

# **PROCESS FOR TRIAGE AND ASSESSMENT TO AVOID FORECLOSURE**

Information included herein is a compilation of materials from the NeighborWorks and Virginia Housing and Development Authority (VHDA) Foreclosure Prevention Certification training, Legal Services of Northern Virginia (LSNV) materials, and the National Consumer Law Center's Foreclosure Prevention Counseling. Additional information can be found at [www.makinghomeaffordable.gov](http://www.makinghomeaffordable.gov). This is a toolkit of the materials used in the foreclosure prevention certification training from these resources and is not meant to be a substitute for the training. Click on any of the links in this toolkit to pull up the referenced work.

**(The contents herein are for the use of trained housing counselors and not for distribution to the general public. Steps I and II are needed for basic referrals. Steps III and IV are needed to determine if the situation is curable or incurable. Step V covers workout options for an incurable situation. A list of web resources, a glossary, and an index of documents for use in the Triage Process are also included)**

- I.** The homeowner calls for assistance on their mortgage. They may or may not be late at this point. Fill out the [Intake Form](#) from the Virginia Foreclosure Task Force. Determine what type of mortgage the homeowner has (found on the HUD-1) in order to refer them to the appropriate resource. Determining what type of mortgage it is can also be done at [www.makinghomeaffordable.gov](http://www.makinghomeaffordable.gov).
- If it is a VHDA mortgage, see the [VHDA Loss Mitigation Checklist](#). Refer homeowners holding a VHDA mortgage to 1-800-227-8432.
  - If it is an FHA loan, refer the homeowners to the FHA at (800) CALL- FHA / (800) 225- 5342, or e-mail at: [hsg-lossmit@hud.gov](mailto:hsg-lossmit@hud.gov). If homeowner has a foreclosure notice, counselor can call the FHA National Servicing Center at 1-877-622-8525, so that the FHA can halt the foreclosure action while a solution is being worked out.
  - If it is a Veterans' Administration mortgage, refer them to the VA at [www.homeloans.va.gov](http://www.homeloans.va.gov), or call (877) 827-3702.
  - If the mortgage is held by any other lending institution, they may be eligible for one of the Making Home Affordable programs. [www.makinghomeaffordable.gov](http://www.makinghomeaffordable.gov). On this web site, the homeowner can do a self-assessment to determine their eligibility, calculate the reduction to monthly mortgage payments that might be possible, go through a checklist to ensure that all documents are collected before calling servicers, and how to find free HUD-approved housing counselors. There have been several updates to these programs, including the [Conversion Campaign](#), which has the goal of converting temporary modifications into permanent ones by simplifying the application process. Go to: <http://www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm>, for the list of HUD-approved Housing Counseling Agencies for free mortgage counseling. For additional information and tools to keep track of calls made to do a workout option, go to [www.knowyouroptions.com/resources/helpful-forms](http://www.knowyouroptions.com/resources/helpful-forms).
  - If the homeowner believes they may have been a victim of a foreclosure scam, go to <http://www.phonehome.org/Portals/0/PDFs/avoidforeclosureselfhelpkit.pdf> If the call is from a renter, see the "[Protecting Tenants at Foreclosure Act of 2009](#)".
- II.** Determine if the homeowner is in default and whether a foreclosure notice or notice of sale has been received. Identify any dates of importance, especially a foreclosure sale date. The [Foreclosure Timeline](#) can be used to assess where the homeowner is in the foreclosure process.
- If the decision is made to refer the case on to another agency, see HUD web site for free, HUD-approved housing counselors.
  - Advise the homeowner to call the servicer immediately. To check if their servicer is participating in Making Home Affordable, go to: [http://www.makinghomeaffordable.gov/contact\\_servicer.html](http://www.makinghomeaffordable.gov/contact_servicer.html).

- If the homeowner is more than 72 days late, refer them to a local Legal Aid Society. If the decision is made to work with the homeowner, go to parts III to IV. If the homeowner does not know whether a foreclosure date has been set, or has not gotten a response from the servicer, the housing counselor should contact the servicer to find out. Have the homeowner fill out the [Release of Information](#) form (see sample from Legal Services of Northern Virginia (LSNV)). Assist the homeowner in filling out a “Qualified Written Request” using the National Consumer Law Center sample, to get loan information from servicers who have not been responsive (see [Sample Qualified Written Request Under RESPA](#)). The servicer must respond to the information requested within 60 days of receipt.

- III. The information gathering stage:** if the decision is made to continue working with the homeowner, make an appointment for the homeowner to bring in all mortgage papers signed at closing including the HUD-1, any letters received from the lender, any letters sent to the lender, any records of phone calls with the lender, and any other documents the homeowner believes are important. The purpose of the interview is to educate the homeowner on options that are available. See the [Role of the Housing Counselor](#), from the Virginia Foreclosure Prevention Task Force. A sample of [Forms from Legal Services of Northern Virginia \(LSNV\)](#) is available to use as a model.
- a. If the homeowner is committed to keeping the home, ask them to bring in the following forms:
    - Budget or [Household Spending Plan](#). Can they afford to keep the home?
    - Asset Sheet: bank accounts, retirement accounts, stocks, etc.
    - [Hardship letter](#) (if client is using HAMP, the Hardship Affidavit is part of the Request for Modification and Affidavit ([RMA](#)) form- <http://www.makinghomeaffordable.gov/requestmod.shtml>, and click on “Request Form.” Client may need counselor’s help filling this out. Also on this web site is the “Proof of Income” checklist and [IRS form 4506-T](#) (required when filing for HAMP). This is the streamlined application process for HAMP.
    - Loan Documents and Settlement Documents, including the HUD-1
    - Any correspondence from lender or servicer; and any notices from trustee
    - 2 months Paystubs and 2 months Bank statements
    - Any other proof of income
    - Recent tax return
    - Medical reason for default
    - Letter from employer if hours were cut or job being lost
  - b. Review all the documents together and analyze them. Be certain to check where the homeowner is in the Foreclosure Timeline and confirm any deadlines. Find out what has caused the delinquency and whether it can be resolved. It is a good idea to get the homeowner to sign a “[Foreclosure Prevention Services Agreement](#)” so that it is in writing that the homeowner wants to work on finding a solution (see LSNV forms).
  - c. Order a credit report and request a current appraisal of property (see [Credit Report Authorization](#)).
  - d. See the [VHDA Loan Workout Decision Tree](#) to determine if the situation curable or incurable. If curable, go to step IV for the Loss Mitigation options. If not curable, go to step V for workout options to avoid foreclosure if possible.

- IV.** Determine if loss mitigation would be a long-term solution. The following steps are in the Loan Workout Decision Tree as outlined by the National Consumer Law Center (rev. with MHA added):
- **Step 1:** Check for any predatory red flags in the loan documents, HUD-1, and correspondence from lender. If there is, refer to a qualified attorney who specializes in predatory loans. See National Consumer Law Center’s [Checklist: Identifying a Predatory Mortgage Loan](#). If yes, refer to the local Legal Aid Society. Any rescission chances under the Truth in Lending Act depends on the type of loan and how long it’s been since the loan was taken out.

- **Step 2:** Review the spending plan and other documents. Determine if the homeowner can afford to keep the home and if they want to keep the home. **If the spending plan does not balance, skip to Step 6** if they do want to keep the home. If they do not want to keep the home, go to **V**. If they can afford to keep the home, go to **Step 4**.
- **Step 3:** If the homeowner's spending plan does not balance, have the homeowner apply for any programs they may be eligible for; recommend re-ordering priorities; look at ways to increase income and/or decrease expenses; explore whether funds can be raised from family or friends. After looking at these possibilities, does the budget balance? **If no, skip to Step 6**. If yes, go to:
- **Step 4:** Is there a monthly surplus now in the budget? See information on a forbearance plan to spread the arrearage over several monthly payments. Does the homeowner have prospects of earning more in the future? If it is an FHA loan, can also consider a Partial Claim to reinstate the mortgage. If the mortgage is insured, a lender may help get a one-time interest-free loan from the mortgage guarantor to bring the account current. For a partial claim, the mortgage must be at least 4 months in arrears, but no more than 12 months. Repayment may be delayed several years. If it is an FHA loan and the borrower has good prospects of an increase in income, a Special Forbearance can temporarily reduce payments.
- **Step 5:** A refinance may be an effective solution. If the homeowner has a Freddie Mac, Fannie Mae, or Ginnie Mae loan, they can refinance through the [Making Home Affordable](#) program. The refinance can go up to 125% of the current appraised value. For an FHA loan, go to [www.fha.gov](http://www.fha.gov) for the FHA Short Refinance program.
- **Step 6:** If the spending plan does not balance, and the homeowner states that they want to keep the house, they may be able to qualify for a [loan modification under Making Home Affordable \(HAMP\)](#). This program aims to lower monthly mortgage payments to be within 31% of the gross monthly income. Using a "waterfall" process, first the interest rate can be lowered to 2% if necessary; if that doesn't bring it to within the 31% ratio, then the term of the loan can be extended; if that doesn't reach the goal, a principal forbearance can be arranged. If a forbearance is done under Making Home Affordable, it does not accrue interest and the amount is not taxable. There is Principal Reduction Alternative option, although it is voluntary, for the lender to consider forgiving a portion of the principal. A [Payment Reduction Estimator](#) for the Making Home Affordable Mortgage Modification is available at [www.makinghomeaffordable.gov](http://www.makinghomeaffordable.gov) web site to check if this plan would work out. There is also a list of lenders who are participating in Making Home Affordable. The lender will determine eligibility based on the Net Present Value (NPV) test. The FDIC developed the prototype for the NPV test, which is included in the attached Excel document. Specific lending institutions may have developed their own NPV test, however the FDIC NPV test is a simple version that can be used to get an approximate determination of approval. For the updated Net Present Value 4.0 test that went into effect on 10.1.2010, go to: [https://www.hmpadmin.com/portal/programs/docs/hamp\\_servicer/npvmodeldocumentationv4.pdf](https://www.hmpadmin.com/portal/programs/docs/hamp_servicer/npvmodeldocumentationv4.pdf). Lenders are required to do a HAMP modification if the results of this test are positive. If the results are negative, it is the lender's decision whether to go ahead or not. Lenders who have a large portfolio are allowed to "recode" the NPV test to their own specifications. The problem with this is that counselors do not have access to the recoded NPV test and are often left with no explanation for a HAMP application being denied. FHA loans are not covered by Making Home Affordable. If it is an FHA loan, refer the homeowner to [www.fha.gov](http://www.fha.gov) for the FHA-Home Affordable Modification Program (FHA-HAMP). New programs available from HAMP include the Unemployment Program (UP), the second lien modification (2MP), the Principal Reduction Alternative (PRA) and foreclosure alternatives (HAFA) such as short sales and deed in lieu of foreclosure. For an overview of these programs, go to: <https://www.hmpadmin.com/portal/resources/docs/counselor/presentations/mhacounselorpresenglish.pdf>. An additional program from HUD to offer a bridge loan to people who are unemployed is the Emergency Homeowners Loan Program ([EHLPL](#)), which was announced in October, 2010. It is a deferred payment "bridge loan" (non-recourse, subordinate loan with zero interest) for up to \$50,000 to assist eligible homeowners with payments of arrearages, including delinquent taxes

and insurance plus up to 24 months of monthly payments on their mortgage. For details go to: [http://portal.hud.gov/portal/page/portal/HUD/documents/EHLP\\_summary.doc](http://portal.hud.gov/portal/page/portal/HUD/documents/EHLP_summary.doc).

