

# Legal Pitfalls Involving Short Sales and Forclosures

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# **SYLLABUS: Legal Pitfalls Involving Short Sales and Foreclosures**

## **(1) Important Sources of Information and Definitions**

### **a. U.S. Government website: [www.MakingHomeAffordable.com](http://www.MakingHomeAffordable.com)**

This website offers eligibility information, forms, instructions, and helpful articles related to *all* government programs including HAMP, HARP, HAFA, and 2MP.

- See Documents Section A

### **b. HAMP (Home Affordable Modification Program)**

The Federal Loan Modification Program for loans with Freddie Mac and Fannie Mae and other lenders who have agreed to the program. Currently, loans do not need to be delinquent to be eligible for modification. Homes must be owner-occupied, 1-4 units. The unpaid principal balance must be equal to or less than \$729,750 (one-unit) and originate *prior to* January 1, 2009 and the payments must exceed 31% of the borrower's gross monthly income to be eligible. Further there must be "imminent risk" of default or in default. Evidence of financial hardship or change in income is required.

- See Documents Section B

### **c. HARP (Home Affordable Refinance Program)**

The Federal Loan Refinance Program for Freddie Mac or Fannie Mae loans only. Homes must be owner-occupied, 1-4 units, the LTV (loan to value) ratio is above 80% but not more than 125% and payments must be current. The borrower must show income to support the new payments.

- See Documents Section C

**d. H A F A (Home Affordable Foreclosure Alternatives)**

Federally backed alternatives to foreclosure.

- See Document Section D

**ii. Deed In Lieu of Foreclosure**

The borrower voluntarily transfers title to the servicer *provided that* the title is *free and clear of encumbrances*. H A F A program begins on *April 5, 2010* and provides homeowners with up to \$3,000.00 for moving expenses.

**iii. Short Sale**

The homeowner agrees to list and sell the property for *less than* the total amount due on the mortgages.

**e. 2 M P (Second Lien Modification Program)**

- See Documents Section E

Federal program to allow homeowners to *lower* payments on the second mortgage *but* homeowners' first mortgage must be modified with HAMP to be eligible.

Participating servicers include: Bank of America (including Countrywide), Citi Mortgage, Inc., Chase (including WaMu and EMC), Wells Fargo (including Wachovia).

**f. Mortgage Forgiveness and Debt Relief Act**

This 2007 act generally allows taxpayers to exclude income from the discharge of debt on their *principal* residence for *FEDERAL TAX* only!

- See Document Section F

**g. FORM: Agreement to Consult with Legal Counsel and Accountant Regarding Short Sale Consequences**

- See Documents Section G

**(2) Owner-Occupied Property**

- a. Purchase Money v. Non-Purchase Money Loans
- b. HAMP: YES!
- c. HARP: YES!
- d. HAFA: YES!
  - i. Deed In Lieu of Foreclosure
  - ii. Short Sale
- e. Tax Consequences
  - i. NO Federal income tax
  - ii. **NO** State income tax (California Senate Bill 401 as of 4/12/10!!)
- f. Bankruptcy
  - i. Lien Strip

**(3) Non-Owner Occupied Property**

- a. HAMP: NO!
- b. HARP: NO!
- c. HAFA: NO!
  - i. Deed In Lieu of Foreclosure
  - ii. Short Sale
- d. Tax Consequences
  - i. YES Federal income tax
  - ii. YES State income tax

**(4) Current News Articles**

- a. March 10, 2010: SF Chronicle; “Government to Help Lenders on Short Sales”  
(A1, A14)
- b. March 15, 2010: SF Chronicle; “Californian In A Tax Bind Over Short Sales”  
(A1, A11)
- c. March 25, 2010: SF Chronicle; “B of A To Cut Principal Of Some Loans” (D1,  
D3)
- d. March 26, 2010: SF Chronicle; “White House Modifies Home Loan Program”  
(D2)
- e. March 27, 2010: SF Chronicle; “Two New Options to Avert Foreclosures” (A1,  
A10)
- f. March 28, 2010: SF Chronicle; “State Tax Credit for Homebuyers” (D1, D10)
- g. April 8, 2010: SF Chronicle; “Big Foreclosure Relief Effort” (A1, A10)
- h. April 12, 2010: SF Chronicle; “Consistency and Relief” (A11)

## INDEX OF DOCUMENTS

- (A) [www.MakingHomeAffordable.com](http://www.MakingHomeAffordable.com) Website Homepage
- (B) HAMP (Home Affordable Modification Program)
  - a. FORM: Request for Modification and Affidavit
  - b. FORM: Instructions for Request for Modification and Affidavit
  - c. FORM: 4506T-EZ: Request for Individual Tax Return Transcript
  - d. FORM: Instructions for 4506T-EZ
  - e. Checklist: Proof of Income
- (C) HARP (Home Affordable Refinance Program)
  - a. Eligibility: Print-out from [MakingHomeAffordable.com](http://MakingHomeAffordable.com)
- (D) HAFA (Home Affordable Foreclosure Alternatives)
  - a. Options: Print-out from [MakingHomeAffordable.com](http://MakingHomeAffordable.com)
- (E) 2MP \*4pf Nlpp O qf hlec vqp Rtqi tco +
  - a. Eligibility: Print-out from [MakingHomeAffordable.com](http://MakingHomeAffordable.com)
- (F) Federal Mortgage and Debt Relief Act
- (G) Counseling Agreement
  - a. FORM: Agreement to Consult with Legal Counsel and Accountant Regarding Short Sale Tax Consequences
- (H) List of Useful Websites
- (I) Pending California State Bills



HELP FOR AMERICA'S HOMEOWNERS

- ABOUT
- ELIGIBILITY
- LOAN LOOK UP
- FIND A COUNSELOR
- REQUEST A MODIFICATION
- RESOURCES
- AUDIO AND VIDEO
- EN ESPAÑOL



## Help for the Hardest Hit

**UPDATE:** The Obama Administration expands support to 5 more states under the HFA Innovation Fund for the Hardest Hit Housing Markets.

[Read More](#)

- 1
- 2
- 3
- 4

### Learn About Making Home Affordable

The Obama Administration's Making Home Affordable Program includes opportunities to modify or refinance your mortgage to make your monthly payments more affordable. It also includes the Home Affordable Foreclosure Alternatives Program for homeowners who are interested in a short sale or deed-in-lieu of foreclosure.

#### 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.

#### Report Lending Discrimination to HUD

If you believe you have experienced discrimination based on race, gender, national origin, or another reason, contact HUD's Office of Fair Housing and Equal Opportunity at 1-800-669-9777.

To view or print the PDF content on this page, download the free [Adobe® Acrobat® Reader®](#)

Call 1-888-995-HOPE (4673) for help with the Making Home Affordable Program and to speak with a HUD-approved housing counselor for free.



