/> Immigrant Tenant Advocacy Project (ITAP): 347-472-3500	<input type="checkbox"/> Queens County Supreme Court: 718-298-100
<input type="checkbox"/> Legal Aid of Queens: 718- 286-2450	<input type="checkbox"/> South Asian Council for Social Services (SACSS): 718- 321-7929
<input type="checkbox"/> Legal Services for the Elderly in Queens: 718-286-1500	<input type="checkbox"/> Sakhi: 212-868-6741
<input type="checkbox"/> Legal Services for NYC: Queens Legal Services, Jamaica and LIC: 347- 592-2200 Bankruptcy Assistance Project: 646-442-3630	<input type="checkbox"/> South Asian Youth Action (SAYA!): 718-651-3484
<input type="checkbox"/> MFY Legal Services: 212-417-3700	<input type="checkbox"/> South Brooklyn Legal Services: 718-246- 3279
<input type="checkbox"/> Money Management International: 1866-889-9347	<input type="checkbox"/> Sunnyside Community Services: 718-784-6173
<input type="checkbox"/> Neighborhood Economic Development Advocacy Project (NEDAP): 212-680-5100 NYC Financial Justice Hotline: 212-925-4929	<input type="checkbox"/> Urban Justice Center: 646-602-5600 <input type="checkbox"/> UJC contact at Queens Family Justice Center: Jessica Spector: 718-5754525
<input type="checkbox"/> NHS-Jamaica: 718-291-7400	<input type="checkbox"/> Other. Specify:
<input type="checkbox"/> NYC Bar Association: 212- 626-7373	

Name of specific referral (if applicable): \_\_\_\_\_

Note:

### **3.6.2. Gap Loans**

New York State Mortgage Assistance Program (NYS-MAP) is one main gap loan in NYC that counselors can use to assist homeowners who need additional funds to help with mortgage arrears, with a couple of other smaller gap loan programs for more minor amounts. The informational sheet on the next page can help you determine in which situations a client should make use of each gap loan. Contact information is also provided.

Funding	Administered By	Type	Criteria ( <i>The Applicant Must...</i> )	Contact
<b>The Bridge Fund</b>	The Bridge Fund of New York City	Rental assistance or home retention loans and grants of  <b>UP TO</b>  \$2,500	<ul style="list-style-type: none"> <li>• Live in the NYC area</li> <li>• Must be in danger of losing housing (rental or owner-occupied)</li> <li>• Provide a concrete plan and documentation proving the source of hardship and that any arrears were not attributed to the homeowner</li> <li>• Also includes financial counseling and other assistance</li> </ul>	Referral from a city agency is required. For more information, contact Housing Court Answers at 212-962-4795
<b>Jarvie Commonwealth Service Emergency Grants</b>	Legal Services NYC	Senior assistance for grants <b>UP TO</b>  \$1,500	<ul style="list-style-type: none"> <li>• Must be 65 and older</li> <li>• Live within 50-mile radius of Columbus Circle, Manhattan</li> <li>• Only one grant per applicant per year</li> <li>• Focus is on assisting the neediest seniors with critical unmet needs</li> <li>• Grants can be used for rental, utility, mortgage, and tax arrears, as well as medical needs, repairs, and relocation expenses</li> </ul>	Jeanette Johnson Legal Services NYC T: (646) 442-3580 <a href="mailto:jjohnson@ls-nyc.org">jjohnson@ls-nyc.org</a>
<b>New York State Mortgage Assistance Program (NYS-MAP)</b>	Sustainable Neighborhoods LLC, an affiliate of the Center for NYC Neighborhoods (Center)	Deferred foreclosure prevention <b>loan</b> of  <b>UP TO</b>  \$40,000  (No monthly repayments, 0% interest, 30 year term)	<ul style="list-style-type: none"> <li>• Work with a HOPP advocate</li> <li>• Own a 1-4 family house, condo, co-op, or manufactured home (if considered real property or part of a cooperative) in New York State</li> <li>• Live in the property as their primary residence (<i>Applicants temporarily displaced due to natural disaster, fire, flooding, or other similar circumstance may be eligible for NYS-MAP</i>)</li> <li>• Have a household income at or below 120% of Area Median Income (AMI)</li> <li>• May now own additional residential real property (<i>Applicants who are losing their additional property in foreclosure, or otherwise unable to liquidate additional property may be eligible for NYS-MAP</i>)</li> </ul> <p>Have received NYC-MAP funding or have an active NYC-MAP application</p> <ul style="list-style-type: none"> <li>• NYS-MAP intervention must be necessary in order to avoid foreclosure or to make monthly mortgage payments affordable</li> <li>• Advocates must first screen homeowners for modifications and other workouts before applying for NYS-MAP funds</li> </ul>	<a href="mailto:map@cnycn.org">map@cnycn.org</a>

NOTE -- For all programs: additional eligibility criteria may apply. The program administrator can help determine if your client qualifies for assistance.

## NYS-MAP ELIGIBILITY CHECKLIST

Please note that this checklist should not be submitted to NYS-MAP and is only meant to function as a tool for advocates to screen clients for NYS-MAP eligibility.

### IS THE PROPERTY ELIGIBLE?

- ☐ The property is located in New York State.
- ☐ The property is one of the following types:
  - ☐ 1-4 family house
  - ☐ condominium
  - ☐ co-op
  - ☐ manufactured home that is owned as real property or part of a co-op

### IS THE APPLICANT ELIGIBLE?

- ☐ The applicant owns the property.
- ☐ The applicant occupies the property as their primary residence. *(Applicants temporarily displaced due to natural disaster, fire, flooding, or other similar circumstance may be eligible for NYS-MAP)*
- ☐ The applicant's household income is at or below 120% AMI. *(Visit [nysmap.org](https://nysmap.org) and take eligibility survey to find out what 120% of AMI is in your client's county)*
- ☐ After NYS-MAP intervention, the applicant's housing cost burden must be affordable: the front-end DTI must be at or below 40%.
- ☐ The applicant's household budget does not show a deficit after NYS-MAP intervention.
- ☐ The applicant does not own additional residential real property, defined as at least 50% ownership interest in an additional property. *(Applicants who are losing their additional property in foreclosure, or otherwise unable to liquidate additional property may be eligible for NYS-MAP)*
- ☐ The applicant passes the NYS-MAP asset test, demonstrating a need for NYS-MAP funds: If the applicant has liquid assets exceeding six months of PITIA, they will be required to make a contribution to the workout or will be determined to not need NYS-MAP funds.
- ☐ For New York City residents only: The applicant has not received NYC-MAP funds and does not have an active application with NYC-MAP.

## IS THE NYS-MAP USE ELIGIBLE?

### Evaluation for other workout possibilities

- ☐ The applicant is applying to NYS-MAP after exhausting other workout possibilities, such as modifications, repayment plans, or subordinations.

Eligible uses (NYS-MAP funds can go to multiple uses for the same case. For example, funds from one NYS-MAP loan can be used to reinstate a first and second mortgage the same time)

- ☐ First mortgage arrears: NYS-MAP funds may be used for a down payment on a modification, a reinstatement, or a payoff.
- ☐ Second mortgage arrears: NYS-MAP funds may be used for a payoff or a reinstatement.
- ☐ Property tax arrears or lien: NYS-MAP funds may be used to pay off a property tax lien or arrears that could lead to foreclosure.
- ☐ Condo association fees, HOA fees, and co-op maintenance fees arrears or lien: NYS-MAP funds may be used to pay off the lien or arrears that could lead to foreclosure.
- ☐ Other liens in foreclosure or pending foreclosure: NYS-MAP funds can be used to pay off other liens is in foreclosure or that could lead to foreclosure. *(For example, a federal tax lien)*
- ☐ Lender-identified title issues or liens blocking a modification: NYS-MAP funds can be used to pay off title issues or liens that are blocking a modification. *(For example, a junior lien that is blocking a modification by refusing to subordinate)*

### NYS-MAP workout requirements

- ☐ The applicant or advocate is prepared to obtain a workout letter (with amount due, due date and physical address for sending funds or wiring information) allowing for funding of the workout within 45 days of NYS-MAP approval.
- ☐ The workout must be affordable (resulting DTI must be at or below 40%).
- ☐ The workout must bring the debt current. *(For example, if the applicant is \$70,000 in mortgage arrears and applying for NYS-MAP to reinstate, NYS-MAP funds could not be used to only partially reinstate the mortgage and leave the applicant still in arrears of \$30,000)*
- ☐ All elements of housing debt must be current (or brought current) upon NYS-MAP intervention. *(For example, if the applicant is \$40,000 in mortgage arrears and \$30,000 in property tax arrears, NYS-MAP funds could not be used to reinstate the mortgage and leave the applicant in property tax arrears of \$30,000.)*

### 3.6.3. Working with Legal Services

Housing counseling and foreclosure legal defense go hand in hand. Assisting a client will often require the knowledge and expertise of both a housing counselor and legal advocate. Counselors and agencies should build relationships with their local legal advocates in order to provide the best assistance to homeowners.

Your client should speak to a lawyer if she or he has a pending foreclosure case.

If the client does not know whether there is a pending court case, the counselor does have some options to determine this fact. The client has a pending foreclosure case if any of the following are true.

1. The client has received court papers with an index numbers.
2. A case is listed under the client's name or the name of another borrower on the mortgage on ecourts. (<http://iapps.courts.state.ny.us/webcivil/FCASMain> - search using the name as it appears on the mortgage).
3. A summons and complaint has been filed with the county clerk
  - a. Bronx: <http://www.bronxcountyclerkinfo.com/law/UI/Admin/login.aspx>
  - b. Brooklyn: <http://iapps.courts.state.ny.us/kcco/>
  - c. Queens: <http://iapps.courts.state.ny.us/qcco/>

In these cases, a lawyer can:

- Assist with filing response papers in an answer or opposition to a motion (limited time to do so—usually 20 days)
- Review homeowner's situation for possible defenses
- Represent the homeowner at settlement conferences, advocate on the client's behalf if the bank isn't cooperating, and request court orders sanctioning invalid modification denials (ex. tolling interest, requiring a bank rep at the conference, etc. case dismissal, etc.)
- Represent the homeowner at court appearances
- In rare cases, delay a pending auction or vacate a Judgment of Foreclosure.

Your client should speak to a lawyer if she or he owns a cooperative share (co-op).

Borrowers who own a co-op are eligible for modifications under HAMP and the other loan modification programs. However, cooperative shares are not subject to the judicial foreclosure process in New York State. As a result, an owner of a coop who is behind on his or her mortgage will not be served with a foreclosure complaint, will not receive settlement conferences and faces a speedy foreclosure process. Counselors who see a homeowner who is behind on a coop mortgage should immediately contact legal services for help determining the status of the case and if necessary, delaying the sale. Counselors should also prioritize submission of applications for coop owners.