- **Step 7:** If one of the loss mitigation programs under Making Home Affordable will work, put together a workout package that will include the hardship letter, the workout proposal, a spending plan, appraisal, and documents to support a specific workout. Make sure to contact the Escrow Department regarding any workout proposal. Loan Port is a national program for counselors to use after collecting documents to upload the completed package directly to servicers and to track the status of a borrower's application progress electronically. See: <http://www.hopeloanportal.org/>.

- V.** If the homeowner decides that they are ready to let go of the house, these are standard workout options:
- Ask the lender to do a [Forbearance](#) while the homeowner puts the home up for sale. A forbearance is when the lender may allow reduced or suspended payments for a short period of time and then agree to another option to bring the loan current. A forbearance option is often combined with a reinstatement when the homeowner has enough money to bring the account current at a specific time. The cause of the default must be specific and temporary
  - Deed in lieu of foreclosure: As a last resort, the homeowner can "give back" the property and the debt is forgiven. This will not save the home, but it is less damaging to a credit rating. In a declining market, the value of the house is less than the mortgage. Many homeowners who purchased their homes during the height of the sub-prime mortgage crisis, between February 2005 and February 2007, are seeing this. In most cases they have an ARM and the rates have reset. This option might sound like the easiest way out, but it has limitations
  - Pre-foreclosure sale or "short sale": The homeowner may qualify if the loan is at least 2 months delinquent, if the house can be sold within 3 to 5 months, if a new appraisal (obtained by the lender) shows that the value of the home meets HUD program guidelines if it is an FHA loan. HUD has a specific Pre-foreclosure Sale program for any FHA mortgage holders. If it is a Fannie Mae or Freddie Mac insured loan, they must approve of the arrangement. The difference between the sale of the home and the mortgage must be reported to IRS as income. Form 982 can be filed to show that the amount is for "forgiveness of a debt due to insolvency". The short sale option may not be available if the homeowner has other liens, such as other creditor judgments, second mortgages, and IRS or state tax liens (If it is an FHA mortgage, see the [FHA Preforeclosure Sale](#) (PFS or short sale) procedure for FHA loans at [www.hud.gov](http://www.hud.gov), for Mortgagee Letter 2008-43)
  - Assumption: A qualified buyer may be allowed to take over your mortgage, even if your original loan documents state that it is non-assumable. Not all loans are assumable. If payments behind when transferred, new owner will be in default and subject to same collection efforts, unless there is a workout agreement. Former homeowner can still be liable for the note.
  - Reverse Mortgage: For homeowners 62 years or older who have a significant amount of equity in their home, have a very low outstanding mortgage balance, or own their home free and clear. This option enables the owner to stay in their home while using some of the built up equity. The homeowner can withdraw some of the equity in the form of monthly payments for life or a fixed term, or in a lump sum, or through a line of credit. For a Home Equity Conversion Mortgage (HECM), counseling by a HUD-approved housing counselor is mandatory. See the HUD web site for more information. The homeowner does not need to repay the loan as long as one of the borrowers continues to live in the house, keep the taxes and insurance current, and maintain the property to FHA standards. The loan must be repaid when the house is sold.
  - Go ahead with the foreclosure sale and save money to relocate after the eviction. Refer the homeowner to local agencies helping with foreclosure issues. Foreclosure is the legal process by which property that is mortgaged as security for a loan is sold to pay a defaulting borrower's debt.
  - Bankruptcy: If a client asks about bankruptcy, refer them to an attorney. It is a legal action and the laws regarding bankruptcy have changed. It is important that they speak with a lawyer concerning bankruptcy. Homeowner must seek legal advice and go to a workshop on bankruptcy.

## Web Resources

### **Housing and Urban Development:**

- **[http://www.hud.gov/offices/hsg/sfh/hcc/hcc\\_home.cfm](http://www.hud.gov/offices/hsg/sfh/hcc/hcc_home.cfm)**  
Find information on updates that impact housing counselors, available grant funds, a link to the new Housing Counselor Handbook, HECM resources and CMS requirements
- **<http://www.hud.gov/foreclosure/index.cfm>**  
Check information on Making Home Affordable – FHA Loans. Look up HUD Approved Housing Counseling Agencies. Find Consumer resources and tips

**Making Home Affordable:** for additional information on modification and refinance, and foreclosure alternatives, refer to [www.makinghomeaffordable.gov](http://www.makinghomeaffordable.gov).

For professionals, see the Making Home Affordable administrative web site: [www.HMPAdmin.com](http://www.HMPAdmin.com). There are resources for servicers and counselors, along with Servicer and Client documents. Email contact – counselors should use if participating Servicers are not following program guidelines.

### **HOPE NOW:** [www.hopenow.com](http://www.hopenow.com).

- **1-888-995-HOPE**
- Alliance of counselors, mortgage companies, investors, and other mortgage market participants
- Maximize outreach efforts to homeowners in distress to help them stay in their homes
- Create a unified, coordinated plan to reach and help as many homeowners as possible
- Links and resources: for example, for pets left behind when foreclosures occur, go to [www.nopawsleftbehind.org](http://www.nopawsleftbehind.org)

### **Loan Port:** <http://hopeloanportal.org/>.

Loan Port is a web-based utility designed to improve the execution of loan modifications and streamline counselors' ability to collect complete modification applications that include all required data elements and documents. Loan Port requires Servicers to provide status of in process modifications to provide industry and counselor transparency. It addresses Servicer challenges in receiving applications and is designed to be used by Borrowers, Non-profit counselors, and Servicers to track the status of the application.

### **National Consumer Law Center:** <http://www.consumerlaw.org/fprc/>.

Resources include blank forms, practice aids, sample letters, and a Loan Modification Calculator, as well as other resources and publications, including Surviving Debt and Stopping Predatory Lending.

### **NeighborWorks:** [www.nw.org](http://www.nw.org).

NeighborWorks has a number of initiatives focused on working together for strong communities. On this web site, there is information on national programs, training and certification programs, and foreclosure resources for consumers and non-profits.

### **Federal Reserve Bank of Richmond**

Mortgage performance summaries

- This series of reports, produced by the Richmond Fed's Research Department, provides state-level analyses of housing markets, and the composition and performance of mortgage markets in the Fifth District:
- [http://www.richmondfed.org/community\\_development/resource\\_centers/foreclosure/research\\_and\\_publications/mortgage\\_performance\\_summaries/index.cfm#tabview=tab3](http://www.richmondfed.org/community_development/resource_centers/foreclosure/research_and_publications/mortgage_performance_summaries/index.cfm#tabview=tab3)
- For consumer help, refer to <http://www.federalreserveconsumerhelp.gov/?District=5> to



file a complaint. Complaints related to federal consumer protection laws, such as the Equal Credit Opportunity Act, Fair Credit Reporting Act, and the Truth in Lending Act can be investigated.

**Loan Scam Alert:** [www.loanscamalert.org](http://www.loanscamalert.org).

**1-888-995-HOPE**

Take action by doing any or all of the following:

- Call the Homeowner's Hope Hotline: -888-995-HOPE (4673)
- File a complaint online through the Lawyers' Committee for Civil Rights Under the Law.
- Call the Federal Trade Commission (FTC) at 877-FTC-HELP (1-877-382-4357) or submit your complaint online
- Contact your state Attorney General or another local authority in your state.

**Capital Area Foreclosure Network (CAFN):** <http://www.capitalareaforeclosurenetwork.org>.

CAFN is a Washington, D.C. metropolitan area coalition that builds on and supports the work of nonprofit organizations, local governments and national partners addressing the ongoing foreclosure crisis. This sets an example of how cross-jurisdictional efforts can maximize resources.

- Provides comprehensive support to front-line organizations and local coalitions working with at-risk residents
- Conducts regional marketing and outreach campaigns urging residents to get help and warning them of the dangers of foreclosure rescue scams
- Researches and analyze regional foreclosure data and trends to better target resources and identify service delivery gaps

## Glossary:

- **Assumption:**

A qualified buyer may be allowed to take over your mortgage, even if your original loan documents state that it is non-assumable. Not all loans are assumable. If payments behind when transferred, new owner will be in default and subject to same collection efforts, unless there is a workout agreement. Former homeowner can still be liable for the note

- **Bankruptcy:**

If a client asks about this, refer them to Legal Services. The laws regarding bankruptcy have changed. It is important that they speak with a lawyer concerning bankruptcy. It is a legal action.

- **Deed-in-lieu of foreclosure:**

As a last resort, the homeowner can "give back" the property and the debt is forgiven. This will not save the home, but it is less damaging to a credit rating. In a declining market, the value of the house is less than the mortgage. Many homeowners who purchased their homes during the height of the sub-prime mortgage crisis, between February 2005 and February 2007, are seeing this. In most cases they have an ARM and the rates have reset. This option might sound like the easiest way out, but it has limitations

- **Eviction:**

Some homeowners may not want to keep the home or cannot afford the home under any options. They stay in the home until the eviction notice is served.

- **Forbearance:**

The lender may allow reduced or suspended payments for a short period of time and then agree to another option to bring the loan current. A forbearance option is often combined with a reinstatement when the homeowner has enough money to bring the account current at a specific time. The cause of the default must be specific and temporary

- **Foreclosure:**

Foreclosure is the legal process by which property that is mortgaged as security for a loan may be sold to pay a defaulting borrower's loan

- **Home Equity Conversion Mortgage:**

For senior citizens, 62 or over, who have a significant amount of equity in their homes. For a Home Equity Conversion Mortgage (HECM), counseling by a HUD-approved housing counselor is mandatory (in our area, refer to Money Management International).

