Current Developments in Mortgage Modification - Is HAMP Working?

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Educational Materials

CURRENT DEVELOPMENTS IN MORTGAGE MODIFICATION – IS HAMP WORKING?

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OBAMA ADMINISTRATION RELEASES NEW DATA ON MODIFICATION PROGRAM

SERVICER PERFORMANCE REPORT THROUGH NOVEMBER 2009

PRESS ROOM
U.S. DEPARTMENT OF THE TREASURY

December 10, 2009
TG-439

Obama Administration Releases New Data on Modification Program

WASHINGTON – Today, the Obama Administration released the latest monthly report for the Making Home Affordable (MHA) loan modification program. As part of an ongoing commitment to transparency, the report includes for the first time the number of modifications that have transitioned from the trial to permanent phase as well as a break-out of the 15 metropolitan areas with the highest program activity. With more than 728,000 modifications under way across the country, the program is on track to meet its goals over the next several years. Modifications are providing real benefits to homeowners - borrowers in modifications are saving an average of over $550 per month. However, the report shows that servicers have only converted 31,382 modifications to the permanent phase. According to servicer reports, most borrowers in modifications are meeting their responsibilities to make their payments. Servicers need to do their part to help borrowers complete the process and get to the finish line. Top Administration officials met with servicers in Washington DC this week to urge a faster pace in converting borrowers to permanent modifications.

"As this report illustrates, struggling homeowners across the country continue to receive immediate relief in the form of reduced monthly payments and a second chance to stay in their homes," said Chief of Treasury's Homeownership Preservation Office (HPO) Phyllis Caldwell. "Our focus now is on working with servicers, borrowers and organizations to get as many of those eligible homeowners as possible into permanent modifications."

"Our challenge now is to keep the pressure on," said HUD Senior Advisor for Mortgage Finance William Apgar. "HUD approved counselors are working with borrowers to ensure they are doing their part to transition into sustainable permanent modifications and we will ensure that servicers convert as many of those modifications by the end of the year as scheduled as they are scheduled to."

The Monthly Report is available here: http://www.financialstability.gov/docs/MHA%20Public%20121009%20Final.pdf

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Making Home Affordable Program

Servicer Performance Report Through November 2009

Overview of Administration Housing Stability Initiatives

Initiatives to Support Access to Affordable Mortgage Credit and Housing

Lower Mortgage Rates and Access to Credit:

- Continued financial support to maintain affordable mortgage rates through the Government Sponsored Enterprises (GSEs)
- Access to sustainable mortgages through the Federal Housing Administration (FHA)

State and Local Housing Initiatives:

- Access for Housing Finance Agencies (HFAs) to provide mortgages to first-time homebuyers, refinancing opportunities to at-risk borrowers, and help in developing affordable rental housing

Tax Credits for Housing:

- First-time homebuyer credit to help more homebuyers buy a new home
- Low-Income Housing Tax Credit (LIHTC) programs to support affordable rental housing

Initiatives to Prevent Avoidable Foreclosures and Stabilize Neighborhoods

Making Home Affordable – Modifications:

- Goal of offering 3-4 million homeowners lower mortgage payments through a modification over three years

Making Home Affordable – Refinancing:

- Refinancing flexibility and low mortgage rates, which have allowed over 3 million borrowers to refinance, saving an estimated $150 per month on average and more than $6 billion dollars in total over the first year

Hope for Homeowners:

- Sustainable refinancing opportunity for some homeowners to restore equity as integrated component of MHA

Neighborhood Stabilization and Community Development Programs:

- Support for the hardest hit communities to help stabilize neighborhoods

Making Home Affordable Program

Servicer Performance Report Through November 2009

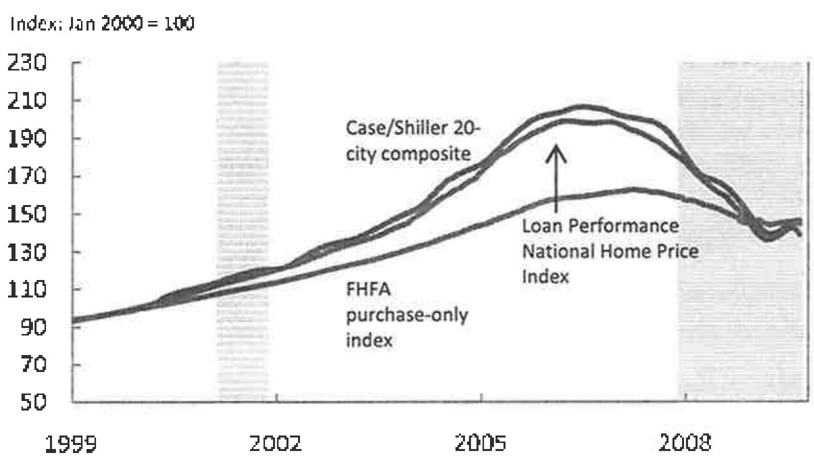
Mortgage Rates

Source: Federal Reserve.

Housing Inventory

Source: National Association of Realtors.

Home Prices



Sources: S&P/Case-Shiller Home Price Index, LP/Haver Analytics; FHFA

New and Existing Home Sales

Source: National Association of Realtors, Census Bureau

Note: Shaded areas indicate recessions.

Making Home Affordable Program

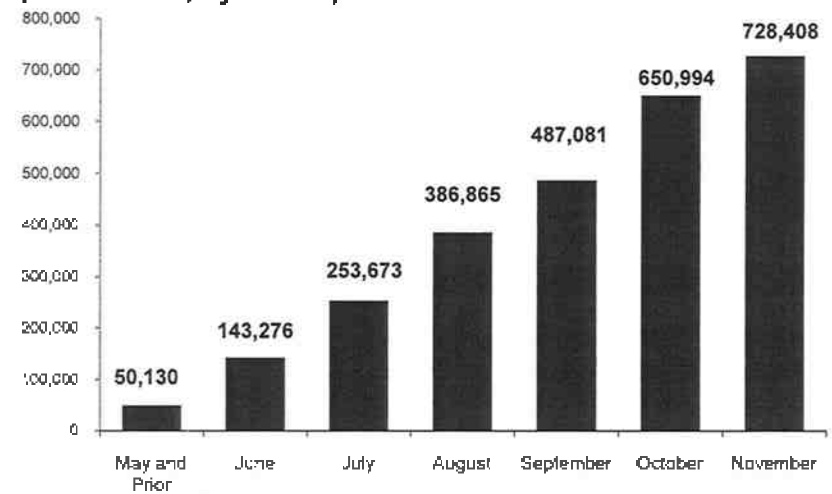
Servicer Performance Report Through November 2009

Home Affordable Modification Program (HAMP) Snapshot through November 2009

Number of Requests for Financial Information Sent to Borrowers (Cumulative) [1]	3,137,548
Number of Trial Period Plan Offers Extended to Borrowers (Cumulative) [1]	1,032,837
All HAMP Trials Started Since Program Inception[2]	759,058
All Active Modifications (Trial and Permanent)	728,408
Number of Active Trial Modifications[2]	697,026
Number of Permanent Modifications[3]	31,382

[1] Source: Survey data provided by servicers. November data is through Nov. 26.
[2] As reported by the HAMP system of record.
[3] Active permanent modifications as reported by servicers into the HAMP system of record. Includes 16,261 permanent modifications receiving incentive payments to servicers in November.

HAMP Active Trial and Permanent Modifications (Cumulative, by Month)

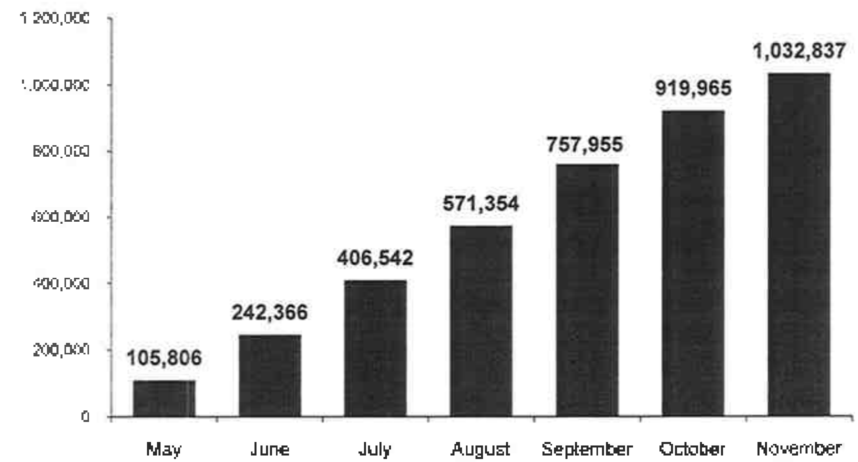


Source: Active trial and permanent modifications as of November 30, based on numbers reported by servicers to the HAMP system of record.

HAMP Program Highlights

- Approximately 85% of eligible mortgage debt outstanding is covered by HAMP participating servicers.
- 78 servicers have signed servicer participation agreements to modify loans under HAMP. These participants service loans owned or guaranteed by Fannie Mae or Freddie Mac, loans held in portfolio, or loans serviced on behalf of other investors.
- Approximately 2,300 lenders service loans owned or guaranteed by Fannie Mae or Freddie Mac. These servicers are automatically eligible to participate in HAMP.
- The Administration has launched a month-long conversion campaign to ensure that servicers increase focus on the hundreds of thousands of borrowers eligible to move from the trial to the permanent modification phase at the end of December.

HAMP Trial Plans Offered to Borrowers (Cumulative, by Month)



Source: Survey data provided by servicers. September data includes October 1; October data is 10/2 through 10/29. November data is through Nov. 26.

Additional information on HAMP can be found on MakingHomeAffordable.gov or by calling the Homeowner's HOPE Hotline at 1-888-995-HOPE (4673).

Making Home Affordable Program

Servicer Performance Report Through November 2009

HAMP Modification Activity by Servicer

Servicer	Participation Date	Estimated Eligible 60+ Day Delinquency[1]	Trial Plan Offers Extended	All HAMP Trials Started	Active Trial Modifications[2]	Permanent Modifications[2]	Active Trials + Permanents as Share of Eligible 60+ Day Delinquencies
American Home Mortgage Servicing Inc	7/22/09	120,787	12,621	7,642	7,430	201	6%
Aurora Loan Services, LLC[3]	5/1/09	75,829	38,110	32,794	21,717	3,622	33%
Bank of America, NA[4]	4/17/09	1,018,192	244,139	158,462	156,864	98	15%
Bank United	10/23/09	5,102	672	0	0	0	0%
Bayview Loan Servicing, LLC	7/1/09	9,908	3,638	2,995	2,884	50	30%
Carrington Mortgage Services LLC	4/27/09	18,413	2,298	1,491	1,198	293	8%
CCO Mortgage	8/17/09	5,173	1,353	789	789	0	15%
CitiMortgage, Inc.[5]	4/13/09	233,924	127,594	103,478	100,126	271	43%
Franklin Credit Management Corporation	9/11/09	9,612	0	0	0	0	0%
GMAC Mortgage, Inc.	4/13/09	67,539	39,857	28,275	19,559	7,111	39%
Green Tree Servicing LLC	4/24/09	4,072	1,154	754	692	2	17%
HomEq Servicing	8/5/09	40,969	1,987	657	657	0	2%
J.P. Morgan Chase Bank, NA[6]	4/13/09	448,815	199,033	143,027	136,686	4,302	31%
Litton Loan Servicing LP	8/12/09	109,614	22,702	16,909	16,870	39	15%
MorEquity, Inc.	7/17/09	2,263	392	49	49	0	2%
Nationstar Mortgage LLC	5/28/09	47,566	22,251	11,717	11,266	358	24%
Ocwen Financial Corporation, Inc.	4/16/09	66,351	15,961	9,783	5,515	4,252	15%
OneWest Bank	8/28/09	111,674	35,313	19,623	19,623	0	18%
PNC Mortgage[7]	5/26/09	45,240	17,526	10,581	9,902	18	22%
Residential Credit Solutions	8/12/09	2,169	399	368	270	98	17%
RG Mortgage Corporation	6/17/09	3,223	348	90	67	23	3%
Saxon Mortgage Services, Inc.	4/13/09	80,309	39,145	35,608	35,565	42	44%
Select Portfolio Servicing	4/13/09	61,615	42,244	26,806	19,552	218	32%
US Bank NA	9/9/09	26,354	9,084	6,518	6,480	38	25%
Wachovia Mortgage, FSB[8]	7/1/09	82,457	6,542	2,371	1,980	351	3%
Wells Fargo Bank, NA	4/13/09	334,849	148,240	104,808	95,137	3,537	30%
Other SPA servicers[9]	–	4,778	434	432	251	167	8%
Other GSE Servicers[10]	–	262,842	NA	33,021	24,877	6,291	NA
Total		**3,299,780**	**1,032,837**	**759,058**	**697,026**	**31,382**	**24%**

[1] Estimated eligible 60+ day delinquent mortgages as reported by servicers as of October 31, 2009 include loans:
- in foreclosure and bankruptcy.
- with a current unpaid principal balance less than $729,750 on a one-unit property, $934,200 on a two-unit property, $1,129,250 on a three-unit property and $1,403,400 on a four-unit property.
- on a property that was owner-occupied at origination.
- originated prior to January 1, 2009.