#### LATEST NEWS:

3/29: [Administration Announces Second Round Of Assistance For Hardest-Hit Housing Markets](#)

3/26: [Housing Program Enhancements Offer Additional Options for Struggling Homeowners](#)

#### UPCOMING EVENTS:

4/6: [Reno, NV](#)

4/8 & 4/9: [Las Vegas, NV](#)

[More upcoming homeowner events.](#)

### Your Path to a More Affordable Mortgage



In partnership with [FinancialStability.gov](#)

**Making Home Affordable Program  
Request For Modification and Affidavit (RMA)**



REQUEST FOR MODIFICATION AND AFFIDAVIT (RMA) page 1

COMPLETE ALL THREE PAGES OF THIS FORM

▶ Loan I.D. Number \_\_\_\_\_

▶ Servicer \_\_\_\_\_

BORROWER	CO-BORROWER
Borrower's name	Co-borrower's name
Social Security number _____ Date of birth _____	Social Security number _____ Date of birth _____
Home phone number with area code _____	Home phone number with area code _____
Cell or work number with area code _____	Cell or work number with area code _____

<b>I want to:</b>	<input type="checkbox"/> Keep the Property	<input type="checkbox"/> Sell the Property
<b>The property is my:</b>	<input type="checkbox"/> Primary Residence	<input type="checkbox"/> Second Home <input type="checkbox"/> Investment
<b>The property is:</b>	<input type="checkbox"/> Owner Occupied	<input type="checkbox"/> Renter Occupied <input type="checkbox"/> Vacant

Mailing address \_\_\_\_\_

Property address (if same as mailing address, just write same) \_\_\_\_\_ E-mail address \_\_\_\_\_

<p><b>Is the property listed for sale?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Have you received an offer on the property?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Date of offer</b> _____ <b>Amount of offer \$</b> _____</p> <p><b>Agent's Name:</b> _____</p> <p><b>Agent's Phone Number:</b> _____</p> <p><b>For Sale by Owner?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p><b>Have you contacted a credit-counseling agency for help</b> <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>If yes, please complete the following:</b></p> <p><b>Counselor's Name:</b> _____</p> <p><b>Agency Name:</b> _____</p> <p><b>Counselor's Phone Number:</b> _____</p> <p><b>Counselor's E-mail:</b> _____</p>
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<p><b>Who pays the real estate tax bill on your property?</b></p> <p><input type="checkbox"/> I do <input type="checkbox"/> Lender does <input type="checkbox"/> Paid by condo or HOA</p> <p><b>Are the taxes current?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Condominium or HOA Fees</b> <input type="checkbox"/> Yes <input type="checkbox"/> No \$ _____</p> <p><b>Paid to:</b> _____</p>	<p><b>Who pays the hazard insurance premium for your property?</b></p> <p><input type="checkbox"/> I do <input type="checkbox"/> Lender does <input type="checkbox"/> Paid by Condo or HOA</p> <p><b>Is the policy current?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Name of Insurance Co.:</b> _____</p> <p><b>Insurance Co. Tel #:</b> _____</p>
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**Have you filed for bankruptcy?**  Yes  No **If yes:**  Chapter 7  Chapter 13 **Filing Date:** \_\_\_\_\_

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

**Additional Liens/Mortgages or Judgments on this property:**

Lien Holder's Name/Servicer	Balance	Contact Number	Loan Number

**HARDSHIP AFFIDAVIT**

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

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

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

\_\_\_\_\_

**INCOME/EXPENSES FOR HOUSEHOLD<sup>1</sup>**

Number of People in Household:

Monthly Household Income		Monthly Household Expenses/Debt		Household Assets	
Monthly Gross Wages	\$	First Mortgage Payment	\$	Checking Account(s)	\$
Overtime	\$	Second Mortgage Payment	\$	Checking Account(s)	\$
Child Support / Alimony / Separation <sup>2</sup>	\$	Insurance	\$	Savings/ Money Market	\$
Social Security/SSDI	\$	Property Taxes	\$	CDs	\$
Other monthly income from pensions, annuities or retirement plans	\$	Credit Cards / Installment Loan(s) (total minimum payment per month)	\$	Stocks / Bonds	\$
Tips, commissions, bonus and self-employed income	\$	Alimony, child support payments	\$	Other Cash on Hand	\$
Rents Received	\$	Net Rental Expenses	\$	Other Real Estate (estimated value)	\$
Unemployment Income	\$	HOA/Condo Fees/Property Maintenance	\$	Other _____	\$
Food Stamps/Welfare	\$	Car Payments	\$	Other _____	\$
Other (investment income, royalties, interest, dividends etc.)	\$	Other _____	\$	Do not include the value of life insurance or retirement plans when calculating assets (401k, pension funds, annuities, IRAs, Keogh plans, etc.)	
<b>Total (Gross Income)</b>	<b>\$</b>	<b>Total Debt/Expenses</b>	<b>\$</b>	<b>Total Assets</b>	<b>\$</b>

**INCOME MUST BE DOCUMENTED**

<sup>1</sup>Include combined income and expenses from the borrower and co-borrower (if any). If you include income and expenses from a household member who is not a borrower, please specify using the back of this form if necessary.

<sup>2</sup>You are not required to disclose Child Support, Alimony or Separation Maintenance income, unless you choose to have it considered by your servicer.

**INFORMATION FOR GOVERNMENT MONITORING PURPOSES**

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

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

**To be completed by interviewer**

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

**ACKNOWLEDGEMENT AND AGREEMENT**

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

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

Borrower Signature	Date
Co-Borrower Signature	Date

**HOMEOWNER'S HOTLINE**

*If you have questions about this document or the modification process, please call your servicer.*

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



**NOTICE TO BORROWERS**

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


“Under penalty of perjury, all documents and information I have provided to Lender in connection with the Making Home Affordable Program, including the documents and information regarding my eligibility for the program, are true and correct.”

If you are aware of fraud, waste, abuse, mismanagement or misrepresentations affiliated with the Troubled Asset Relief Program, please contact the SIGTARP Hotline by calling 1-877-SIG-2009 (toll-free), 202-622-4559 (fax), or [www.sig tarp.gov](http://www.sig tarp.gov). Mail can be sent to Hotline Office of the Special Inspector General for Troubled Asset Relief Program, 1801 L St. NW, Washington, DC 20220.



# Instructions for Completing RMA Form

The numbered sections correspond to instructions on the right.