- **Litigation:**

Homeowner may decide to litigate if they believe the mortgage holder made errors or if terms of mortgage were abusive

- **Mortgage modification:**

- Adding the missed payments to the existing loan balance
- Changing the interest rate, including changing an adjustable rate to a fixed rate
- Extending the number of years to repay

- **Partial Claim:**

If the mortgage is insured, a lender may help get a one-time interest-free loan from the mortgage guarantor to bring the account current. For a partial claim, the mortgage must be at least 4 months in arrears, but no more than 12 months. The homeowner pays no interest, no prepayment penalty, and does not need to make monthly payments. Repayment may be delayed several years. The loan must be repaid when the mortgage is paid off.

- **Pre-foreclosure sale or short payoff (short sale):**

You may qualify if:

1. The loan is at least 2 months delinquent
2. You or a realtor can sell the house within 3 to 5 months
3. A new appraisal (obtained by your lender) shows that the value of your home meets HUD program guidelines if it is an FHA loan. HUD has a specific Pre-foreclosure Sale program for any FHA mortgage holders. If it is a Fannie Mae or Freddie Mac insured loan, they must approve of the arrangement
4. The difference between the sale of the home and the mortgage must be reported to IRS as income. Form 982 can be filed to show that the amount is for “forgiveness of a debt due to insolvency”. Check 1b on the form to be exempt from being taxed
5. The short sale option may not be available if you have other liens, such as other creditor judgments, second mortgages, and IRS or state tax liens

- **Reinstatement:**

Most lenders are willing to discuss accepting the total amount owed in a lump sum by a specific date. Forbearance may accompany this option

- **Repayment plan:**

The homeowner may be able to get an agreement to resume making regular monthly payments, plus a portion of the past due payments each month, until they are caught up



## APPENDIX

- Attachment 1: [Intake form](#) (Virginia Foreclosure Prevention Task Force, rev. 9.16.09)
- Attachment 2: [VHDA Loss Mitigation Checklist](#)
- Attachment 3: [Household Spending Plan](#) (VHDA)
- Attachment 4: [The Role of the Housing Counselor](#) (Virginia Foreclosure Prevention Task Force)
- Attachment 5: HUD List of Foreclosure Counseling Agencies in N. VA
- Attachment 6: [Foreclosure Timeline](#) (Virginia Foreclosure Prevention Task Force)
- Attachment 7: [Loan Workout Decision Tree](#) (VHDA)
- Attachment 8: [Intake Letter](#) to homeowner re: appointment and documents to bring (LSNV)
- Attachment 9: [Foreclosure Prevention Service Agreement](#) (LSNV)
- Attachment 10: [Client Release of Information](#) (LSNV)
- Attachment 11: [Counselor's Sample Request for Information from Loan Servicer](#) (NCLC)
- Attachment 12: [Authorization to obtain credit report](#) (HOME and LSNV)
- Attachment 13: [Privacy Notice](#) (VHDA)
- Attachment 14: [Sample Qualified Written Request under RESPA](#) (NCLC)
- Attachment 15: [Checklist for Identifying a Predatory Loan](#) (NCLC)
- Attachment 16: [Sample hardship letters](#) (LSNV)
- Attachment 17: [Request for Modification and Affidavit](#) (Making Home Affordable)
- Attachment 18: [IRS form 4506-T](#)
- Attachment 18: [Foreclosure Prevention Counselor Checklist](#) (NCLC)
- Attachment 19: List of Local Agencies Helping with Issues Around Foreclosure
- Attachment 20: [FDIC Loan Modification](#) example of prototype for Net Present Value test
- Attachment 21: [Protecting Tenants in Foreclosure Act of 2009](#) (Fairfax County Office of Consumer Affairs)
- Attachment 22: [Fairfax County web page regarding Foreclosure Prevention](#)
- Attachment 23: [Making Home Affordable Conversion Campaign](#)
- Attachment 24: [Emergency Homeowner Loan Program](#)

# Intake Form for Triage Process for Foreclosure Prevention

Date: \_\_\_\_\_ Walk-in \_\_\_\_\_ Phone call \_\_\_\_\_

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

Spouse Name: \_\_\_\_\_

**Mortgage Information:** Is the property in default your current residence?  Yes  No

1<sup>st</sup> Mortgage Holder Name: \_\_\_\_\_

Year Purchased: \_\_\_\_\_ Purchase Price: \_\_\_\_\_

Estimated Current Value: \_\_\_\_\_ Current Interest Rate: \_\_\_\_\_

What type of loan do you have?  Fixed  Adjustable  Interest only \_\_\_\_\_

Are the taxes and property insurance included in the mortgage payment:  Yes  No

Investor / Insurer:  FHA (refer)  VA (refer)  VHDA (refer)  Freddie Mac  Fannie Mae  Other

How many months behind are you? \_\_\_\_\_ (check the Foreclosure Timeline-if more than 72 days late the lender has most likely sent the case to a substitute trustee, refer to Legal Services of Northern Virginia)

What is the reason for the default? \_\_\_\_\_

Have you spoken with your lender?  Yes  No

Have you spoken with a housing Counselor?  Yes  No Name of Agency: \_\_\_\_\_

Have you received a foreclosure notice?  Yes  No

Have you received a notice of Sale?  Yes  No

Have you submitted or completed a loan workout plan:  Yes  No

How much money can you contribute to the past due amount: \$ \_\_\_\_\_

Do you have a second mortgage or equity line or liens against the property?  Yes  No

2<sup>nd</sup> Mortgage Holder Name: \_\_\_\_\_

How many months behind are you? \_\_\_\_\_ Have you spoken with your lender:  Yes  No

Have you submitted or completed a loan workout plan:  Yes  No

## Counselor Recommendations

- Contact a Housing Counselor for a follow-up appointment

Counselor Name: \_\_\_\_\_ Appointment Date: \_\_\_\_\_ Time: \_\_\_\_\_

Items to bring to your counseling appointment:

- Proof of income (paystubs / tax returns)
- 2 months of bank statements
- Recent correspondence from lender regarding current situation
- Creditor statements
- Current expenses
- Original loan documents
- Contact your Mortgage Lender / Servicer
- Complete a Spending Plan
- Other: \_\_\_\_\_



## VHDA Loss Mitigation Check List

- Hardship letter –VHDA customer
- Cover letter –Counseling agency (provide workout options and solutions)
- VHDA Borrower Financial Statement
- Hardship Affidavit/Acknowledgement
- Authorization form
- Last two tax returns (only if self employed)
- Last two bank statement
- Income verification: (2) most recent pay stubs,
- Financial Form 4506T
- Spending Plan
  - analyze income
  - analyze all debts, judgments, liens
  - action plan to address deficit or any liens

Information may be submitted to VHDA

Email: [lossmitigation@vhda.com](mailto:lossmitigation@vhda.com) (this is only for the use of Housing Counselors)

Phone: 1-888-756-8603

Fax: 1-804-783-6742

Mail: VHDA  
601 S Belvidere St.  
Richmond VA 23220  
Attention: Loss Mitigation

# Household Spending Plan

## HOUSEHOLD SPENDING PLAN

Indicate # of people in household:

Adults \_\_\_\_\_ Children \_\_\_\_\_

### NET MONTHLY INCOME

	NOW	W/HOUSE
Source 1	_____	_____
Source 2	_____	_____
Other Income	_____	_____
<b>Total Income (A)</b>	_____	_____

### FIXED EXPENSES

	NOW	W/HOUSE
Rent/Mortgage	_____	_____
Electric	_____	_____
Gas/Oil	_____	_____
Water/Sewer	_____	_____
Telephone (basic)	_____	_____
long distance	_____	_____
cellular/pager	_____	_____
Trash pickup	_____	_____
Cable	_____	_____
Auto payment(s)	_____	_____
Auto Insurance	_____	_____
Life Insurance	_____	_____
Child Support/Alimony	_____	_____
Medical Insurance	_____	_____
Child Care	_____	_____
Other	_____	_____
<b>Total (B)</b>	_____	_____

### CREDITOR PAYMENTS

	NOW	W/HOUSE
Installment Loans	_____	_____
Credit Card Payments	_____	_____
	_____	_____
<b>Total Payments (C)</b>	_____	_____

### FLEXIBLE EXPENSES

	NOW	W/HOUSE
Savings	_____	_____
Groceries	_____	_____
Lunch (work/school)	_____	_____
Eating Out	_____	_____
Entertainment/Hobbies	_____	_____
Laundry/Drycleaning	_____	_____
Cleaning Supplies	_____	_____
Clothing	_____	_____
Gasoline/Bus/Taxi	_____	_____
Newspaper/Magazines	_____	_____
Alcohol/Cigarettes	_____	_____
Church/Charity	_____	_____
Tuition/Books	_____	_____
Barber/Beauty Shop	_____	_____
Auto Maintenance	_____	_____
House Maintenance	_____	_____
Doctor/Dentist	_____	_____
Pets	_____	_____
Parking/Tolls	_____	_____
Lottery/Bingo	_____	_____
Other	_____	_____
<b>Total (D)</b>	_____	_____

### EXPENSES

FIXED (B)	_____	_____
CREDITOR (C)	_____	_____
FLEXIBLE (D)	_____	_____
<b>TOTAL EXPENSES (E)</b>	_____	_____

Subtract Expenses from Income (A - E):

TOTAL INCOME (A)	_____	_____
TOTAL EXPENSES (E)	_____	_____
<b>DIFFERENCE + or -</b>	_____	_____

**Note:** If you have accounted for all your expenses, including savings, your difference should be \$0.00. If you come up with a positive number, you may want to consider allocating the extra money toward your debt and/or savings.

If you come up with a negative number, you are spending more than you make. Review the spending plan thoroughly to examine where you can trim your expenses.

Applicant Signature \_\_\_\_\_ SSN \_\_\_\_\_

Applicant Signature \_\_\_\_\_ SSN \_\_\_\_\_

CERTIFICATION: I hereby certify that I have reviewed the above spending plan with the applicant(s) and concur that it is reasonable.

Lender or Counselor Signature: \_\_\_\_\_

# **The Role of the Housing Counselor**

## **The Housing Counselor Has to Understand the Homeowner's Objectives and Needs**

The housing counselor will provide assistance once they understand what the client is trying to accomplish. That will require very specific information from the homeowner. The more information provided to the housing counselor, the easier it will be to assess the homeowner's expectations and situation.

