



Mortgage Fact Sheet

From the Office of Minnesota Attorney General Lori Swanson

Many people struggle with real estate and mortgage problems. This Fact Sheet provides basic information about mortgage modifications and other potential available relief for homeowners.

Mortgage Modifications

What is a mortgage modification?

Many homeowners seek mortgage modifications because they are having difficulty making their mortgage payments. Modifications can take the form of interest rate reductions, extension of the amortization period (i.e., the length of time it takes to pay off a mortgage), principal forbearance (i.e., adding part of the amount owed to the end of the mortgage), capitalizing the loan (i.e., adding all delinquencies to the back-end of the loan), and, in some cases, principal reduction. Typically, a homeowner's new mortgage payment is tied to a percentage of their gross income, often 31 percent.

What are some of the programs that might help me explore a modification?

Over the past several years, many homeowners have faced corporate red-tape and callous disregard when they have tried to modify their mortgages. Lenders routinely lost paperwork, didn't return telephone calls, requested the same documentation over and over again, and bounced people around from one bank employee to the next. In some cases, lenders have made it unfairly difficult for homeowners to pursue modifications and prevent unnecessary foreclosures.

The following are some of the programs homeowners might explore if the homeowner desires a modification:

1. **HAMP.** The Home Affordable Modification Program ("HAMP") is a federal program that provides incentives to lenders and servicers to modify mortgages. Borrowers must have obtained their mortgage on or before January 1, 2009. If a

borrower is approved for a HAMP modification, the borrower will enter a mandatory trial period of at least three months before being considered for a permanent modification. More information is available at www.makinghomeaffordable.gov. **Applications must be submitted by December 30, 2016.**

2. **UP.** The Home Affordable Unemployment Program ("UP") is a federal program that permits eligible unemployed borrowers to make a partial payment, not to exceed 31 percent of the borrower's monthly gross income, during the UP forbearance period. Borrowers should ask their servicer if it participates in UP. More information is available at www.makinghomeaffordable.gov. **Applications must be submitted by December 30, 2016.**

3. **Contact the lender.** Many mortgage servicers offer in-house modifications. Eligibility and application processes will vary by mortgage servicers, so borrowers should contact their mortgage servicer to determine any assistance it can provide. In addition, Fannie Mae and Freddie Mac began offering their own modifications beginning on January 1, 2012 for those borrowers that are not eligible for HAMP. Like HAMP, this program requires a trial period and escrow of taxes and insurance, among other things. If a borrower has any trouble during the process, the borrower may contact the Minnesota Attorney General's Office.

What is a trial modification?

A trial modification usually lasts three months, but it can sometimes take longer for a mortgage servicer to evaluate a borrower for a permanent modification. During the trial period, the borrower will make reduced payments to the mortgage servicer, and at the conclusion of the trial period, the borrower will then be reviewed for a permanent modification. Be aware that there are

negative credit reporting consequences during the trial period because the borrower is paying less than the full mortgage payment. And, because escrow accounts are mandatory for modified mortgages, a borrower's payment may increase substantially due to taxes and insurance.

What else do I need to know about modifications?

Mortgage servicers must give you a reasonable amount of time to assemble the required documents for a modification review. Once your servicer receives a complete application, it must review your mortgage for all available relief options before pursuing a foreclosure sale. As mentioned above, there are credit reporting consequences during the trial period. If a borrower is not approved for a permanent modification, the borrower's credit report generally will not be corrected and their credit score may be lowered. In addition, the borrower may be charged late fees because the borrower is paying less than the full payment during the trial period, and if the bank continues with the foreclosure process, the borrower may continue to accrue foreclosure fees. For the five banks that are subject to the national mortgage settlement, however, there are restrictions on their ability to commence or continue with the foreclosure process in some cases, so affected borrowers should ask the bank if the borrower will continue to accrue additional fees or costs.

What if I don't qualify for a modification?

There are still options. Borrowers should ask their mortgage servicer if they're eligible for forbearance (i.e., the mortgage servicer allows the borrower to pay less than the full mortgage amount for a period of time and upon conclusion a lump sum payment of the remaining delinquency is due) or a repayment plan (i.e., the borrower pays an increased amount for several months to bring the loan current). Keep in mind that a forbearance plan does not eliminate the debt. Instead, the borrower will owe the forbearance amount at a later date (possibly with interest).

Steer clear of mortgage modification scams.