**Making Home Affordable Program**  
Request For Modification and Affidavit (RMA)

COMPLETE ALL THREE PAGES OF THIS FORM

1. Loan ID Number

2. Servicer

3. Borrower

4. Co-Borrower

<p><b>BORROWER</b></p> <p>Borrower's name _____ Date of Birth _____</p> <p>Social Security number _____</p> <p>Home phone number with area code _____</p> <p>Cell or work number with area code _____</p>	<p><b>CO-BORROWER</b></p> <p>Co-borrower's name _____</p> <p>Social Security number _____</p> <p>Home phone number with area code _____</p> <p>Cell or work number with area code _____</p>
---	---

5. I want to:  Keep the Property  Sell the Property

The property is my:  Primary Residence  Second Home  Investment

The property is:  Owner Occupied  Renter Occupied  Vacant

6. Mailing address \_\_\_\_\_ E-mail address \_\_\_\_\_

Property address (if same as mailing address, just write same) \_\_\_\_\_

7. Is the property listed for sale?  Yes  No

Have you received an offer on the property?  Yes  No

Date of offer \_\_\_\_\_ Amount of offer \$ \_\_\_\_\_

Agent's Name: \_\_\_\_\_

Agent's Phone Number: \_\_\_\_\_

For Sale by Owner?  Yes  No

8. Have you contacted a credit-counseling agency for help?  Yes  No

If yes, please complete the following:

Counselor's Name: \_\_\_\_\_

Agency Name: \_\_\_\_\_

Counselor's Phone Number: \_\_\_\_\_

Counselor's E-mail: \_\_\_\_\_

9. Who pays the real estate tax bill on your property?

I do  Lender does  Paid by condo or HOA

Are the taxes current?  Yes  No

Condominium or HOA Fees  Yes  No \$ \_\_\_\_\_

Paid to: \_\_\_\_\_

10. Have you filed for bankruptcy?  Yes  No

If yes:  Chapter 7  Chapter 13

Has your bankruptcy been discharged?  Yes  No

Bankruptcy case number \_\_\_\_\_

11. Additional Liens/Mortgages or Judgments on this property:

Lien Holder's Name/Servicer	Balance	Loan Number

**HARDSHIP AFFIDAVIT**

13. I (We) am (are) requesting review under the Making Home Affordable program.

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

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

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

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

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

page 1 of 3

1. Your loan ID number is on your mortgage statement
2. Your loan servicer is the financial institution that collects your monthly mortgage payments.
3. The borrower section must be the person whose name is on the mortgage.
4. The co-borrower is a second person on the mortgage. Do not fill this section out for someone who is not listed on the mortgage.
5. For this section, you should only choose an option for each question.
6. Please provide a mailing address and property address if different. The property address should correspond to the mortgage you are applying to modify.
7. If your property is not listed for sale, you do not need to fill out the rest of Section 7. Only include offers for sale that you received in the past year.
8. Counselors are available free of charge and can be located on the Making Home Affordable website ([www.MakingHomeAffordable.gov](http://www.MakingHomeAffordable.gov)).
9. If your real estate taxes and property insurance are part of your monthly payment that you make to your servicer, select "lender does." HOA: Homeowner's association
10. See instructions for Section 9.
11. The filing date indicates when you officially filed for bankruptcy. Only check the "yes" box for a discharged bankruptcy if you no longer owe any obligations.
12. Additional liens include second (or third) mortgages and home equity lines of credit.
13. Please select as many hardships that apply to your situation. You can use the extra lines to explain your hardship, though extensive explanations could delay the processing of your documentation.

# Instructions for Completing RMA Form

The numbered sections correspond to instructions on the right.

14. Indicate the number of people in a household who contribute to the total income.
15. Monthly gross wages are what you receive before taxes. Use your most current pay stub to find this amount.
16. This amount should be listed on a current pay stub.
17. If you receive child support, alimony, or separation maintenance income, you are not required to report it by law. You should only include this amount if you would like it to be included in the income calculation.
18. SSDI: Social Security/Disability Income
19. Only include if you are retired and collecting income from retirement funds.
20. If reported, this amount will be on your pay stub.
21. Only include rental income if used as part of your overall income.
22. You must have at least nine months of unemployment income to report on this form.
23. Report the amount indicated on your benefits letter. You must provide a copy of this letter as documentation of this income.
24. Add all other income and report sum in this box.
25. Add all amounts in income column (boxes 15-24) and report sum.
26. This amount can be found on your statement for your first mortgage.
27. If applicable, this amount can be found on your statement for your second mortgage or home equity lines of credit.

28. This refers only to homeowner's insurance and should be reported only if you pay this yourself.
29. Only report these taxes if you pay them yourself.
30. Add all credit cards and installment payments and report sum here.
31. If you are responsible for paying child support or alimony, you must report the amount here.
32. Report amount if your total rental income does not cover your total rental expenses.
33. HOA: Home Owner's Association; Report only if you pay these fees yourself.
34. Include car payments only if you are the owner of the vehicle.
35. Include any other pertinent household expenses.
36. Add all amounts in expense column (boxes 26-35) and report sum.
- 37-39. Report amounts for all accounts, if applicable.
40. CDs: certificates of deposit
- 41-42. Report amounts for all accounts, if applicable.
43. Include estimated value for all other properties owned.
- 44-45. Report any other assets other than the value of life insurance or retirement plans, including 401K, pension funds, IRAs, Keogh plans, etc.)
46. Add all amounts in assets column (boxes 37-45) and report sum.
47. This information is not required but encouraged to ensure federal compliance with anti-discrimination laws. No information reported in this section will affect your consideration to receive a modification.

REQUEST FOR MODIFICATION AND AFFIDAVIT (RMA) page 2 COMPLETE ALL THREE PAGES OF THIS FORM

Number of People in Household: **14**

INCOME/EXPENSES FOR HOUSEHOLD <sup>1</sup>		Monthly Household Expenses/Debt	Household Assets
Monthly Household Income			
Monthly Gross Wages	\$ <b>15</b>	First Mortgage Payment \$ <b>26</b>	Checking Account(s) \$ <b>37</b>
Overtime	\$ <b>16</b>	Second Mortgage Payment \$ <b>27</b>	Checking Account(s) \$ <b>38</b>
Child Support / Alimony / Separation <sup>2</sup>	\$ <b>17</b>	Insurance \$ <b>28</b>	Savings/Money Market \$ <b>39</b>
Social Security/SSDI	\$ <b>18</b>	Property Taxes \$ <b>29</b>	CDs \$ <b>40</b>
Other monthly income from pensions, annuities or retirement plans	\$ <b>19</b>	Credit Card / Installment Loans (total minimum payment per month) \$ <b>30</b>	Stocks / Bonds \$ <b>41</b>
Tips, commissions, bonus and self-employed income	\$ <b>20</b>	Alimony, child support payments \$ <b>31</b>	Other Cash on Hand \$ <b>42</b>
Rents Received	\$ <b>21</b>	Net Rental Expenses \$ <b>32</b>	Other Real Estate (estimated value) \$ <b>43</b>
Unemployment income	\$ <b>22</b>	HOA/Condo Fees/Property Maintenance \$ <b>33</b>	Other \$ <b>44</b>
Food Stamps/Welfare	\$ <b>23</b>	Car Payments \$ <b>34</b>	Other \$ <b>45</b>
Other (investment income, royalties, interest, dividends etc.)	\$ <b>24</b>	Other \$ <b>35</b>	
<b>Total (Gross Income)</b>	<b>\$ 25</b>	<b>Total Debt/Expenses</b>	<b>Total Assets</b>
		<b>\$ 36</b>	<b>\$ 46</b>

**INCOME MUST BE DOCUMENTED**

<sup>1</sup>Include combined income and expenses from the borrower and co-borrower (if any); if you include income and expenses from a household member who is not a borrower, please specify using the back of this form if necessary.