Estimated eligible 60+ day delinquent loans excludes:
- FHA and VA loans.
- loans that are current or less than 60 days delinquent, which may be eligible for HAMP if a borrower is at imminent risk of default.

Servicers enrolling after November 1 did not submit data in the 60+ day delinquency survey.

[2] Active trial and permanent modifications as reported into the HAMP system of record by servicers.

[3] Aurora Loan Services, LLC includes Aurora Financial Group.

[4] Bank of America, NA includes Bank of America, NA, BAC Home Loans Servicing LP, Home Loans Services and Wilshire Credit Corporation.

[5] CitiMortgage, Inc. includes CitiMortgage, Inc., Master Servicing Division.

[6] J.P. Morgan Chase Bank, NA includes EMC Mortgage Corporation.

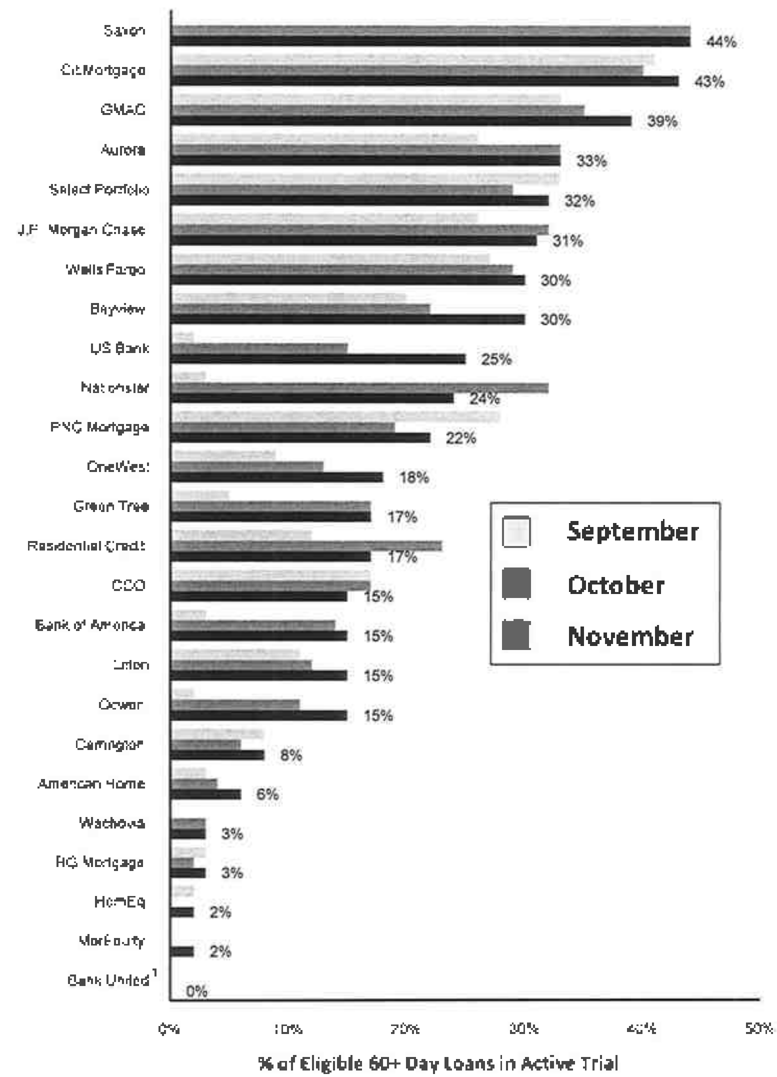
[7] Formerly National City Bank.

[8] Wachovia Mortgage, FSB includes Wachovia Bank, NA.

[9] Other SPA servicers are entities with less than 1,000 estimated eligible 60+ day delinquencies that have signed participation agreements with Treasury and Fannie Mae. These servicers are: Allstate Mortgage Loans and Investments, AMS Servicing, LLC, Bay Federal Credit Union, Central Florida Educators Federal Credit Union, Central Jersey Federal Credit Union, Citizens First Wholesale Mortgage Company, CUC Mortgage Corp., DuPage Credit Union, Farmers State Bank, First Bank, First Federal Savings and Loan, First Keystone Bank, Glass City Federal Credit Union, Great Lakes Credit Union, Horicon Bank, Hillsdale County National Bank, Horicon Bank, IBM Southeast Employees Federal Credit Union, [illegible] Federal Credit Union, Lake City Bank, Lake National Bank, Los Alamos National Bank, Marix Servicing LLC, Members Mortgage Company Inc., Metropolitan National Bank, Mission Federal Credit Union, Mortgage Center LLC, Mortgage Clearing Corp., Oakland Municipal Credit Union, ORNL Federal Credit Union, PennyMac Loan Services LLC, Purdue Employees Federal Credit Union, Glenway Inc., Guardian Servicing Corp., Roundpoint Mortgage Servicing Corp., Schools Financial Credit Union (SEFCU), Servis One Inc., Shore Bank, Stanford Federal Credit Union, Technology Credit Union, [illegible] Bank Mortgage Corp., Vantium Capital Inc., Wescom Central Credit Union and Yadkin Valley Bank.

[10] Includes approximately 2,300 participants that service loans owned or guaranteed by Fannie Mae and Freddie Mac.

Trial Modification Tracker: Active Modifications as a Share of Estimated Eligible 60+ Day Delinquencies



[1] Bank United began participation on October 23, 2009.

Note: Includes active trial and permanent modifications. Servicer combinations are the same as the table at left.

September trials as a share of 60+ day delinquencies on August 31, 2009.
October trials as a share of 60+ day delinquencies on September 30, 2009.
November trials as a share of 60+ day delinquencies on October 31, 2009.

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Making Home Affordable Program

Servicer Performance Report Through November 2009

HAMP Portfolio Composition (20 Largest Servicers)

Servicer	GSE	Private	Portfolio	Total
Bank of America, NA[1]	99,351	53,662	5,449	158,462
JP Morgan Chase NA[2]	61,321	60,893	20,813	143,027
CitiMortgage, Inc.	67,538	6,557	29,383	103,478
Wells Fargo Bank, NA	81,003	0	23,805	104,808
Saxon Mortgage Services Inc.	1,117	34,137	354	35,608
GMAC Mortgage, Inc.	15,624	12,651	0	28,275
Aurora Loan Services, LLC	19,413	13,013	368	32,794
Select Portfolio Servicing	622	23,358	2,826	26,806
OneWest Bank	12,981	5,757	885	19,623
Litton Loan Servicing LP	2,607	0	14,302	16,909
Nationstar Mortgage LLC	7,346	4,206	165	11,717
PNC Mortgage[3]	9,546	6	1,039	10,591
Ocwen Financial Corporation, Inc.	1,075	8,702	6	9,783
American Home Mortgage Servicing Inc	643	6,999	0	7,642
US Bank NA	5,615	6	897	6,518
Bayview Loan Servicing, LLC	0	2,896	99	2,995
Wachovia Mortgage, FSB[4]	1,519	93	759	2,371
Carrington Mortgage Services LLC	0	1,491	0	1,491
CCO Mortgage	589	0	200	789
Green Tree Servicing LLC	655	94	5	754
Remainder of HAMP Servicers	33,526	664	427	34,617
Total	**422,091**	**135,185**	**101,782**	**759,058**

[1] Bank of America NA includes Bank of America, NA, BAC Home Loans Servicing LP, Home Loans Services and Wilshire Credit Corporation.
[2] J.P. Morgan Chase Bank, NA includes EMC Mortgage Corporation.
[3] Formerly National City Bank.
[4] Wachovia Mortgage FSB includes Wachovia Bank NA.

Note: Figures reflect all HAMP trials started.

HAMP Activity by State

State	Modifications	State	Modifications
Alabama	5,086	Montana	982
Alaska	439	Nebraska	1,238
Arizona	37,208	Nevada	19,247
Arkansas	2,055	New Hampshire	3,301
California	148,350	New Jersey	24,299
Colorado	10,574	New Mexico	2,506
Connecticut	9,327	New York	32,305
Delaware	2,410	North Carolina	15,037
District of Columbia	1,304	North Dakota	182
Florida	90,575	Ohio	16,107
Georgia	28,305	Oklahoma	2,256
Hawaii	2,575	Oregon	8,241
Idaho	2,939	Pennsylvania	16,848
Illinois	37,552	Rhode Island	3,399
Indiana	8,224	South Carolina	7,940
Iowa	2,338	South Dakota	352
Kansas	2,181	Tennessee	8,492
Kentucky	3,240	Texas	23,963
Louisiana	4,496	Utah	6,073
Maine	1,985	Vermont	534
Maryland	23,930	Virginia	18,652
Massachusetts	16,401	Washington	14,193
Michigan	24,626	West Virginia	1,285
Minnesota	14,154	Wisconsin	7,421
Mississippi	3,050	Wyoming	383
Missouri	9,026	Other*	645

* Includes Guam, Puerto Rico and the U.S. Virgin Islands.
Note. Figures include active trial and permanent modifications. They do not include 177 loans that did not have identifiable state data.

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Making Home Affordable Program

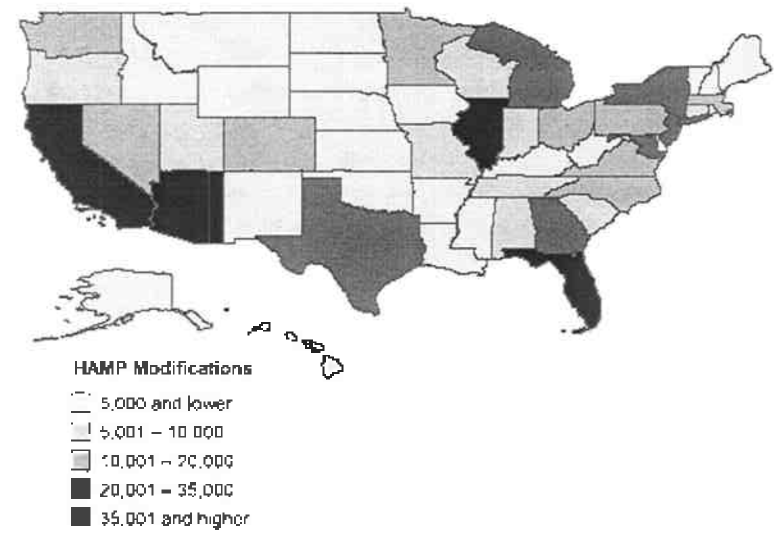
Servicer Performance Report Through November 2009