Your client should speak to a lawyer if she or he had issues with the loan origination.

Examples: Deed-theft, bait-and-switch (promised something different), TILA limited time to raise these issues—usually 3 years from origination

In these cases, a lawyer can:

- Review the homeowner's situation for possible claims
- File papers suing the bank, broker, or other bad actors
- Represent the homeowner at court appearances
- If successful, could win a judgment that would give the homeowner money, reduce his/ her mortgage balance, or rescind the loan.

Your client should speak to a lawyer if she or he has issues with the servicing of the loan.

Examples: improper allocation of payments, problems with the escrow account, invalid HAMP denial

A lawyer can:

- Review the homeowner's situation for possible claims
- Draft a qualified written request
- Assist in clearing title issues that impair loan modification
- Represent the homeowner at court appearances
- in rare cases, file papers suing the bank, broker, or other bad actors. If successful, the lawyer could win a judgment that would give the homeowner money, reduce his/ her mortgage balance, rescind the loan, or modify the mortgage.

Best Practice Example : Staten Island Legal Services and NHS of Staten Island

The partnership between Staten Island Legal Services (SILS) and Neighborhood Housing Services of Staten Island (NHSSI) is an example of how a housing counseling agency and legal services organization can work together to make sure that homeowners in their community are provided with complete services and strong advocacy.

SILS and NHSSI maintain a strong, open line of communication where mutual clients are regularly discussed and appropriate referrals are frequently given. There is a clear division of labor where NHSSI provides counseling, helps clients apply for gap loans and assists with preparing loan modification applications and SILS provides legal advice and legal assistance. In situations where SILS cannot assist a homeowner due to income restrictions, they will refer those clients to NHSSI to make sure that individual receives some form of assistance. This results in an efficient means of helping homeowners.

This relationship is strengthened through bi-monthly task force meetings held by the two organizations. At these meetings SILS and NHSSI provide each other with updates on procedure and law and ensure that both organizations have up to date information that is vital in assisting homeowners. Lawyers and counselors often work in isolation from each other but the relationship between SILS and NHSSI is a prime example of organizations collaborating in order to make sure clients receive comprehensive assistance.

#### **3.6.4. Settlement Conference Notes**

Counselors should be organized and prepared with documents and notes when assisting a client to attend a settlement conference on his or her own, or when attending settlement conference with clients. Maintaining detailed notes before, during, and after a settlement conference is important to maintaining information that may be needed for litigation and escalations. Counselors are encouraged to use the following settlement conference note form in the following page to record information regarding a client's settlement conference.

Counselors should refer their clients to a lawyer whether or not they assist with settlement conferences, especially if they believe that the servicer has acted with a lack of good faith or has delayed modification of the loan in a way that has harmed your client. For example:

- You believe client should qualify for a loan modification, but the bank has issued an improper denial and refuses to address your concerns about the denial
- Your client has completed trial period plan, or has submitted documents over and over, and servicer now tells you for the first time that there is an investor restriction that prohibits modifying the loan
- Your client has completed trial period plan but instead of offering permanent modification, servicer tells you that there are liens or judgments that have to be resolved
- You believe your client should qualify for a loan modification, but the bank keeps asking for more documents/updated documents/documents that are not actually required

Your client successfully completed a trial period plan, but instead of offering a permanent modification, the bank says your client has to submit a whole new package.

## SETTLEMENT CONFERENCE NOTES

PRELIMINARY INFO							
<b>Index No:</b>		<b>Conference date:</b>					
<b>Dates of prior conferences:</b>		<b>JHO/Referee:</b>					
<b>Casehandler:</b>		<b>phone #:</b>					
FINANCIAL INFO							
<b>Employment income (gross):</b>	\$	<b>Rental income:</b>	\$	<b>Other income:</b>	\$	<b>TOTAL HAMP INCOME:</b>	\$
<b>Affordable PITI:</b>		\$	<b>Affordable P&amp;I:</b>		\$		
<b>Proposed Modification Terms:</b>							
<b>Modification application submitted? Inc date.</b>				<b>Status of application?</b>			
<b>Details of mod status:</b>							
<b>Relevant background info:</b>							
<b>Notes re last SC (orders, instructions, agreements, representations)?</b>							
<b>INSTRUCTIONS /GOALS FOR THIS CONFERENCE</b>							

CONFERENCE REPORT			
<b>Next SC date:</b>		<b>Referee:</b>	
<b>Opp counsel name/firm:</b>		<b>Atty name:</b>	
<b>Opp counsel contact (if not the atty appearing):</b>		<b>Did you receive...</b>	<input type="checkbox"/> Payment history <input type="checkbox"/> Payoff quote <input type="checkbox"/> Reinstatement <input type="checkbox"/> Notices
<b>Did servicer appear? Phone or in person?</b>		<b>Name/phone/fax for servicer contact</b>	
<b>Opposing counsel said:</b>			
<b>Servicer said:</b>			
<b>Homeowner said:</b>			
<b>Referee said:</b>			
<b>Order issued:</b>			
<b>Documents given to servicer:</b>			
<b>Notices/Documents received from servicer:</b>			
<b>Instructions/Deadlines:</b>			

### **3.6.5. Rehabilitation Loans**

Many of the Center's partner agencies provide loans for rehabilitation and are open to any of New York City's residents. Parodneck, and Neighborhood Housing Services (NHS) of NYC both have programs to assist homeowners who need to make repairs.

#### The Parodneck Foundation's SCHAP Program

The Parodneck Foundation's Senior Citizen Homeowner Assistance Program (SCHAP) provides financial assistance to senior citizen homeowners who are living in physically deteriorated housing or who are in danger of losing their homes to foreclosure.

#### Who is eligible for assistance through SCHAP?

To be eligible, a senior must reside in any of the five boroughs in the City of New York, be at least 60 years old, and have been an owner-occupant of a one- to four-family home for at least two years. Homes must have property and liability Insurance. Seniors household incomes, including rental income, cannot exceed the income area median income.

#### What services does SCHAP offer?

- Senior-Help Deferred/Forgivable Loan Program
- Senior-Help Repayment Loan Program
- The Parodneck Foundation Revolving Loan Fund Program
- Predatory Lending Remediation Loan

#### For more information or an application, contact:

The Parodneck Foundation  
(212) 431-9700 ext. 300

Please see the next page for the NHS loan products.

# Neighborhood Housing Services of New York City Inc.

## Loan Product Chart

Loan Program	Emergency Repair Loan	60% Rehab Grant	Moderate Rehab Loan
Eligible Property	1-4 unit buildings, condominiums and in New York City	1-4 unit dwellings, condominiums and in New York City	1-4 unit residential and mixed-use buildings and Condominiums located in NYC For Mixed-use properties the owner must operate a business in the commercial space or occupy 1 unit
Eligible Borrower's	Must own and occupy subject property	Must own and occupy the subject property	Must own and occupy subject property
Use of funds	Provide financing to eliminate conditions the health and safety of occupants	Matching funds with Rehab Loans	Necessary Repairs to interior and exterior of subject properties
Maximum Loan Amt.	\$10,000	Up to \$10,000	\$99,000 Minimum \$20,000
Term	5 year fixed rate	10 year recapture	Up to 15 years
Interest Rate	3% -5%	0%	6% - 7%
Security	UCC-1	Mortgage	Mortgage
Application Fee	\$100	\$0	\$100
Origination Fee	NA	\$0	2% of loan amount
Rehab Fee	Not Applicable with estimate from licensed and insured contractor	1% - 3% of project cost	1% - 3% of rehab amount
Combined Loan-to-value Ratio	1-4 Family 95%, Condo, 100%	N/A	1-4 Family 95%, Condo, 100% and Mixed Use 90%
Debt-to-Income-Ratio	1-4 Family, Condo	N/A	1-4 Family, Condo Mixed-Use 40%
Borrower Contribution	Must pay closing costs	N/A	Must pay closing costs
Income	No maximum in NHS Service Areas	Up to 112 % AMI	Up to 140% AMI
Offices	All Neighborhood Offices and Central Services	All Neighborhood Offices and Central Services	All Neighborhood Offices and Central Services

### 3.6.6. Center Resources

#### Network Partner Portal

The Center's Network Partner Portal is a centralized place for counselors to access resources, information about our programs, and a calendar of trainings and events. You can access it through our website, [cnycn.org](http://cnycn.org), and clicking on Network Partner Login on the top left corner (see arrow below).



#### *Login Access*

You can request a username and password by click on “Request Login” at the login page. You can also send an email to Courina Yulisa at [courina.yulisa@cnycn.org](mailto:courina.yulisa@cnycn.org).

#### *Components*

A calendar of trainings and events is available, and lists trainings from other parties that would relate to foreclosure prevention and Sandy recovery.

There is also a section for Resources and Programs, which consists of past training videos and materials, details on the Center's programs (NYS-MAP, HMP, etc.), and guidance for the Center's grants and reporting,

The Network Partner Locations page offers a map of our Network Partner office locations and contact information. There is also a referral list for your information.

#### CENTER/CXHE Yahoo Group Listserv

The Center/CXHE Yahoo group listserv can be highly beneficial to counselors and attorneys. Counselors should not hesitate to use the listserv to connect with peers, learn new information, and to make referrals.

The main purpose of the group is to gather, share and record the vast knowledge of its members.

#### *Getting the Most from the Group*

The group is maintained online as a Yahoo group. There is a group homepage where members can access the message archives. The group calendar and data files are no longer updated as the Network Partner Portal provides these items.

Use the following link to access the group via the web and use its web features (links, databases, files, archives, etc.)

<http://help.yahoo.com/l/us/yahoo/groups/original/members/email/email-07.html?terms=get+the+most+of+yahoo+groups>

### *Manage the level of volume*

The easiest way to manage the level of volume is through Microsoft Outlook's ability to automatically direct mail to a specified folder.

- Choose a group message from the inbox.
- Right-click the message
- Click Create Rule.
- In the Create Rule dialog box, select messages from [CNYCN\\_counseling@yahoogroups.com](mailto:CNYCN_counseling@yahoogroups.com) then "move to a specified folder" then create a folder in your inbox and name it whatever you'd like.
- To add more conditions, actions, or exceptions to the rule, click Advanced Options, and then follow the rest of the instructions in the Rules Wizard.
- Then choose "run rules" and all messages from the listserv will go into the folder for your convenience.

You can also manage your email volume by choosing to read messages online at the group site or by receiving emails as a daily digest.

### *Sending messages*

The group is set up so if you hit reply it will send a message to everyone on the listserv. If you want to reply to the sender only, you will need to delete the group email from the "To" box and replace it with the sender's email. The sender's email will appear at the top of the message.

