

# Protecting Homeowners at Foreclosure

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Foreclosures devastate families and neighborhoods and hamper economic recovery. In an effort to reduce the number of foreclosures, Congress, the Administration, and the lending community have created programs to help borrowers modify their mortgages. These efforts include new programs to help troubled borrowers, along with resources for housing counseling programs. While the amount of foreclosures have decreased since the peak of the crisis, foreclosures are still up from historic levels, and the recovery has been slow in part because federal foreclosure prevention programs have not been as successful as they were intended to be.

## ADMINISTRATION

Foreclosure prevention and counseling programs are administered by a variety of entities, including Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), HUD, and the Federal Housing Administration (FHA). In addition, banks and mortgage servicers modify mortgages outside of the federal programs.

## PROGRAM SUMMARY

Since 2009, the Obama administration has created several programs to help struggling homeowners avoid foreclosure.

**Home Affordable Modification Program.** The Home Affordable Modification Program (HAMP) provides incentives to loan servicers (the organizations to whom monthly mortgage payments are made) and investors to modify first-lien mortgages for homeowners in default or in danger of default. By providing mortgage servicers with financial incentives to modify existing first mortgages, the Department of the Treasury (Treasury) hopes to help as many as 3 million to 4 million homeowners avoid foreclosure regardless of who owns or services the mortgage. Participation in the program is voluntary, and 145 servicers participate in the program under agreements with the Treasury. Modifications can be made under HAMP until December 31, 2015, an extension past the original December 31, 2013 expiration date.

The HAMP modification program is available to owner-occupants in one- to four-unit properties at risk of default because of unaffordable mortgage payments. The unpaid principal balance on the mortgage loan must be equal to or less than \$729,750 for one-unit properties (there is a higher limit for two- to four-unit properties) and the mortgage loan must have been made on or before January 1, 2009. The mortgage payments must be unaffordable (i.e. exceed 31% of the borrower's pre-tax income). The modification will consist of a reduction of the interest rate to a point where loan payments do not exceed 31% of the borrower's income. This interest rate, which can be as low as 2%, will be in place for the first five years of the modified mortgage, at which time the interest rate will slowly increase to the market rate at the time the mortgage was modified. If a 2% interest rate does not result in a payment that is affordable, the servicer can take additional steps to make the mortgage affordable, including extending the loan term out to 40 years, deferring repayment on a portion of the amount owed until a later time, or forgiving a portion of the debt.

Borrowers request to participate in HAMP by sending their servicer an initial set of documents to establish their eligibility for the program. If eligibility is established and an economic model shows that it is worth more to the investor to modify the mortgage than foreclose, the servicer must offer the borrower a modification. If the modified mortgage is worth less than the foreclosed mortgage, the modification is optional. Slightly different rules apply in the case of loans owned or guaranteed by Freddie Mac or Fannie Mae.

HAMP has several sub- or related programs.

- The Home Price Decline Protection (HPDP) program provides incentives to offset potential losses in home values after a modification to encourage servicers and investors to modify mortgages in declining markets. The incentives are based on projections of future home prices.

- The Principal Reduction Alternative (PRA) program provides funds to be used to reduce the principal for homes worth less than the amount remaining on the first-lien mortgage.
- Home Affordable Unemployment Program (UP) or Homeowners Loan Program is intended to offer assistance to unemployed homeowners through temporary forbearance of a portion of their mortgage payments.
- Home Affordable Foreclosure Alternatives (HAFA) provides incentives to servicers and borrowers to pursue short sales or deeds in lieu of foreclosure in cases where the borrower is unable or unwilling to enter into a modification. In a short sale, a servicer allows the borrower to sell the property at its current value, even if the sale nets less than the total amount owed on the mortgage. With a deed in lieu, the borrower simply voluntarily transfers ownership of the property to the servicer. While not desirable alternatives, these procedures allow the homeowner and the servicer to avoid the time and expense of a foreclosure.
- Second Liens. According to Treasury up to 50% of at-risk mortgages have second liens, and many properties in foreclosure have more than one lien. Under the Second Lien Modification Program, when a HAMP modification is initiated on a first lien, servicers participating in the Second Lien Program must modify or extinguish the associated second lien. Modifications to the second lien are made based on the nature of the second lien according to a set of specific rules, or the servicer can extinguish the second lien in return for a lump sum payment from Treasury.
- HAMP Tier 2. Treasury further expanded the HAMP program in 2012, known as HAMP Tier 2, to broaden HAMP eligibility. Borrowers must still have a mortgage on a single family property. The mortgage must have been originated prior to January 2, 2009. Borrowers must also have a documented difficulty in making the payments, and the borrower's unpaid principal balance must fall below thresholds established in the program. Notably, HAMP Tier 2 allows for some rental properties to eligible for modifications.

