

# **HUD's Loss Mitigation Program**

**Mortgagee Letter 2000-05**

# Loss Mitigation for Imminent Default

## Imminent Default:

FHA Borrower is:

- ❖ Either current or less than 30 days past due on their mortgage, **and**
- ❖ Experiencing a significant reduction in income or some other hardship that will prevent them from making their next mortgage payment.

# Loss Mitigation for Imminent Default Cause and Documentation

## **Cause:**

Mortgagor must be able to document the cause of the imminent default such as through:

- ❖ Reduction in or loss of income that was supporting the mortgage loan, or
- ❖ Change in household financial circumstances.

## **Documentation:**

Mortgagee must document its servicing system with the basis for determination and the Mortgagor's financial condition qualifying them for imminent default.

**Mortgagee Letter 2010-04, pp. 1-2**

# Loss Mitigation for Imminent Default Options

## **Forbearance Agreement:**

- ❖ Informal Agreement
- ❖ Formal Agreement

## **FHA- HAMP:**

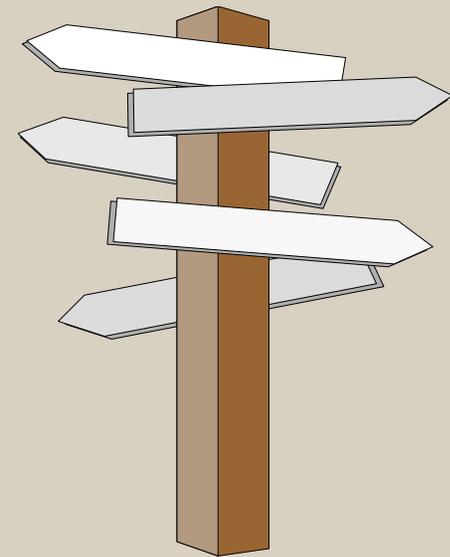
- ❖ Mortgagor must successfully complete a 4 month trial modification period.

All other Loss Mitigation Options are **NOT** available for imminent default cases.

# General Program Requirements

## Option Priority

- ❖ Special Forbearance
- ❖ Loan Modification
- ❖ Partial Claim
- ❖ FHA's Home Affordable Modification
- ❖ Preforeclosure Sale
- ❖ Deed-In-Lieu of Foreclosure



# General Program Requirements

## Owner-Occupancy

- ❖ Required for retention options.
- ❖ Allowable exception on Preforeclosure Sale or Deed-In-Lieu if:
  - rental does not exceed 18 months,
  - property was not purchased as investment, or
  - the need to vacate is related to the reason for default.

# Special Forbearance Option

Mortgagee Letter 2002-17

# Special Forbearance Agreements

## **Definition:**

- ❖ Written agreement,
- ❖ Reinstates a loan that is at least 3 months unpaid but not more than 12 months delinquent PITI,
- ❖ Provides more relief than an informal or formal forbearance plan,
- ❖ Does not change the original loan terms,
- ❖ Provides failure options, and
- ❖ No maximum term.

# Special Forbearance Type I

- ❖ A structured Agreement that allows a Mortgagor to repay a delinquent loan over time.
- ❖ Agreement must provide for relief not typically offered with an informal or formal forbearance plan.
- ❖ Agreement may include an initial period for financial recovery followed by a payment schedule based on the Mortgagor's ability to pay.

# Special Forbearance Type II

- ❖ A Type II Special Forbearance Agreement combines a short-term Special Forbearance Agreement with either a Loan Modification or a Partial Claim.
- ❖ Late fees are not to be assessed during the SFB Type II.
- ❖ Require a minimum of 3 monthly payments.
- ❖ Mortgagees may file for the incentive fee associated with the option used to cure the default, when the loss mitigation action is finalized.

# **Loan Modification Option**

**Mortgagee Letter 2000-05; 2008-21; 2009-35**

# Loan Modification

- ❖ A permanent change in the terms of a Mortgagor's loan.
  - Interest Rate shall be reduced.
  - Loan Term extended to 360 months.
- ❖ Capitalization of delinquent PITI.
- ❖ Legal fees and related foreclosure costs may be capitalized.
- ❖ Allows a loan to be reinstated and results in a payment the Mortgagor can afford.