To send new messages directly to everyone in the group just send an email from the address you used when you joined (most likely your work address) to [CNYCN\\_counseling@yahoogroups.com](mailto:CNYCN_counseling@yahoogroups.com)

### *Tips and Links*

Add another email address

<http://help.yahoo.com/l/us/yahoo/groups/original/members/email/email-03.html>

Remove an email address

<http://help.yahoo.com/l/us/yahoo/groups/original/members/email/email-04.html>



How to join the group (for others in your organization)

<http://help.yahoo.com/l/us/yahoo/groups/original/members/manage/manage-06.html?terms=Join+a+group>

How to add a link:

<http://help.yahoo.com/l/us/yahoo/groups/original/members/web/web-25.html?terms=add+a+link>

### Mentoring Program

The Center for New York City Neighborhood's (Center) Mentoring Program allows housing counselors across New York City to pass on institutional knowledge and build best practices. The program encourages knowledge-sharing between established foreclosure prevention experts and less experienced counselors who are still growing in their expertise.

Mentors are chosen from the most advanced counselors within the Center's network. Mentors work directly to train less proficient and newly hired staff at partner organizations. The mentoring program is customized to the individual – new employees may be offered a full two weeks of mentoring, whereas existing counselors may be offered a more limited program. Training and guidance are provided by the Center staff and technical assistance providers.

By shadowing a mentor for up to two weeks as the mentor performs their day-to-day work, apprentices learn by example. The apprentice will also gain a role model and a valuable and lasting resource.

Both mentors and apprentices have an opportunity to expand their interpersonal and technical skills through this relationship. Apprentices develop the requisite skills to perform at the highest level and mentors gain experience as leaders and teachers.

### The Center's Real Estate Broker Referral List

If a short sale is the best option for the homeowner, it's important that the homeowner use a real estate broker who is experienced in conducting short sales. Counselors can use the Center's real estate broker referral list located in the Appendix of this Guide to help homeowners find a broker who can be of assistance. Please contact Rudy Ulin at [rudy.uln@cnycn.org](mailto:rudy.uln@cnycn.org) for any questions and referral guidance.

### **3.6.7. Office of Financial Empowerment (OFE)**

The Office of Financial Empowerment offers financial education and counseling through their Financial Empowerment Network (FEN) and their Financial Empowerment Centers (FECs).

OFE seeks to improve access to income-boosting tax credits, connect households to safe and affordable banking and asset-building products and services and enforce and improve consumer protections to enhance financial stability.

Ways that community groups to partner with OFE:

Consider having an OFE representative assist you in-house

- NHS of East Flatbush has an OFE financial counselor who has a space in the office location and meet with homeowners who need financial assistance.
- NHS of East Flatbush counselors have access to the OFE counselor's calendar and can schedule clients to meet with the counselor.
- There is a great benefit to the homeowner who is able to receive foreclosure prevention services and financial services in one location.

Consider setting up a referral system

- Set up a formal, online referral system that allows counselors to specify what type of counseling the homeowner needs and details the urgency with which the homeowner needs to see the counselor.
- This system formalizes the communication and referral system between the counseling agency and the FEC.

Frequently Asked Questions for Referral Partners

*New York City Financial Empowerment Centers*

- 1) What should I bring to my first Financial Empowerment Center Appointment?

First time clients should bring information about their income and expenses, including any bills, banking statements, debt collection letters or anything else that might help them review their budget and balance their finances. Counselors will use this information to understand the client's financial situation and determine the next steps to improve their financial health. Some Centers may also require identification and clients should bring this whenever possible.

- 2) What should I expect when I go to a Financial Empowerment Center appointment?

The City's network of Financial Empowerment Centers offer free one-on-one professional financial counseling in multiple languages. The City's Centers help clients take control of their debt, deal with debt collectors, improve their credit, create a budget, find safe and affordable financial products, and much more. Financial Empowerment Center counseling increases the recipient's knowledge and ability to take self-improving action these areas and is conducted with the goal of achieving financial outcomes for the client.

Initial face to face meeting between a financial counselor and a client is scheduled for one hour and achieves at least one financial goal for the client. Clients will be asked to sign a service agreement and which explains that their personal financial information will remain confidential, unless he/she grants express permission to share specific information. They will also complete a Financial Health Assessment with the counselor which gives a better understanding of the client's budget financial situation.

### 3) What services are offered at Financial Empowerment Centers?

OFE has defined the following four financial counseling service plans for clients. These arenas constitute the major financial areas in which clients can make improvements to become financially empowered.

- Reducing Debt
- Improving Credit
- Increasing Savings
- Access to Banking

Please note that although budgeting is not a service plan, it is key to achieving any financial outcomes and clients will complete a budget with their counselor. Clients may choose to participate in more than one service plan simultaneously. The counselor will work with the client to determine the best service plan and help the client meet their individual financial goals.

Clients can call 212-487-4583 for an appointment.

### **3.6.8. Bankruptcy**

Filing for bankruptcy has serious legal effects. Counselors should be very careful when discussing bankruptcy with homeowners. Counselors should not advise homeowners on whether or not they should file for bankruptcy. Homeowners should not decide to file for bankruptcy without first speaking to an attorney.

#### Reasons to File for Bankruptcy

Homeowners may want to file for bankruptcy for the following reasons:

- Protect wages
- Protect bank accounts
- Save secured property from foreclosure/repossession
- Stop creditor harassment
- Eliminate or reduce consumer debt such as credit cards and medical bills
- Rebuild credit rating - Bankruptcy usually improves a debtor's credit rating over time—often immediately.

Counselors can refer homeowners to legal services or their borough bar association to

assist homeowners in learning more about bankruptcy and to help homeowners find a bankruptcy attorney. Some legal services providers also have their own consumer bankruptcy programs, notably Legal Services NYC, City Bar Justice Center, and the Volunteer Lawyer Projects associated with the borough bar associations.

### Types of Bankruptcy

#### *Chapter 7*

In Chapter 7 bankruptcy, the trustee gathers and sells the debtor's nonexempt assets and uses the proceeds to pay creditors. The Bankruptcy Code will allow the debtor to keep certain "exempt" property but remaining assets will be liquidated.

This type of bankruptcy is suitable for debtors without income who have other debts.

#### *Chapter 13*

A Chapter 13 bankruptcy lets individuals with regular income develop a plan to repay all or part of their debts. Debtors propose a repayment plan to make installments to creditors over three to five years. Most of the bankruptcy courts have instituted a loss mitigation procedure for dealing with mortgage default, and can be accessed through a Chapter 13 bankruptcy.

During this time the law forbids creditors from starting or continuing collection efforts.

If a debtor has a second mortgage that is completely underwater, it is possible that the second mortgage can be "stripped off" in Chapter 13 Bankruptcy, which means it is eliminated and no longer has to be paid.

This type of bankruptcy is suitable for the following types of debtors:

- Debtors with property or assets they would lose in Chapter 7
- Debtors who are behind on their mortgage and have enough income to catch up over 5 years
- Debtors who are strong candidates for loss mitigation options

### HAMP and Bankruptcy

Homeowners in active Chapter 7 or Chapter 13 bankruptcy cases are eligible for HAMP at the servicer's discretion in accordance with investor guidelines. However, servicers are not required to solicit these borrowers proactively for HAMP. Instead, the homeowner, homeowner's counsel or bankruptcy trustee must submit a request to the servicer.

Note: Keep in mind that if your client is dealing with a bankruptcy attorney, you may end up out of the loop in terms of communications with the servicer. Counselors should maintain contact with the homeowner and urge the homeowner to maintain contact with

the counselor and the bankruptcy attorney so that all parties stay informed.

### **3.6.9. Foreclosure Rescue Scams**

Counselors should be knowledgeable about common foreclosure rescue scams so that they can help homeowners in their community avoid predators and help clients report scams. Homeowners who are victims of a loan modification scam can learn more about scams and report a scam at [www.preventloanscams.org](http://www.preventloanscams.org) and [www.loanscamalert.org](http://www.loanscamalert.org).

The following are signs of loan modification scams:

- Homeowner is guaranteed a loan modification
- Homeowner is asked to pay a fee for assistance
- Homeowner is asked to redirect mortgage payments to a party other than the servicer
- Homeowner is asked to sign over title to the property
- Homeowner is asked to stop making loan payments
- Scammers claim to offer “official government” or “government-approved” modifications
- A company the homeowner doesn’t know asks for financial information over the phone or online

#### Types of Foreclosure Rescue Scams

##### *Phantom Loan Modification Scams*

Phantom loan modification scams occur where a homeowner is asked to pay a high fee for help modifying his or her mortgage. This is the most common type of loan modification scam.

Once the fee has been paid, the alleged rescuer does nothing or next to nothing to provide the help offered or advertised.

##### *Fraud by Impersonation*

A related situation involves a scammer who pretends to help a borrower renegotiate their mortgage with their lender, only to redirect the payments supposedly for the servicer to someone else without the lender’s knowledge. Often the scammers pose as representatives of the mortgage servicer or a government program.

##### *Sham Lawsuits*

A law firm or “attorney” offers to sue the banks on behalf of the homeowner, sometimes calling it a class-action lawsuit. In exchange for the retainer fees, the scammer promises to represent the homeowner in a lawsuit, sometimes even filing fake complaints with the court that will get dismissed at a later time.

### *Title Scams*

These sale/lease-back title schemes typically consist of the homeowner surrendering his or her title to the property to the “rescuer” or a “straw buyer”.

In exchange for the title, the rescuer (who sometimes refers to himself as an “equity purchaser”) often promises to pay the mortgage, allow the homeowner to rent the property and give the homeowner an opportunity to repurchase the property after a period of time.

However, the contract terms for the buy-back are usually so onerous or the straw buyer disappears that actual buy-back is impossible.

The transfer of the deed also allows the rescuer to evict the former homeowner, raise the rent, sell the property or drain the equity value from the property. The homeowner loses possession of his or her property, is stripped of equity and remains liable for the balance of the mortgage.

### *“Bait and Switch” Scams*

Similar to the title scams, the Bait and Switch scam occurs where homeowners do not realize they are surrendering ownership of their house in exchange for a “rescue.” Either the sale documents are forged or the homeowners are led to believe they are only signing documents for a new loan to make the mortgage current.

### *Forensic Audit Scams*

Forensic audit scams take advantage of robo-signing and wrongful foreclosure suit news to convince homeowners that they will be able to find a flaw in the homeowner’s mortgage documents, then charges an upfront fee. These “auditors” offer “experts” to review the documents to see if they can force banks to provide a modification or nullify the mortgage.

### *Bankruptcy Foreclosure*

In a Bankruptcy Foreclosure scam, the scam artist purports to negotiate a refinancing with the homeowner’s lender after collecting an upfront fee from the homeowner. Instead of contacting the lender, the scammer pockets the fee and files a bankruptcy case in the homeowner’s name and without the homeowner’s knowledge to temporarily stop the foreclosure.