**FHA Short Refinance Program.** This program, which began in September 2010, allows certain underwater homeowners to refinance into new FHA-insured mortgages, at amounts lower than the value of their home. Homeowners must be up to date on their mortgage payments to qualify for the program, and only borrowers who do not initially have FHA-insured mortgages are eligible. Up to \$1 billion of the Troubled Asset Relief Program (TARP) funds are authorized to be used for the program; FHA is responsible for any additional costs. The program is set to expire on December 31, 2014.

**Home Affordable Refinance Program.** Through the Home Affordable Refinance Program (HARP), Fannie Mae and Freddie Mac will allow the refinancing of mortgage loans they own or that they placed in mortgage-backed securities. This refinancing will allow borrowers to move to a less expensive fixed-rate mortgage even if their mortgage is greater than the current value of their homes, a situation known as being “underwater.” Currently, these underwater mortgages cannot be easily refinanced, leaving few options for borrowers facing unaffordable increases on their adjustable rate mortgages. To be eligible, the mortgage must be on an owner-occupied one- to four-unit home, and the borrower must be current on mortgage payments and be able to afford the new mortgage. Initially, homeowners were eligible if, among other criteria, they owed up to 105% of the value of their homes. The program was expanded by the Administration in 2009 to include homeowners who owed up to 125% of the value of their homes. This cap was removed entirely by the Federal Housing Finance Agency (FHFA) altogether in 2011. Like HAMP, the HARP program's expiration date has been extended to December 31, 2015. The program was initially set to expire on December 31, 2013. To determine if a mortgage loan is owned by Freddie Mac or Fannie Mae, the borrower can call the mortgage lender or servicer and ask about the program. Contact information can be found on monthly statements or in mortgage coupon books. In addition, Fannie Mae and Freddie Mac have established toll-free telephone numbers and websites to help borrowers.

**The Hardest Hit Fund.** The Hardest Hit Fund was created in 2010, when the Obama Administration announced the commitment of \$1.5 billion to be made available to the housing finance agencies in the five states that had experienced the greatest drops in home prices. These states are: Arizona, California, Florida, Michigan, and Nevada. A second round of funding, \$600 million was made available later in 2010 for states

with high levels of economic distress and unemployment: North Carolina, Ohio, Oregon, Rhode Island, and South Carolina. A third round of funding made \$2 billion available for states with unemployment rates higher than the national average. States must spend their funds under the program by December 31, 2017. Additional rounds of funding are not expected.

Fannie Mae, 1-800-7FANNIE (8am to 8pm EST), [www.fanniemae.com/loanlookup](http://www.fanniemae.com/loanlookup)  
Freddie Mac, 1-800-FREDDIE (8am to 8pm EST), [www.freddiemac.com/mymortgage](http://www.freddiemac.com/mymortgage)

**HOPE NOW.** An alliance composed of counselors, mortgage companies, investors, and other mortgage market participants, HOPE NOW members work together to reach out to homeowners in distress to help them stay in their homes and to create a unified, coordinated plan to help as many homeowners as possible. The alliance supports the HOPE for Homeowners Hotline, 1-888-995-HOPE, where borrowers can receive pre-foreclosure counseling.