# Loan Modification Allowable Provisions

- ❖ Must result in a fixed interest rate.
- ❖ Must fully reinstate the loan.
- ❖ Reduce the Note Rate to the current Market Rate.
- ❖ Re-amortize the total unpaid amount due over a 360 month period.
- ❖ Maximum allowable rate increase is 50 basis points above the current Freddie Mac Weekly Primary Mortgage Market Survey Rate for 30-year fixed-rate or the Federal Reserve Board Weekly Rate.
- ❖ <http://www.freddiemac.com/pmms/>
- ❖ <http://www.federalreserve.gov/releases/h15/>

Mortgagee Letter 2000-05, pg. 21; 2008-21, pg. 2

# **Partial Claim Option**

**Mortgagee Letter 2003-19; 2008-21**

# Partial Claim

- ❖ A promissory note and subordinate mortgage to cover the advance for delinquent mortgage payments is issued in the name of the Secretary of HUD.
- ❖ Mortgagee may also include legal fees and foreclosure costs related to a canceled foreclosure.
- ❖ Mortgagee advances funds on behalf of the Mortgagor in the amount of the Partial Claim advance to reinstate the delinquent loan.

# Partial Claim Mortgagor Qualifications

- ❖ Have overcome the cause of default.
- ❖ Have sufficient income to resume monthly mortgage payments.
- ❖ Insufficient surplus income to repay delinquency through a Special Forbearance or Loan Modification.
- ❖ Mortgagor must be owner-occupant, committed to continuing occupancy of the property as primary residence.
- ❖ Option cannot be used to reinstate a loan prior to sale or assumption.

# **Making Home Affordable Program:**

## **FHA's Home Affordable Modification Loss Mitigation Option (FHA-HAMP)**

**Mortgagee Letter 2009-23, pg. 1**

# FHA-Home Affordable Modification Program (FHA-HAMP) Basic Program Guidelines

FHA-HAMP combines a Partial Claim with a Loan Modification

- ❖ Eligible FHA Mortgagors are those that are:
  - Facing Imminent Default, or
  - Currently in Default
- ❖ Total Partial Claim, including arrearages of up to 12 months Principal, Interest, Taxes, and Insurance (PITI) plus legal fees and costs related to a canceled foreclosure action (maximum over life of loan), and deferred principal, may not exceed 30 percent of the unpaid principal balance as of the default date.

# FHA-Home Affordable Modification Program (FHA-HAMP) Basic Program Guidelines

FHA-HAMP combines a Partial Claim with a Loan Modification

- ❖ Imminent Default Mortgagor - must first complete a 4 month trial plan; whereas a Defaulted Mortgagor - must first complete a 3 month trial plan with a payment equal to the monthly PITI to be required on the modified loan (must be a fixed rate mortgage).
- ❖ If trial plan payments are not made in a timely manner, the Mortgagor is no longer eligible for FHA-HAMP.
- ❖ Interest Rate shall be reduced.
- ❖ Loan Term extended to 360 months.

**Mortgagee Letter 2009-23, pp. 1-2; 2009-35, p. 2; 2010-04, pg. 2**

# FHA-HAMP

## Debt to Income Ratios

- ❖ **Front-End Ratio** – The total first mortgage payment (PITI) divided by the Mortgagor's gross monthly income, shall be 31%.
- ❖ **Back-End Ratio** – The total first mortgage payment plus all recurring monthly debt divided by the Mortgagor's gross monthly income, shall not exceed 55%.



# **Preforeclosure Sale Program**

# Preforeclosure Sale Program (PFS)

- ❖ Allows Mortgagor in default to sell the property and use the sale proceeds to satisfy the mortgage debt, even if the proceeds are less than the amount owed.
- ❖ PFS is unavailable if a property has been abandoned or Mortgagor has ability to pay the debt.
- ❖ The PFS must be an outright sale of the property.
- ❖ Home Equity Conversion Mortgages (HECM) are not eligible for the PFS Program. [HECMHelp@hud.gov](mailto:HECMHelp@hud.gov)

# Deed-in-Lieu of Foreclosure

Mortgagee Letter 2000-15; 2002-13

# Deed-in-Lieu Foreclosure Mortgagor Qualifications

- ❖ All Mortgagors named on Note must execute the Deed to convey.
- ❖ Mortgagors agree to certify compliance with program stipulations concerning property condition.
- ❖ Account must be at least 31 days delinquent when the Deed-in-Lieu is recorded.
- ❖ Title must be free and clear of all liens.
- ❖ Written Deed-in-Lieu Agreement must contain all the conditions under which the Deed will be accepted.