## **4. Follow Up**

### **4.1. Challenging Common Denials**

The chart on the following page matches common reasons for denial with suggested follow up steps.

Reason For Denial	Follow Up Needed
Excessive Forbearance	<p>Obtain payment history and calculate interest to confirm arrears are accurate.</p> <p>Request tolling if arrears were accumulated because of significant servicer delay.</p> <p>If client has savings, request to pay down the principal balance.</p>
Title Issues	<p>If the debt is not valid, request a non-identity affidavit.</p> <p>Contact debt holder to see if debt can be satisfied or subordinated</p> <p>Consult New Economy Project or a legal services provider to determine if debts can be challenged.</p>
Failure to Review within 30 days	<p>Escalate within the Servicer in writing.</p> <p>Contact the MHA Support Center.</p> <p>Remember: Request in writing that interest be tolled and fees waived during the review.</p>
Incomplete Information	<p>Update any legitimately missing documents.</p> <p>If the notice asks for documents lost by servicer, send proof of submission to an escalation contact.</p> <p>If the notice is asking for inappropriate documents, escalate.</p>
Investor Guidelines	<p>Ask for the specific guidelines that govern modifications. Request a copy of the PSA.</p> <p>Ask what efforts the servicer has taken to obtain a waiver of the restriction.</p> <p>Consult legal services if you cannot confirm that the restriction exists.</p>
NPV failure	<p>Review the NPV Inputs, including property value, the terms of the modification, income, arrears the version of the test, the date run, and the result of the test.</p> <p>Run the Inputs on CheckMyNPV.com.</p> <p>Is the property value current and accurate? Get BPO through the Center's broker list.</p>



## 4.2. Escalations

### Reasons to Escalate a Case

Counselors should escalate a client's case through the Center's Escalation Program if one of the following occur:

- An application is taking more than 90 days to be processed
- The client's paperwork is lost several times
- The servicer gives you inconsistent answers or offers
- The modification is not affordable
- The modification terms are not clearly spelled out
- The HAMP modification waterfall steps were skipped or not applied
- There is no permanent modification agreement after more than 3 months of trial modification payments
- Wrongful denial
- To rectify title issues that prevent a workout
- Servicing transfer issues
- The servicer is using dual tracking
- Delay in receiving counter-signed documents

You can contact Candybelle Acevedo at [Candybelle.acevedo@cnycn.org](mailto:Candybelle.acevedo@cnycn.org) or 646-786-0891 for questions about case submission. Details can be found at the Center's Network Partner Portal.

### Sample Escalation Client

Mr. and Mrs. P own a home in Queens, NY. They have suffered a permanent loss of income and are several months behind on their loan. Their counselor helped them prepare a HAMP application with Bank B. They have a Fannie Mae owned mortgage. Their current finances were:

Gross Monthly Income	\$7500
Unpaid Principal Balance (UPB)	\$500,592.12
Accrued Arrears	69,823.98
New Unpaid Balance	\$570,416
Current Rate	7.75%
Current P/I	\$4,298.47
Taxes & Insurance	\$509.03
Current PITIA	\$4807.50
Current Front End DTI	64%

On 12/1/2009, Mr. and Mrs. P received the following modification offer from Bank B.

Rate	3.625%
Term	27 years
Principal Forbearance	0
Principal Forgiveness	0
Monthly P/I	\$2762.91
Taxes & Insurance	\$509.03
PITIA	\$3271.94
Proposed Front End DTI	44%

Reason for Escalation: DTI is higher than 44% of gross monthly income.

The Center submitted an escalation request to Bank B's Vice President of Loss Mitigation requesting the file be reviewed as the ratio was above HAMP guidelines. Our first request received a reply stating "it doesn't appear that they can afford the loan." We replied by email using the application of the HAMP waterfall in the proper order.

#### Applying the Waterfall

Step 1a:	Request Monthly Gross Income	\$7500
Step 1b:	Validate total first lien debt and monthly payments (PITIA).	\$500,592.12
Step 2:	Capitalize arrearage.	\$69,823.98
Step 3:	Target a Front-End DTI of 31%.	\$2325 PITI
Step 4:	Reduce the interest rate to reach the Front-End DTI Target (subject to a floor of 2%).	At 2% the PITI = \$2788.93. Move to term extension
Step 5:	If the Front-End DTI Target has not been reached, extend the term of the loan up to 40 years.	At 37 year term and 2% the PITI = 2328.22. Ratio is at 31.04%
Step 6:	If the Front-End DTI Target has not been reached, forbear principal	Not required

The Center proposed the following modification:

Rate	2%
Term	37 years
Principal Forbearance	0
Principal Forgiveness	0
Monthly P/I	\$1819.19
Taxes & Insurance	\$509.03
PITIA	\$2328.22
Proposed Front End DTI	31%

Bank B's Vice President did not respond to this request. For 2 months, the Center worked through our contacts at Bank B until we were finally offered a review of our escalations. During this review we were told that Mr. & Mrs. P's file had been given careful consideration and they would be receiving a non-HAMP modification with better than HAMP terms. The final offer was:

Rate	2%
Term	40 years
Principal Forbearance	0
Principal Forgiveness	0
Monthly P/I	\$1747.14
Taxes & Insurance	\$509.03
PITIA	\$2256.17
Proposed Front End DTI	30%

Outcome of Escalation: Mr. & Mrs. P received a permanent modification with a rate of 2% for the first 5 years of the 40 year term. The rate will increase 1% per year for years 6-8. In year 9, the loan will convert to a fixed term of 5.125%. Their maximum P/I payment will be \$2679.13.

### **4.3. Review Offers and Agreements**

It is important that counselors help homeowners understand any offers received from the servicer. Whether the offer is for a forbearance, a repayment plan or a modification, review the agreements carefully and make sure the homeowner has a complete understanding of the terms.

#### **4.3.1. New terms**

Make sure that the agreement is beneficial to the homeowner and make sure the homeowner understands the benefits and terms of the agreement.

Counselors should be familiar with the language in a standard HAMP trial modification and a standard HAMP permanent modification. A template for a HAMP modification is included in this packet.

Point out the interest rate. Review the new interest rate with the homeowner. If the offer is a HAMP modification, make sure that the homeowner understands any future interest rate increases and the gradual increase to a market interest rate after five years. Homeowners should understand how future increases will impact the affordability of the loan.

Point out any increases in the term of the loan. Homeowners should be made aware of any changes to the term of the loan so they understand how the new agreement impacts their ability to pay off the mortgage. If a homeowner expected to pay off their

# HELPING YOU STAY IN YOUR HOME.



**You may be able to make your payments more affordable.  
Act now to get the help you need!**

[Servicer Logo]

[Date]

[Name]

[Address 1]

[Address 2]

Loan #:

Property Address:

Dear \_\_\_\_\_

**Congratulations!** You are eligible for a Home Affordable Modification. As previously described, if you comply with the terms of the Home Affordable Modification trial period plan, we will modify your mortgage loan and waive all prior late charges that remain unpaid.

The enclosed Home Affordable Modification Agreement ("Modification Agreement") reflects the proposed terms of your modified mortgage.

**How to Accept This Offer:**

## **STEP 1 COMPLETE AND RETURN THE ENCLOSED AGREEMENT BY THE DUE DATE**

To accept this offer, you must sign and return both copies of the Modification Agreement to us in the enclosed, pre-paid envelope by **[INSERT DATE]**. If the Modification Agreement has notary provisions at the end, you must sign both copies before a notary public and return the notarized copies to us. We encourage you to make a copy of all documents for your records. If you do not send both signed copies of the Modification Agreement by the above date, you must contact us if you still wish to be considered for this program and have your loan modified.

## **STEP 2 CONTINUE TO MAKE YOUR TRIAL PERIOD PAYMENTS ON TIME**

Be certain to make any remaining trial period payments on or before the dates they are due. If the trial period payments are made after their due dates or in amounts different from the amount required, your loan may not be modified.

To better understand the proposed terms of your modified mortgage, please read the attached summary of your modified mortgage and the Modification Agreement.

*[Insert one of the following clauses:]*

- Once your first mortgage is permanently modified under HAMP if you have a second mortgage on the same property, you may be eligible for a modification on your second mortgage under the Second Lien Modification Program (2MP). Please visit [www.MakingHomeAffordable.gov/programs/second-mortgage-help/Pages/default.aspx](http://www.MakingHomeAffordable.gov/programs/second-mortgage-help/Pages/default.aspx) to see if your second mortgage servicer is participating in 2MP. If your second mortgage servicer is participating, you should hear from them within 60 days. If not, please contact them directly to see if you are eligible for a modification; or
- [Name of Servicer] also services a second mortgage loan on your property. Within the next 60 days, [Name of Servicer] will review your second mortgage loan to determine if it is eligible for modification and will communicate our determination to you in writing. If you have not received communication from [Name of Servicer] within that time you may contact [provide relationship manager/single point of contact information].

We look forward to hearing from you no later than *[insert date]*.

Sincerely,

The Making Home Affordable Program was created to help millions of homeowners refinance or modify their mortgages. As part of this program, we – your mortgage servicer – and the Federal Government are working to offer you options to help you stay in your home.

Attachments: Summary of Your Modified Mortgage, Two copies of the Modification Agreement

**NEW PRINCIPAL BALANCE.** Any past due amounts as of the end of the trial period, including unpaid interest, real estate taxes, insurance premiums, and certain assessments paid on your behalf to a third party, will be added to your mortgage loan balance. In addition, your mortgage insurance premium may increase as a result of the higher mortgage loan balance. **If you fulfill the terms of the trial period including, but not limited to, making any remaining trial period payments, we will waive ALL late charges that have accrued and remain unpaid at the end of the trial period.**

**[INTEREST RATE.** The interest rate on your modified loan will be adjusted as noted in the attached Modification Agreement in Section 3.C.]

**[TERM EXTENSION.** To reduce your mortgage payment, we will extend the term of your mortgage. This means we will spread your payments over a longer period.]

**[DEFERRAL OF PRINCIPAL.** To further reduce your mortgage payment, we will defer collection of and not collect interest on \$\_\_\_\_\_ of your outstanding principal. You will not be required to make monthly payments on that portion. This portion of principal will be due when you pay off the modified loan, which will be when you sell or transfer an interest in your house, refinance the loan, or when the last scheduled payment is due.]

**[PRINCIPAL FORGIVENESS.** To further reduce your mortgage payment, we will forgive a portion of your outstanding principal equal to \$\_\_\_\_\_. You will never be required to repay this amount. However, there could be income tax consequences related to this forgiveness, and you should consult a tax advisor.]

