

# The Home Affordable Foreclosure Alternatives Program

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Commencing on 5 April 2010, with a sunset date of 31 December 2012, a new government program named the “Home Affordable Foreclosure Alternatives” (HAFA) went into effect. The program is designed to make the real estate “short-sale” process easier for homeowners and encourage financial institutions to accept a short sale or deed-in-lieu rather than foreclosure. Under HAFA, homeowners can sell their personal residence for an amount less than what they owe on their outstanding mortgage.

## Eligibility Requirements:

The HAFA program may only be utilized in conjunction with a short sale transaction on an owner's primary residence. The program will only apply to (1) a primary residence's first mortgage; (2) a loan originated prior to 1 January 2009; (3) a mortgage that is delinquent or default is anticipated; and (4) an individual whose monthly mortgage payment exceeds 31% of his/her income. The homeowner's current

unpaid principal mortgage balance must be less than \$729,750 (for a single-family home). In addition, a homeowner will only qualify for the program if he/she is eligible for a loan modification under the Making Home Affordable program, but unable to meet his/her monthly mortgage payments.

## Program Requirements:

To utilize the HAFA program, the real property (1) must be listed with a real estate broker; (2) must be sold in an “arm's length” transaction (can't be sold to a relative or someone with whom the owner has a close personal or business relationship); and (3) may not reconvey within 90 days after closing. The financial institution must approve the transaction before it can be completed.

All HAFA transactions require use of a special short-sale agreement. The agreement requires the homeowner to locate a purchaser and complete the transaction in not less than 120 days from the date the agreement was mailed

to the homeowner. The financial institution may, within its discretion, extend the deadline by another 245 days.

## Program Entitlements and Benefits:

A benefit of the HAFA program is that it allows the homeowner to receive preapproved short sales terms, prior to listing the property for sale, and requires a full discharge and release from liability from the first mortgage debt (no cash contribution, promissory note, or deficiency judgment is allowed). However, secondary lenders are free to pursue their mortgage debt. The program also provides financial incentives of: up to \$3,000 for borrower relocation assistance; \$1,000 for servicers to cover administrative and processing costs; and \$1,000 (up to \$3,000) match for investors allowing short-sale proceeds to be distributed to subordinate lien holders. A subordinate lien holder must agree to waive his/her right to collect the balance due on his/her loan in order to receive the distribution. ↓