## **The Housing Counselor Will Determine Any Time Constraints**

The housing counselor will need to identify any deadlines the homeowner faces, especially the foreclosure sale date. The homeowner needs to call a housing counselor immediately if mail comes regarding foreclosure. If the homeowner is not aware of a sale date the housing counselor will contact the lender.

## **Housing Counselor Will Establish Reasons for Default & Prepare Hardship Letter**

The homeowner will be partnering with the housing counselor to draft a hardship letter. The letter should be in the homeowner's words.

## **Housing Counselor Will Assist Homeowner in Preparing a Spending Plan**

The homeowner should put a spending plan together themselves and take it to their housing counselor who will go over it line by line. Once it appears all debts have been identified, the housing counselor will use any surplus to start getting the mortgage payment up-to-date; however, if it appears there is a deficit, the homeowner will decide what can be removed from the spending plan, i.e., cable television. The homeowner must take ownership of the spending plan because they are the ones who have to follow the plan.

## **Consider Ways to Increase Homeowner's Income or Available Cash**

The homeowner needs to work with the housing counselor to find other sources of money. Perhaps a family member in the house can bring in additional money with a part time job. Maybe family members can assist; or, perhaps the Church has a fund that assists with family hardships. Perhaps there are assets that could be sold, i.e., jewelry.

## **Housing Counselor Will Assist Homeowner in Reducing Other Debt**

Other mortgages or liens associated with the house must be taken into consideration when it comes to foreclosure intervention. The housing counselor, along with the homeowner, will try to determine if: there are any property taxes unpaid; federal or state taxes due; homeowners insurance is paid; default mortgage insurance behind; other junior liens exist; utilities past due or cut-off; and, home repair needs.

- There are certain unpaid utilities that could make the house uninhabitable for all family members, water is one of them. The housing counselor will try to get any past due utilities on the smallest payment schedule possible.
- There are some home repairs which may make the house uninhabitable. It is in the best interest of the homeowner to make the housing counselor aware of these situations.
- The housing counselor will go over all debt and make suggestions. One such suggestion may be not to pay any credit card debt. While it will have a negative impact on the homeowner's credit history, the credit more than likely has already been impacted by the late mortgage payments. Rather than paying the credit cards, that money could be used to bring the mortgage current. Once the critical needs are met, the housing counselor will revise the spending plan with the assistance of the homeowner.
- Student loans must be kept current since they are federal debt and any tax refund can be seized. The housing counselor may suggest to the homeowner to try to get a deferment of payment if possible.
- The homeowner must make cuts in the spending plan if their goal is to keep their home.

## **Housing Counselor Will Ask Homeowner to Set Aside Funds to Prevent Foreclosure**

Once a realistic spending plan has been developed, the housing counselor will ask the homeowner to save the funds that have been set aside to pay the arrearages on the mortgage loan. The housing counselor will help the homeowner decide if they want to try to keep their house. If the homeowner decides it isn't a realistic goal, then the money set aside can be used to make other housing arrangements.

### **Housing Counselor Will Get Exact Totals on Current Payments, Arrears, & Loan Balance**

The housing counselor and homeowner will need this information in order to decide the best foreclosure avoidance plan. The information can be obtained from the lender or servicer. The servicer is the individual who works on behalf of the lender to collect and put payments in the homeowner's account. In order for the housing counselor to get this information, the homeowner will be asked to sign an Authorization to Release Loan Information form.

### **Housing Counselor Will Work with the Homeowner to Make Realistic Choices**

Once the spending plan is complete and the past due amount of the mortgage has been determined, the housing counselor will again review if the homeowner's goals are realistic. The housing counselor will review all options available to the homeowner. The homeowner should ask questions until they fully understand the decision they must make as well as the options available to them.

### **Housing Counselor Will Start Paperwork If Homeowner Chooses to Try to Save House**

The housing counselor will provide the lender or servicer with the income and expense information they require. Income needs to be verified and the housing counselor will let the homeowner know what method the lender or servicer wants to use, income tax returns and/or most recent pay stubs. Expenses may need to be verified as well so the homeowner may be required to provide copies of bills.

### **Housing Counselor Will Request Delay of Foreclosure Sale Date**

The housing counselor will be an advocate for the homeowner in getting a delay on the foreclosure sale date. The housing counselor will get it in writing and keep an eye on the sale process.

### **Housing Counselor Will Determine Appropriate Options**

Depending on the homeowner's goals and resources, the housing counselor will make a final determination as to which workout plan should be submitted. The housing counselor will still go over options that do not require the lender's consent. The homeowner may decide to file bankruptcy to protect their home. If the homeowner feels there has been an error in past due amount, they may decide to go to court. Also, the homeowner may decide to stay in the house until they receive an eviction notice.

The housing counselor will keep the homeowner updated as things progress. If the workout option that was submitted to the lender or servicer is rejected, the homeowner will be updated and other options explored with the housing counselor.

### **Housing Counselor and Homeowner Are Partners**

The housing counselor and homeowner are working together for a satisfactory resolution. Each must do their part so don't let yourself down.



## HUD List of Foreclosure Counseling Agencies in NV--

\* These agencies do not currently participate in HUD's Housing Counseling Program, but are National Foreclosure Mitigation Counseling (NFMC) grantees through NeighborWorks® America.

CCCS OF GREATER WASHINGTON, A DIVISION OF MMI	<b>P: 703-836-8772</b> <b>T: 800-747-4222</b> <b>F: 703-548-7704E:</b> <b>E: <a href="mailto:lori.johnson@moneymanagement.org">lori.johnson@moneymanagement.org</a></b> <b>W: <a href="http://www.creditcounselingnetwork.org">www.creditcounselingnetwork.org</a>.</b>	801 N Pitt Street Suite 117 - Alexandria, Virginia 22314-1765	- Spanish
CLEARPOINT FINANCIAL SOLUTIONS, INC.	<b>P: 877-877-1995</b> <b>T:</b> <b>F:</b> <b>E: <a href="mailto:customer.service2@clearpointfs.org">customer.service2@clearpointfs.org</a>.</b> <b>W: <a href="http://www.clearpointcreditcounselingsolutions.org">www.clearpointcreditcounselingsolutions.org</a>.</b>	1658 State Farm Boulevard, Suite B Charlottesville, Virginia 22911	English
HISPANIC COMMITTEE OF VIRGINIA	<b>P: 703-671-5666</b> <b>T:</b> <b>F: 703-671-2325</b> <b>E: <a href="mailto:housingcoord@hcva.org">housingcoord@hcva.org</a>.</b> <b>W: <a href="http://www.hcva.org">www.hcva.org</a>.</b>	5827 Columbia Pike Suite 200 Falls Church, Virginia 22041	- English - Spanish
PRINCE WILLIAM COUNTY VIRGINIA COOPERATIVE EXTENSION	<b>P: 703-792-4713</b> <b>T:</b> <b>F: 703-792-4630</b> <b>E: <a href="mailto:mleon@pwcgov.org">mleon@pwcgov.org</a>.</b> <b>W:</b> <b><a href="http://www.pwcgov.org/vce/html/personal_finance.html">www.pwcgov.org/vce/html/personal_finance.html</a></b>	8033 Ashton Ave Ste 105 Manassas, Virginia 20109- 8202	- Spanish
HOUSING OPPORTUNITIES MADE EQUAL	<b>P: 804-354-0641</b> <b>T:</b> <b>F: 804-354-0690</b> <b>E: <a href="mailto:info@phonehome.org">info@phonehome.org</a>.</b> <b>W: <a href="http://www.phonehome.org">www.phonehome.org</a>.</b>	1845 Fort Mahone Street, Office C Petersburg, Virginia 23805-	- English Only
RESTON INTERFAITH	<b>P: 571-323-1438</b> <b>T:</b> <b>F:</b> <b>E: <a href="mailto:martin.rios@restoninterfaith.org">martin.rios@restoninterfaith.org</a>.</b> <b>W: n/a</b>	11150 Sunset Hills Rd. Suite 210 Reston, Virginia 20190	- Spanish
HOUSING OPPORTUNITIES MADE EQUAL OF VIRGINIA, INCORPORATED	<b>P: 804-354-0641-142</b> <b>T:</b> <b>F: 804-354-0690</b> <b>E: <a href="mailto:lpounder@phonehome.org">lpounder@phonehome.org</a>.</b> <b>W: <a href="http://www.phonehome.org">www.phonehome.org</a>.</b>	700 East Franklin Street, Suite 3A Richmond, Virginia 23219	- English
VIRGINIA HOUSING DEVELOPMENT AUTHORITY	<b>P: 804-343-5534</b> <b>T:</b> <b>F: 804-783-6737</b> <b>E: <a href="mailto:kelly.gill-gordon@vhda.com">kelly.gill-gordon@vhda.com</a>.</b> <b>W: <a href="http://www.vhda.com">www.vhda.com</a></b>	601 S. Belvedere Street Richmond, Virginia 23220- 6504	- English Only
FIRST HOME ALLIANCE*	<b>P: 703-580-8838-03</b> <b>T:</b> <b>F: 703-580-8842</b> <b>E: <a href="mailto:cwatkins@firsthomealliance.org">cwatkins@firsthomealliance.org</a>.</b> <b>W: <a href="http://www.firsthomealliance.org">www.firsthomealliance.org</a>.</b>	3138 Golansky Blvd Suite 202 Woodbridge, Virginia 22192	- English - Spanish
Money Management International*	<b>P: 800-762-2271</b> <b>T:</b> <b>F:</b> <b>E:</b> <b>W: <a href="http://www.moneymanagement.org">www.moneymanagement.org</a>.</b>	801 N. Pitt St., Ste 117 Alexandria, Virginia 22314	- English
AHOME*	<b>P: 703-527-3854</b> <b>T:</b> <b>F:</b> <b>E:</b> <b>W: <a href="http://www.ahomeinc.org">www.ahomeinc.org</a>.</b>	2009 N. 14th Street, Ste. 507 Arlington, Virginia 22201	- English
Boat People SOS, Inc.*	<b>P: 703-538-2190</b> <b>T:</b> <b>F:</b> <b>E:</b> <b>W: <a href="http://www.bpsos.org">www.bpsos.org</a>.</b>	6066 Leesburg Pike, Suite 100 Falls Church, Virginia 22041	- English

## Foreclosure Timeline---Virginia Foreclosure Prevention Task Force

- If the homeowner is 17 days late, a late charge notice is sent to them by the servicer. They can pay what is owed to catch up. If the lateness has been chronic, collections can begin as early as the 10<sup>th</sup> day of delinquency.
- If the homeowner is 37 days late (or in chronic cases, 18 days late), the HUD-1 letter and/or breach letter is sent, providing 7 business days for the borrower to respond. The breach letter provides a 30-day reinstatement period for the borrower to catch up on the amount owed. Up to this point, the homeowner can catch up by having a verbal agreement with the lender. If the homeowner does not respond between the 37<sup>th</sup> day and the 61<sup>st</sup> day, “No Contact” letters will continue to be sent.
- When the mortgage is 62 days delinquent, it means that three payments are past due. The loan is assigned to the loss mitigation department for possible work-out. Aggressive efforts are made to contact the borrower over the next 10 days. The lender may not help before the loan is 60 days delinquent. At this point, the homeowner must speak with a foreclosure counselor and be assessed.
- **72<sup>nd</sup> day delinquent** with no contact from the borrower—the loan is recommended for foreclosure and referred to an attorney to begin foreclosure. Virginia is a non-judicial state, which means that a lender or trustee does not have to go to court to start the foreclosure process. They only need to publish the foreclosure or trustee sale in the area newspaper. The terms for foreclosure are spelled out in the Deed of Trust, which is filed immediately after the Deed when the home is purchased.  
\*\*\* If homeowner calls and has not opened any mail from lender, refer them to an attorney for legal assistance. After the attorney opens the file, it takes 45 days to arrive at a foreclosure sale date.