15 Metropolitan Areas With Highest HAMP Activity

Metropolitan Statistical Area	Modifications	% of Total
New York-Northern New Jersey-Long Island, NY-NJ-PA	43,873	6.0%
Los Angeles-Long Beach-Santa Ana, CA	42,777	5.9%
Chicago-Naperville-Joliet, IL-IN-WI	36,208	5.0%
Miami-Fort Lauderdale-Pompano Beach, FL	34,860	4.8%
Riverside-San Bernardino-Ontario, CA	34,688	4.8%
Phoenix-Mesa-Scottsdale, AZ	30,830	4.2%
Washington-Arlington-Alexandria, DC-VA-MD-WV	25,318	3.5%
Atlanta-Sandy Springs-Marietta, GA	22,893	3.1%
Las Vegas-Paradise, NV	16,003	2.2%
Detroit-Warren-Livonia, MI	15,237	2.1%
Orlando-Kissimmee, FL	14,609	2.0%
Philadelphia-Camden-Wilmington, PA-NJ-DE-MD	12,758	1.8%
Minneapolis-St. Paul-Bloomington, MN-WI	11,627	1.6%
Boston-Cambridge-Quincy, MA-NH	11,615	1.6%
Tampa-St. Petersburg-Clearwater, FL	11,334	1.6%

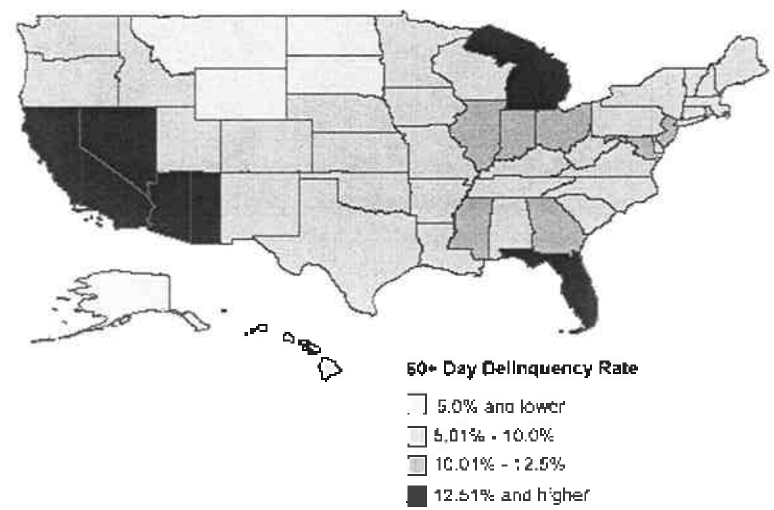
Note: Figures include active trial and permanent modifications.

HAMP Activity by State



Note: Includes active trial and permanent modifications from the official HAMP system of record.

Mortgage Delinquency Rates by State



Source: Mortgage Bankers Association. Data is as of 3rd Quarter 2009.

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BORROWER FREQUENTLY ASKED QUESTIONS

REVISED AS OF JULY 16, 2009

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BORROWER

FREQUENTLY ASKED QUESTIONS

What is "Making Home Affordable" all about?

The Making Home Affordable Program is part of the Obama Administration's broad, comprehensive strategy to get the economy and the housing market back on track. The Making Home Affordable Program offers two different potential solutions for borrowers: (1) refinancing mortgage loans, through the Home Affordable Refinance Program (HARP), and (2) modifying mortgage loans, through the Home Affordable Modification Program (HAMP).

HOME AFFORDABLE <u>REFINANCE</u>

1. **I'm current on my mortgage. Will a refinance under the Home Affordable Refinance Program (HARP) help me?**

   Eligible borrowers who are current on their mortgages but have been unable to take advantage of today's lower interest rates because their homes have decreased in value, may now have the opportunity to refinance. Through a refinance under HARP, Fannie Mae and Freddie Mac will allow the refinancing of mortgage loans that they own or that they guaranteed in mortgage backed securities.

2. **How do I know if I am eligible for a refinance under HARP?**

   You may be eligible if:

   - The loan on your property is owned or guaranteed by Fannie Mae or Freddie Mac (*Don't know? See below*);
   - At the time you apply, you are current on your mortgage payments ("current" generally means that you have not been more than 30 days late on your mortgage payment in the last 12 months, or, if you have had the loan for less than 12 months, you have never missed a payment);
   - The amount you owe on your <u>first</u> lien mortgage does not exceed 125 percent of the <u>current</u> market value of your property;
   - You have a reasonable ability to pay the new mortgage payments; and
   - The refinance improves the long term affordability or stability of your loan.

3. **How do I know if a refinance under HARP will improve the long term affordability or stability of my loan?**

Your lender will give you a "Good Faith Estimate" and a Truth in Lending Statement; between the two disclosures you will see your new interest rate, mortgage payment and the amount you will pay over the life of the loan. Compare this to your current loan terms. If the proposed new payment is not an improvement, refinancing may not be right for you. But consider that refinancing from an adjustable rate loan (an ARM) to a fixed rate loan or eliminating higher risk loan terms such as interest only payments or balloon payments may also provide long term stability. For example, refinancing from an ARM with a low introductory teaser rate or from an interest-only mortgage into a fixed-rate loan product may actually increase your payment in the short term, but would improve your ability to sustain mortgage payments over the long-term.

4. **How do I know if my loan is owned or has been guaranteed by Fannie Mae or Freddie Mac?**

You should call your mortgage lender or servicer (the organization to whom you make your monthly mortgage payments) and ask about the program.

Both Fannie Mae and Freddie Mac have established toll-free telephone numbers and web submission processes to make this data available. Borrowers can enter information to determine if either agency owns or guaranteed the loan. This information is not a guarantee of eligibility for a refinance under HARP, as other qualifying criteria must also be met.

- For Fannie Mae,
  - 1-800-7FANNIE (8am to 8pm EST Mon.-Fri.).
  - www.fanniemae.com/loanlookup
- Freddie Mac
  - 1-800-FREDDIE (8am to 8pm EST Mon.-Fri.)
  - www.freddiemac.com/mymortgage

5. **I owe more than my property is worth. Do I still qualify for a refinance under HARP?**

Eligible loans will include those where the first lien mortgage does not exceed 125 percent of the current market value of the property. For example, if your property is worth $200,000 but you owe $250,000 or less on your first lien mortgage you may qualify. The current market value of your property will be determined after you apply to refinance.

6. **I have both a first lien and a second lien mortgage. Do I still qualify for a refinance under HARP?**

As long as the amount due on the first lien mortgage is less than 125 percent of the value of the property, borrowers with more than one mortgage may be eligible for a refinance under HARP. Your eligibility will depend, in part, on two additional requirements: first, that the lender that has your junior lien mortgage must agree to remain in a junior lien position, and second, on your ability to meet the new payment terms on the first lien mortgage.

7. **Will refinancing lower my payments?**

The objective of a refinance under HARP is to provide creditworthy borrowers who have shown a commitment to paying their mortgage, the opportunity to get into a new mortgage with payments that are affordable today and sustainable for the life of the loan. Borrowers whose mortgage interest rates are much higher than the current market rate should see an immediate reduction in their payments.

Borrowers who are paying interest only, or who have a low introductory rate that will increase in the future, may not see their current payment go down if they refinance to a fixed rate and payment. These borrowers, however, could save a great deal over the life of the loan by avoiding future mortgage payment increases. When you submit a loan application, your lender will give you a "Good Faith Estimate" and a "Truth in Lending Statement" that includes your new interest rate, mortgage payment and the amount that you will pay over the life of the loan. Compare this to your current loan terms. If it is not an improvement, a refinancing may not be right for you.

8. **What are the interest rate and other terms of a refinance under HARP?**

The rate will be based on market rates in effect at the time of the refinance and any associated points and fees quoted by your lender. Interest rates may vary across lenders and over time as market rates adjust. The refinanced loans must have no prepayment penalties or balloon payments.

9. **Will a refinance under HARP reduce the amount that I owe on my loan?**

No. The objective of a refinance under HARP is to help borrowers get into more affordable or stable loans. Refinancing will not reduce the principal amount you owe to the first lien mortgage holder or any other debt you owe. However, refinancing should save you money by reducing the amount of interest that you pay over the life of the loan.

10. **Can I get cash out to pay other debts?**

No. However, borrowers whose loans are owned or guaranteed by Fannie Mae may be eligible to finance all closing costs and obtain a small amount of cash (up to $250) through the refinance if there is sufficient equity. Borrowers whose loans are owned or guaranteed by Freddie Mac may be eligible to finance transaction costs equal to the lesser of 4 percent of the current unpaid principal balance of the loan being refinanced or $5,000. In addition, such borrowers may obtain up to $250 cash.

11. How do I apply for a refinance under HARP?

You should call your mortgage lender and ask for a Home Affordable Refinance application. The number is on your monthly mortgage bill or coupon book. Please be patient. Lenders and servicers are implementing the program now and it may take time before they are ready to process all applications. In the meantime, it will help your lender and speed up the application process if you gather some information and documents before you call.

Alternately, you may apply through a lender approved to do business with Fannie Mae or Freddie Mac. Nearly all major banks and mortgage brokers have this approval.

12. What documentation will I need?

It will help your lender if you gather some information and documents before you call. Generally, you will need:

- Information about the monthly gross (before tax) income of all the borrowers on your loan, including recent pay stubs if you receive them, or documentation of income you receive from other sources.
- Your most recent income tax return.
- Information about any junior lien mortgage on the house.
- Account balances and minimum monthly payments due on all of your credit cards.
- Account balances and monthly payments on all your other debts such as student loans and car loans.

13. I am delinquent on my mortgage. Will I qualify for a refinance under HARP?

No. Borrowers who are currently delinquent or have been 30 days overdue more than once during the past 12 months generally will not qualify. You should contact your servicer to see if a modification under the Home Affordable Modification Program is an option for you.

14. Will I need mortgage insurance?

If your existing loan has private mortgage insurance, you will need the same amount of insurance coverage for a refinance under HARP. If your existing loan does not have private mortgage insurance, it will not be required as part of a refinance under HARP.

15. **How long will refinances under HARP be available?**

The program expires on June 10, 2010. Your refinance under HARP must have a mortgage note date on or before that date.

HOME AFFORDABLE MODIFICATION

1. **Can the Making Home Affordable Program help me if my loan is not owned or guaranteed by Fannie Mae or Freddie Mac?**

Yes. The Program helps borrowers who are struggling to keep their loans current or who are already behind on their mortgage payments. By providing mortgage loan servicers with financial incentives to modify existing first lien mortgages, the Treasury hopes to help homeowners avoid foreclosure regardless of who owns or guarantees the mortgage.

2. **How do I know if I am eligible for a modification under the Home Affordable Modification Program (HAMP)?**

To apply for a modification under HAMP, you must:

- Be the owner-occupant of a one to four unit home;
- Have an unpaid principal balance that is equal to or less than:
  - 1 Unit: $729,750
  - 2 Units: $934,200
  - 3 Units: $1,129,250
  - 4 Units: $1,403,400;
- Have a first lien mortgage that was originated on or before January 1, 2009;
- Have a monthly mortgage payment (including taxes, insurance, and home owners association dues) greater than 31 percent of your monthly gross (pre-tax) income; and
- Have a mortgage payment that is not affordable due to a financial hardship that can be documented.

If you answered YES to all of these questions, you may be eligible for a modification under HAMP. Only your servicer will be able to tell you if you qualify.

3. **Do I need to be behind on my mortgage payments to be eligible for a modification under HAMP?**

No. Responsible borrowers who are struggling to remain current on their mortgage payments are eligible if they are at risk of imminent default. An example of imminent default might be that the borrower had or will have a significant increase in their mortgage payment that they cannot afford. If you have had or anticipate a significant increase in your mortgage payment or if you have had a significant reduction in income or have experienced some other hardship that makes it impossible to pay your mortgage, contact your servicer. You will be required to document your income and expenses and provide evidence of the hardship or change in your circumstances.

4. **I have a junior lien mortgage. Am I still eligible?**

Yes, but only the first lien mortgage is eligible for a modification under HAMP.

5. **How do I know if my servicer is participating? Are all servicers required to participate?**

Participation is mandatory for servicers of loans owned or guaranteed by Fannie Mae or Freddie Mac (Government Sponsored Enterprises or GSEs). Participation in HAMP is voluntary for servicers of non-GSE loans. However, substantial incentives are available to servicers, investors and borrowers who complete modifications under HAMP, and most major servicers already have committed to the Program. A current list of participating servicers is available at www.MakingHomeAffordable.gov. Servicers not currently listed have until December 31, 2009 to opt into the Program.