<sup>2</sup>You are not required to disclose Child Support, Alimony or Separation Maintenance income, unless you choose to have it considered by your servicer.

**INFORMATION FOR GOVERNMENT MONITORING PURPOSES**

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

<b>BORROWER</b>	<input type="checkbox"/> I do not wish to furnish this information	<b>CO-BORROWER</b>	<input type="checkbox"/> I do not wish to furnish this information
<b>Ethnicity:</b>	<input type="checkbox"/> Hispanic or Latino <input type="checkbox"/> Not Hispanic or Latino	<b>Ethnicity:</b>	<input type="checkbox"/> Hispanic or Latino <input type="checkbox"/> Not Hispanic or Latino
<b>Race:</b>	<input type="checkbox"/> American Indian or Alaska Native <input type="checkbox"/> Asian <input type="checkbox"/> Black or African American <input type="checkbox"/> Native Hawaiian or Other Pacific Islander <input type="checkbox"/> White	<b>Race:</b>	<input type="checkbox"/> American Indian or Alaska Native <input type="checkbox"/> Asian <input type="checkbox"/> Black or African American <input type="checkbox"/> Native Hawaiian or Other Pacific Islander <input type="checkbox"/> White
<b>Sex:</b>	<input type="checkbox"/> Female <input type="checkbox"/> Male	<b>Sex:</b>	<input type="checkbox"/> Female <input type="checkbox"/> Male
<b>To be completed by interviewer</b>			
This request was taken by:		Name/Address of Interviewer's Employer	
<input type="checkbox"/> Face-to-face interview	Interviewer's Name (print or type) & ID Number		
<input type="checkbox"/> Mail	Interviewer's Signature	Date	
<input type="checkbox"/> Telephone	Interviewer's Phone Number (include area code)		
<input type="checkbox"/> Internet			

# Instructions for Completing RMA Form

The numbered sections correspond to instructions on the right.

48. Please be sure to read entire agreement before signing. Do not leave off a signature as this will decrease efficient document processing.

REQUEST FOR MODIFICATION AND AFFIDAVIT (RMA) Page 3 COMPLETE ALL THREE PAGES OF THIS FORM

### ACKNOWLEDGEMENT AND AGREEMENT

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

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

48

Borrower Signature

Date

Co-Borrower Signature

Date

### HOMEOWNERS' HOTLINE

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

888-995-HOPE  
Homeowner's HOPE™ Hotline

### NOTICE TO BORROWERS

Be advised that by signing this document you understand that any documents and information you submit to your servicer in connection with the Making Home Affordable Program are under penalty of perjury. Any misstatement of material fact made in the completion of these documents including but not limited to misstatement regarding your occupancy in your home, hardship circumstances, and/or income, expenses, or assets will subject you to potential criminal investigation and prosecution for the following crimes: perjury, false statements, mail fraud, and wire fraud. The information contained in these documents is subject to examination and verification. Any potential misrepresentation will be referred to the appropriate law enforcement authority for investigation and prosecution. By signing this document you certify, represent and agree that: "Under penalty of perjury, all documents and information I have provided to Lender in connection with the Making Home Affordable Program, including the documents and information regarding my eligibility for the program, are true and correct." If you are aware of fraud, waste, abuse, mismanagement or misrepresentations affiliated with the Troubled Asset Relief Program, please contact the SIGTARP Hotline by calling 1-877-565-2009 (toll-free), 202-622-4559 (fax), or www.sigtarp.gov. Mail can be sent to Hotline Office of the Special Inspector General for Troubled Asset Relief Program, 1801 L St. NW, Washington, DC 20220.



# Short Form Request for Individual Tax Return Transcript

Department of the Treasury  
Internal Revenue Service

▶ **Request may not be processed if the form is incomplete or illegible.**

**Tip:** Use Form 4506T-EZ to order a 1040 series tax return transcript free of charge.

<b>1a</b> Name shown on tax return. If a joint return, enter the name shown first.	<b>1b</b> First social security number on tax return
<b>2a</b> If a joint return, enter spouse's name shown on tax return.	<b>2b</b> Second social security number if joint tax return

**3** Current name, address (including apt., room, or suite no.), city, state, and ZIP code

---

**4** Previous address shown on the last return filed if different from line 3

**5** If the transcript is to be mailed to a third party (such as a mortgage company), enter the third party's name, address, and telephone number. The IRS has no control over what the third party does with the tax information.

Third party name	Telephone number
------------------	------------------

Address (including apt., room, or suite no.), city, state, and ZIP code

**6** **Year(s) requested.** Enter the year(s) of the return transcript you are requesting (for example, "2008"). Most requests will be processed within 10 business days.

\_\_\_\_\_

**Caution.** If the transcript is being mailed to a third party, ensure that you have filled in line 6 before signing. Sign and date the form once you have filled in line 6. Completing these steps helps to protect your privacy.

**Note.** If the IRS is unable to locate a return that matches the taxpayer identity information provided above, or if IRS records indicate that the return has not been filed, the IRS may notify you or the third party that it was unable to locate a return, or that a return was not filed, whichever is applicable.

**Signature of taxpayer(s).** I declare that I am either the taxpayer whose name is shown on line 1a or 2a. If the request applies to a joint return, **either** husband or wife must sign.

**Note.** This form must be received within 60 days of signature date.

<b>Sign Here</b>	▶ <b>Signature</b> (see instructions)	Date	Telephone number of taxpayer on line 1a or 2a
	▶ <b>Spouse's signature</b>	Date	

**Purpose of form.** Individuals can use Form 4506T-EZ to request a tax return transcript that includes most lines of the original tax return. The tax return transcript will not show payments, penalty assessments, or adjustments made to the originally filed return. You can also designate a third party (such as a mortgage company) to receive a transcript on line 5. Form 4506T-EZ cannot be used by taxpayers who file Form 1040 based on a fiscal tax year (that is, a tax year beginning in one calendar year and ending in the following year). Taxpayers using a fiscal tax year must file Form 4506-T, Request for Transcript of Tax Return, to request a return transcript.

Use Form 4506-T to request the following.

A transcript of a business return (including estate and trust returns).

An account transcript (contains information on the financial status of the account, such as payments made on the account, penalty assessments, and adjustments made by you or the IRS after the return was filed).

A record of account, which is a combination of line item information and later adjustments to the account.

A verification of nonfiling, which is proof from the IRS that you did not file a return for the year.

A Form W-2, Form 1099 series, Form 1098 series, or Form 5498 series transcript.

Form 4506-T can also be used for requesting tax return transcripts.

**Automated transcript request.** You can call 1-800-829-1040 to order a tax return transcript through the automated self-help system. You cannot have a transcript sent to a third party through the automated system.