Be wary of people that offer assistance with a modification for a fee. Borrowers can always work with their bank on their own for free, and help is available for free from HUD-approved non-profit organizations. If a borrower encounters difficulty dealing with their mortgage servicer, the borrower can always contact the Minnesota Attorney General's Office, too. In addition, some fraudsters have called homeowners pretending to be the homeowner's mortgage servicer and asking for private financial information. Do not provide private financial information to people--call the bank at its known phone number to be sure you're talking to a bank representative!

Refinancing Your Loan

Interest rates are at historically low rates right now. Yet, many lenders won't let homeowners—including those who are current on their mortgages—refinance to take advantage of these low market rates because the homeowners are “underwater” on their home mortgage (i.e., owe more on their mortgage than their home is worth). If this applies, a homeowner may wish to explore the following:

- 1. Contact the lender.** Borrowers should contact their mortgage servicer to see if it will refinance the borrower's loan. In addition, the borrower may be eligible for the Home Affordable Refinance Program (HARP), a federal refinancing program available to borrowers whose mortgages are owned or guaranteed by Freddie Mac or Fannie Mae. Borrowers can also try refinancing through another bank or contact a HUD-approved non-profit housing counselor for additional assistance.
- 2. Steer clear of refinancing scams.** Some homeowners become the target of fraudulent refinancing offers. Such fraudulent refinancing offers may begin with a call from an “underwriter,” who may pretend the call is from the homeowner's current mortgage lender and make a refinance offer that is hard to pass up (whether due to low interest rate, no closing costs, guaranteed approval, or the like).

Short Sales

What is a short sale?

Millions of Americans are “underwater” on their home mortgage, meaning they owe more on their mortgage than their home is worth. A short sale is when a bank allows a homeowner to sell the home for less than the principal balance of the mortgage. With short sales, sellers should be aware that the bank may still hold the seller liable for the deficiency (i.e., the difference between the principal amount owed on the mortgage and the selling price). If the seller has a second mortgage, the seller may be liable to the owner of the second mortgage debt for any deficiency as well.

Tips to follow.

If interested in a short sale, ask the bank about the application and qualification process. Also, ask the bank (including the bank that services a second mortgage, if applicable) if it will hold the borrower liable for the deficiency balance following the short sale. Keep in mind that banks have been known to drag their feet and take months to evaluate short sale requests. There may be income tax consequences, so borrowers may want to consult with a tax advisor.

Finding a Reputable Foreclosure Counselor

Because there are fraudsters that prey on those who have difficulty making their mortgage payments— whether by charging fees for “help” negotiating a modification or otherwise—borrowers should use a HUD-approved housing counseling agency. Borrowers can search for HUD-approved housing counseling agencies using the information below:

U.S. Dept. of Housing and Urban Development

451 7th Street SW
Washington, DC 20410
(800) 569-4287 or TTY: (800) 877-8339
www.hud.gov/foreclosure

Minnesota Housing Finance Agency

400 Sibley Street, Suite #300
St. Paul, MN 55101
(651) 296-7608 or (800) 657-3769
www.mnhousing.gov

Minnesota Home Ownership Center

100 Payne Avenue, Suite 200
St. Paul, MN 55130
(651) 659-9336
www.hocmn.org

Lutheran Social Services Financial Counseling

424 West Superior Street, Suite 600
Duluth, MN 55802
(888) 577-2227 or (218) 529-2227
www.lssmn.org/debt

Government Resources

Tell the Regulators.

If a homeowner has a problem with a bank or mortgage company, the borrower should let the regulators know. The Office of the Comptroller of the Currency is the federal agency that licenses and is supposed to regulate national banks, and it may be reached as follows:

Office of the Comptroller of the Currency

Customer Assistance Group

1301 McKinney Street, Suite 3450

Houston, TX 77010

Toll free: 800-613-6743

Fax: 713-336-4301

State chartered banks and mortgage servicers are subject to regulation by the Minnesota Department of Commerce, which may be reached as follows:

Mike Rothman, Commissioner

Minnesota Department of Commerce

Enforcement Division

85 East Seventh Place, Suite 500

St. Paul, MN 55101

651-539-1500

For Additional Assistance

For additional assistance, homeowners may want to contact these agencies:

Office of Minnesota Attorney General

Lori Swanson

445 Minnesota Street, Suite 1400

St. Paul, MN 55101

651-296-3353 or 800-657-3787

TTY: 651-297-7206 or 800-366-4812

www.ag.state.mn.us

Consumer Financial Protection Bureau

Department of the Treasury

1500 Pennsylvania Avenue, NW

Washington D.C. 20220

855-411-2372

www.consumerfinance.gov