Servicers of non-GSE loans sign a contract with Fannie Mae, as Treasury's financial agent, through which they agree to review every potentially eligible borrower who asks to be considered for the Making Home Affordable Program. To ensure that a borrower currently at risk of foreclosure has the opportunity to apply for a modification under HAMP, participating servicers may not proceed with a foreclosure sale until the borrower has been evaluated for a HAMP modification and, if eligible, a trial modification offer has been made.

6. **What will my servicer do to determine if I report a hardship?**

If you report a hardship, your servicer will:

- Determine whether your loan meets the minimum eligibility criteria (i.e., owner-occupied; originated on or before January 1, 2009; and unpaid principal balance equal to or less the loan limit for the number of units involved).
- If your loan meets the minimum eligibility criteria, ask about current income, assets and expenses, as well as any specific hardship circumstances to determine if you are unable to make your mortgage payment. (Your servicer may initially accept verbal income and expense information. However, you will need to provide verifying documentation before a final modification is approved.)
- Determine if your monthly first lien mortgage payment is greater than 31 percent (approximately one-third) of your gross or pre-tax monthly income.
- Apply a value test to determine whether the value of the loan to the investor will be greater if the loan is modified (factoring in the government's incentive payments). For example, loans held by borrowers who have a lot of equity or

whose incomes are very low in relation to the value of their homes probably will not pass this value test. If the modified loan is not of greater value, the investor and servicer may still modify the loan. However, modification in such cases is not required.

- If the modified loan is of greater value, the servicer must offer you a modification under HAMP, and, if you accept the offer, will put you on a trial modification (typically three months) at the new payment level.
- If you successfully make all of the required trial payments during the trial period and the income and expense information you provided is determined to be accurate, your servicer will execute a permanent modification agreement.

NOTE: You will be required to sign the modification agreement and other documents and attest that all of the information you provided to your servicer was true and accurate. Misrepresenting any information required for the Home Affordable Modification is a violation of Federal law and has serious legal consequences.

7. Is the interest rate subject to change during the term of the HAMP modification?

If the modified rate is below the market rate as determined from the Freddie Mac Primary Mortgage Market Survey rate on the date the modification agreement is prepared, the modified rate will be fixed for a minimum of five years as specified in your modification agreement. Beginning in year six, the rate may increase no more than one percentage point per year until it reaches the market rate at the time the modification agreement is prepared. Your rate can never be higher than the market rate as indicated in your modification agreement. If the modified rate is at or above the market rate at the time the modification agreement is prepared, however, the modified rate is fixed for the life of the loan.

8. Will a modification under HAMP include property taxes and homeowners insurance?

Yes. All loans modified under HAMP must include an escrow account for payment of future property taxes and hazard insurance, unless prohibited by state law. If your existing loan does not include an escrow account, one will be established. A new escrow account may require collection of a sufficient reserve to pay the taxes and insurance on or before they are next due. The reserve amount cannot be added to the modified loan amount. The servicer may give you the option of paying the reserve amount at the time the loan is modified or the option of spreading the amount over a period of 60 months and including it in the monthly escrow payment.

9. How low can my interest rate go?

Treasury is providing incentives to your servicer to write the interest down to as low as 2 percent, if necessary to get to a payment that you can afford. Each borrower's interest rate will only be reduced to a point sufficient to get the modified payment to equal 31% of the borrower's gross monthly income. Not all borrowers will need a rate reduction to 2 percent in order to achieve a monthly mortgage payment that is affordable.

10. What happens if that is not enough to get to an affordable payment?

If a 2 percent interest rate does not result in a payment that is affordable (no more than 31 percent of your gross monthly income), your servicer may:

- First try to extend your payment term. At the servicer's option the term of the loan could be extended up to 40 years.
- If that is still not sufficient, your servicer may defer a portion of the principal amount you owe until the maturity of the loan. This is called a principal forbearance. However please note that with a forbearance, you will still owe the principal; but repayment is deferred until a later date. See Question 11 for more information on principal forbearance.
- A portion of the principal could be also be forgiven. This is optional on the part of the servicer. However there is no requirement for principal forgiveness and there is no guarantee that your servicer will offer principal forgiveness.

11. Could I end up with a balloon payment?

Yes. If your servicer determines that a principal forbearance is required to get your monthly mortgage payment to an affordable level, the principal forbearance amount, say for example this was $20,000, would be subtracted from the amount used to calculate your monthly mortgage payment, but you would still owe the money. You would have a $20,000 balloon payment that accrues no interest and was not due until you paid off your loan, refinanced or sold your house.

12. What happens if I am unable to make payments during the trial period?

Borrowers who are unable to make three payments by the end of the trial period are not eligible for a modification under HAMP. However, you may be eligible for other foreclosure prevention options offered by your servicer.

13. How much will a modification cost me?

Borrowers who are behind on payments or at risk of imminent default often do not have cash to pay for the expenses of a loan modification. Borrowers who qualify for a modification under HAMP will never be required to pay a modification fee or pay past-due late fees. If there are costs associated with the modification, such as payment of back taxes, your servicer will give you the option of adding them to the amount you owe on your mortgage or paying some or all of the expenses in advance. Paying these expenses in advance will reduce your new monthly payment and save interest costs over the life of your loan.

If you would like assistance from a HUD-approved housing counseling agency or are referred to a HUD-approved counselor as a condition of the modification, you will not be charged a counseling fee. Borrowers should beware of any organization that attempts to charge an upfront fee for housing counseling or modification of a delinquent loan, or any organization that claims to guarantee success.

14. Is housing counseling required for a modification under HAMP?

Borrowers, especially delinquent borrowers, are strongly encouraged to contact a HUD-approved housing counselor to help them understand all of their options and to create a workable budget plan. These services are free. However, housing counseling is only required for borrowers whose total monthly debts are very high in relation to their incomes. It is voluntary for other applicants.

When you apply for a modification under HAMP, your servicer will analyze your monthly debts, including the amount you will owe on the new mortgage payment after it is modified, as well as payments on a second mortgage, car loans, credit cards or child support. If the sum of all of these recurring monthly expenses is equal to or more than 55 percent of your gross monthly income, you must agree to participate in housing counseling provided by a HUD-approved housing counselor as a condition of getting a modification under HAMP.

15. I heard the government was providing a financial incentive to borrowers. Is that true?

Yes. Borrowers who make timely payments on their modified loans will receive success incentives. For every month you make a payment on time, you will accrue an incentive that reduces the principal balance on your loan. If your loan ceases to be in good standing (three monthly payments are due and unpaid on the last day of the third month), no further success payments will be paid, including accrued but unpaid amounts. The incentive will be applied directly to your loan balance annually and over five years the total principal reduction could add up to $5,000. This contribution by the Treasury will help you build equity faster.

16. I do not live in the house that secures the mortgage I'd like to modify. Is this mortgage eligible for a modification under HAMP?

No. For example, if you own a house that you use as a vacation home or that you rent out to tenants, the mortgage on that house is not eligible to be modified under HAMP. If you used to live in the home but you moved out, the mortgage is not eligible. Only the first lien mortgage on your primary residence is eligible. The servicer will check to see if the dwelling is your primary residence. Misrepresenting your occupancy in order to qualify for this program is a violation of Federal law and may have serious legal consequences.

17. I have a mortgage on a duplex. I live in one unit and rent the other unit. Will I still be eligible?

Yes. Mortgages on two, three and four-unit properties are eligible as long as you live in one unit as your primary residence.

18. I owe more than my house is worth. Will a modification under HAMP reduce what I owe?

The primary objective of the Making Home Affordable Program is to help borrowers avoid foreclosure by modifying troubled loans to achieve a payment the borrower can afford. Servicers may, but are not required to, offer principal reductions. It is more likely that your servicer will use interest rate reductions and term extensions in order to make your payment affordable.

19. I have an FHA loan. Can it be modified under HAMP? Are all loans eligible?

Most conventional loans including prime, subprime and adjustable loans, loans owned by Fannie Mae, Freddie Mac and private investors and most loans in mortgage backed securities are eligible for a modification under HAMP. The Administration is working with FHA and VA on a program that would provide for modifications consistent with the Making Home Affordable Program in the near future. Currently loans insured or guaranteed by these agencies are being modified under other programs that also enable borrowers to retain homeownership.

20. How do I apply for a modification under HAMP?

If you meet the general eligibility criteria for a modification under HAMP, you should gather the financial documentation that your servicer will need to determine if you qualify (See Question 21). Once you have this information, you should contact your servicer and ask to be considered for a modification under HAMP. The servicer's phone number and email address is on your monthly mortgage bill or coupon book.

If your loan is current, please be patient as it may take some time before servicers are able to process all applications. However, servicers immediately can begin reviewing the eligibility of borrowers.

If you would like to speak to a housing counselor you can call **1-888-995-HOPE (4673).** HUD-approved housing counselors can help you evaluate your income and expenses and understand your options. This counseling is FREE.

If you have already missed one or more mortgage payments and have not yet spoken to your servicer call them immediately.

21. What information and documents will I need?

It will help your servicer and speed processing of your application if you gather some information and documents before you call. For all borrowers on your loan, you will need:

- Information about monthly gross income, including recent pay stubs, if the borrowers are salaried and receive them, and documentation of any income received from other sources.
- Most recent income tax return.
- Information about assets.
- Information about any subordinate lien mortgage on the house.
- Account balances and minimum monthly payments due on all credit cards.
- Account balances and monthly payments on all other debts such as student loans and car loans.
- A letter describing why your mortgage is unaffordable (i.e. what caused your income(s) to be reduced or expenses to be increased).

22. How long will borrowers have to enter into a HAMP modification?

HAMP expires on December 31, 2012. Your trial modification must be in place by that date.

23. My loan is scheduled for foreclosure soon. What should I do?

If you are at risk of foreclosure, participating servicers may not proceed with a foreclosure sale until you have been evaluated for a modification under HAMP, and, if eligible, offer you a trial modification.

However, borrowers whose loans have been scheduled for foreclosure or any borrower that has missed one or more mortgage payments and has not yet spoken to their servicer should contact them immediately. Borrowers may also contact a HUD-approved housing counselor by calling **1-888-995-HOPE (4673).**

What Else Do I Need to Know?

1. Who is my "loan servicer"? Is that the same as my lender or investor?

Your loan servicer is the financial institution that collects your monthly mortgage payments and has responsibility for the management and accounting of your loan. Your servicer may also be your lender, which means they could also own your loan; however, many loans are owned by groups of investors and these investors hire loan servicers to interact with borrowers on their behalf. Also, many lenders no longer interact with their borrowers; they too have the loan servicers handle all contact with borrowers.

Traditionally, banks used money deposited in customers' savings accounts to make loans. They held the loans, earning the interest as borrowers repaid over time. Banks were thus limited in the number of loans they could make because they had to wait to make new ones until savings deposits grew or existing borrowers repaid their loans. Many families who wanted to own a home were unable to do so because there was not a steady supply of money for banks to lend.

Over time, banks started to turn loans into cash by pooling large groups of loans together to create mortgage backed securities that could be sold to investors such as pension funds and hedge funds. The investors get the right to collect future payments and the bank gets cash that it can use to make more loans. Investors hire loan servicers to collect payments and interact with customers.

If you have questions about your loan or you are behind on your payments you should call your loan servicer at the number on your payment coupon or monthly mortgage statement.

2. Why does my loan servicer have to ask the lender or investor if they can do a loan modification?

If the organization that services your loan does not own it, your servicer may need to get permission from the owner or investor before they can change any of the terms of your loan. Generally, there is a contract between the servicer and the investor that states what kind of actions the servicer is allowed to take. Most of these contracts, usually called servicing agreements or pooling and servicing agreements (PSAs), give the servicer a lot of leeway to make modification decisions, so long as the modification provides a better financial outcome for the lender or investor than not modifying the loan.

3. What should I do if my servicer tells me that the investor is not participating in the Making Home Affordable Program?