**[PRINCIPAL REDUCTION ALTERNATIVE.** You may be eligible to have some of your principal forgiven on a deferred basis. If you make your monthly mortgage payments on time, we will forgive \$\_\_\_ of the principal balance of your loan each year on the anniversary of your first trial period payment date for three years. You will lose this benefit if your modified loan loses good standing, which means that the equivalent of three full monthly payments are due and unpaid on the last day of any month, at any time during this three-year period, including all accrued and unapplied amounts, even if the mortgage loan is later brought current. Any principal forgiveness will be reported to the Internal Revenue Service and may have tax consequences. Therefore, you are advised to seek guidance from a tax professional. Please contact us at 1.8XX.XXX.XXXX if you do not want principal forgiveness, we may have other modification options for you.]

**[ESCROW ACCOUNT.** The terms of your Modification Agreement require the servicer to set aside a portion of your new monthly payment in an escrow account for payment of your property taxes, insurance premiums and other required fees. Any prior waiver of escrows by your lender is no longer in effect. [Servicer] will draw on this account to pay your real estate taxes and insurance premiums as they come due. Please note that your escrow payment amount will adjust if your taxes, insurance premiums and/or assessment amounts change, so the amount of your monthly payment that [Servicer] must place in escrow will also adjust as permitted by law. This means that your monthly payment may change. Your initial monthly escrow payment will be \$\_\_\_\_\_. This amount is included in the loan payment noted in Section 3.C. of the enclosed Modification Agreement; you do not need to remit this amount separately.]

**[ESCROW SHORTAGE.** Due to the timing of your tax and insurance payments, we have determined that there is a shortage of funds in your escrow account in the amount of \$\_\_\_\_\_. You may pay this amount over a \_\_\_\_-year (\_\_\_ months) period. This monthly payment has already been included in the monthly escrow payment stated above. **If you wish to pay the total shortage now in a lump sum, please contact us. Paying this amount now in a lump sum will reduce your new monthly mortgage payment.]** [Servicer may include alternative provisions to deal with an escrow shortage in accordance with applicable law.]

**PAYMENT SCHEDULE.** The enclosed Modification Agreement includes a payment schedule in Section 3.C. showing your payment plan for the life of your modified loan after the trial period.

**FEES.** There are no fees or other charges for this modification.

**REPRESENTATIONS.** Please read the enclosed Modification Agreement carefully and make sure that you understand it and that the statements set forth therein, including, but not limited to, the "My Representations" section, are true and accurate. If you have any questions, please contact us at [1.8XX.XXX.XXXX].

**[BORROWER INCENTIVE.** If you make your monthly mortgage payments on time, you will accrue a monthly benefit equal to \$\_\_\_\_\_ [the lesser of: (i) \$83.33 or (ii) one-half of the reduction in the monthly mortgage payment]. As long as your mortgage loan does not lose good standing, which means that the equivalent of three full monthly payments are due and unpaid on the last day of any month, we will apply your accrued monthly benefit to your mortgage loan and reduce your principal balance after each of the first through fifth anniversaries of the month in which the trial period plan is executed. If your modified loan loses good standing at any time during this five-year period, you will lose all accrued but unapplied principal reduction benefits and will no longer be eligible to accrue additional principal reduction benefits even if the mortgage loan is later brought current.] ***[This provision should only be included if the modification is under HAMP Tier 1 (not HAMP Tier 2) and the borrower's monthly mortgage payment (principal, interest, property taxes, hazard insurance, flood insurance, condominium association fees and homeowner's association fees, as applicable, but excluding mortgage insurance) is reduced through the Home Affordable Modification Program by six percent or more.]***

Investor Loan # \_\_\_\_\_

**After Recording Return To:**

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

This document was prepared by \_\_\_\_\_

\_\_\_\_\_  
[Space Above This Line For Recording Data]\_\_\_\_\_

## HOME AFFORDABLE MODIFICATION AGREEMENT

Borrower ("I"):<sup>1</sup>

Lender or Servicer ("Lender"):

Date of first lien mortgage, deed of trust, or security deed ("Mortgage") and Note ("Note"):

Loan Number:

Property Address [and Legal Description if recordation is necessary] ("Property"):

If my representations and covenants in Section 1 continue to be true in all material respects, then this Home Affordable Modification Agreement ("Agreement") will, as set forth in Section 3, amend and supplement (1) the Mortgage on the Property, and (2) the Note secured by the Mortgage. The Mortgage and Note together, as they may previously have been amended, are referred to as the "Loan Documents." Capitalized terms used in this Agreement and not defined have the meaning given to them in Loan Documents.

I understand that after I sign and return two copies of this Agreement to the Lender, the Lender will send me a signed copy of this Agreement. This Agreement will not take effect unless the preconditions set forth in Section 2 have been satisfied.

**1. My Representations and Covenants.** I certify, represent to Lender, covenant and agree:

- A. I am experiencing a financial hardship, and as a result, (i) I am in default under the Loan Documents or my default is imminent, and (ii) I do not have sufficient income or access to sufficient liquid assets to make the monthly mortgage payments now or in the near future;
- B. One of the borrowers signing this Agreement lives in the Property as a principal residence, and the Property has not been condemned;
- C. There has been no impermissible change in the ownership of the Property since I signed the Loan Documents. A permissible change would be any transfer that the lender is required by law to allow, such as a transfer to add or remove a family member, spouse or domestic partner of the undersigned in the event of a death, divorce or marriage;
- D. I have provided documentation for **all** income that I receive (and I understand that I am not required to disclose child support or alimony unless I chose to rely on such income when requesting to qualify for the Home Affordable Modification Program ("Program"));
- E. Under penalty of perjury, all documents and information I have provided to Lender in connection with this Agreement, including the documents and information regarding my eligibility for the Program, are true and correct;
- F. If Lender requires me to obtain credit counseling in connection with the Program, I will do so; and
- G. I have made or will make all payments required under a trial period plan.

<sup>1</sup> If more than one Borrower or Mortgagor is executing this document, each is referred to as "I." For purposes of this document words signifying the singular (such as "I") shall include the plural (such as "we") and vice versa where appropriate.

2. **Acknowledgements and Preconditions to Modification.** I understand and acknowledge that:
- A. If prior to the Modification Effective Date as set forth in Section 3 the Lender determines that any of my representations in Section 1 are no longer true and correct or any covenant in Section 1 has not been performed, the Loan Documents will not be modified and this Agreement will terminate. In that event, the Lender will have all of the rights and remedies provided by the Loan Documents; and
  - B. I understand that the Loan Documents will not be modified unless and until (i) the Lender accepts this Agreement by signing and returning a copy of it to me, and (ii) the Modification Effective Date (as defined in Section 3) has occurred. I further understand and agree that the Lender will not be obligated or bound to make any modification of the Loan Documents if I fail to meet any one of the requirements under this Agreement.
3. **The Modification.** If my representations and covenants in Section 1 continue to be true in all material respects and all preconditions to the modification set forth in Section 2 have been met, the Loan Documents will automatically become modified on \_\_\_\_\_ (the "Modification Effective Date") and all unpaid late charges that remain unpaid will be waived. I understand that if I have failed to make any payments as a precondition to this modification under a trial period plan, this modification will not take effect. The first modified payment will be due on \_\_\_\_\_.
- A. The Maturity Date will be: \_\_\_\_\_.
  - B. The modified principal balance of my Note will include all amounts and arrearages that will be past due as of the Modification Effective Date (including unpaid and deferred interest, fees, escrow advances and other costs, but excluding unpaid late charges, collectively, "Unpaid Amounts") less any amounts paid to the Lender but not previously credited to my Loan. The new principal balance of my Note will be \$\_\_\_\_\_ (the "New Principal Balance"). I understand that by agreeing to add the Unpaid Amounts to the outstanding principal balance, the added Unpaid Amounts accrue interest based on the interest rate in effect under this Agreement. I also understand that this means interest will now accrue on the unpaid interest that is added to the outstanding principal balance, which would not happen without this Agreement.
  - C. Interest at the rate of \_\_\_\_\_% will begin to accrue on the New Principal Balance as of \_\_\_\_\_ and the first new monthly payment on the New Principal Balance will be due on \_\_\_\_\_. My payment schedule for the modified Loan is as follows:

Years	Interest Rate	Interest Rate Change Date	Monthly Principal and Interest Payment Amount	Estimated Monthly Escrow Payment Amount*	Total Monthly Payment*	Payment Begins On	Number of Monthly Payments
[1-5]	[2.00%]	00/00/0000	\$0000.00	\$000.00, may adjust periodically	\$000.00, may adjust periodically	00/00/0000	[60]
[6]	[3.00%]	00/00/0000	\$0000.00	May adjust periodically	May adjust periodically	00/00/0000	[12]
[7]	[4.00%]	00/00/0000	\$0000.00	May adjust periodically	May adjust periodically	00/00/0000	[12]
[8]	[5.00%]	00/00/0000	\$0000.00	May adjust periodically	May adjust periodically	00/00/0000	[12]
[9-[40]]	[6.00%]	00/00/0000	\$0000.00	May adjust periodically	May adjust periodically	00/00/0000	[Insert Remaining months]



\*The escrow payments may be adjusted periodically in accordance with applicable law and therefore my total monthly payment may change accordingly.

The above terms in this Section 3.C. shall supersede any provisions to the contrary in the Loan Documents, including but not limited to, provisions for an adjustable, step or simple interest rate.

I understand that, if I have a pay option adjustable rate mortgage loan, upon modification, the minimum monthly payment option, the interest-only or any other payment options will no longer be offered and that the monthly payments described in the above payment schedule for my modified Loan will be the minimum payment that will be due each month for the remaining term of the Loan. My modified Loan will not have a negative amortization feature that would allow me to pay less than the interest due resulting in any unpaid interest being added to the outstanding principal balance.

- D. I will be in default if I do not comply with the terms of the Loan Documents, as modified by this Agreement.
- E. If a default rate of interest is permitted under the Loan Documents, then in the event of default under the Loan Documents, as amended, the interest that will be due will be the rate set forth in Section 3.C.