**Where to file.** Mail or fax Form 4506T-EZ to the address below for the state you lived in when that return was filed.

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

## Where to mail . . .

If you filed an individual return and lived in:	Mail or fax to the "Internal Revenue Service" at:
Alabama, Delaware, Florida, Georgia, North Carolina, Rhode Island, South Carolina, Virginia	RAIVS Team P.O. Box 47-421 Stop 91 Doraville, GA 30362 770-455-2335
Kentucky, Louisiana, Mississippi, Tennessee, Texas, a foreign country, or A.P.O. or F.P.O. address	RAIVS Team Stop 6716 AUSC Austin, TX 73301 512-460-2272
Alaska, Arizona, California, Colorado, District of Columbia, Hawaii, Idaho, Iowa, Kansas, Maine, Maryland, Massachusetts, Minnesota, Montana, New Hampshire, New Mexico, New York, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Vermont, Washington, Wisconsin, Wyoming	RAIVS Team Stop 37106 Fresno, CA 93888 559-456-5876
Arkansas, Connecticut, Illinois, Indiana, Michigan, Missouri, New Jersey, Ohio, Pennsylvania, West Virginia	RAIVS Team Stop 6705-B41 Kansas City, MO 64999 816-292-6102

**Signature and date.** Form 4506T-EZ must be signed and dated by the taxpayer listed on line 1a or 2a. If you completed line 5 requesting the information be sent to a third party, the IRS must receive Form 4506T-EZ within 60 days of the date signed by the taxpayer or it will be rejected.

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

**Privacy Act and Paperwork Reduction Act Notice.** We ask for the information on this form to establish your right to gain access to the requested tax information under the Internal Revenue Code. We need this information to properly identify the tax information and respond to your request. Sections 6103 and 6109 require you to provide this information, including your SSN. If you do not provide this information, we may not be able to process your request. Providing false or fraudulent information may subject you to penalties.

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

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

The time needed to complete and file Form 4506T-EZ will vary depending on individual circumstances. The estimated average time is: **Learning about the law or the form**, 9 min.; **Preparing the form**, 18 min.; and **Copying, assembling, and sending the form to the IRS**, 20 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making Form 4506T-EZ simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Do not send the form to this address. Instead, see *Where to file* on this page.

# Instructions for Completing IRS Form 4506T-EZ

The numbered sections correspond to instructions on the right.

<b>Form 4506T-EZ</b> (October 2009) Department of the Treasury Internal Revenue Service		<b>Short Form Request for Individual Tax Return Transcript</b> OMB No. 1545-2154	
<b>Tip:</b> Use Form 4506T-EZ to order a 1040 series tax return transcript free of charge.			
<b>Request may not be processed if the form is incomplete or illegible.</b>			
<b>1a</b> Name shown on tax return. If a joint return, enter the name shown first.	<b>1b</b> First social security number on tax return		
<b>2a</b> If a joint return, enter spouse's name shown on tax return.	<b>2b</b> Second social security number if joint tax return		
<b>3</b> Current name, address (including apt., room, or suite no.), city, state, and ZIP code			
<b>4</b> Previous address shown on the last return filed if different from line 3			
<b>5</b> If the transcript is to be mailed to a third party (such as a mortgage company), enter the third party's name, address, and telephone number. The IRS has no control over what the third party does with the tax information. Third party name Address (including apt., room, or suite no.), city, state, and ZIP code Telephone number			
<b>6</b> Year(s) requested. Enter the year(s) of the return transcript you are requesting (for example, "2008"). Most requests will be processed within 10 business days.			
<b>Caution.</b> If the transcript is being mailed to a third party, ensure that you have filled in line 6 before signing. Sign and date the form once you have filled in line 6. Completing these steps helps to protect your privacy.			
<b>Note.</b> If the IRS is unable to locate a return that matches the taxpayer identity information provided above, or if IRS records indicate that the return has not been filed, the IRS may notify you or the third party that it was unable to locate a return, or that a return was not filed, whichever is applicable.			
<b>Signature of taxpayer(s).</b> I declare that I am either the taxpayer whose name is shown on line 1a or 2a. If the request applies to a joint return, either husband or wife must sign.			
<b>Note.</b> This form must be received within 60 days of signature date.			
<b>Sign Here</b>	<b>Signature</b> (see instructions)	<b>Date</b>	<b>Telephone number of taxpayer on line 1a or 2a</b>
<b>Spouse's signature</b>		<b>Date</b>	
<b>For Privacy Act and Paperwork Reduction Act Notice, see page 2.</b>			<b>Form 4506T-EZ (10-2009)</b> Cat. No. 54183S

1. If you filed a joint tax return, make sure you include both names on the Form 4506T-EZ.
2. The third party is your mortgage servicer. You can find the name of your servicer on your mortgage statements; however, the address where you send your monthly payments may not be the correct address for your servicer's foreclosure prevention department. To find the correct address and phone number for your servicer, please visit [http://www.makinghomeaffordable.gov/contact\\_servicer.html](http://www.makinghomeaffordable.gov/contact_servicer.html).
3. Your servicer only needs your most recent year's tax return. Enter that tax year on the first line. For example, if you filed your taxes in April 2009, you were filing for the 2008 tax year, so you would enter "2008." If you only recently filed a tax return (within the last 90 days), enter that tax year and the year before because the IRS may not have processed that return yet and will not be able to send it to your servicer. For example, if you are requesting a HAMP modification in February of 2010 and filed your 2009 return in January, you should request 2009 and 2008 tax return information. **This completed form must be sent to your servicer.** If for any reason you would like to request your own copy of your tax returns, you can fill out a separate form and mail it directly to the appropriate IRS address listed on page 2 of this form.
4. Even if you file a joint tax return, you only need one signature (the person listed on line 1a) to file the Form 4506T-EZ. **NOTE:** The IRS must receive your form within 60 days of the signature date.



HELP FOR AMERICA'S HOMEOWNERS

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## Proof of Income Checklist

[Home](#) > [Eligibility](#) > [Borrower Documents](#)

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### PROOF OF INCOME CHECKLIST

Your mortgage servicer needs the documents listed below to verify the income of each borrower. You can find the correct mailing address or fax number to submit your documents on the [Contact Your Mortgage Servicer](#) page.

**For each borrower who receives a salary or hourly wages:**

- Copy of your two most recent pay stubs that show year-to-date earnings.

**For each borrower who is self-employed:**

- Most recent quarterly or year-to-date profit/loss statement.

**For each borrower who has income such as social security, disability or death benefits, pension, adoption assistance, public assistance, or unemployment:**

- Copy of benefits statement or letter from the provider that states the amount, frequency and duration of the benefit, or
- Two most recent bank statements showing receipt of such payment.

**For each borrower who is relying on alimony or child support as qualifying income\*:**

- Copy of divorce or other court decree; or separation agreement or other written agreement filed with the court that states the amount and period of time over which it will be received, or
- Two most recent bank statement showing receipt of such payment.

\* You are not required to disclose Child Support, Alimony or Separation Maintenance income, unless you choose to have it considered by your servicer.

**For borrowers who are current on their mortgage payments:**

- Copies of the most recently filed and signed federal tax return with all schedules, including Schedule E—Supplemental Income and Loss.