As contracts with servicers are signed, the list of participants will be posted at http://www.MakingHomeAffordable.gov/. Borrowers should check first to see if their servicer is listed. If so, you should call your servicer back and ask to speak to a supervisor or you may contact a HUD-approved housing counselor for assistance. If your servicer is not participating in the Program, you should ask your servicer or a housing counselor about other workout options that may be available.

Beware of Foreclosure Rescue Scams – Help Is Free!

- There should never be a fee for assistance with or information about the Making Home Affordable Program.

- Beware of any person or organization that asks you to pay an upfront fee in exchange for a counseling service or modification of a delinquent loan. *Do not pay – walk away!*
- 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.

HOME AFFORDABLE REFINANCE AND HOME AFFORDABLE MODIFICATION INFORMATION

RESOURCES FOR BORROWERS

MAKING HOME AFFORDABLE.gov

HELP FOR AMERICA'S HOMEOWNERS


Are You Eligible?

HOME AFFORDABLE REFINANCE

If you are a homeowner who is current on your mortgage payments but unable to refinance to a lower interest rate because your home value has decreased, you may be able to refinance.

Am I eligible for a Home Affordable Refinance? Answer these questions:

1. Are you the owner of a one- to four-unit home? Yes No

2. Do you have a loan owned or guaranteed by Fannie Mae or Freddie Mac? Yes No
   If you don't know, click here.

3. Are you current on your mortgage payments? Yes No
   "Current" means that you haven't been more than 30-days late on your mortgage payment in the last 12 months.

4. Do you believe that the amount you owe on your first mortgage is about the same or less than the current value of your house? Yes No

   You may be eligible if your first mortgage does not exceed 125% of the current market value of your home. For example, if your property is worth $200,000 but you owe $250,000 or less on your first mortgage, you may be eligible. The current value of your property will be determined after you apply to refinance. If unsure, click "Yes" for Question #4 and go to Refinance next steps.

By clicking on "SUBMIT" below, your answers will be analyzed and you will be directed to Next Steps for the Home Affordable Refinance or to the Home Affordable Modification eligibility page for additional help.

This site can help you determine if you are eligible, but only the servicer of your loan can tell you if you qualify. Please contact your servicer for more information.

Submit

Other Useful Links

- Homeowner Examples
- Frequently Asked Questions

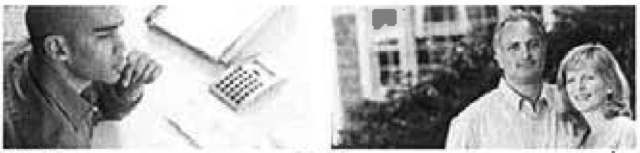
Beware of Foreclosure Rescue Scams - Help Is Free!

- Click here to learn more

MAKING HOME AFFORDABLE.GOV

HELP FOR AMERICA'S HOMEOWNERS

ABOUT | ELIGIBILITY | LOAN LOOKUP | FIND A COUNSELOR | REQUEST A MODIFICATION | RESOURCES | AUDIO AND VIDEO | EN ESPAÑOL



Homeowner Example

Home › Resources › Refinance Homeowner Example

Adobe® Acrobat® Reader®

REFINANCE HOMEOWNER EXAMPLE

Example #1 Meet Brian and Lisa - They need to refinance their mortgage

Brian and Lisa have steady jobs - Brian is a high school teacher, Lisa is a nurse. They pay their bills on time including their monthly mortgage payment. Like many homeowners, Brian and Lisa are unable to refinance to a lower interest rate because the value of their home value has declined.

Do Brian and Lisa qualify to refinance to a lower interest rate under the new plan? They may because they meet the following requirements:

- They own a one - to four - unit home.
- The loan on their home is owned or guaranteed by Fannie Mae or Freddie Mac.
- They are current on their mortgage payments and have not been 30 days late making a payment within the past 12 months.
- Their mortgage is no more than 125% of the value of their home. In this case they owe $258,000 on their first mortgage but their home value dropped to $250,000.

Like Brian and Lisa, you may be able to refinance to take advantage of lower interest rates to reduce your mortgage payments. If so, here are the answers to some of the questions you may be asking

How do I know if I have a Fannie Mae or a Freddie Mac loan?
Go to Loan Look Up for contact information for Fannie Mae and Freddie Mac. You can call or fill out an online request form to find out if Fannie Mae or Freddie Mac owns or guarantees your loan.

How do I know if I am eligible?
Eligible loans include those where the first mortgage (including any refinancing costs) does not exceed 125 percent of the current market value of the home. For example, if your home is worth $200,000 but you owe $250,000 or less you may qualify. The current value of your property will be determined after you apply to refinance.

I have both a first and second mortgage. Do I still qualify to refinance under the program?
You may only refinance your first mortgage. If that mortgage is less than 125 percent of the value of the property, you may qualify.

Your eligibility will depend on whether you are able to make the new payments on the first mortgage. The lender on your second mortgage must agree to remain in the second position.

Will refinancing lower my payments?
Generally yes. If your mortgage interest rate is higher than the current market rate you should see an immediate reduction in your payments. If your existing mortgage requires you to pay interest only and no principal, or if you are currently paying only a low introductory (or "teaser") rate, you may not see your current payment go down. However, refinancing to a low, fixed rate mortgage can reduce the risk of payment shock when your monthly payment amount changes, and refinancing could save you a great deal of money over the life of the loan.

What would my new interest rate be?
The rate will be based on market rates at the time of the refinance and any associated points and fees

In this section

- News and Information
- Frequently Asked Questions
- Understanding Your Mortgage Statement
- Homeowner Events
- Homeowner Examples
  - Meet Brian and Lisa
  - Meet Jennifer
- Payment Reduction Estimator
- Modification Evaluator
- Asked and Answered

quoted by the lender

Will refinancing reduce the amount that I owe on my loan?
No, refinancing will not reduce the amount you owe on your loan or any other debt you may have. However, by locking in a low fixed interest rate, it should save money over the life of the loan.

When can I apply?
You can apply now, and should reach out to your servicer or a housing counselor to determine if you qualify.

In partnership with FinancialStability.gov

En Español | About | Eligibility | Loan Look Up | Find a Counselor | Request a Modification | Resources | Audio and Video | Privacy Policy | Search
www.Treas.gov | www.FinancialStability.gov | www.HUD.gov

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HELP FOR AMERICA'S HOMEOWNERS

Estimator

PAYMENT REDUCTION ESTIMATOR

Under the Home Affordable Modification program, the target maximum amount for your mortgage payment (or mortgage debt-to-income) should be 31% of your gross (pre-tax) monthly income. This Payment Reduction Estimator will determine what your current mortgage debt-to-income is and how much your monthly payment may be reduced if you qualify for a modification.

Do not include any payments on your second mortgage. You may have taxes and interest in escrow added to your monthly payment already, so be careful to count taxes and escrow only once.

Payment Reduction Estimator for Home Affordable Mortgage Modification

Total Monthly Payment on Your First (or "primary") Mortgage
Be sure to INCLUDE principal, interest, taxes, insurance and homeowners association dues if applicable
If you need help, click here

Enter Your Gross Monthly Income
This is the income of all borrowers who signed your mortgage BEFORE taxes and any adjustments
If you need help, click here

Calculate

This is Your Current Debt-to-Income (DTI) Level	%
Target DTI under the Home Affordable Modification	31%
Potential New Monthly Payment If You Qualify	$
Potential Monthly Payment Reduction If You Qualify	$

Note: To protect your privacy, this site will not record your information.

In this section

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HELP FOR AMERICA'S HOMEOWNERS

Evaluator

MODIFICATION EVALUATOR

Use this tool to determine if you may be eligible for the Home Affordable Modification. Simply enter your current monthly gross income. The tool will calculate a mortgage payment guideline amount. If your current mortgage payment is above this amount and you meet the other Home Affordable Modification guidelines, then you may be eligible. Please be sure to read the notes below for further information.

Modification Evaluator for Home Affordable Mortgage Modification

Enter Your Gross Monthly Income
This is the income of all borrowers who signed your mortgage BEFORE taxes and any adjustments.
If you need help, click here

Mortgage Payment to Income Guideline 31%

Mortgage Payment Guideline

Calculate

If your current mortgage payment is above the amount shown in the Mortgage Payment Guideline, then you may be eligible for the Home Affordable Modification. Please go to the Modification Eligibility page to get started.

Notes

Gross Monthly Income: is the total income of all borrowers who signed your mortgage before any taxes or other deductions are made. If more than one person signed your mortgage, such as your spouse or a co-signer, add the gross monthly income of all borrowers and enter this amount.

Mortgage Payment: is defined as what you pay on a monthly-basis for principal, interest, property taxes, hazard insurance and homeowner's association fees, if applicable. Please include information about your First (or "primary") mortgage only. Do not include any payments on your second mortgage. You may have taxes and interest in escrow added to your monthly payment already, so be careful to count taxes and escrow only once.

Mortgage Payment Guideline: This is calculated as 31% of your current monthly gross income. If your current monthly mortgage payment is above this amount, you may be eligible for the Home Affordable Modification.

Note: to protect your privacy, this site will not record your information.

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MAKING HOME AFFORDABLE.gov

HELP FOR AMERICA'S HOMEOWNERS

Are You Eligible?

HOME AFFORDABLE MODIFICATIONS

If you can no longer afford to make your monthly loan payments, you may qualify for a loan modification to make your monthly mortgage payment more affordable. Millions of borrowers who are current, but having difficulty making their payments and borrowers who have already missed one or more payments may be eligible.

Am I eligible for a Home Affordable Modification? Answer these questions:

1. Is your home your primary residence? Yes No
2. Is the amount you owe on your first mortgage equal to or less than $729,750? Yes No
3. Are you having trouble paying your mortgage? *For example, have you had a significant increase in your mortgage payment OR reduction in your income since you got your current loan OR have you suffered a hardship that has increased your expenses (like medical bills)?* Yes No
4. Did you get your current mortgage before January 1, 2009? Yes No
5. Is your payment on your first mortgage (including principal, interest, taxes, insurance and homeowner's association dues, if applicable) more than 31% of your current gross income? *Note: if you are uncertain, click here to determine.* Yes No

By clicking on "SUBMIT" below, your answers will be analyzed, and you will be directed to Next Steps for the Home Affordable Modification or to other options for additional help.

This site can help you determine if you are eligible, but only the servicer of your loan can tell you if you qualify. To qualify, you will generally need to show that you have adequate income to make the reduced payments on an ongoing basis and that modification is an appropriate option given the characteristics of your mortgage and the value of your home.

Submit

Other Useful Links

- Homeowner Examples
- Frequently Asked Questions

Payment Reduction Estimator

This Payment Reduction Estimator will determine what your current mortgage debt to income is and how much your monthly payment may be reduced if you qualify.

› View Payment Reduction Estimator

Beware of Foreclosure Rescue Scams - Help Is Free!

› Click here to learn more

MAKING HOME AFFORDABLE.GOV

HELP FOR AMERICA'S HOMEOWNERS

Asked and Answered

Home › Resources › Asked and Answered

ASKED AND ANSWERED: ANSWERS FOR HOMEOWNERS LIKE YOU

Below are questions and answers from homeowners like you. Check this section frequently as we will continue to add new questions and answers.

> "My economic-crisis-propelled layoff on March 3, 2009 from my accounting position at a company in Germantown, MD has made it challenging for me to manage my expenses. Throughout my life, I have always managed my financial liabilities responsibly, but now, I find myself in a position where I risk defaulting on my payments unless I am able to get mortgage assistance soon. Does the Loan Modification Plan under the TARP help people who currently lost their jobs, but can afford to pay the modified mortgage payments because of their spouse's income (who is not a co borrower in the loan)?"
> Iqbal, Germantown, MD

Yes, your spouse's income can be considered as a source of income if you apply for a Home Affordable Modification. A homeowner may include household income from others living in the household to qualify for a Home Affordable Modification provided that any non-borrower's income is verified according the guidelines of the Home Affordable Modification Program.

The guidelines for servicers participating in the Home Affordable Modification Program state "Servicers should include non-borrower household income in monthly gross income if it is voluntarily provided by the borrower and if there is documentary evidence that the income has been and reasonably can continue to be, relied upon to support the mortgage payment. All non-borrower household income included in monthly gross income must be documented and verified by the servicer using the same standards for verifying a borrower's income."