**National Foreclosure and Mitigation Counseling Program.** This program was launched in December 2007 to increase the availability of counseling services to homeowners at risk of foreclosure across the country. Under this program, NeighborWorks America makes grants to HUD-approved housing counseling intermediaries, qualifying state housing finance agencies, and NeighborWorks organizations. The entities then provide counseling to troubled borrowers to assist them in exploring loan modification or refinance options, including those offered through the Making Home Affordable program. NeighborWorks maintains an interactive website to help borrowers identify a counselor in their area at: [www.findaforeclosurecounselor.org/network/nfmc\\_lookup](http://www.findaforeclosurecounselor.org/network/nfmc_lookup)

**Foreclosure legal assistance.** The Dodd-Frank Wall Street Reform and Consumer Protection Act created, but did not fund, a HUD-administered program for making grants to provide legal assistance to low and moderate income homeowners and tenants related to home ownership preservation, home foreclosure prevention, and tenancy associated with home foreclosure.

**Mortgage Settlement.** In February 2012 a legal settlement was announced between the five largest mortgage servicers in the country and 49 state attorneys general, as well as several federal agencies with respect to mortgage servicing. Under the settlement, the servicers must provide approximately \$25 billion in assistance to borrowers, as well as assistance to states and the federal government. In addition to the aid provided through the settlement, the servicers must develop and implement new servicing standards and policies for communication with borrowers.

## FORECAST FOR 2014

While many homeowners have been helped by the various federal efforts, the numbers served have fallen far short of expectations. Three federal foreclosure assistance programs were targeted for elimination in the 112th Congress by bills in the House and Senate: HAMP (H.R. 839 and S. 527), the Emergency Homeowner Loan Program (H.R. 836), and the FHA refinancing program (H.R. 830). H.R. 830 and H.R. 836 passed the House on March 11, 2011. H.R. 839 passed the House on March 29, 2011. However, the Senate never considered these measures and the bills expired at the end of the 112th Congress. There has not been a renewed effort to eliminate these programs in the 113th Congress, to date.

Congress has begun in earnest to start to advance legislation to reform and redesign the current housing finance system. Advocates should stay engaged in the housing finance reform discussion to help shape a future system that will help address the confluence of issues that led to the foreclosure crisis, and prevent a similar situation from occurring in the future.

The Federal Housing Finance Agency (FHFA) is the conservator of the government sponsored enterprises Fannie Mae and Freddie Mac. For loans held by Fannie Mae and Freddie Mac, FHFA has the authority to allow for principal reductions of underwater borrowers' monthly mortgage payments through the forgiveness of a portion of a loan's total amount. The previous FHFA Acting Director, Edward DeMarco, refused to allow for principal reductions. However, as of January, 2014, Mel Watt has been confirmed as Director of the Agency, and may take a different stance on the issue than his predecessor. Advocates and the Obama Administration, among others, have argued that allowing for principal write-downs will help keep borrowers from defaulting on their mortgages.

## **WHAT TO SAY TO LEGISLATORS**

Advocates should contact their Members of Congress with the message that the variety of efforts and programs targeted to helping stop foreclosures is indicative of the seriousness of the problem. If foreclosures cannot be reduced, the economy is likely to take longer to recover and more families and communities will experience housing instability. Congress should work to refine and create programs and initiatives to enable more homeowners to receive help.

Advocates should urge FHFA to allow for principal write-downs and other proactive steps that would assist underwater homeowners.

## **FOR MORE INFORMATION**

Making Home Affordable initiatives, [www.makinghomeaffordable.gov](http://www.makinghomeaffordable.gov)

More information on the homeowner's loan program, [www.nw.org/network/foreclosure/nfmcp/ehlp.asp](http://www.nw.org/network/foreclosure/nfmcp/ehlp.asp)

HUD information on foreclosure avoidance, <http://1.usa.gov/VBqaKL>

FHA modification and refinancing programs, [www.fha.com](http://www.fha.com)