4. **Additional Agreements.** I agree to the following:

- A. That all persons who signed the Loan Documents or their authorized representative(s) have signed this Agreement, unless (i) a borrower or co-borrower is deceased; (ii) the borrower and co-borrower are divorced and the property has been transferred to one spouse in the divorce decree, the spouse who no longer has an interest in the property need not sign this Agreement (although the non-signing spouse may continue to be held liable for the obligation under the Loan Documents); or (iii) the Lender has waived this requirement in writing.
- B. That this Agreement shall supersede the terms of any modification, forbearance, trial period plan or other workout plan that I previously entered into with Lender.
- C. To comply, except to the extent that they are modified by this Agreement, with all covenants, agreements, and requirements of Loan Documents including my agreement to make all payments of taxes, insurance premiums, assessments, Escrow Items, impounds, and all other payments, the amount of which may change periodically over the term of my Loan.
- D. That this Agreement constitutes notice that the Lender's waiver as to payment of Escrow Items, if any, has been revoked, and I have been advised of the amount needed to fully fund my escrow account.
- E. That the Loan Documents as modified by this Agreement are duly valid, binding agreements, enforceable in accordance with their terms and are hereby reaffirmed.
- F. That all terms and provisions of the Loan Documents, except as expressly modified by this Agreement, remain in full force and effect; nothing in this Agreement shall be understood or construed to be a satisfaction or release in whole or in part of the obligations contained in the Loan Documents; and that except as otherwise specifically provided in, and as expressly modified by, this Agreement, the Lender and I will be bound by, and will comply with, all of the terms and conditions of the Loan Documents.

- G. That, as of the Modification Effective Date, notwithstanding any other provision of the Loan Documents, if all or any part of the Property or any interest in it is sold or transferred without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by the Mortgage. Lender shall not exercise this option if state or federal law, rules or regulations prohibit the exercise of such option as of the date of such sale or transfer. If Lender exercises this option, Lender shall give me notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which I must pay all sums secured by the Mortgage. If I fail to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by the Mortgage without further notice or demand on me.
- H. That, as of the Modification Effective Date, I understand that the Lender will only allow the transfer and assumption of the Loan, including this Agreement, to a transferee of my property as permitted under the Garn St. Germain Act, 12 U.S.C. Section 1701j-3. A buyer or transferee of the Property will not be permitted, under any other circumstance, to assume the Loan. Except as noted herein, this Agreement may not be assigned to, or assumed by, a buyer or transferee of the Property.
- I. That, as of the Modification Effective Date, if any provision in the Note or in any addendum or amendment to the Note allowed for the assessment of a penalty for full or partial prepayment of the Note, such provision is null and void.
- J. That, I will cooperate fully with Lender in obtaining any title endorsement(s), or similar title insurance product(s), and/or subordination agreement(s) that are necessary or required by the Lender's procedures to ensure that the modified mortgage Loan is in first lien position and/or is fully enforceable upon modification and that if, under any circumstance and not withstanding anything else to the contrary in this Agreement, the Lender does not receive such title endorsement(s), title insurance product(s) and/or subordination agreement(s), then the terms of this Agreement will not become effective on the Modification Effective Date and the Agreement will be null and void.
- K. That I will execute such other documents as may be reasonably necessary to either (i) consummate the terms and conditions of this Agreement; or (ii) correct the terms and conditions of this Agreement if an error is detected after execution of this Agreement. I understand that either a corrected Agreement or a letter agreement containing the correction will be provided to me for my signature. At Lender's option, this Agreement will be void and of no legal effect upon notice of such error. If I elect not to sign any such corrective documentation, the terms of the original Loan Documents shall continue in full force and effect, such terms will not be modified by this Agreement, and I will not be eligible for a modification under the Home Affordable Modification Program.
- L. Mortgage Electronic Registration Systems, Inc. ("MERS") is a separate corporation organized and existing under the laws of Delaware and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, (888) 679-MERS. In cases where the loan has been registered with MERS who has only legal title to the interests granted by the borrower in the mortgage and who is acting solely as nominee for Lender and Lender's successors and assigns, MERS has the right: to exercise any or all of those interests, including, but not limited to, the right to foreclose and sell the Property; and to take any action required of Lender including, but not limited to, releasing and canceling the mortgage loan.
- M. That Lender will collect and record personal information, including, but not limited to, my name, address, telephone number, social security number, credit score, income, payment history, government monitoring information, and information about account balances and activity. In addition, I understand and consent to the disclosure of my personal information and the terms of the trial period plan and this Agreement by Lender to (i) the U.S. Department of the Treasury, (ii) Fannie Mae and Freddie Mac in connection with their responsibilities under the Home Affordability and Stability Plan; (iii) any investor, insurer, guarantor or servicer that owns, insures, guarantees or services my first lien or subordinate lien (if applicable) mortgage loan(s); (iv) companies that perform support services for the Home

Affordable Modification Program and the Second Lien Modification Program; and (v) any HUD certified housing counselor.

- N. That if any document related to the Loan Documents and/or this Agreement is lost, misplaced, misstated, inaccurately reflects the true and correct terms and conditions of the Loan as modified, or is otherwise missing, I will comply with the Lender's request to execute, acknowledge, initial and deliver to the Lender any documentation the Lender deems necessary. If the Note is replaced, the Lender hereby indemnifies me against any loss associated with a demand on the Note. All documents the Lender requests of me under this Section 4.N. shall be referred to as "Documents." I agree to deliver the Documents within ten (10) days after I receive the Lender's written request for such replacement.
- O. That the mortgage insurance premiums on my Loan, if applicable, may increase as a result of the capitalization which will result in a higher total monthly payment. Furthermore, the date on which I may request cancellation of mortgage insurance may change as a result of the New Principal Balance.

In Witness Whereof, the Lender and I have executed this Agreement.

\_\_\_\_\_  
Lender

By: \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Borrower (Seal)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Borrower (Seal)

\_\_\_\_\_  
Date

\_\_\_\_\_[Space Below This Line For Acknowledgement]\_\_\_\_\_

mortgage in another ten years and the modification results in a new term of 37 years, this should be made clear to the homeowner.

Look out for balloon payments. If there is a balloon payment due at the end of a forbearance period or the term of the loan, make sure the homeowner understands what that means for the future affordability of the home.

#### **4.3.2. New Back-End Debt to Income Ratio (DTI)**

Counselors should calculate the homeowner's new back-end DTI to help the homeowner understand the long term affordability of their new mortgage terms.

Any homeowner who receives a HAMP modification and has a back-end DTI that is higher than 55% is required to go to financial counseling.

#### **4.3.3. Ongoing budgeting**

Clients should be made aware of the importance of maintaining a budget and actively managing their finances going forward. This may include maintaining a savings account for emergency purposes.

Encourage the client to seek additional assistance from OFE or other financial literacy programs.

## **4.4. Closing Files**

### **4.4.1. Timing**

Counselors should be careful that they do not close files too soon. Counselors should be aware of standards and guidelines for closing files so they can correctly report client information and properly serve clients.

National Industry Standards state that a file can be classified as inactive if there has been no contact from the client for 6 consecutive months.

A file should be closed when a final outcome (as defined in the Center's most current Data Dictionary) has been confirmed. Do not report outcomes until you have confirmed that an outcome has taken place or until you have given the homeowner ample time to respond to keep the case open.

### **4.4.2. Warning letters**

Counselors must make a reasonable effort to send follow-up communication to the client to assure that the client is progressing toward the housing goal or to modify or terminate housing counseling.

Warning letters should give the homeowner a chance to bring the file up to date or return to the agency at a later date. Clients should be given several weeks to respond to the warning letter.

National Industry Standards recommend the following follow-up procedure:

- No client contact after 60 days: verbal follow-up attempt
- Two verbal attempts to follow-up before sending written correspondence to the client stating: (1) efforts have been made, (2) a follow-up communication is needed, and (3) requesting client contact no later than 30 days from the date of the letter.
- Send written communication of case closure after 90 days of no client contact

### **4.4.3. Sustainability**

Counselors should make it part of their practice to encourage financial education and to refer clients to financial workshops and counseling as needed.

Continued attention to finances is important for homeowners who are able to stay in the home as well as clients who are transitioning out of their home. Clients should be referred to the Office of Financial Empowerment or a financial counselor to ensure that clients are dealing with any weak points in their finances.

**OUR AGENCY  
123 Manin Street  
Anywhere, USA 123456**

May 19, 2011

Mr. Joe Doe  
345 House Street  
Westelm, NJ 07631

Re: Continuation of Housing Counseling Services

Mr. Doe,

This letter contains information concerning the continuation of housing counseling services or if you wish to terminate the relationship with OUR AGENCY. I have sent several emails and letters to you concerning continuation of housing counseling services. With this letter I wish to determine if you want and/or need to continue housing counseling. If the answer is yes, please contact me to arrange a time where we can talk and follow-up on your housing needs.

It the policy of OUR AGENCY to cease to count a client as an active file or continue to bill if there has been no client contact within a 90-day period. The termination of housing counseling services occurs or may occur under any of these conditions:

- the client meets his/her housing needs or resolves his/her housing problem
- the agency determines that further housing counseling will not meet the client's housing need or resolve the client's housing problem
- the agency attempts but is unable to locate the client
- the client does *not* follow the agreed-upon action plan
- the client otherwise terminates housing counseling
- the client fails to appear for housing counseling appointments or respond to agency inquiries concerning the client's progress in resolving his/her housing need or problem, or
- other circumstances beyond the participating agency's or client's control, such as a natural disaster, that might prevent continuation of counseling.

Please inform me of your choice to continue or terminate the housing counseling services with OUR AGENCY. We anticipate your response and respect your choice. Thank you for your time and consideration in this matter.

Sincerely,

*Your Counselor*

## Counseling: Sample File Closure Form

<b>Date:</b> _____	<b>Counselor Name:</b> _____
<b>Client(s):</b> _____	
<b>Servicer/Lender:</b> _____	

### Reason for Close Out:

- ☐ Modification Complete; Loan Current
- ☐ Partial Claim/Claim Advance Complete; Loan Current
- ☐ Repayment Plan Complete; Loan Current
- ☐ Refinance Complete
- ☐ Full Sale Complete
- ☐ Short Sale Complete
- ☐ Deed-in-Lieu Complete
- ☐ Foreclosure Complete
- ☐ Client Non-responsive
- ☐ Client Closed
- ☐ Other \_\_\_\_\_

The following steps have been taken and documented in the counseling notes. Check all that apply:

- ☐ Closure Letter Sent: Date \_\_\_\_\_
- ☐ Submitted to the servicer a hardship explanation/affidavit that describes the situation of the client, reason for delinquency, factors that should be considered for a loss-mitigation plan, and an estimate of the housing cost the client can afford to pay
- ☐ Submitted to the servicer/mortgage insurer all forms required by servicer for a loss-mitigation request
- ☐ Submitted a complete application for local resource options including refinance programs or rescue funds
- ☐ Provided referral resources to homeowner
- ☐ Assisted in situations where client elected to pursue sale option
- ☐ Provided financial counseling for client beyond foreclosure intervention
- ☐ Provided transition counseling services