Contact your loan servicer to find out if you might be eligible for the Home Affordable Modification Program. If you have additional questions, you can also contact the Homeowner's HOPE™ Hotline at 1-888-995-HOPE

> "Seems that your home affordable plan only applies to those who have loans through Fannie Mae or Freddie Mac. What is being done to help those current on their mortgages, but struggling, and have a loan through an independent bank?"
> Debora, Old Bridge, NJ

The Making Home Affordable Refinance Program is designed specifically to help those whose home values may have fallen relative to their mortgage values. The program is available to homeowners with a first loan, owned or guaranteed by Fannie Mae or Freddie Mac, that is 80-125% of the value of the home.

The eligibility criteria for the Home Affordable Modification Program are

- Be an owner-occupant in a one to four unit property,
- Have an unpaid principal balance that is equal to or less than $729,750 for one unit properties (there is a higher limit for two to four unit properties),
- Have a loan that was originated on or before January 1, 2009,
- Have a mortgage payment (including taxes, insurance, and home owners association dues) that is more than 31% of your gross (pre-tax) monthly income, and
- Have a mortgage payment that is not affordable, perhaps because of a significant change in income or expenses.

In this section

The Home Affordable Modification Program is focused on getting as many families as possible who are struggling with their mortgages into a mortgage that they can afford over the long-term. It does this by reducing borrowers' interest rates and monthly payments down to a level they can afford. In addition, the plan permits lenders to get to a level of affordability in a variety of ways, including reducing interest rates, extending terms, or writing down principal.

Contact your loan servicer to find out if you might be eligible for the Home Affordable Modification Program. If you have additional questions, you can also contact the Homeowner's HOPE™ Hotline at 1-888-995-HOPE.

> "I am an hourly paid employee asking for a loan modification to my loan servicer. Since I have overtime income on regular basis but not always, is this income taken into consideration when calculating my gross monthly income?"
> Pedro, Kissimmee, FL

Yes, your overtime income will be taken into account when calculating your gross monthly income if you apply for a Home Affordable Modification.

The guidelines for servicers participating in the Home Affordable Modification Program state: "The borrower's "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, other compensation for personal services, Social Security payments, including Social Security received by adults on behalf of minors or by minors intended for their own support, and monthly income from annuities, insurance policies, retirement funds, pensions, disability or death benefits, unemployment benefits, rental income and other income."

Contact your loan servicer to find out if you might be eligible for the Home Affordable Modification Program. If you have additional questions, you can also contact the Homeowner's HOPE™ Hotline at 1-888-995-HOPE.

The following questions were submitted during the White House's Open for Questions event:

> "Why do I have to be to the point of foreclosure to get any help with my mortgage? Why aren't you helping the people who want to PREVENT foreclosure?"
> MistyLee, Providence, RI

We share the goal of reaching at-risk borrowers now, while they are still current on their payments. The Home Affordable Refinance Program is available to current borrowers and only current borrowers, giving responsible borrowers who have made their payments on time an opportunity to refinance into lower rates and more affordable payments.

The Home Affordable Modification Program offers extra incentives to reach borrowers before they go delinquent. The foreclosure crisis is dragging down property values and destroying the neighborhoods of millions of people. It is like a fire. It spreads. The President's program strikes an appropriate balance by enabling lenders and borrowers to agree to affordability modifications but steering it to responsible homeowners.

The plan targets borrowers who have played by the rules in the following ways:

- The plan only applies to owner-occupied properties and does not apply to investors or speculators.
- The plan targets greater resources at people that have played by the rules and paid their bills on time.
- The plan does not require people to become delinquent before it provides support.
- The plan has higher incentives for success than for failures.
- The plan does not apply to millionaire homes and only GSE conforming loans are eligible.

> "I pay my bills and taxes on time and always have. Why am I now paying for the poor fiscal decisions of my neighbor who signed a mortgage that he could never afford or my friend who defaults on credit card debt? What happened to consequences?"
> Cobber99, Palm Springs, CA

This program targets millions of responsible, middle class borrowers and enables them to modify or refinance their mortgages in a way that will allow them to avoid being thrown out of their homes. And that benefits everyone since foreclosure damage isn't limited to just the house that is lost.

Foreclosures have dragged down entire neighborhoods and threaten to ignite a vicious cycle of additional foreclosure and decline in housing values. Foreclosures reduce the value of neighboring properties and lead to increased crime and property abandonment. Reducing the number of foreclosures will help stabilize home values or reduce their fall even for those who do not participate in the plan. Treasury estimates that the plan would stabilize as much as $6,000 of the average home's value at levels higher than they otherwise would have been.

"Why do banks approve people for loans they can't afford? My husband & I are buying a new home. We estimate we can afford a home that costs $225,000. The bank approved us for $450,000. Perhaps a new "formula" for approval is in order?"
Karen H, Apex, NC

The objective of the Making Home Affordable Plan is to facilitate affordable modifications that are sustainable going forward. Lenders must take the first loss in doing a modification, and the worse their original loan, the bigger the loss they must take in getting the borrower down to 38% debt to income without any government subsidy. Our plan leaves lenders on the hook for the mortgages they made, and if a sustainable modification is not a viable loan, the government will not pay anything to get it to work.

"Why can't the refinancing of your home, at the home's current values, be available to any homeowner, not just the ones in trouble now. Help the homeowners across the board, give us all relief, treat us all the same."
grandma2009, virginia

Together with the Federal Reserve's actions, our housing policies have helped to bring down mortgage rates to historic lows, giving millions of responsible Americans who are current on their mortgage payments the ability to refinance. A typical homeowner can now refinance and save around $2,000.

As of April 9th

- Rates on 30-year mortgages have dropped to an all-time low of 4.78 percent.
- Refinancing applications are up 88 percent (Mortgage Banker's Association).
- Fannie Mae refinanced $77 billion of mortgages in March, nearly twice the February amount, and their highest volume in one month since 2003.

"Mr. President. What can be done to assist homeowners paying their mortgages but facing significant losses in equity? As a category, it is difficult for these responsible people to refinance into the more favorable mortgages now available."
HelenKathryn, Seattle, WA

The Making Home Affordable Refinance Program is designed specifically to help those whose home values may have fallen relative to their mortgage values. The program is available to homeowners with a first loan, owned or guaranteed by Fannie Mae or Freddie Mac, that is 80-105% of the value of the home.

We're focused on getting as many families as possible who are struggling with their mortgages into a mortgage that they can afford. The Home Affordable Modification Program gets the borrower's interest rates and monthly payments down to a level they can afford in a way that is most cost effective for taxpayers. That will keep millions from being foreclosed on. Our plan permits lenders to get to a level of affordability in a variety of ways, including reducing interest rates, extending terms, or writing down principal. In addition, we have incorporated principal write downs into our incentive structure in a productive way – success payments to homeowners are available to help pay down principal more quickly.

The Administration on April 28 announced the MHA Second Lien Program and Incorporation of Hope for Homeowners, a program designed specifically to help underwater borrowers, into the Making Home Affordable Program. The Administration is strongly supporting legislation to improve Hope for Homeowners so that it can reach more borrowers, and help to increase the equity those homeowners own in their homes.

MAKING HOME AFFORDABLE.gov

HELP FOR AMERICA'S HOMEOWNERS

Resources

RESOURCES FOR BORROWERS

News and Information
Find articles and information about foreclosure prevention and other helpful topics.

Frequently Asked Questions by Borrowers
Read important questions and answers facing many borrowers when looking at the program.

Understanding the Trial Plan
The Home Affordable Modification Program requires borrowers to enter into a Trial Period Plan before receiving a permanent Home Affordable Modification.

Understanding Your Mortgage Statement
View an example of a mortgage statement and learn how to understand what it means.

In Your Community: Homeowner Events
Find an event in your area where you can get immediate help connecting with loan servicer representatives and local housing counselors.

Lending Discrimination
Visit the Office of Fair Housing and Equal Opportunity for more information.

Outreach Toolkit
Download brochures, fliers, fact sheets, presentations, and banner ads to help spread the word about Making Home Affordable.

Contact Your Mortgage Company
A wide array of servicers have agreed to participate in the Home Affordable Modification program and have already engaged borrowers and expanded capacity to begin the modification process for eligible homeowners.

Making Home Affordable: Homeowner Examples
Read examples of homeowners who may have similar situations as yours.

- Meet Brian and Lisa
- Meet Jennifer

Payment Reduction Estimator
This Payment Reduction Estimator will determine what your current mortgage debt-to-income is and how much your monthly payment may be reduced if you qualify.

Modification Evaluator
This tool will calculate a mortgage payment guideline amount based upon your current financial situation.

Asked and Answered
Questions from Homeowners Like You
- Read responses to questions from homeowners like you
- Frequently Asked Questions
- If you need immediate assistance call 1-888-995-HOPE (4673)

Beware of Foreclosure Rescue Scams – Help is Free!

- Beware of anyone who asks you to pay a fee in exchange for a counseling service or modification of a delinquent loan.
- Scam artists often target homeowners who are struggling to meet their mortgage commitment or anxious to sell their homes. Recognize and avoid common scams.
- Assistance from a HUD-approved housing counselor is FREE.
- Beware of people who pressure you to sign papers immediately, or who try to convince you that 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 a mortgage payment to anyone other than your mortgage company without their approval.

The Obama Administration has launched a coordinated effort across federal and state government and the private sector to target mortgage loan modification fraud and foreclosure rescue scams that threaten to hurt American homeowners and prevent them from getting the help they need during these challenging times. Click here for more information.

CURRENT DEVELOPMENTS IN MORTGAGE MODIFICATION

HAMP IS NOT WORKING (as advertised…)

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PRESS RELEASE – NOVEMBER 30, 2009

OBAMA ADMINISTRATION

KICKS OFF MORTGAGE MODIFICATION CONVERSION DRIVE

PRESS ROOM

November 30, 2009
TG-421

Obama administration Kicks off Mortgage Modification Conversion Drive

WASHINGTON – The U.S. Department of the Treasury and Department of Housing and Urban Development (HUD) today kick off a nationwide campaign to help borrowers who are currently in the trial phase of their modified mortgages under the Obama Administration's Home Affordable Modification Program (HAMP) convert to permanent modifications. The modification program, which has helped over 650,000 borrowers, is part of the Administration's broader commitment to stabilize housing markets and to provide relief to struggling homeowners and is a primary focus of financial stability efforts moving forward. Roughly 375,000 of the borrowers who have begun trial modifications since the start of the program are scheduled to convert to permanent modifications by the end of the year. Through the efforts being announced today, Treasury and HUD will implement new outreach tools and borrower resources to help convert as many trial modifications as possible to permanent ones.

"We are encouraged by the pace at which trial modifications are now being made to provide immediate savings to struggling homeowners," said the new Chief of Treasury's Homeownership Preservation Office (HPO), Phyllis Caldwell. "We now must refocus our efforts on the conversion phase to ensure that borrowers and servicers know what their responsibilities are in converting trial modifications to permanent ones." In her new role, Caldwell will lead HPO's conversion drive efforts.

"Encouraging borrowers to move through the process of converting trial modifications to permanent modifications remains a top priority for HUD," said HUD Assistant Secretary for Housing and FHA Commissioner David Stevens. "As a part of our continuing efforts to improve the execution of the HAMP program, HUD is committed to working with servicers, borrowers, housing counselors and others dedicated to homeownership preservation to improve the transition of distressed homeowners into affordable and sustainable mortgages."

With tens of thousands of trial modifications being made each week, the Administration is now working to ensure that eligible borrowers have the information and the assistance needed to move from the trial to the permanent modification phase. (All mortgage modifications begin with a trial phase to allow borrowers to submit the necessary documentation and determine whether the modified monthly payment is sustainable for them.) As the first round of modifications convert from the trial to permanent phase, the Administration has identified several strategies for addressing the challenges that borrowers confront in receiving permanent modifications.