If you have other types of income, cannot locate the required documents, or have questions about the paperwork required, please call 1-888-995 HOPE and ask for MHA HELP.

#### Helpful Links

- › [Request for Modification and Affidavit Form \(RMA\)](#)
- › [Instruction Guide for Completing the RMA](#)
- › [4506T-EZ Form](#)



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- ABOUT
- ELIGIBILITY
- LOAN LOOK UP
- FIND A COUNSELOR
- REQUEST A MODIFICATION
- RESOURCES
- AUDIO AND VIDEO
- EN ESPAÑOL



## Are You Eligible?

Home > Home Affordable Refinance

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### 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.*

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](#)



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HAFA

[Home](#) > HAFATo view or print the PDF content on this page, download the free [Adobe® Acrobat® Reader®](#)

## HOME AFFORDABLE FORECLOSURE ALTERNATIVES (HAFA) PROGRAM

Many homeowners may feel that they can no longer afford their home, but want to avoid the negative effects of foreclosure. The Home Affordable Foreclosure Alternatives (HAFA) Program offers homeowners, their mortgage servicers, and investors an incentive for completing a short sale or deed-in-lieu of foreclosure. With these options, under HAFA, a homeowner leaves their home to transition to more affordable housing and alleviate the mortgage debt they owe.

These options are available for homeowners who: 1. do not qualify for a trial mortgage modification under the Making Home Affordable Program; 2. do not successfully complete the trial period for their modification; 3. miss at least two consecutive payments during their modification period; or 4. request a short sale or deed-in-lieu of foreclosure.

### Short Sale

In a short sale, the servicer allows the homeowner to list and sell the mortgaged property with the understanding that the net proceeds from the sale may be less than the total amount due on the first mortgage.

### Deed-in-Lieu of Foreclosure

Generally, if the borrower makes a good faith effort to sell the property but is not successful, a servicer may consider a deed-in-lieu of foreclosure. With a deed-in-lieu, the borrower voluntarily transfers ownership of the property to the servicer— provided the title is free and clear of mortgages, liens, and encumbrances.

The HAFA Program streamlines both of these options to make them easier for a homeowner to work with their servicer. Under the program, a homeowner can receive \$3,000 to help with relocation costs.

Mortgage servicers and investors write their own guidelines under the Federal requirements to determine how to implement the program. For more information about your options, you should [contact your mortgage servicer](#). If you have questions about the program, or want guidance about how these options may impact your personal situation, you may wish to speak to a [HUD-approved housing counselor](#) for free.

### Your Graceful Exit

[Watch a video](#) to learn more about the Home Affordable Foreclosure Alternatives Program.

### Making Home Affordable and Other Options to Remain in Your Home

Mortgage servicers who participate in the Making Home Affordable Program are required to evaluate homeowners for a Home Affordable Modification before evaluating them for other options. If you [request a modification](#) from your mortgage servicer, and are determined to be eligible, you will enter into a [trial period plan](#).

If it is determined that you are not eligible for a Home Affordable Modification, your mortgage servicer will evaluate you for other alternatives they offer to keep you in your home, such as their own modification programs or a forbearance.

A [HUD-approved housing counselor](#) can work with you for free to help you understand your options.

### Avoid Foreclosure: Know Your Options

[Watch a video](#) to learn more about the Making Home Affordable Program and other options your mortgage servicer may provide.

> [Frequently Asked Questions](#)

## Beware of Foreclosure Rescue Scams – Help Is Free!

- There is never a fee to get assistance or information about Making Home Affordable from your lender or a [HUD-approved housing counselor](#).
- Beware of any person or organization that asks you to pay a fee in exchange for housing counseling services or modification of a delinquent loan. *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 submit your mortgage payments 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.](#)



## 2nd Lien Modification Program

[Home](#) > [2nd Lien Modification Program](#) 2nd Lien Modification Program

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### 2ND LIEN MODIFICATION PROGRAM (2MP)

Many homeowners may be struggling to make their monthly mortgage payments because they have a second lien. Even when a first mortgage payment is affordable, the addition of a second lien can sometimes increase monthly payments beyond affordable levels. Second liens often complicate or prevent modification or refinancing of a first mortgage.

The 2nd Lien Modification Program (2MP) offers homeowners a way to lower payments on their second mortgage. 2MP offers homeowners, their mortgage servicers, and investors an incentive for modifying a second lien. Servicers and investors may also receive an incentive for extinguishing a second lien, forgiving all of the debt a homeowner owes.

Homeowners must provide consent to share their first lien mortgage modification information with their second lien mortgage servicer, if they are different. Since 2MP is meant to be complementary to the Home Affordable Modification Program (HAMP), a homeowner must have their first lien modified through HAMP before the second lien can be modified under 2MP.

Under 2MP, with their investor's guidance, a mortgage servicer may:

- Reduce the interest rate to 1% for second liens that pay both principal and interest (amortizing)
- Reduce the interest rate to 1% amortizing or 2% interest-only for interest-only second liens
- Extend the term of the second lien to 40 years
- If the principal was deferred (through forbearance) or forgiven on the first lien, a servicer must forbear the same proportion on the second lien; although a servicer may, in its discretion, forgive any portion or all of the second lien and receive incentives for doing so

A second lien is eligible for 2MP if:

- the corresponding first lien has been modified under the Obama Administration's Home Affordable Modification Program and the second lien servicer is participating
- it was originated on or before January 1, 2009
- it does not have an unpaid principal balance (at consideration for the modification) of less than \$5,000 or a pre-modification scheduled monthly payment of less than \$100
- it has not yet been modified under 2MP
- it is not subordinate to a second lien or is not a home equity loan in first lien position
- it is not a second lien on which no interest is charged and no payments are due until the first lien is paid in full
- the second lien servicer is in possession of a fully executed 2MP modification agreement or trial period plan by December 31, 2012; or the second lien is not insured, guaranteed, or held by a Federal government agency (e.g. FHA, HUD, VA, and Rural Development)

#### List of Participating Servicers

Bank of America (including Countrywide)  
Citi Mortgage, Inc.  
Chase (including EMC and WaMu)  
Wells Fargo (including Wachovia)

More servicers will be added in the near future as they join the program.

For more information, [contact your mortgage servicer](#). If you have other questions, or want guidance to better understand your options, you may wish to speak to a [HUD-approved housing counselor](#) for free.

> [Frequently Asked Questions](#)

### **Beware of Foreclosure Rescue Scams – Help Is Free!**

- There is never a fee to get assistance or information about Making Home Affordable from your lender or a [HUD-approved housing counselor](#).
- 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 submit your mortgage payments 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.](#)

## The Mortgage Forgiveness Debt Relief Act and Debt Cancellation

If you owe a debt to someone else and they cancel or forgive that debt, the canceled amount may be taxable.

The Mortgage Debt Relief Act of 2007 generally allows taxpayers to exclude income from the discharge of debt on their principal residence. Debt reduced through mortgage restructuring, as well as mortgage debt forgiven in connection with a foreclosure, qualifies for the relief.