During the 45 days, the attorney will:

- a. Examine the title.
- b. Comply with the Fair Debt Collections Act by sending a 30 day notice to the borrower with a final warning of the foreclosure and a copy of ads placed in the newspaper. Most Deeds of Trust (DOT) required ads to run once a week for 2 consecutive weeks. Some DOT's require 1 to 4 weeks. The Code of Virginia only requires trustees to provide a 14 day notice; however, most trustees allow a 30-day timeframe. The 30-day notice is also sent to junior lien holders, homeowners associations and the IRS. This time also allows the borrower to appeal the debt.
- c. In Virginia, in cases where the loan has been identified as a “subprime loan, the lender/attorney must provide an additional 30-day period in addition to the approximately 45 days if the customer contacts them for a work-out. This may mean that the foreclosure sale would need to be cancelled for a 30-day period to allow the services to make a decision or determine if a work-out is possible.
- d. In Virginia, on the day of the foreclosure sale, loans are approximately 117 days delinquent (4 months) or 147 days is the loan falls under the subprime definition. In some cases the foreclosure sale doesn't take place until 210 days after the delinquency.

## Loan Workout Counselor Decision Tree

### Counselor steps to determining foreclosure prevention options

#1 Conduct Intake

#2 Determine cause of default

#3 Assess financial situation



#### Curable

Homeowner chooses to stay in property

Homeowner **can afford** the property

#### Curable Options

Forbearance and / or Repayment Plan

Modification

Partial Claim or Advanced Claim

Refinance, Reverse Mortgage



#### Incurable

Homeowner **chooses not to stay** in property

Homeowner **cannot afford** the property

#### Incurable Options

Sell the property

Hardship Assumption

Pre-foreclosure Sale

Deed-in-lieu

Foreclosure

## Letter to Confirm Appointment

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Re: Upcoming LSNV Appointment

Dear \_\_\_\_\_,

Thank you for calling the Foreclosure Legal Assistance Program (FLAP) of Legal Services of Northern Virginia (LSNV). Your FLAP appointment is scheduled for:

Date: \_\_\_\_\_  
Time: \_\_\_\_\_  
Location: \_\_\_\_\_  
\_\_\_\_\_

Attorney and/or Housing Counselor: \_\_\_\_\_

Please bring the following documents with you: all mortgage papers you signed at closing, your most recent mortgage statement, any letters received from your lender, any letters you sent to your lender, and any records you are keeping of when you speak to your lender. If you feel there are other important documents we should see, please bring them with you.

ALSO, please fill out the enclosed documents *before* coming to your appointment. Bring these completed papers with you. These documents include a Monthly Spending Plan and a Household Asset Worksheet. Do your best to fill out these sheets *completely and honestly*. To help you better determine the value of your property, ask yourself: "If I sold this at a yard sale, how much could I sell it for?" For items only purchased once in awhile, ask yourself how much you spend each year total and divide that number by 12. *The information on these worksheets helps us determine the options available to you. Therefore, it is very important that you complete the worksheets accurately.*

If you have any questions, please feel free to call us at (703) 368-5711.

Sincerely yours,

FLAP Intake Specialist  
Enclosures (2)

## FORECLOSURE PREVENTION SERVICES AGREEMENT

Legal Services of Northern Virginia (LSNV) is pleased that you have come to us for services and are looking forward to working with you. We are here to assist you in resolving your housing issue. LSNV's foreclosure prevention services typically include:

- Gather information from you including; demographic information, reason for delinquency, housing goals, financial information, home value, credit report, and loan documents.
- Assess your situation and financial capacity to meet your mortgage obligation.
- Determine realistic options available to you.
- Develop and implement an action plan to help you meet your housing goals.
- Communicate and negotiate with your lender/mortgage company on your behalf.
- Provide contact information for additional community services that might be available.
- Provide periodic follow-up to you.

Please be aware that LSNV has no authority or jurisdiction over the lender/mortgage company. Additionally, LSNV does not delay, prevent, or stop any collection or foreclosure action that is pending against your loan. It is solely at the discretion of the lender/mortgage company to determine if they wish to work with you.

LSNV staff will answer questions and provide information, but do not give legal advice or provide legal services. LSNV staff will appropriately refer you to other agencies, organizations and service providers for assistance but you are not obligated to use any services offered. LSNV staff will also provide information and education on various loan products and housing programs but in no way obligates you to use any of them.

### **The signing of this document:**

- Acknowledges that you have received LSNV's Privacy Policy.
- Acknowledges that in your consideration for receiving services form LSNV, you agree to hold LSNV and its staff free and harmless from any claims, damages, liabilities or injuries arising from these services.
- Acknowledges that you have reviewed and understand this agreement in its entirety.

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Client Signature

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Date

**Release of Information for Client to Lender**

Date:

Attention: Loss Mitigation Department

Re: Account No.

Borrowers:

Property Address:

Dear Sir or Madam:

We are working with Legal Services of Northern Virginia (LSNV)'s Foreclosure Legal Assistance Program. They are helping us to propose a loss mitigation plan so that we can keep our home.

We hereby authorize you to release any and all information concerning our account and to discuss our case with LSNV personnel.

My Housing counselor is: \_\_\_\_\_

Thank you for taking the time to handle this request.

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name



## Sample Request for Information from Loan Servicer

Borrower(s) \_\_\_\_\_ Loan #: \_\_\_\_\_

Address \_\_\_\_\_

**Pursuant to the attached authorization by the borrower, please supply the following information about the above referenced account. The information will be used to help the borrower propose a loss mitigation plan, if possible.**

Mortgage Investor: \_\_\_\_\_

Investor Loan #: \_\_\_\_\_

Mortgage Insurance Company: \_\_\_\_\_

### Loan Payment Info:

Current Interest Rate: \_\_\_\_\_ %

Monthly Principal & Interest Payment: \_\_\_\_\_

Monthly Escrow Payment: \_\_\_\_\_

Total Monthly Mortgage Payment: \_\_\_\_\_

### Amount of Arrears:

Due for (Earliest unpaid installment): \_\_\_\_\_

Late Charges Due: \_\_\_\_\_

Foreclosure Fees & Costs Due:  
(Itemize all charges) \_\_\_\_\_

Other Unpaid Charges: \_\_\_\_\_

Balance in Suspense Account: \_\_\_\_\_

TOTAL ARREARS (as of \_\_\_\_\_) \$ \_\_\_\_\_

**Total Balance Due on Loan:**

Unpaid Principal Balance: \_\_\_\_\_

Past Due Interest: \_\_\_\_\_

Unpaid Escrow: \_\_\_\_\_

**TOTAL AMOUNT DUE ON LOAN (PAY-OFF)**

(as of \_\_\_\_\_) \$ \_\_\_\_\_

Per Diem Interest: \_\_\_\_\_

Date of Most Recent BPO/Appraisal: \_\_\_\_\_ Value: \_\_\_\_\_

Other Comments:

**FORECLOSURE STATUS:** \_\_\_\_\_

**SALE DATE (IF SCHEDULED):** \_\_\_\_\_

## Authorization to Obtain Credit Report

I hereby authorize Legal Services of Northern Virginia to obtain a copy of my credit report to assist in resolving my housing issue. A fax or copy of this authorization form is sufficient.

**Client Name:** \_\_\_\_\_

(Mortgagor – primary person on mortgage loan)

Social Security #: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone (home): \_\_\_\_\_ (other): \_\_\_\_\_

Present Employer: \_\_\_\_\_ Occupation: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

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

**Not Applicable**

**Client Name:** \_\_\_\_\_

(Additional person on mortgage loan or spouse)

Social Security #: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone (home): \_\_\_\_\_ (other): \_\_\_\_\_

Present Employer: \_\_\_\_\_ Occupation: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

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

\*\*\*\*\***For office use Only**\*\*\*\*\*

rev.7/08

Date Completed: \_\_\_\_\_ Staff: \_\_\_\_\_

## **PRIVACY NOTICE**

Legal Services of Northern Virginia is committed to assuring the privacy of individuals who have contacted us for assistance. We realize the concerns you bring to us are highly personal in nature. We assure you that all information shared both verbally and in writing will be managed within legal and ethical consideration. Your personal information will be provided to creditors, program monitors, and others only with your authorization and signature on the Foreclosure Prevention Services Agreement. We may also use anonymous aggregate case file information for the purpose of evaluating our services, gathering valuable research information, and designing future programs.

### **Types of information that we gather about you**

- Information we receive from you verbally, on applications, or other forms, such as your name, address, social security number, assets, and income;
- Information about your transactions with us, your creditors, or others, such as your account balance, payment history, parties to transactions and credit card usage; and
- Information we receive from a credit reporting agency such as your credit history.

### **Release of Information to third parties**

- In order to provide effective services you will be requested to authorize disclosure of some or all of the information that we collect, as described above, to your creditors or third parties where we have determined that it would be helpful to you, would aid us in counseling you, or is a requirement of grant awards which make our services possible.
- We may also disclose any information about you or former customers to anyone if it is required by law (e.g. if we receive a court order for the information).
- Within the organization, we restrict access to your personal information to those employees who need to know that information to provide services to you. We maintain physical, electronic and procedural safeguards to protect your personal information.