In addition to the conversion drive that kicks off today, the Obama Administration has already taken several steps to make the transition from trial to permanent modification easier and more transparent by:

- Extending the period for trial modifications started on or before September 1st to give homeowners more time to submit required information;
- Streamlining the application process to minimize paperwork and simplify the submission process; meeting regularly with servicers to identify necessary improvement to borrower outreach and responsiveness;
- Developing operational metrics to hold servicers accountable for their performance, which will soon be reported publicly;
- Enhancing borrower resources on the MakingHomeAffordable.gov website and the Homeowner's HOPE™ Hotline (888-995-HOPE) to provide direct

access to tools and housing counselors

The Mortgage Modification Conversion Drive will include the following:

- Servicer Accountability. As part of the Administration's ongoing efforts to hold servicers accountable for their commitment to the program and responsibility to borrowers, the following measures will be added:
  - Top servicers will be required to submit a schedule demonstrating their plans to reach a decision on each loan for which they have documentation and to communicate either a modification agreement or denial letter to those borrowers. Treasury/Fannie Mae "account liaisons" are being assigned to these servicers and will follow up daily as necessary to monitor progress against the servicer's plan. Daily progress will be aggregated by the end of each business day and reported to the Administration.
  - Servicers failing to meet performance obligations under the Servicer Participation Agreement will be subject to consequences which could include monetary penalties and sanctions.
  - The December MHA Servicer Performance Report will include the data on permanent modifications as well as the number of active trial period modifications that may convert by the end of the year if all borrower documents are successfully submitted, sorted by servicer and date.
  - Servicers will be required to report to the Administration the status of each modification to provide additional transparency about situations where borrowers face obstacles to moving to the permanent phase.
- Web tools for borrowers. Because the document submission process can be a challenge for many borrowers, the Administration has created new resources on www.MakingHomeAffordable.gov to simplify and streamline this step. New resources include:
  - Links to all of the required documents and an income verification checklist to help borrowers request a modification in four easy steps;
  - Comprehensive information about how the trial phase works, what borrower responsibilities are to convert to a permanent modification, and a new instructional video which provides step by step instruction for borrowers;
  - A toolkit for partner organizations to directly assist their constituents;
  - New web banners and tools for outreach partners to drive more borrowers to the site and Homeowner's HOPE™ Hotline (888-995-HOPE).
- Engagement of state, local and community stakeholders. Through the conversion drive, the Administration is engaging all levels of government - state, local and county – to both increase awareness of the program and expand the resources available to borrowers as they navigate the modification process.
  - HUD will engage staff in its 81 field offices to distribute outreach tools. HUD will also encourage its 2700 HUD-Approved Counseling Organizations to distribute outreach information to participating borrowers.
  - By engaging the National Governors Association (NGA), National League of Cities (NLC) and National Association of Counties (NACo) the Administration is connecting with the thousands of state, local, and county offices on the frontlines in large and small communities across the country who are hardest hit by the foreclosure crisis. These offices will now have the tools to increase awareness of the program, connect with and educate borrowers and grassroots organizations on how to request a modification and take the additional steps to ensure they are converted to permanent status; and serve as an additional trusted resource for borrowers who are facing challenges with the program.

- In partnering with the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators, state regulators will now have enhanced tools to assist borrowers who are facing challenges in converting to a permanent modification and to report to the Administration on the progress and challenges borrowers and servicers are facing on the ground. Regulators will also be empowered to work directly with escalation and compliance teams to ensure that HAMP guidelines are consistently applied.

More information about the Obama Administration's mortgage modification program can be found at www.MakingHomeAffordable.gov.

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Web tools for Borrowers

"Because the document submission process can be a challenge for many borrowers, the Administration has created new resources on www.MakingHomeAffordable.gov to simplify and streamline this step."

New resources include:

- Links to all of the required documents and an income verification checklist to help borrowers request a modification in four easy steps;
- Comprehensive information about how the trial phase works, what borrower responsibilities are to convert to a permanent modification, and a new instructional video which provides step by step instruction for borrowers;
- A toolkit for partner organizations to directly assist their constituents;
- New web banners and tools for outreach partners to drive more borrowers to the site and Homeowner's HOPE Hotline (888-995-HOPE).

Preserving Homeownership:

Progress Needed to Prevent Foreclosures

July 16, 2009

Senate Banking, Housing and Urban Affairs Committee hearing

Testimony of Diane Thompson

National Consumer Law Center

http://banking.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=c11a869f-9606-40e8-aab1-886cfb902829

Senator Christopher Dodd, Chairman,

Senate Banking, Housing and Urban Affairs Committee

July 23, 2009 sends letter citing concerns of Diane Thompson to

Timothy Geithner, Department of Treasury

Shaun Donovan, Department of Housing and Urban Development

" Specifically several participating servicers are in violation of HAMP guidelines . . ."

United States Senate

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

WASHINGTON, DC 20510-6075

July 23, 2009

The Honorable Timothy F. Geithner
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

The Honorable Shaun Donovan
Department of Housing and Urban Development
451 7th Street, SW
Washington, D.C. 20410

Dear Secretary Geithner and Secretary Donovan:

On July 16, 2009 the Senate Banking, Housing and Urban Affairs Committee held a hearing titled "Preserving Homeownership: Progress Needed to Prevent Foreclosures." One of the witnesses on this panel, Diane Thompson of the National Consumer Law Center, raised a number of very serious concerns about the conduct of servicers participating in the Home Affordable Modification Program (HAMP). I have enclosed her testimony with appendices which details the problems to which she testified. I am writing to bring these concerns to your attention and to ask you to look into these claims.

Specifically, Ms. Thompson reports that several participating servicers are in violation of HAMP guidelines by:

- Demanding upfront payments in advance of review or trial modification;
- Requiring homeowners to waive all claims and defenses in order to apply for a review;
- Denying loan modification reviews to homeowners who are not yet in default; and
- Initiating foreclosures and selling homes while HAMP reviews are still pending.

It is my understanding that HAMP prohibits each of these activities.

I would greatly appreciate it if you could look into the concerns Ms. Thompson has expressed. If true and widespread, abuses of this kind threaten to undermine the effectiveness of the HAMP program and deny the relief on which so many Americans are depending for their financial stability.

These problems also underscore the importance of ensuring transparency in both the program guidelines and their implementation. The federal government is funding a significant number of foreclosure prevention counselors. If the rules and procedures governing the program are made public, these counselors and other interested parties can help ensure that Treasury guidelines are followed and mistakes prevented or expeditiously corrected. Transparency can help ensure accurate and timely results, and I urge you to require openness in the operation of this important program.

I thank you in advance for your time and efforts in responding to this inquiry.

Sincerely,

Christopher Dodd
CHAIRMAN

Enclosure

HOME AFFORDABLE MODIFICATION LITIGATION RESOURCES

The lawsuits referenced in these materials raise a number of interesting legal questions. These Actions provide guideposts for counsel when assisting borrowers seeking to obtain mortgage modifications and for possible remedies through litigation when the modification is not offered as provided by law.

The cases are instructive for both borrowers' and lenders' counsel as the complaints and responsive pleadings provide detailed explanations of how the mortgage modification programs are designed and how they are (or are not) being implemented. The pleadings include full descriptions of the programs which are in effect at this time but are too voluminous to be reproduced in these materials. The short recaps and the caption detail are provided to facilitate the reader in locating the cases and are in no way exhaustive in scope. There are likely many other cases pending but the below cases, outlined in chronological order, provide insight into the current developments in mortgage modification and show that the HAMP program is not working (as advertised).

July 28, 2009

Minnesota class action suit filed against U.S. Department of Treasury, Fannie Mae and Freddie Mac, Ocwen Loan Servicing, LLC and GMAC Mortgage f/d/b/a Homecoming Financial.

Suit alleges that the HAMP program fails to provide homeowners with proper notice and right to appeal decisions regarding denial of loan modification. Arguments include:

- Borrower's wrongfully denied access to HAMP Loan modification
- Borrower's denied Loan Modification in violation of due process rights
    - Borrower was eligible for a loan modification through HAMP
    - Borrower was not given adequate notice related to his/her denial or opportunity to appeal the decision denying the request for HAMP modification
    - The government has no specific notification procedures or disclosure requirements for a homeowner that is denied access to HAMP
    - Fannie Mae and Freddie Mac have no process to appeal an adverse decision or undo a wrongful foreclosure

Law Suit Causes of Action:

Count I: Violation of Due Process Failure to Promulgate Rules Requiring Servicers to Provide Notice of Denial

Count II: Violation of Due Process Failure to Promulgate Rules Requiring Servicers to Provide a Right of Appeal

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

NICHOLE WILLIAMS, JOHNSON SENDOLO, CAREY KOPPENBERG, CARRIE STROHMAYER, ON BEHALF OF THEMSELVES AND ALL OTHERS SIMILARLY SITUATED Plaintiffs vs. TIMOTHY V. GEITHNER, AS UNITED STATES SECRETARY OF THE TREASURY, U.S. DEPARTMENT OF THE TREASURY, THE FEDERAL HOUSING FINANCE AGENCY, AS CONSERVATOR FOR THE FEDERAL NATIONAL MORTGAGE ASSOCIATION, d/b/a FANNIE MAE AND THE FEDERAL HOME LOAN MORTGAGE CORPORATION d/b/a FREDDIE MAC, FEDERAL NATIONAL MORTGAGE ASSOCIATION d/b/a FANNIE MAE, AND FEDERAL HOME LOAN MORTGAGE CORPORATE, d/b/a FREDDIE MAC, OCWEN LOAN SERVICING, LLC, GMAC MORTGAGE, f/d/b/a HOMECOMINGS FINANCIAL and U.S. BANK Defendants	)	Civil Action No. 09-CV-1959 ADM JJG FIRST AMENDED CLASS ACTION COMPLAINT

November 5, 2009

Ohio Attorney General filed lawsuit against American Home Mortgage Servicing Inc. (AHMSI) seeking declaratory and injunctive relief, consumer damages, civil penalties ad other relief.

Suit alleges

- **AHMSI engaged in unfair, deceptive and unconscionable acts and practices in connection with Loan Modification Agreements, Security Retention Agreements and Forbearance Agreements**
    - **Terms include:**
        - **Requiring borrowers to waive all legal defenses, rights to set-off and all counterclaims for any misconduct arising at any time in connection with the origination and servicing of the mortgage loan against the note holder and loan servicer**
        - **Requiring borrower to waive any challenge or right to contest the foreclosure process**
        - **Requiring borrower to agree that AHMSI can terminate the agreement and recommence foreclosure without notice**
        - **Requiring borrower to agree in advance to pay all charges imposed, including not yet incurred or billed, reserving to AHMSI the "sole and absolute discretion" to increase the amounts the borrower is required to pay pursuant to the Forbearance Agreement**
    - **Lawsuit prayers for relief include:**
        - **Order AHMSI to reimburse consumers damaged by unfair, deceptive, and unconscionable acts or practices including non-economic damages**
        - **Order AHMSI to comply with all HAMP Participating Servicer requirements including the requirement that AHMSI perform HAMP analyses upon consumer mortgage loan notes and reform those mortgage loans**

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

CASE NO. 09 708888
Judge: TIMOTHY MCCORMICK

STATE OF OHIO, ex rel. **RICHARD CODRAY** **ATTORNEY GENERAL OF OHIO** **615 W. SUPERIOR AVE., 11TH FLOOR** **CLEVELAND, OHIO 44113-1899** **PLAINTIFF** **v.** **AMERICAN HOME MORTGAGE SERVICING, INC.** **c/o STATUTORY AGENT** **CT CORPORATION SYSTEM** **1300 E. 9TH ST.** **CLEVELAND, OHIO 44114** **DEFENDANT**	)	**Complaint, Request for Declaratory and Injunctive Relief, Consumer Damages, Civil Penalties, and other Appropriate Relief**

November 9, 2009

Class Action suit brought in United States District Court for District of Columbia against Aurora Loan Services, LLC and Timothy Geithner, U.S. Secretary of the Treasury and Henry Allison, Jr. Asst. Secretary for Financial Stability, U.S. Department of Treasury, and Fannie Mae alleging that Aurora breached its contractual obligation to consider eligible homeowners for mortgage modification under HAMP and the failure of the Treasury and FHFA and Fannie Mae to implement policies and procedures necessary to protect the due process rights of borrowers.

