

HAFAs – The New Government Backed Short Sale Program

In light of the rising number of property foreclosures in the United States, the government has expanded the Home Affordable Modification Program (HAMP) to include provisions and incentives for servicers to allow short sales or deeds-in-lieu as positive options for eligible homeowners in default who wish to avoid foreclosure. The new program is called the Home Affordable Foreclosure Alternatives (HAFAs).

Participation in HAFAs cannot save the homeowner from losing their property, but it can eliminate the effects of a foreclosure on the homeowner's credit. Financial incentives for participation in the program includes a \$1,000 servicing bonus for lenders and a \$1,500 relocation bonus for displaced homeowners.

HAFAs are designed for homeowners who have applied to HAMP for assistance but have had no success with their loan modification program. To participate in HAFAs, homeowners must still meet HAMP's eligibility criteria:

- Must be their Principal Residence.
- First lien mortgage.
- Serious delinquency.
- Unpaid balance under \$729,750.
- Mortgage payment is over 31 percent of homeowner's monthly gross income.

Homeowners must be considered for HAFAs within 30 days if they cannot meet HAMP's requirements or if they specifically request consideration for HAFAs. However, the homeowner only has 14 days to respond to a written notice that HAFAs may be available to them, giving the lender time to meet their 30-day deadline.

As with other short sales and deed-in-lieu, the lender or loan servicer of the primary mortgage must approve of the transaction and conduct their own independent appraisal. Under HAFAs, however, they must also agree to accept the proceeds from the sale of the house as payment in full, waiving their right to collect the balance of the loan from the homeowner.

It is up to the lender or servicer of the first-lien mortgage whether they or the homeowner negotiate with any subordinate lienholders. Lenders of HELOC's and other subordinate liens may be allowed to keep a limited portion of the proceeds (up to \$3,000 each) of a short sale, with the first-lien lenders approval. These funds are part of an incentive program for subordinate lienholders to waive their right to collect the balance due on their loans. The original lender may not be held responsible if any subordinate lienholders decline to participate and decide to sue the borrower for the amount of their unpaid debt.

HAFAs's Short Sale Agreement (SSA) has certain stipulations for all parties involved. Their SSA requires that the deadline for the homeowner to find a buyer and complete the transaction be not less than 120 calendar days from the date the SSA is mailed to the homeowner. The lender has the option of extending this deadline another 245 calendar days, for a total term of 12 months. The SSA also mandates that a HAFAs transaction must be "arms length", and that the end buyer must agree to hold the property for at least 90 days after closing. Finally, the SSA gives the listing real estate agent the right to an undiscounted 6 percent commission as closing.

A short sale is any sale of property, usually during the foreclosure process, in which the lender(s) agrees to accept less than the balance due on the mortgage(s) or lien(s) in order to avoid the cost of foreclosure. Per HAFA requirements, the primary lender may not pursue the homeowner, but the secondary lenders do not have to agree to that provision. Assuming that they agree to the short sale in general, they can forego the financial incentive to waive collection rights and continue to pursue the homeowner for their balances due, in which case their recovery options are then covered by state law. The vacancy date is determined by the terms of the closing.

Unlike a short sale, a deed-in-lieu simply allows the homeowner in default to transfer the deed to the property back to the lender in exchange for partial or full payoff of the mortgage. The vacancy date must be at least 30 days after the deed-in-lieu agreement is signed.

In either case, HAFA requires that the lender agree to suspend all foreclosure sales in good faith, pending the outcome of either transaction. In the case of a short sale, the lender also must agree to pay the administrative closing costs.

The Department of the Treasury, which authorizes all programs under the Making Home Affordable umbrella, has designated Freddie Mac as its compliance agent.

The HAFA program is set to begin on April 5, 2010. Servicers may initiate a HAFA transaction earlier in 2010 under certain conditions. As of this writing, all HAFA agreements must be finalized and signed by December 31, 2012.

Please download the Treasury Departments [Supplemental Directive 09-09](#) for more specific details and samples of forms to be used in the processing HAFA transactions.

UPC BUSINESS SOLUTIONS HAFA PROGRAM

UPC offers a complete consulting procedure to help walk you through the steps of the HAFA program. This program is NOT for everyone, and is one that takes careful planning on your part before ever agreeing to participate.

It is important that you fully understand and have thoroughly read the entire 43 page HAFA (Supplemental Directive 09-09) package. The UPC Program offers the following:

- Discuss your options and availability for the SSA (Short Sale Agreement)
- Review the entire 43 page Supplemental Directive 09-09 prior to making any decisions.
- Research and discover any and all current lienholders on you property.
- Create the borrower package to send to your lender or servicer for an SSA, including:
 1. Hardship Letter requesting an SSA
 2. Compile your last year tax return
 3. Create a current Financial Worksheet
 4. Create a current Income and Expense Worksheet
 5. Compile your last two paycheck stubs / or current Profit and Loss statement if self employed.
 6. Create a Power of Attorney letter for UPC to be your representative through this process.

- Review your original Loan Documentation and current property value.
- Review and discuss with your Lender or Servicer any SSA documents that will be required for completion of this program.
- Consult about YOUR choice of realtor for the short sale if your SSA request is approved.
- Review all documentation that will be necessary during the entire SSA, Short Sale and or Deed-in-lieu process.

HAFAs Program Fees: Our Fees are based on levels so you do not over pay for services

- Level 1: Initial Consultation: \$150.00 – Includes:
 1. Your options and availability for the SSA Program
 2. Review the entire 43 page Supplemental Directive 09-09 as it pertains to your specific situation
 3. Discover all lienholders pertaining to your property
 4. Provide you with information about the TRUE value of your property and the terms that would be needed to be successful with an SSA
 5. Review your original Loan Documentation so you completely understand your current obligations.
- Level 2: SSA Program Analysis: \$150.00 – Includes:
 1. Contacting your Lender or Servicer for direction with their SSA Program
 2. Create the borrower package for approval from your lender or servicer
 3. Review and consult with you about the SSA package by your lender if you are approved for their program
- Level 3: Short Sale and Deed-in-Lieu Completion: \$450.00 – Includes:
 1. Final evaluation to proceed with the SSA program with your lender
 2. Complete and deliver your signed SSA to your lender
 3. Consult with you about YOUR choice of realtor to represent you with the short sale
 4. Consult with you and your realtor during negotiations with your secondary lienholders
 5. Constant review of ALL documentations for a successful Short Sale.
 6. Act as you Power of Attorney for the entire process.

As you can see, each level has its own pricing structure. This will insure you that you will never pay for more than you receive.

We have provided all the information you need to make an informed decision about your specific situation without spending any money for professional services. However, if you do have any general questions about the HAFAs program and our services, please feel free to contact us.