## **APPENDIX**

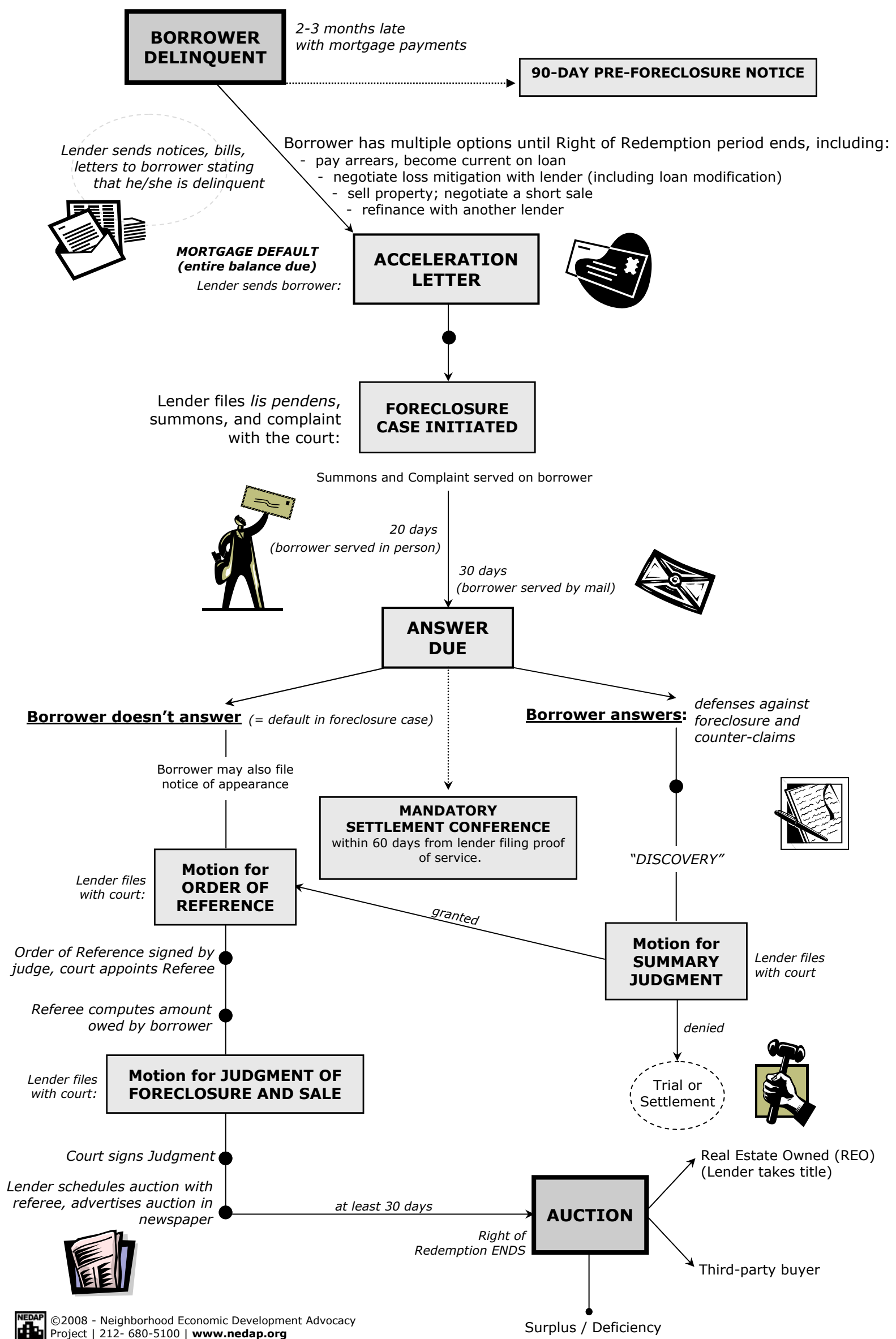
Foreclosure Path Chart

The Center's Real Estate Broker List

The Center's Real Estate Broker Questionnaire



# PATHS OF A FORECLOSURE IN NEW YORK STATE



# ***PATHS OF A FORECLOSURE IN NEW YORK STATE***

---

## **Summary of Provisions of NY State Law Pertaining to 90-day Pre-Foreclosure Notices and Mandatory Settlement Conferences**

### 90-Day Pre-Foreclosure Notice (RPAPL §1304)

Mortgage loan servicers are required to send all homeowners a notice at least 90 days prior to the commencement of a foreclosure case. Notices must be sent to the last known address of the borrower by registered or certified mail, in addition to first-class mail.

The language of the notice is set forth in the statute, and must state the number of days in default, the amount owed and the telephone number of the lender or servicer. The servicer must attach a list of at least five government approved housing counseling agencies in the homeowner's geographic region that provide free or low-cost counseling. The notice also directs the homeowner to call the Banking Department's Toll-Free Helpline or go to their website for more information.

### Mandatory Settlement Conferences (CPLR §3408)

Effective February 15, 2010, for all residential foreclosure actions on owner-occupied homes, the court must hold a mandatory settlement conference within sixty days after the date proof of service of the foreclosure is filed with the county clerk. The court may also hold the conference on an adjourned date agreed to by the parties. If the defendant appears *pro se* at the conference, the court may assign counsel. A representative of the plaintiff/lender who is fully authorized to settle the case must appear for the conference with certain required documents, which would include the payment history, the amounts required to bring the loan current or to pay it off and the mortgage and note. The court may allow this representative to participate by telephone or video conference.



## ***PATHS OF A FORECLOSURE IN NEW YORK STATE***

---

### **Glossary of Terms:**

**Acceleration letter:** A letter sent from the lender (or its representative) to the borrower, which "calls in" the loan – effectively stating that the borrower must pay the entire loan amount by a specified date, otherwise the lender will file a foreclosure lawsuit. Once the mortgage has been accelerated, the lender is no longer compelled to accept arrears, though may still do so.

**Answer:** A written response to the complaint, submitted by the borrower to the lender's attorney, and filed with the court. The answer is due 20 calendar days from the date of service if the borrower is served in person, or 30 calendar days if the borrower is not personally served. The answer can be submitted with the help of an attorney, or *pro se* (representing yourself without an attorney). The answer contains defenses to the foreclosure and may also include counterclaims.

**Arrears:** The amount of back payments - plus late fees and other charges - owed by the borrower to the lender.

**Auction:** A public sale of foreclosed properties. Anyone can place a bid to purchase a property. Properties are sold to the highest bidder. Once the property has been sold at auction, the original homeowner loses all "right of redemption," or opportunity to regain ownership of the property by paying the amount due.

**Complaint:** A written document served to the borrower by the lender's attorney, indicating that the lender has filed a foreclosure lawsuit, and explaining the grounds for that action against the borrower.

**Counterclaims:** As part of the answer to the complaint, the borrower may include counterclaims, or claims that the lender owes the borrower money due to violations of the law, thereby reducing the amount that the borrower may owe the lender.

**Deed-in-lieu of foreclosure:** To avoid going through a foreclosure, the borrower voluntarily turns over the deed to the property to the lender. In exchange, the lender agrees that the borrower does not owe any additional debt -- allowing him/her to walk away from the property without a deficiency judgment, and without a foreclosure sale on his/her credit report. This option, as well as other loss mitigation options, may have tax consequences.

**Default:** If the borrower fails to answer the complaint, the borrower has defaulted in the foreclosure case -- meaning that the lender automatically prevails. The lender is not required to serve the borrower with any further notices as the foreclosure case proceeds through the courts.

**Defendant:** The person or entity who is being sued in court. In the case of a foreclosure proceeding, the defendant is the homeowner who has defaulted on his/her mortgage.

**Defenses:** As part of the answer to the complaint, the borrower includes defenses, or claims that contest the foreclosure. These claims may be based on deficiencies in the



foreclosure process (e.g. improper service or lack of standing), or illegalities in the loan itself.

**Deficiency:** After a foreclosed property is sold at auction, the proceeds of the sale go to reimburse the lender and other lien-holders. If the sale price does not sufficiently cover the amount owed, the amount still owed to the lender is called a deficiency.

**Delinquent:** When the borrower initially falls behind on the mortgage (usually 2-3 months), but before the mortgage has defaulted, he/she is said to be "delinquent" on the mortgage.

**Discovery:** The process by which parties gather information through document requests, written questions (called interrogatories), and depositions. Discovery can take a long time.

**Forbearance:** An agreement between the lender and a delinquent borrower wherein the borrower typically pays a lump sum up front, and then enters into a payment plan for the remainder of the arrears. Borrowers need to be cautioned that when they enter into these agreements, they usually waive certain key rights, such as their ability to raise defenses to contest a foreclosure case.

**Foreclosure:** The legal process by which a lender forces a property to be sold, in order to collect on a mortgage loan it claims is owed.

**Judgment of Foreclosure and Sale:** Once signed by a judge, this legal order gives the lender permission to sell the property through a referee, and confirms the total amount owed by the borrower to the lender.

**Lien / Lien holder:** A lien is a legal claim placed on a property as security to repay a debt. For example, if a homeowner does not pay his/her property taxes, the city can place a lien on the property for the amount owed. In New York City, these tax liens are typically sold to private entities, which can lead to foreclosure. The entity that owns the lien on the property is called the lien holder.

**Lis pendens:** Literally meaning, "suit pending" in Latin, *lis pendens* is a filing with the county clerk that indicates to the public that the property's ownership is being disputed. This notice formally begins the foreclosure process.

**Loan Modification:** An agreement between the lender and the borrower wherein one or more of the original terms of the mortgage is changed in order to make the mortgage more affordable to the borrower. As with forbearance agreements, borrowers who agree to loan modifications usually waive many key rights, such as their ability to raise defenses to contest a foreclosure case. This option, as well as other loss mitigation options, may have tax consequences.

**Loss Mitigation:** The process by which a lender and borrower who is behind on his/her mortgage attempt to negotiate a deal that is mutually agreeable to both parties. Some possible avenues of loss mitigation include: loan modification, forbearance, short sale, and deed-in-lieu of foreclosure. The earlier the borrower pursues loss mitigation the better, since negotiating a workable deal also becomes more and more difficult as time passes and arrears accumulate. Loss mitigation becomes more difficult when the borrower has multiple mortgages. For example, the borrower may be able to negotiate a loan modification for one loan that is sustainable and affordable. However, if the borrower is also in default on a



second mortgage, and the lender is not willing to negotiate, this second lender may still initiate a foreclosure case against the borrower.

**Motion:** A legal term for a formal request to the court to take action in a case.

**Mortgage Default:** After a delinquent borrower's loan is accelerated by the lender, he/she is said to be in default.

**Notice of Appearance:** If the borrower does not have any defenses or counter-claims to contest the foreclosure, but still wants to be served with all legal papers during the course of the foreclosure case, he/she can file a Notice of Appearance with the court. A copy of the Notice of Appearance must also be sent to the lender's attorney.

**Order of Reference:** An Order of Reference sends a foreclosure case to a referee, who will then determine the full amount owed by the borrower to the lender.

**Plaintiff:** A person or entity suing another in court. In the case of a foreclosure action, the plaintiff is the owner of the mortgage.