Suit alleges that

- **Under terms of HAMP, Aurora must consider for loan modification all minimally – eligible non-GSE[1] loans it services that are either in default or at risk of imminent default**
    - **To be eligible borrower need meet only minimum eligibility criteria**
    - **If eligibility established, Aurora is required under HAMP to conduct "net present value" ("NPV") test**
- **Aurora summarily has refused access to HAMP program**
    - **Aurora refused to evaluate for HAMP modification and failed to apply the "Standard Modification Waterfall calculation and NPV test"**
    - **Borrowers denied access to HAMP are given no written notice of the basis for denial, no details concerning the denial, and no procedure by which to contest the refusal to consider for HAMP modification**
- **Aurora has provided borrowers seeking HAMP eligibility with special forbearance agreement captioned "Workout Agreement" which accomplishes none of HAMP's purposes and contains demands prohibited by HAMP**

[1] "Servicers of loans guaranteed or owned by Government Sponsored Enterprises ("GSE's") such as Federal Home Loan Mortgage Corporation ("Freddie Mac") or Fannie Mae, are required to participate in HAMP." Complaint at footnote 1.

Lawsuit Causes of Action include

- Aurora breached HAMP contract by
    - Failure to properly determine whether borrower meets minimum eligibility requirements for mortgage modification under HAMP
    - Failure to offer modifications required by HAMP and instead offering onerous forbearance agreements not in compliance with HAMP
    - Failure to notify in writing determinations regarding eligibility for mortgage modification under HAMP and the reasons for determination with sufficient detail to enable borrower to determine if decision is correct
    - Initiating or continuing foreclosure actions that had previously been commenced against borrowers who meet minimum HAMP eligibility criteria
    - Failing to suspend temporarily foreclosure actions while borrowers who are not entitled to mortgage modification under HAMP are considered for alternative foreclosure prevention options
    - Aurora's discretion to grant or deny a modification under HAMP program creates a property interest on behalf of borrower protected by the Fifth Amendment to the United States Constitution
    - Failure to provide procedural due process by failing to provide process by which borrower can challenge denial of mortgage modification under HAMP

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

DOREEN EDWARDS, ET AL. PLAINTIFFS v. AURORA LOAN SERVICES, LLC 10350 Park Meadows Drive Littleton, CO 80124 TIMOTHY F. GEITHNER, in his capacity as United States Secretary of the Treasury Department of the Treasury 1500 Pennsylvania Avenue, N.W. Washington, DC 20220 HENRY ALLISON, JR., in his capacity as Assistant Secretary for Financial Stability, U.S. Department of the Treasury Department of the Treasury 1500 Pennsylvania Avenue, N.W. Washington, DC 20220 EDWARD DeMARCO, in his capacity as Acting Director, Federal Housing Finance Agency 1700 G Street, NW 4th Floor Washington, D.C. 20552 FEDERAL NATIONAL MORTGAGE ASSOCIATION 3900 Wisconsin Avenue, NW Washington, D.C. 20016-2892 MICHAEL J. WILLIAMS, in his capacity as President and Chief Executive Officer, Federal National Mortgage Association, Federal National Mortgage Association 3900 Wisconsin Avenue, NW Washington, D.C. 20016-2892 ERIC SCHUPPENHAUER, in his capacity as Vice President and Chief Executive Officer, Federal National Mortgage Association, Federal National Mortgage Association 3900 Wisconsin Avenue, NW Washington, D.C. 20016-2892 DEFENDANTS	Civil Action No. 09-CV-02100-HHK

SELECTED CASES FROM THE COURTS WITHIN THE FIRST CIRCUIT CONCERNING UNDISCLOSED ASSETS

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A failure to disclose assets in a bankruptcy proceeding can have very serious consequences. When preparing schedules with a client, it is important to remember that courts have repeatedly recognized that the "[d]ebtors have an absolute duty to report whatever interests they hold in property, even if they believe their assets are worthless or are unavailable to the bankruptcy estate. " Wood v. Premier Capital, Inc. (In re Wood), 291 B.R. 219, 226 (1st Cir. BAP 2003). The cases outlined below reflect some of the potential consequences a debtor may face if he or she is found to have attempted to conceal an asset in a bankruptcy proceeding.

Locapo v. Colsia et al., 609 F. Supp. 2d 156 (D.N.H. 2009). Where Debtor had failed to list a claim arising pre-petition in his Chapter 7 bankruptcy proceeding, the District Court found that the debtor had lost rights in the cause of action. The Court noted that "[b]ecause property cannot be abandoned to the debtor unless it has been schedules, per *subsection(c)*, property that is not scheduled is not abandoned, but remain in the estate, per *subsection(d)[of 11 U.S.C. §524]*." Locapo at pp. 7-8.

GE HFS Holdings, Inc. et. al. v. Int'l Ins. Group LTC, 2008 U.S. Dist LEXIS 42406 (D. Ma. May 29, 2008). Debtor filed a Chapter 7 proceeding, and failed to list on his Schedule B a potential claim against an insurance company for failure to provide coverage under a Directors and Officers insurance policy issued pre-petition. After receiving his discharge, the debtor brought suit against the insurance company. The debtor further entered into a written agreement with the Chapter 7 Trustee in his bankruptcy proceeding whereby 25% of any recovery from the litigation would be allocated to the bankruptcy estate, and 75% would go to the debtor. The District Court found that the debtor had a duty to disclose the potential claim in the bankruptcy filing, and lost the ability to enforce the claim in his own name because of his failure to do so. Noting, however, that recent cases had allowed bankruptcy trustees to intervene in the post-petition suits rather than dismissing the cases, the Court found that the debtor's agreement with the Trustee "ratified" the action pursuant to Fed. R. Civ. P. 17(a).

Graupner et. al. v. Town of Brookfield et. al., 450 F. Supp. 2d 119 (D. Ma. 2006). Debtor filed a Chapter 7 proceeding, and did not list a pre-petition claim against his prior employer. Approximately five years after receiving a discharge, the debtor moved to reopen the case to amend his schedules to disclose the lawsuit which he had filed in the interim with the District Court. The plaintiffs in the District Court proceeding filed for summary judgment, and the Court found that the claims had not been abandoned in the original bankruptcy or subsequent reopened case, because the claims were not properly disclosed and no trustee was appointed in the reopened case.

Vidal v. Doral Bank Corp., 363 F. Supp. 2d 19 (D.P.R. 2005). Debtor filed a Chapter 7 proceeding and did not schedule as an asset a pre-petition employment claim against a potential employer. The employer filed a Motion to Dismiss in the employment case, citing a lack of standing and judicial estoppel. The debtor then filed a motion to amend schedules to add the claim in the bankruptcy proceeding. The District Court found that the Chapter 7 Trustee was the "real party in interest with exclusive standing to assert claims which are property of the bankruptcy estate." (citations omitted). The Court allowed 45 days for the Trustee to substitute for or join Vidal in the proceeding, failing which the case would be dismissed.

Houghton v. Marcella (In re Marcella), 2009 Bankr. LEXIS 3380 (Bankr. D. Mass. Oct. 15, 2009). The debtors filed a Chapter 7 proceeding, which included omissions of assets on the schedules and other mistakes. The omissions included funds received after the petition was signed but before it was filed with the Bankruptcy Court. The debtors received a discharge, but the case was not closed. While the case was open, the debtors refinanced their home and received proceeds from this transaction. The

Court concluded that the omissions were inadvertent and not made with fraudulent intent because the debtors had disclosed the assets to their attorney and relied on his advice in reporting assets. The debtors were ordered to turn over non-exempt assets which were subsequently discovered, but their discharge was not denied.

Saunders Real Estate Corp. v. Pearlman (In re Pearlman), 413 B.R. 27 (Bankr. D.R.I. 2009). Debtor filed a Chapter 7 proceeding, and failed to disclose pre-petition sums owed to him from corporations in which he had an ownership interest. The Bankruptcy Court also found that the debtor "intentionally made false representations in his schedules, statements of financial affairs, and in his testimony at the 341 meeting and at trial," including undervaluing his corporate assets. The debtor's discharge was denied pursuant to 11 U.S.C. §727(a)(2), (a)(3) and (a)(4).

Commonwealth et. al. v. Bartel (In re Bartel), 2009 Bankr. LEXIS 2175 (Bankr. D. Mass. Aug. 10, 2009). In a Chapter 13 proceeding, the debtor received a $72,000.00 deposit into his personal bank account eight days following the case filing. The Bankruptcy Court found that where: (1) the debtor had failed to report the receipt of the funds to the Chapter 13 Trustee, creditors or the Court; (2) the debtor gave inconsistent explanations for the deposit; (3) the debtor used a portion of the deposited funds for personal expenses; and (4) the debtor was in poor financial condition at the time of the transfer, the transfer was intended to hider, delay or defraud creditors. The debtor's discharge was denied pursuant to 11 U.S.C. §727(a)(2). Further, the debtor's discharge was denied pursuant to 11 U.S.C. § 727(a)(4)(A), because he had failed to correctly disclose assets on his schedules, including his correct ownership percentage interest in a business.

In re Orlando, 359 B.R. 395 (Bankr. D. Mass. 2007). Here, the debtor was divorced pre-petition. As part of the divorce settlement, the debtor was entitled to receive $85,000.00 in exchange for the release of his interest in the marital property, payable upon emancipation of the youngest child. The debtor did not disclose this on his Schedule B, and when questioned at the §341 meeting, stated that $80,000.00 of this money was to be paid towards his children's education. The debtor later amended his Schedules B and C to list the "Possible interest in Divorce Separation Agreement…" with a zero value and to exempt $9,625.00 of this asset. The Bankruptcy Court sustained the Chapter 7 Trustee's objection to the claim of exemption, because the debtor had exhibited bad faith by failing the schedule the asset on Schedule B, and providing inaccurate information at the §341 meeting of creditors.

<u>In re Harris</u>, 2006 B.N.H. 26 (Bankr. D.N.H. 2006). Debtor filed a Chapter 7 proceeding, in which the Bankruptcy Court found that he undervalued assets, failed to disclose sums owed to him by corporations which he owned, and incorrectly listed his owner ship in various businesses. The Bankruptcy Court found that the debtor had acted in bad faith and denied the debtor's Motion to Convert Case to One Under Chapter 13. Subsequently, in <u>Alvord et. al. v. Harris (In re Harris)</u>, 2007 B.N.H. 24 (Bankr. D.N.H. 2007), the Bankruptcy Court denied the debtor's discharge pursuant to 11 U.S.C. §727(a)(2)(B) based upon the debtor's post-petition transfer and concealment of assets and pursuant to 11 U.S.C. §727(a)(4)(A) based upon a false oath with respect to the undervaluation of assets.

<u>In re Ortiz Romany</u>, 2006 Bankr. LEXIS 3807 (Bankr. D.P.R. May 3, 2006). After filing for Chapter 11 bankruptcy protection, the debtor's case was converted to one under Chapter 7 upon motion of a creditor, based in part upon the debtor's failure to disclose significant assets in his schedules. The debtor then sought dismissal of the case, citing, *inter alia*, concerns regarding his Fifth Amended rights, ongoing parallel civil and criminal procedures. The Bankruptcy Court refused to dismiss the case, finding that significant assets were being administered to provide a distribution to creditors, and that creditors would be prejudiced by a dismissal.

<u>In re Salvucci</u>, 339 B.R. 279 (Bankr. D. Mass. 2006). Debtors filed a Chapter 7 proceeding, listing $8,000.00 in cash, as proceeds remaining from the pre-petition sale of their real estate. Following the 341 Meeting, the debtor amended their Schedule B, Schedule C , and Statement of Financial Affairs to list "Additional cash" of $22,000.00, and to provide further information regarding the use of the proceeds from the pre-petition sale of the real estate. The debtors had not disclosed the existence of this "Additonal cash" at the §341 Meeting, but claimed an additional exemption in the "Additional cash" on their Amended Schedule C. The Bankruptcy Court sustained the Chapter 7 Trustee's Objection to Exemption, finding that the debtors had intentionally attempted to conceal this asset.