This provision applies to debt forgiven in calendar years 2007 through 2012. Up to \$2 million of forgiven debt is eligible for this exclusion (\$1 million if married filing separately). The exclusion does not apply if the discharge is due to services performed for the lender or any other reason not directly related to a decline in the home's value or the taxpayer's financial condition.

More information, including detailed examples can be found in Publication 4681, Canceled Debts, Foreclosures, Repossessions, and Abandonments. Also see IRS news release IR-2008-17.

The following are the most commonly asked questions and answers about The Mortgage Forgiveness Debt Relief Act and debt cancellation:

### What is Cancellation of Debt?

If you borrow money from a commercial lender and the lender later cancels or forgives the debt, you may have to include the cancelled amount in income for tax purposes, depending on the circumstances. When you borrowed the money you were not required to include the loan proceeds in income because you had an obligation to repay the lender. When that obligation is subsequently forgiven, the amount you received as loan proceeds is normally reportable as income because you no longer have an obligation to repay the lender. The lender is usually required to report the amount of the canceled debt to you and the IRS on a Form 1099-C, Cancellation of Debt.

Here's a very simplified example. You borrow \$10,000 and default on the loan after paying back \$2,000. If the lender is unable to collect the remaining debt from you, there is a cancellation of debt of \$8,000, which generally is taxable income to you.

### Is Cancellation of Debt income always taxable?

Not always. There are some exceptions. The most common situations when cancellation of debt income is not taxable involve:

- **Qualified principal residence indebtedness:** This is the exception created by the Mortgage Debt Relief Act of 2007 and applies to most homeowners.
- **Bankruptcy:** Debts discharged through bankruptcy are not considered taxable income.
- **Insolvency:** If you are insolvent when the debt is cancelled, some or all of the cancelled debt may not be taxable to you. You are insolvent when your total debts are more than the fair market value of your total assets.
- **Certain farm debts:** If you incurred the debt directly in operation of a farm, more than half your income from the prior three years was from farming, and the loan was owed to a person or agency regularly engaged in lending, your cancelled debt is generally not considered taxable income.
- **Non-recourse loans:** A non-recourse loan is a loan for which the lender's only remedy in case of default is to repossess the property being financed or used as collateral. That is, the lender cannot pursue you personally in case of default. Forgiveness of a non-recourse loan resulting from a foreclosure does not result in cancellation of debt income. However, it may result in other tax consequences.

These exceptions are discussed in detail in Publication 4681.

### What is the Mortgage Forgiveness Debt Relief Act of 2007?

The Mortgage Forgiveness Debt Relief Act of 2007 was enacted on December 20, 2007 (see News Release IR-2008-17). Generally, the Act allows exclusion of income realized as a result of modification of the terms of the mortgage, or foreclosure on your principal residence.

## The Mortgage Forgiveness Debt Relief Act and Debt Cancellation *(continued)*

### **What does exclusion of income mean?**

Normally, debt that is forgiven or cancelled by a lender must be included as income on your tax return and is taxable. But the Mortgage Forgiveness Debt Relief Act allows you to exclude certain cancelled debt on your principal residence from income. Debt reduced through mortgage restructuring, as well as mortgage debt forgiven in connection with a foreclosure, qualifies for the relief.

### **Does the Mortgage Forgiveness Debt Relief Act apply to all forgiven or cancelled debts?**

No. The Act applies only to forgiven or cancelled debt used to buy, build or substantially improve your principal residence, or to refinance debt incurred for those purposes. In addition, the debt must be secured by the home. This is known as qualified principal residence indebtedness. The maximum amount you can treat as qualified principal residence indebtedness is \$2 million or \$1 million if married filing separately.

### **Does the Mortgage Forgiveness Debt Relief Act apply to debt incurred to refinance a home?**

Debt used to refinance your home qualifies for this exclusion, but only to the extent that the principal balance of the old mortgage, immediately before the refinancing, would have qualified. For more information, including an example, see Publication 4681.

### **How long is this special relief in effect?**

It applies to qualified principal residence indebtedness forgiven in calendar years 2007 through 2012.

### **Is there a limit on the amount of forgiven qualified principal residence indebtedness that can be excluded from income?**

The maximum amount you can treat as qualified principal residence indebtedness is \$2 million (\$1 million if married filing separately for the tax year), at the time the loan was forgiven. If the balance was greater, see the instructions to Form 982 and the detailed example in Publication 4681.

### **If the forgiven debt is excluded from income, do I have to report it on my tax return?**

Yes. The amount of debt forgiven must be reported on Form 982 and this form must be attached to your tax return.

### **Do I have to complete the entire Form 982?**

No. Form 982, Reduction of Tax Attributes Due to Discharge of Indebtedness (and Section 1082 Adjustment), is used for other purposes in addition to reporting the exclusion of forgiveness of qualified principal residence indebtedness. If you are using the form only to report the exclusion of forgiveness of qualified principal residence indebtedness as the result of foreclosure on your principal residence, you only need to complete lines 1e and 2. If you kept ownership of your home and modification of the terms of your mortgage resulted in the forgiveness of qualified principal residence indebtedness, complete lines 1e, 2, and 10b. Attach the Form 982 to your tax return.

### **Where can I get this form?**

If you use a computer to fill out your return, check your tax-preparation software. You can also download the form at IRS.gov, or call 1-800-829-3676. If you call to order, please allow 7-10 days for delivery.

### **How do I know or find out how much debt was forgiven?**

Your lender should send a Form 1099-C, Cancellation of Debt, by February 2, 2009. The amount of debt forgiven or cancelled will be shown in box 2. If this debt is all qualified principal residence indebtedness, the amount shown in box 2 will generally be the amount that you enter on lines 2 and 10b, if applicable, on Form 982.

### **Can I exclude debt forgiven on my second home, credit card or car loans?**

Not under this provision. Only cancelled debt used to buy, build or improve your principal residence or refinance debt incurred for those purposes qualifies for this exclusion. See Publication 4681 for further details.

## The Mortgage Forgiveness Debt Relief Act and Debt Cancellation *(continued)*

### **If part of the forgiven debt doesn't qualify for exclusion from income under this provision, is it possible that it may qualify for exclusion under a different provision?**

Yes. The forgiven debt may qualify under the insolvency exclusion. Normally, you are not required to include forgiven debts in income to the extent that you are insolvent. You are insolvent when your total liabilities exceed your total assets. The forgiven debt may also qualify for exclusion if the debt was discharged in a Title 11 bankruptcy proceeding or if the debt is qualified farm indebtedness or qualified real property business indebtedness. If you believe you qualify for any of these exceptions, see the instructions for Form 982. Publication 4681 discusses each of these exceptions and includes examples.

### **I lost money on the foreclosure of my home. Can I claim a loss on my tax return?**

No. Losses from the sale or foreclosure of personal property are not deductible.