**Pro se:** When a defendant represents him/herself in a court case (as opposed to having an attorney represent him/her). *Pro se* is Latin for "for self."

**Real Estate Owned (REO):** When a foreclosed property does not sell at auction, the lender takes title to the property. The property is then said to be in REO status. The lender may then try to evict the former homeowner, which the lender usually does through the Housing Court.

**Referee:** Once an Order of Reference is signed, a foreclosure case is sent to a referee. The referee computes the total amount owed to the lender by the borrower. Once the lender has obtained a Judgment of Foreclosure and Sale, the referee oversees the auction of the property. This responsibility includes physically conducting the sale, as well as distributing the proceeds following the sale. Referees are typically attorneys.

**Right of Redemption period:** The period in which a borrower may avert a foreclosure through a number of means, including selling the property or refinancing the mortgage. The right of redemption period ends the moment the property is sold at auction. In other states, there is a redemption period even *after* auction, but not in New York State.

**Service of Process:** The delivery of the summons and complaint to the borrower is called service of process. The lender, through a process server, must attempt to serve the borrower in person. If the process server cannot serve the borrower at his/her home, he may deliver the summons and complaint to another adult residing at the borrower's address. The process server must then send another copy by mail. If no one is home, the process server may leave the notice at the door, as well as send it by mail. This is often called "nail and mail" service.

**Settlement:** The lender and borrower may decide to resolve a foreclosure case outside of court by negotiating a agreement, or settlement.

**Short-sale:** When the amount due on the loan is more than the value of the property, lenders will sometimes agree to accept a short sale. In a short sale, the homeowner sells the property to a third party at fair market value and the lender agrees to accept less than



the full balance in satisfaction of the loan. This option, as well as other loss mitigation options, may have tax consequences.

**Summary Judgment:** A decision granted by a judge based on a motion filed by one of the parties. In a foreclosure case, the judge can issue a summary judgment if he/she decides that the facts in the case are not in dispute, and therefore there is no need for the case to proceed to trial.

**Summons:** A plaintiff in a legal case must file and serve a summons along with a complaint. The summons advises the defendant that they must either appear in court on a specified date, or answer the complaint within a specified period of time.

**Surplus:** After a foreclosed property is sold at auction, the proceeds of the sale go to reimburse the lender and other lien-holders. If the sale price exceeds the amount owed, the extra amount is called a surplus. This money goes to the clerk of the court for keeping. The borrower must file a motion to claim this money.

**Stay:** A stay is a temporary stop to a foreclosure. Borrowers may file an emergency motion with the court to stay the foreclosure sale (called an Order to Show Cause) , but must show that they have a meritorious defense and a compelling reason for the stay. Filing for a Chapter 13 bankruptcy can automatically stay a foreclosure sale.

**Trial:** If the facts of the case are in dispute - the borrower has presented defenses or counter-claims to the foreclosure - the case may go to trial, and ultimately be decided by a judge (where fraud is alleged, a jury may decide the case). If the judge decides in favor of the lender, then the lender proceeds with filing a motion for an Order of Reference, as a first step towards a foreclosure sale. If the judge decides in favor of the borrower, then the foreclosure may be averted.



---

**Contact:**

Roody Casseus  
Coldwell Banker-Mid Plaza Real Estate  
3041 Ave U- 3rd Floor  
Brooklyn, NY 11229  
Phone: (718) -646-3600  
Cell: (917) -667-2410  
Email: [rcasseus@yahoo.com](mailto:rcasseus@yahoo.com)  
Website:

Primary Areas: Brooklyn  
Secondary: Queens  
Language(s): Spanish

---

**Contact:**

Virginia Rallis (Associate Broker)  
Winzone Realty  
146-20 34 Ave  
Flushing NY 11354  
Office: (718) -886-3200  
Cell: (917) -682-8120  
Email: [vrrealtor@gmail.com](mailto:vrrealtor@gmail.com)  
Website: [www.winzonerealty.com](http://www.winzonerealty.com)

Primary Areas: All boroughs,  
Secondary: Nassau, Suffolk

---

**Contact:**

Linda Castelli (Broker)  
Realty – PROS  
1110 South Ave  
Staten Island, NY 10314  
Office: (718) - 966-2131  
Cell: (347) -277-0380  
Email: [linagent007@aol.com](mailto:linagent007@aol.com)  
Website: [www.Realty-Pros.com](http://www.Realty-Pros.com)

Primary Areas: Staten Island  
Secondary: Manhattan, Brooklyn  
Language(s): Spanish

---

**Contact:**

RJ Santiago (Broker)  
Buy Rite Home Sales, Inc.  
151-20 88th Street, Suite LK  
Howard Beach, NY 11414  
Phone: (718) -322-4700  
Email: [rjsantiago15120@yahoo.com](mailto:rjsantiago15120@yahoo.com)  
Website:

Primary Areas: Brooklyn, Queens  
Secondary: Bronx, Nassau  
Language(s): Spanish

---

**Contact:**

Rafael Jose (Agent)  
Keller Williams Realty  
75-35 31st Avenue  
Jackson Heights, NY 11370  
Cell: (516) -721-8357  
Email: [rjose123@gmail.com](mailto:rjose123@gmail.com)  
Website: [www.kw.com](http://www.kw.com)

Primary Areas: Brooklyn, Queens  
Secondary: Nassau, Suffolk  
Language(s): Spanish

---

**Contact:**

Jim Pappas (Broker)  
Rock Realty  
75-47 31 Avenue  
Jackson Heights, NY 11370  
Office: (718) -478-4545  
Cell: (917) -407-4555  
Email: [jim@jimpappas.us](mailto:jim@jimpappas.us)  
Website: [www.jimpappas.us](http://www.jimpappas.us)

Primary Areas: Queens  
Secondary: Brooklyn  
Language(s): Greek, Spanish, Hindi, Bengali,  
Urdu, Punjabi, Russian, Italian, Cantonese

---

**Contact:**

Nancy Mosca (Associate Broker)  
EXIT Kingdom Realty  
68-56 Groton Street  
Forest Hills, N.Y. 11375  
Phone: (718) -268-8868  
Cell: (347) -987-8892  
Email: [nancy@nancymosca.com](mailto:nancy@nancymosca.com)  
Website: [www.NancyMosca.com](http://www.NancyMosca.com)

Primary Areas: Queens  
Secondary: Brooklyn, Manhattan  
Language(s): Spanish, Chinese, Korean, Hindi

---

**Contact:**

Audrey Dejesus (Associate Broker)  
Exit Realty Central  
133-07 Cross Bay Blvd. Ozone Park,  
NY 11417  
Office: (718) - 848-5900 x 207  
Cell: (917) -549-3825  
Email: [Audrey@ExitRealtyCentral.com](mailto:Audrey@ExitRealtyCentral.com)  
Website: [www.ExitRealtyCentral.com](http://www.ExitRealtyCentral.com)

Primary Areas: Queens  
Secondary: Brooklyn  
Language(s): Spanish

---

**Contact:**

Karen Gray  
JT King Realty  
282 Flatbush Ave  
Brooklyn, NY 11217  
Phone: (718) -857-3000  
Cell: (917) -679-9857  
Email: [nycrealestatefinds@yahoo.com](mailto:nycrealestatefinds@yahoo.com)  
Website:

Primary Areas: Brooklyn, Queens  
Secondary: Staten Island

---

**Contact:**

Kay Islam  
Johnson Real Estate Group Inc  
1684 Rockaway Parkway  
Brooklyn, NY 11236  
Phone: (718) -209-7005  
Cell:  
Email: [kayirealty@yahoo.com](mailto:kayirealty@yahoo.com)  
Website:  
[www.johnsonrealestategrp.com](http://www.johnsonrealestategrp.com)

Primary Areas: Brooklyn,  
Secondary: Queens

---

**Contact:**

Raul Van Rossum (Broker)  
Citizens International Realty  
3017 Beverly Road  
Brooklyn, New York, 11226  
Office: (718) -282-6400 Ext: 13  
Cell: (347) -392-1771  
Email:  
[raulvanrossum@citizensintlrealty.com](mailto:raulvanrossum@citizensintlrealty.com)  
Website: [www.citizensintlrealty.com](http://www.citizensintlrealty.com)

Primary Areas: Brooklyn  
Secondary: Queens, Bronx, Staten Island  
Language(s): Spanish, Creole



**Center for New York City Neighborhoods**  
**Housing Mobility Program**  
**Working with a broker for your property liquidation**

Part of your plan to avoid foreclosure might include the liquidation of your property through a short sale. A short sale is a sales transaction in which your lender/servicer agrees to accept a settlement of less than the balance due on your loan. This is normally the case when your mortgage is "upside down" or "underwater." In other words, you owe more money on your mortgage than your house is worth. The difference between what you owe and the amount of money the lender receives from the sale can be, but is not always, forgiven and is called a mortgage deficiency.

The selling of your property through this liquidation option should be handled by an experienced real estate broker and an attorney. Both professionals are really important during the transaction due to their area of knowledge and involvement. You will need the real estate agent to list and market your home and a lawyer to answer any legal questions you have about the process. It is against the law for a real estate agent who is not licensed to practice law to dispense legal advice.

CNYCN has developed some questions that will help you interview the real estate agent. It is recommended that you meet or talk with at least 3 brokers to help you decide who to work with. These are questions applicable to almost any case and you should also feel free to ask any additional questions you might have.

**Questions and Typical Answers:**

**Q: What is the fee or percentage you are going to charge if my home is sold through a short sale?**

**A:** For a short sale transaction, brokers get paid by the lender. You shouldn't be paying commissions for the listing and closing of your home.

**Q: I am concerned about a deficiency judgment, will you be able to help me avoid this financial implication?**

**A:** Most lenders are willing not to pursue a deficiency judgment against you. Brokers are able to seek lender's commitment, in writing, that they won't go after you for a deficiency. If the lender is not willing to release you from a deficiency, it is your decision on whether to continue with the process. You might want to discuss with your housing counselor or legal advisor on other options to consider.

**Q: What is a Comparative Market Analysis?**

**A:** Using comparables, it's an analysis done by real estate agents to establish a home's market value. It is not an appraisal and you should ask for free copy; this information gives you a better idea of what your home might be listed for.

**Q: What is your standard procedure to ensure the short sale transaction is going to close?**

**A:** Unfortunately, there is no standard procedure as the lender is the one that ultimately decides whether to grant a short sale or not. However, the broker might advise that they have contacts at different lenders and servicers that have helped facilitate a short sale in the past.

**Q: Are you familiar with my neighborhood? Have you sold any homes there recently?**

**A:** Most brokers are likely to highlight their experience selling homes in your neighborhood. If they are not familiar with the neighborhood, you may want to consider speaking with a local broker.