### **You may choose at any time to “opt-out” of certain disclosures**

- You have the opportunity to “opt out” of disclosures of your personal information to third parties (such as creditors), that is, direct us not to make those disclosures.
- If you choose to “opt-out” we will not be able to contact or answer questions from your creditors. However, if at anytime, you wish to change your decision to “opt-out”, you may contact us at (703) 246-4500 and do so.

## Sample Qualified Written Request Under RESPA

Joe & Sally Consumer  
[Address]

January 1, 2006

VIA CERTIFIED MAIL  
USA Federal Bank, FSB  
[Address]

Attn: Mortgage Loan Accounting Department

Re: Loan # 99999999  
Joe and Sally Consumer  
[Address]

Dear Sir or Madam:

USA Federal Bank, FSB is the servicer of our mortgage loan at the above address. We dispute the amount that is owed according to the Monthly Billing Statement and request that you send us information about the fees, costs and escrow accounting on our loan. This is a “qualified written request” pursuant to the Real Estate Settlement and Procedures Act (section 2605(e)).

Specifically, we are requesting an itemization of the following:

1. A complete payment history, including but not limited to the dates and amounts of all the payments we have made on the loan to date;
2. A breakdown of the amount of claimed arrears or delinquencies, including an itemization of all fees charged to the account;
3. An explanation of how the amount due on the Monthly Billing Statement (\$1,000) was calculated and an explanation of why this amount was increased to \$2,000 on August 1, 2005;
4. The payment dates, purpose of payment and recipient of any and all foreclosure fees and costs that have been charged to our account;
5. The payment dates, purpose of payment and recipient of all escrow items charged to our account since [date USA Federal Bank took over the servicing];
6. A breakdown of the current escrow charge showing how it is calculated and the reasons for any increase within the last 24 months; and
7. A copy of any annual escrow statements and notices of a shortage, deficiency or surplus, sent to us within the last three (3) years.

Thank you for taking the time to acknowledge and answer this request as required by the Real Estate Settlement and Procedures Act (section 2605(e)).

Very truly yours,

Joe & Sally Consumer

## Checklist to Identify a Predatory Loan (NCLC)

<b>CHECKLIST: IDENTIFYING A PREDATORY MORTGAGE LOAN</b>		
<b>#</b>	<b>Indicator</b>	<b>Check if included</b>
<b>Marketing &amp; Sales</b>		
1	Aggressive telephone or mail solicitations to targeted neighborhoods	
2	Door-to-door solicitation by home improvement contractor	
3	Kickbacks to mortgage brokers	
4	Steering to high rate lenders	
5	Promising specific terms, e.g., a fixed rate loan; switching at closing	
6	Property flipping	
<b>The Application</b>		
7	Structuring loans with payments borrowers can't afford	
8	Falsifying loan applications (particularly regarding income level)	
9	Adding "insincere" co-signers	
10	Making loans to mentally incapacitated homeowners	
11	Forging signatures on loan documents (i.e., required disclosures)	
12	Paying off subsidized mortgages or lower interest rate loans	
13	Shifting unsecured debt into mortgages	
14	Loans in excess of 100% LTV	
15	Falsifying appraisals	
<b>The Loan</b>		
16	High annual percentage rate	
17	High points or padded closing costs	
18	ARM sold to borrower with limited/no ability to pay higher payments	
19	Balloon payments	
20	Negative amortization	
21	Bogus broker fees	
22	Requiring credit insurance	
23	Falsely identifying loans as lines of credit or open-end mortgages	
24	Mandatory arbitration clauses	
25	Excessive prepayment penalties	
26	Rushed loan closing	
27	Back-dating documents, esp. the notice of right to cancel	
28	Failing to give copies of documents to homeowner at closing	
<b>After Closing</b>		
29	Loan flipping (repeated refinancing, often after high-pressure sales tactics)	
30	Excessive late fees (including daily interest)	
31	Deliberately posting payments late	
32	Abusive collection practices	
33	Incomplete or shoddy work by home improvement contractor	
34	Shoddy installation of mobile home/damaged mobile home	
35	Failure to pay off debts as promised	
36	Foreclosure "rescue" scams	



## Sample Hardship Letter

### Sample Hardship Letter

Name of Lender  
Lender's Address

Date

Borrower's Name  
Borrower's Address

Re: Account Number

To Whom It May Concern:

Due to the adjustment to the mortgage I current have with Name of Lender, I am finding it difficult to afford the payments. I had a old loan term (ex: 3 year fixed rate mortgage) which adjusted in date (ex: August 2008). The rate went from old rate (ex: 5.25%) to new rate (ex: 7.125%), adding almost dollar amount (ex: \$300) to my mortgage.

At my current income level, there is no way I can afford the increased payments. Hopefully there is a way to renegotiate the terms of my current mortgage so I can avoid default or foreclosure on my home.

Under the original terms of the loan, I had no difficulty making the payments. At the time I agreed to the loan, I was assured that when the loan adjusted, I would have no problem refinancing. However, due to the downturn in the housing industry, my house is now worth less than I paid for it, making it difficult to refinance.

One option that would allow me to afford the mortgage would be to have the current rate reduced to a lower fixed rate. Any other solutions you can provide would be greatly appreciated.

Thank you for your time and consideration.

Sincerely,

Name

# Request for Modification and Affidavit

**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	

<i>I want to:</i>	<input type="checkbox"/> Keep the Property	<input type="checkbox"/> Sell the Property
<i>The property is my:</i>	<input type="checkbox"/> Primary Residence	<input type="checkbox"/> Second Home <input type="checkbox"/> Investment
<i>The property is:</i>	<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 \_\_\_\_\_

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

*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): _____ _____	

# IRS form 4506-T

Form <b>4506-T</b> (Rev. January 2008) Department of the Treasury Internal Revenue Service	<b>Request for Transcript of Tax Return</b> ▶ Do not sign this form unless all applicable lines have been completed. Read the instructions on page 2. ▶ Request may be rejected if the form is incomplete, illegible, or any required line was blank at the time of signature.	OMB No. 1545-1872
---	---	-------------------

**Tip:** Use Form 4506-T to order a transcript or other return information free of charge. See the product list below. You can also call 1-800-829-1040 to order a transcript. If you need a copy of your return, use Form 4506, Request for Copy of Tax Return. There is a fee to get a copy of your return.

<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 or employer identification number (see instructions)
<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 or tax information 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.	

**Caution: DO NOT SIGN this form if a third party requires you to complete Form 4506-T, and lines 6 and 9 are blank.**

**6 Transcript requested.** Enter the tax form number here (1040, 1065, 1120, etc.) and check the appropriate box below. Enter only one tax form number per request. ▶ \_\_\_\_\_

- a Return Transcript**, which includes most of the line items of a tax return as filed with the IRS. Transcripts are only available for the following returns: Form 1040 series, Form 1065, Form 1120, Form 1120A, Form 1120H, Form 1120L, and Form 1120S. Return transcripts are available for the current year and returns processed during the prior 3 processing years. Most requests will be processed within 10 business days . . . . .
- b Account Transcript**, which 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. Return information is limited to items such as tax liability and estimated tax payments. Account transcripts are available for most returns. Most requests will be processed within 30 calendar days . . . . .
- c Record of Account**, which is a combination of line item information and later adjustments to the account. Available for current year and 3 prior tax years. Most requests will be processed within 30 calendar days . . . . .
- 7 Verification of Nonfiling**, which is proof from the IRS that you **did not** file a return for the year. Most requests will be processed within 10 business days . . . . .
- 8 Form W-2, Form 1099 series, Form 1098 series, or Form 5498 series transcript.** The IRS can provide a transcript that includes data from these information returns. State or local information is not included with the Form W-2 information. The IRS may be able to provide this transcript information for up to 10 years. Information for the current year is generally not available until the year after it is filed with the IRS. For example, W-2 information for 2006, filed in 2007, will not be available from the IRS until 2008. If you need W-2 information for retirement purposes, you should contact the Social Security Administration at 1-800-772-1213. Most requests will be processed within 45 days . . . . .

**Caution:** If you need a copy of Form W-2 or Form 1099, you should first contact the payer. To get a copy of the Form W-2 or Form 1099 filed with your return, you must use Form 4506 and request a copy of your return, which includes all attachments.

**9 Year or period requested.** Enter the ending date of the year or period, using the mm/dd/yyyy format. If you are requesting more than four years or periods, you must attach another Form 4506-T. For requests relating to quarterly tax returns, such as Form 941, you must enter each quarter or tax period separately.

\_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_      \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_      \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_      \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

**Signature of taxpayer(s).** I declare that I am either the taxpayer whose name is shown on line 1a or 2a, or a person authorized to obtain the tax information requested. If the request applies to a joint return, either husband or wife must sign. If signed by a corporate officer, partner, guardian, tax matters partner, executor, receiver, administrator, trustee, or party other than the taxpayer, I certify that I have the authority to execute Form 4506-T on behalf of the taxpayer.