### **If I sold my home at a loss and the remaining loan is forgiven, does this constitute a cancellation of debt?**

Yes. To the extent that a loan from a lender is not fully satisfied and a lender cancels the unsatisfied debt, you have cancellation of indebtedness income. If the amount forgiven or canceled is \$600 or more, the lender must generally issue Form 1099-C, Cancellation of Debt, showing the amount of debt canceled. However, you may be able to exclude part or all of this income if the debt was qualified principal residence indebtedness, you were insolvent immediately before the discharge, or if the debt was canceled in a title 11 bankruptcy case. An exclusion is also available for the cancellation of certain nonbusiness debts of a qualified individual as a result of a disaster in a Midwestern disaster area. See Form 982 for details.

### **If the remaining balance owed on my mortgage loan that I was personally liable for was canceled after my foreclosure, may I still exclude the canceled debt from income under the qualified principal residence exclusion, even though I no longer own my residence?**

Yes, as long as the canceled debt was qualified principal residence indebtedness. See Example 2 on page 13 of Publication 4681, Canceled Debts, Foreclosures, Repossessions, and Abandonments.

### **Will I receive notification of cancellation of debt from my lender?**

Yes. Lenders are required to send Form 1099-C, Cancellation of Debt, when they cancel any debt of \$600 or more. The amount cancelled will be in box 2 of the form.

### **What if I disagree with the amount in box 2?**

Contact your lender to work out any discrepancies and have the lender issue a corrected Form 1099-C.

### **How do I report the forgiveness of debt that is excluded from gross income?**

(1) Check the appropriate box under line 1 on Form 982, Reduction of Tax Attributes Due to Discharge of Indebtedness (and Section 1082 Basis Adjustment) to indicate the type of discharge of indebtedness and enter the amount of the discharged debt excluded from gross income on line 2. Any remaining canceled debt must be included as income on your tax return.

(2) File Form 982 with your tax return.

### **My student loan was cancelled; will this result in taxable income?**

In some cases, yes. Your student loan cancellation will not result in taxable income if you agreed to a loan provision requiring you to work in a certain profession for a specified period of time, and you fulfilled this obligation.

### **Are there other conditions I should know about to exclude the cancellation of student debt?**

Yes, your student loan must have been made by:

- (a) the federal government, or a state or local government or subdivision;
- (b) a tax-exempt public benefit corporation which has control of a state, county or municipal hospital where the employees are considered public employees; or

## The Mortgage Forgiveness Debt Relief Act and Debt Cancellation *(continued)*

(c) a school which has a program to encourage students to work in underserved occupations or areas, and has an agreement with one of the above to fund the program, under the direction of a governmental unit or a charitable or educational organization.

### **Can I exclude cancellation of credit card debt?**

In some cases, yes. Nonbusiness credit card debt cancellation can be excluded from income if the cancellation occurred in a title 11 bankruptcy case, or to the extent you were insolvent just before the cancellation. See the examples in Publication 4681.

### **How do I know if I was insolvent?**

You are insolvent when your total debts exceed the total fair market value of all of your assets. Assets include everything you own, e.g., your car, house, condominium, furniture, life insurance policies, stocks, other investments, or your pension and other retirement accounts.

### **How should I report the information and items needed to prove insolvency?**

Use Form 982, Reduction of Tax Attributes Due to Discharge of Indebtedness (and Section 1082 Basis Adjustment) to exclude canceled debt from income to the extent you were insolvent immediately before the cancellation. You were insolvent to the extent that your liabilities exceeded the fair market value of your assets immediately before the cancellation.

To claim this exclusion, you must attach Form 982 to your federal income tax return. Check box 1b on Form 982, and, on line 2, include the smaller of the amount of the debt canceled or the amount by which you were insolvent immediately prior to the cancellation. You must also reduce your tax attributes in Part II of Form 982.

### **My car was repossessed and I received a 1099-C; can I exclude this amount on my tax return?**

Only if the cancellation happened in a title 11 bankruptcy case, or to the extent you were insolvent just before the cancellation. See Publication 4681 for examples.

### **Are there any publications I can read for more information?**

- Yes.
- (1) Publication 4681, Canceled Debts, Foreclosures, Repossessions, and Abandonments (for Individuals) is new and addresses in a single document the tax consequences of cancellation of debt issues.
  - (2) See the IRS news release IR-2008-17 with additional questions and answers on IRS.gov.

NOTE: This form should be executed by the homeowner at the time of signing of the Listing Agreement for any Short Sale.

**AGREEMENT TO CONSULT WITH LEGAL COUNSEL AND ACCOUNTANT  
REGARDING SHORT SALE CONSEQUENCES**

I/We, \_\_\_\_\_,  
(Names of Owner(s))

owners of the real property commonly known as:

\_\_\_\_\_  
(Street Address of Real Property)

understand that engaging in the Short Sale of the above-listed property will affect my/our credit rating and will have income tax consequences, particularly with regard to debt relief.

I/We understand that my real estate agent and/or broker:

\_\_\_\_\_  
(Name of Agent/Broker)

is not licensed to provide legal and/or accounting advice regarding financial or tax consequences related to the Short Sale of the property listed above.

I/We agree to consult with a real estate/real property attorney and an accountant regarding the financial or tax consequences of the Short Sale of the above-listed Property.

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

Print Name: \_\_\_\_\_

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

Print Name: \_\_\_\_\_

## LIST OF USEFUL WEBSITES

- (1) [www.MakingHomeAffordable.com](http://www.MakingHomeAffordable.com)
- (2) [www.HUD.gov/foreclosure](http://www.HUD.gov/foreclosure)
- (3) [www.Realtor.org/realtors/basics\\_short\\_sales](http://www.Realtor.org/realtors/basics_short_sales)
- (4) [www.realtor.org/library](http://www.realtor.org/library)
- (5) <http://portal.hud.gov/portal/page/portal/HUD/states/california> (California HUD home page)
- (6) [www.irs.gov](http://www.irs.gov)

## Foreclosure bills

**SB401:** The bill would bring a number of areas of California tax code in line with federal law, including a provision that excludes “forgiven debt” on a principal residence from being considered taxable income. Currently, people who sell their homes back to the bank for less than what they owe on their mortgages are being hit with tax bills counting the difference between the mortgage balance and sale price as income. The bill would apply to short sales, foreclosures, deeds in lieu of foreclosure and loan modifications that reduce the principal due. The Legislature is expected to pass this bill today, and it appears likely the governor will sign it. The 108-page bill would be retroactive to the 2009 tax year.

**SB1275:** Aimed at borrowers who want to change their mortgages, the bill mirrors many of the provisions of a federal program. Lenders would be required to contact a borrower prior to filing a default notice and provide them with a loan modification application. If the borrower applies, the bank would have to process that application prior to starting the foreclosure process. If an application is denied, the bank would be legally required to state why in writing. The bill must clear at least one more Senate committee and the full Senate, and then would be sent to the Assembly for consideration.

**AB1588:** This bill would create a mediation program for lenders and borrowers. The program, similar to those in more than a dozen other states, would allow borrowers at risk of losing their homes to request mediation with the lender, who would be legally bound to participate in talks to work out a home loan modification. The bill will likely get a hearing in the next few months.

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