<b>Sign Here</b>	Signature (see instructions)	Date	Telephone number of taxpayer on line 1a or 2a (      )
	Title (if line 1a above is a corporation, partnership, estate, or trust)		
	Spouse's signature	Date	

## Foreclosure Prevention Counseling Checklist

Client(s) Name \_\_\_\_\_

Counselor \_\_\_\_\_

	<b>TASK DATE</b>	<b>COMMENTS</b>
File Opened		
Initial Interview		
Foreclosure Status		
Sale Date (if scheduled)		
Other Deadlines Pending		
Release Form Signed		
Request Info. from Servicer		
Receive Info. from Servicer		
Budget Complete		
Pay Stubs Received		
Supporting Document Rcvd.		
Hardship Letter		
Options Counseling Complete		
Workout Package Comp.		
Workout Package Mailed		
Init. Resp. from Servicer		
Final Response		Appr. ____ Den. ____
Workout Papers Signed		
Case Closed		

## FAIRFAX COUNTY AGENCIES HELPING WITH FORECLOSURE ISSUES

Type of Issue	Department	Contact Info
<b>General Information</b>		703-324-7329 TTY 711
<b>Counseling for Homeowners</b>	<a href="#">Homeownership Resource Center</a> Fairfax County Dept. of Housing and Community Development	703-246-5087 Weekdays, 1-4 p.m.  <a href="tel:703-385-3578">TTY-703-385-3578</a>  www.fairfaxcounty.gov/homebuyer
<b>Counseling for Renters</b>	<a href="#">Consumer Affairs</a>	703-222-8435 TTY 711
<b>Emergency Shelter and Food</b>	<a href="#">Shelters</a> - Department of Family Services <a href="#">Social Services Guide</a> - Department of Systems Management for Human Services	703-222-0880 Dial 211 (4:30 p.m. to midnight) TTY 711
<b>Properties Unsafe and/or in Disrepair</b>	<a href="#">Department of Planning and Zoning</a>	<a href="#">Online Report Form</a> 703-324-1300 TTY 711
<b>Tall, Uncut Grass</b>	<a href="#">Public Works and Environmental Services</a>	<a href="#">Online Report Form</a> or call 703-324-1937 TTY 711
<b>Mosquitoes/Standing Water</b>	<a href="#">Health Department</a>	703-246-2300 TTY 711
<b>Rats</b>	<a href="#">Health Department</a>	703-246-2300 TTY 711
<b>Garbage and Trash</b>	<a href="#">Health Department</a>	703-246-2300 TTY 711
<b>Mortgage Scams or Fraud</b>	<a href="#">Consumer Affairs</a>	703-222-8435 TTY 711
<b>Discriminatory Loans</b>	<a href="#">Human Rights Commission</a>	703-324-2953 TTY 711
<b>Abandoned Pets</b>	<a href="#">Animal Control</a>	703-691-2131 (24 hours) TTY 711
<b>Crime</b>	<a href="#">Police Department</a>	Non Emergencies: 703-691-2131 Emergencies: 9-1-1 TTY 711

## FDIC Mortgage Loan Modification Program for Delinquent Residential First Mortgages

### Modified Payment Amount Calculation

The following illustrates the steps taken to calculate the modified payment amount:

Example:

Existing PITI Payment Amount	\$2,200.00
Total Monthly Gross Income	\$6,374.00
Apply Housing Ratio of 38%	<u>X .38</u>
Modified PITI Payment Amount	\$2,422.12
Modified PITI payment exceeds existing PITI	
Total Monthly Gross Income	\$6,374.00
Apply Housing Ratio of 35%	<u>X .35</u>
Modified PITI Payment Amount	\$2,230.90
Modified PITI payment exceeds existing PITI	
Total Monthly Gross Income	\$6,374.00
Apply Housing Ratio of 31%	<u>X .31</u>
Modified PITI Payment Amount	\$1,975.94

In this example, a housing ratio of 31% is used as it results in a payment that is lower than the current payment by at least 10%. The minimum improvement in the monthly mortgage payment must be at least 6%.

Source: [www.fdic.gov](http://www.fdic.gov):

Determining the Net Present Value (what it would cost if home went to foreclosure and whether it will make a difference doing the loan modification)

#### Alter Highlighted Terms for Interactive NPV Analysis

##### Program Parameters

Current Freddie rate	6.5%
Program interest rate floor	3.0%

##### Loan origination information and current status

Investor type (HFI MBS)	MBS
Orig Loan Amount	\$300,000
Original Amortization Term	360
Original Interest Rate	7.000%
Interest only loan (Y/N)	N
Current UPB	\$293,000
Current Rate	7.000%
Remaining Term	336
Months past due	4
Property state	FL

##### Present Value of Modification

<b>Affordable DTI level</b>	38%
Modified Payment	\$1,386.08
Interest Rate at 30 Year Term	
<b>Remaining amortization term used for modification</b>	3.4%
Interest Rate with 40 Year Term	4.5%

##### Principial Forbearance

UPB adjusted for Accrued Interest and Escrow	\$300,626
Modified Rate	3.386%
Modified Full Am Payment	\$1,386.08
Difference from Affordable Payment	\$0.00
Principal Forbearance	\$0.00
PV Lost Interest/Forgiven Debt	(\$43,449.20)

Redefault Rate	40%
----------------	-----

Current Monthly Mortgage Payment	\$1,995.91
Current Interest Payment	\$1,750.00
Current Principal Payment	\$245.91
Past Due Interest	\$6,837
Advances/Escrow	\$789
Current Debt	\$300,626

**Borrower status**

Monthly Income*	\$4,167
Monthly Taxes and Insurance	\$197

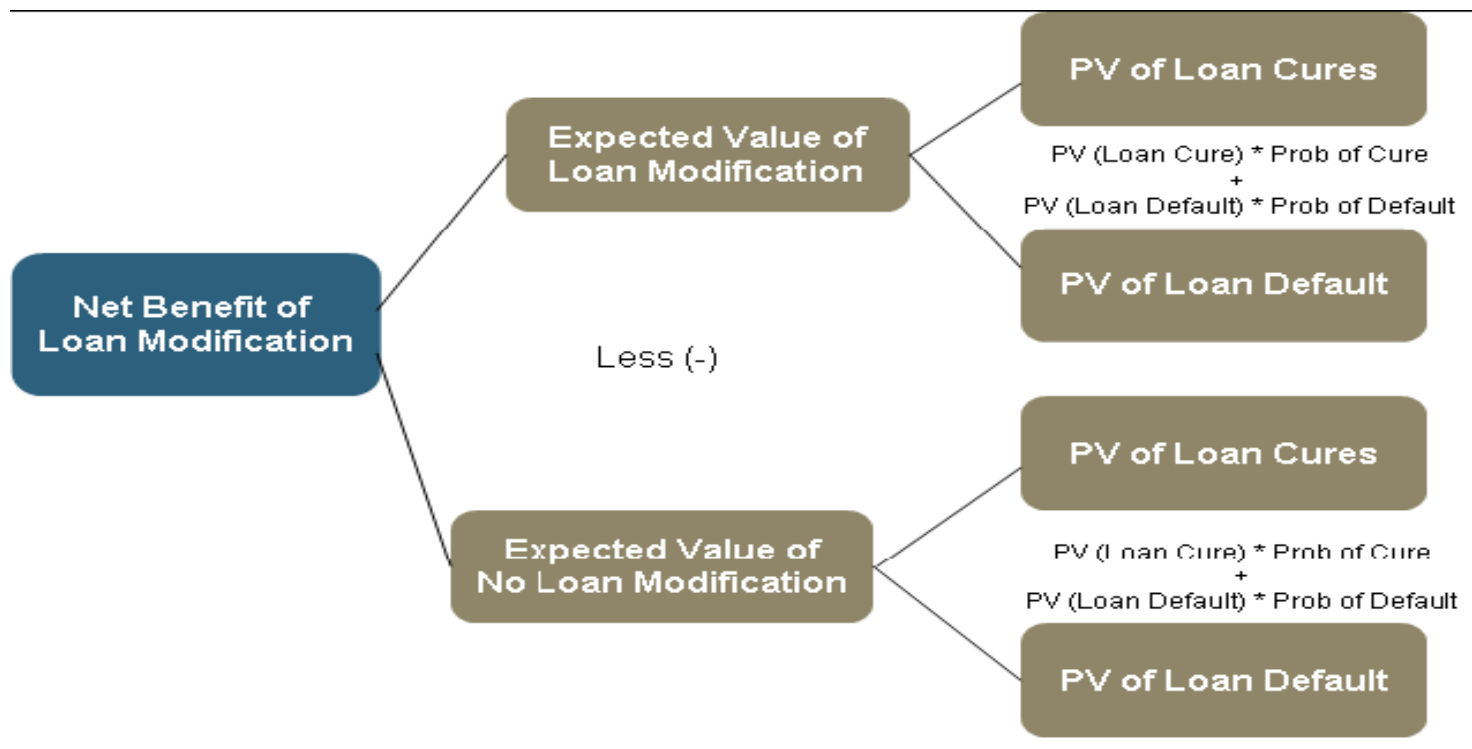
**Foreclosure Scenario**

UPB Adjusted for Accrued Interest and Escrow	\$300,626
Current Value	\$300,000
Home Price Appreciation Forecast	-20%
REO Stigma Discount	20%
Cure Rate	15%
Months to Liquidation	10
Future Interest and Advanced Escrow	\$19,064
Foreclosure Costs	\$4,055
REO Value	\$168,881
Estimated Loss	(\$131,745)
Zero Cure PV Loss	(\$124,301)
Probability Wtd Loss	(\$111,983)
PV Loss	(\$105,656)

Months to Redefault	3
WA Discounted Payments	(\$74,535.11)
Benefit from Modification	\$31,120.43
NPV Test (Pass/Fail)	Pass

**Modification terms**

Adjusted UPB	\$300,626
Initial Modified Interest Rate	3.386%
Modified Amortization Terms	336
Initial Modified Payment	\$1,386.08
% Difference from Original Payment	-30.6%



# Tenants in Foreclosed Dwellings Have New Rights

On May 20, 2009, a new federal law was passed to protect tenants in foreclosed rental properties. Tenants are often the last to know that their landlord's property is undergoing foreclosure. To protect tenants who find themselves in the difficult position of having to find a new home with little or no notice, a 90 day pre-eviction requirement is now the law. New owners, who take over a foreclosed rental dwelling after May 20<sup>th</sup>, have to follow rules established by the Protecting Tenants at Foreclosure Act (The Act) Pub. L. No. 111-22, § 702 (2009).

Under this law, the person who now owns your rental dwelling as a result of foreclosure must comply with the following rules:

If you have a lease for a fixed term, such as one year, and the lease has not expired, you may have a right to remain in your rental unit. You cannot be evicted until the end of the lease term, unless the new owner will occupy your unit as a primary residence. In any event, the new owner is still required to provide you with 90 days notice.

If your lease ends in less than 90 days, the new owner may not evict you without giving you a minimum 90-days notice.

The new owner cannot use the foreclosure as a reason to terminate the tenancy or evict you if they want the property vacant so they can sell it.

Housing Choice Voucher tenants have additional protections.

Tenants who want to continue the lease term after foreclosure must:

Pay rent to the new owner. If you don't pay, you will be subject to eviction procedures for non-payment of rent.

Continue to follow all existing lease terms.

Tenants who receive an improper notice to terminate their lease should do the following:

Send a letter (see sample letters) to the new owner objecting to the termination before the date in the notice received along with a copy of The Act.

Send your letter by certified mail, return receipt requested, to the address provided by the new owner on the notice you received.

Keep a copy of the letter for your records along with all documents you receive from the new owner.

If the new owner does not withdraw the improper notice, you may file a complaint for voluntary mediation with the local Consumer Affairs office.

If the new owner files in court to remove a tenant from a rental unit through eviction or an unlawful detainer action, you should file an answer to the court that the termination notice is improper because the new owner did not comply with The Act.

Go to court on the scheduled date. Take a copy of the letter you sent to the new owner, your lease agreement, and any other documents you have regarding your tenancy.

If you have questions about the court process or your legal rights after you receive an eviction notice, contact your local Legal Aid Society for guidance.

If foreclosure of your rental dwelling happens after May 20<sup>th</sup>, you **cannot** be forced to move, with limited exceptions, without 90 days notice.



## *Sample Letter to Send to New Owner*

### *Non Housing Choice Voucher Tenant*

(This sample letter is provided for information and guidance only. If you have questions, you are encouraged to seek legal assistance for details and options based on your individual circumstances).

Name and address of tenant

Name and address of owner

Date:

Dear Landlord,

I am writing this letter in response to the notice of termination dated \_\_\_\_\_ that I received on

\_\_\_\_\_.  
The Protecting Tenants at Foreclosure Act, (The Act) Pub. L. No. 111-22, §§ 701-704 (2009), which became law on May 20, 2009, applies to state eviction proceedings. This act requires that a new owner who took title to residential rental property through foreclosure must honor existing leases until the end of the lease term.

There are three exceptions to this rule: 1) if there is an existing term lease and the new owner wants to occupy the foreclosed property as a personal residence before the end of the lease term, 2) if there is an existing term lease with less than 90 days to the end of the lease term, or 3) if the existing lease on the foreclosed property is a month-to-month tenancy or a tenancy at will. In each of these cases, the owner must provide the tenant at least 90 days notice to terminate the tenancy. A copy of The Act is enclosed.

Because the notice sent on \_\_\_\_\_ does not comply with this law, I ask that you withdraw the notice and provide written verification of your action.

Sincerely,

Tenant name

## ***Sample Letter to Send to New Owner***

### *Housing Choice Voucher Tenant*

(This sample letter is provided for information and guidance only. If you have questions, you are encouraged to seek legal assistance for details and options based on your individual circumstances).

Name and address of tenant

Name and address of owner

Date:

Dear Landlord,

I am writing this letter in response to the notice of termination dated \_\_\_\_\_ that I received on

\_\_\_\_\_  
The Protecting Tenants at Foreclosure Act, (The Act) Pub. L. No. 111-22, §§ 701-704 (2009), which became law on May 20, 2009, applies to state eviction proceedings. This law requires a person or entity who acquires ownership of residential rental property through foreclosure to take subject to (be legally bound by) the Housing Choice voucher lease and Housing Assistance Payments (HAP) contract. A new owner can only terminate the lease and HAP contract by giving the tenant at least 90 days notice of termination prior to the end of the lease. If the Housing Choice voucher lease and HAP contract have less than 90 days remaining in their term, or if the new owner who takes title at foreclosure wants to occupy the premises as their personal residence, the new owner may terminate the lease only after giving the tenant at least 90 days notice of such termination. A copy of The Act is enclosed.

Because the notice sent on \_\_\_\_\_ falls short of the 90-day notice required by law, I ask that you withdraw the notice and provide written verification of your action.

Sincerely,

Tenant name

# Foreclosure Prevention--Nothing Is Worse Than Doing Nothing

Unfortunately, more than half of homeowners facing foreclosure do not call for help when they begin to fall behind in their payments. However, the early stages of delinquency are the most crucial. Homeowners who are one or two payments behind are more likely to keep their homes than those who have fallen further behind on their payment schedule. How to proceed:

To be effective at avoiding foreclosure, a homeowner needs to take these steps:

## 1. Assess your situation: Can you afford to stay in the home and do you want to keep it?

- a. Fill out a monthly [Spending Plan](#), provided by the Virginia Housing and Development Authority (VHDA). Be sure to put in all your expenses. Is it affordable to stay in the property?
- b. Determine what type of mortgage you have in order to know where to start. If it is an FHA loan or VHDA loan, or a Veteran's Administration loan, go directly to that agency:
  - Homeowners holding a VHDA mortgage may call 1-800-227-8432 or visit the VHDA's website at [www.vhda.com](http://www.vhda.com).
  - Homeowners holding an FHA loan, can call the FHA National Servicing Center at 1-800-CALL-FHA /1-800-225-5342 or e-mail at: [hsg-lossmit@hud.gov](mailto:hsg-lossmit@hud.gov).
  - Homeowners holding a Veterans' Administration (VA) mortgage may call 1-877-827-3702 or contact the VA at [www.homeloans.va.gov](http://www.homeloans.va.gov).

*If your mortgage is none of the above, contact the loan servicer through their hotline. A list of loan servicers is provided by the Virginia Foreclosure Prevention Taskforce at: [www.virginiaforeclosureprevention.com/loan.asp](http://www.virginiaforeclosureprevention.com/loan.asp).*

## 2. Contact a National Foreclosure Mitigation Counselor.

Homeowners may obtain these services for free of charge. There is no need to pay for foreclosure counseling. For a list of local agencies, please click [here](#).

## 3. Assess where you are on the Foreclosure Timeline.

The [Foreclosure Timeline](#) is provided by the Virginia Foreclosure Prevention Taskforce. Please note, if the mortgage is more than 72 days late, a homeowner will need legal assistance. Contact Legal Services of Northern Virginia for their Foreclosure Legal Assistance Program at 703-368-5711.

## 4. Foreclosure scams

Homeowners who have been or suspect they may have been a victim of a foreclosure scam should contact the Fairfax County Consumer Affairs Branch at 703-222-8435, TTY 711. Information on foreclosure scams is also available at the following web sites:

[Virginia Foreclosure Prevention Task Force](#) and the [Federal Trade Commission](#)

## 5. Renters in properties facing foreclosure?

Renters have rights under the "[Protecting Tenants at Foreclosure Act of 2009](#)". You can contact the Fairfax County Office of Consumer Affairs at 703-222-8435, TTY 711, for more information.

### Resource Links:

[Free Foreclosure Clinics Scheduled](#)

[HOPE NOW](#) (hotline: 1-888-995-HOPE/1-888-995-4673)

### Foreclosure information for other local jurisdictions:

[Arlington County](#)

[City of Alexandria](#)

[Loudoun County](#)

[Prince William County](#)



## Home Affordable Modification Program Key Points

### • Purpose

- Modifies loans of qualifying at-risk borrowers to achieve affordable payments
- Allows borrowers to keep their homes
- Reduces impact of foreclosure on communities (foreclosure sale is halted during the HAMP process)

### • Eligibility Criteria. A borrower must:

- Be an owner-occupant of a one to four unit home;
- Have an unpaid principal balance that is equal to or less than:
  - 1 Unit: \$729,750
  - 2 Units: \$934,200
  - 3 Units: \$1,129,250
  - 4 Units: \$1,403,400;
- Have a first lien mortgage that was originated on or before January 1, 2009;
- Have a monthly mortgage payment (including taxes, insurance, and homeowners association dues) greater than 31 percent of their monthly gross (pre-tax) income; and
- Have a mortgage payment that is not affordable due to a financial hardship that can be documented
- Mortgage must have been taken out prior to January 1, 2009
- HAMP application must be made prior to December 31, 2012

### • Requesting a Modification

- Step 1: Complete the Request Form (Request for Modification and Affidavit)
- Step 2: Complete the Tax Authorization (IRS 4506T-EZ Form)
- Step 3: Gather Proof of Income (see p. 2)
- Step 4: Send the Documents to Your Mortgage Servicer

### • Evaluation Process. The servicer:

- Determines whether the loan meets the minimum eligibility criteria;
- Obtains borrower income and debt information; and
- Calculates borrower's target modified payment to reach a debt-to-income ratio of 31 percent by doing the following (in order):
  - Reducing the interest rate to as low as 2 percent
  - Extending the loan term to up to 40 years
  - Forbearing a portion of the principal

### • Home Affordable Foreclosure Alternative (HAFA)

- Effective April 5, 2010, provides alternatives to foreclosure using short sales and deed-in-lieu
- Evaluation for HAMP must be done before considering HAFA
- HAFA is considered if borrower:
  1. does not qualify for HAMP
  2. does not successfully complete HAMP trial period
  3. is delinquent on HAMP modification by missing 2 consecutive payments
  4. requests a short sale or deed-in-lieu
- Requires that the borrower be fully released from future liability for the mortgage debt
- Investors and servicers each receive \$1000 incentive; Homeowner receives \$1500 for relocation costs



## Emergency Homeowner Loan Program – Summary

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### *Overview*

The Dodd-Frank Wall Street Reform and Consumer Protection Act provided \$1 billion to HUD to implement the Emergency Homeowners Loan Program (EHL)P Program. The program will offer a declining balance, deferred payment “bridge loan” (non-recourse, subordinate loan with zero interest) for up to \$50,000 to assist eligible homeowners with payments of arrearages, including delinquent taxes and insurance plus up to 24 months of monthly payments on their mortgage principal, interest, mortgage insurance premiums, taxes, and hazard insurance. HUD will assist borrowers in Puerto Rico and the 32 states otherwise not funded by Treasury’s Innovation Fund for Hardest Hit Housing Markets program, based on their relative unemployment measures. It is HUD’s intention for the program to begin taking applications from eligible homeowners by the end of the year.

### **Program Administration**

There will be a dual delivery approach for program administration. The first approach will delegate some of the program administrative functions to designated third parties. The second approach will enable state housing finance agencies (HFAs) that operate substantially similar programs to engage in relief efforts on behalf of residents of their state.

- **Program Administration---Delegated approach:** HUD will delegate key program administration functions to separate external entities, while retaining program monitoring, compliance and long term note management functions internally. Delegations include:
  - Counseling Intermediary to Perform Intake, Eligibility Screening, and Outreach. HUD will enter into a cooperative agreement with NeighborWorks® America to have nonprofit housing counselors who are part of the National Foreclosure Mitigation Counseling Program administered by NeighborWorks® America to provide intake and outreach services.
  - Intake services shall include: (i) developing and disseminating program marketing materials, (ii) providing an overview of the program and eligibility requirements, (iii) conducting initial eligibility screening (including verifying income), (iv) counseling potential applicants, including providing information concerning available employment and training resources, (v) collecting and assembling homeowner documentation, (vi) submitting homeowner application, and (vii) providing transition counseling to explore with the homeowner other loss mitigation options, including loan modification, short sales, deeds-in-lieu of foreclosure, or traditional sale of home.