



How to Negotiate Your Own Loan Modification

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On March 4, 2009, The United States Department of Treasury introduced Making Home Affordable (Also known as Home Affordable Modification Program or HAMP) with an objective to help up to nine million distressed homeowners avoid the destructive impact foreclosures have on families, communities and the national economy.

Making Home Affordable

Today, Making Home Affordable has become the standard industry practice for establishing affordable and sustainable mortgage modifications.

The basic guidelines for eligibility for Making Home Affordable are:

- Loan must have been originated on or before January 1, 2009.
- The property must be owner occupied (Property owner occupancy status will be verified through borrower credit report and other documentation).
- The first lien must have an unpaid principal balance under \$729,750 for single-family homes. (Higher limits allowed for owner-occupied properties with 2-4 units).
- All employed borrowers must fully document income, including signed IRS 4506-T, two most recent pay stubs, and most recent tax return, and must sign an affidavit of financial hardship.
- All self-employed or non-wage borrowers must fully document income with third party documents that provide reasonably reliable evidence of income and a signed IRS 4506-T, and the last 2 years tax returns, and must sign an affidavit of financial hardship.

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- Borrowers must also represent and warrant that they do not have sufficient liquid assets to make their monthly mortgage payments.

Note that you do not have to be late on your mortgage to be eligible for Making Home Affordable. Please also note that almost all lenders have alternative modification options for borrowers who do not meet the guidelines of Making Home Affordable.

The basic terms and procedures for loan servicers participating in Making Home Affordable are:

- Participating servicers are required to service all eligible loans under the rules of the program unless explicitly prohibited by contract.
- Participating loan servicers will be required to use a net present value (NPV) test on each loan that is at risk of imminent default or at least 60 days delinquent. The NPV test will compare the net present value of cash flows with modification and without modification. If the test is positive; meaning that the net present value of expected cash flow is greater in the modification scenario, the servicer must modify absent fraud or a contract prohibition.
- Servicers will follow a specified sequence of steps in order to reduce the monthly payment to no more than 31% of gross monthly income (DTI).
- The modification sequence requires first reducing the interest rate (subject to a rate floor of 2%), then if necessary extending the term or amortization of the loan up to a maximum of 40 years, and then if necessary forbearing principal.
- The monthly payment includes principal, interest, taxes, insurance, flood insurance, homeowner's association, and/or condominium fees.
- Monthly income includes wages, salary, overtime, fees, commissions, tips, social security, pensions, and all other income.
- Homeowners who make their payments on time are eligible for up to \$1,000 of principal reduction payments each year for up to five years.

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I know the details are daunting. The fact is that if you do not meet each requirement for submission or the bank will make more money, in their opinion, by foreclosing on your home versus modifying your home, the lender will deny your application for a modification under the Making Home Affordable program.

Most lenders have alternative modification options for non-owner occupied homes, homes that have a 1st lien balance above \$729,750 or in general do not fit Making Home Affordable eligibility requirements.

It is very important to note that participation in Making Home Affordable is voluntary and meeting the criteria is far from a guarantee that you will get a loan modification approved. The loan servicer that is providing customer service and collection activity on your mortgage might participate in Making Home Affordable, but the Investor (entity that owns your loan) may not. If this is the case, your application for a modification will be declined even if you would have otherwise been eligible.

It's Just Math

No one has ever gotten a loan modification because they had a good story or a heart wrenching hardship. Banks prefer homeowners to believe their purpose is to provide assistance to serve your interest; however, the truth is banks are businesses. As a business, the bank's objective is to make money, or in the case of a loan modification, lose the least amount of money while servicing your account.

Prepare Your Package

When it comes to loan modifications, it is a myth to think that the best negotiator wins. The truth of the matter is that the best package wins. This makes properly preparing and submitting your loan modification application package the single most important part of the process.

Failure to properly submit a loan modification application will result in a turn down and the information you provide will be used to help them collect on your loan if you are or become past due.

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When underwriting a request for a loan modification, loan servicers are looking for the application to simultaneously meet five mathematical guidelines:

1. A front-end debt-to-income ratio of 31% or greater.
2. A back-end debt-to-income ratio of 70% or less.
3. A pre-modification cash flow showing difficulty making the mortgage payment.
4. A post-modification cash flow showing that you are able to make a reduced mortgage payment.
5. Net present value calculation showing the investor makes more money by modifying the mortgage versus foreclosing on the mortgage.

If any of these formulas fail to meet lender guidelines, the loan modification request will be turned down. In other words, meeting four out of the five guidelines will result in a denial of your request for a loan modification.

Negotiation - Phase 1

Follow up is not focused on negotiations, as there will be very little negotiations. Follow up is to keep the process moving along and to prevent your file from being closed because the bank lost paperwork or needs updated information. Do not trust the banks to contact you to let you know information is missing. You must initiate contact with them to verify and re-verify that the lender has all the information they need to decision your file.

It is highly recommended that you contact your lender within three business days of submitting your package to verify that they have everything they need to evaluate your application for a modification. If they are missing anything, even if it was included in your original package, resubmit it to them and repeat the process every three business days until the bank confirms they have everything they need to review your file.

The person you are speaking with at the bank has no authority and is not able to give you any information about anything except whether they have all the documents needed. There is no benefit to getting upset with them, trying to negotiate with them or providing details about your situation. Ask only if they need additional information. If they do, determine what document or



form is needed, obtain the fax number or email address most appropriate for you to resubmit the requested item(s). Prepare the required information, add your loan number to the top of the document(s), and resubmit it.

It is worth noting here, that you should keep a journal of all communication you have with the bank. This should include all verbal and written communication.

Written communication should include date, time, a copy of what you sent, and what email, address or fax number you used. Every time you send something to the lender, you should call three business days later to confirm that they have received it and that it has been added to your file.

Verbal communication should track date and time of each contact. You should also note whom you spoke with and a summary of what was discussed. Keep updating lender contacts and phone numbers along the way until you have the direct number of the person handling your file.

If during the initial phase the lender asks you any detailed financial questions, it is very important that you answer the questions using the same information in the package submitted to your lender. Using any other numbers, even if it seems minor, could change the intended results.

The same is true of change in employment status, change in residence and change in marital status. In the interest of getting your loan modified, it is best to disclose this information only if your application is turned down. In that event, the strategy is to update the application, give the lender new information, and ask them to make a new decision.

It will be frustrating, but you should be prepared to resubmit your initial documents more than once and to provide updated documents throughout the modification process.

To save time, you will want to ask the bank for the best number to call to get updates on your file. Using the direct number for the department handling your file will save you much time and frustration from being transferred multiple times trying to get what should be a quick update from your lender.

Once you have confirmed the bank has a complete package (everything they say they need to make a decision about your application), it is recommended that you follow up with the bank every week to check status.





Depending on your lender, it could take 60 days before your file is assigned to a negotiator and 60 days before a decision is rendered. The lender will not work on your file if they determine your file needs updated information, even if it is their fault (loss of paperwork, delays in process, etc.) so it is very important that you provide missing information immediately to keep the file moving and get a decision more quickly.

Negotiation - Phase 2

Waiting for your file to be assigned to a negotiator is the second phase of the negotiation process. During this phase, you want to call and ask the following questions:

- Do you have everything you need to process my application?
- Has my file been assigned to a negotiator?
 - If yes:
 - o Who is the negotiator?
 - o What is the best way to get an update on the status of the file?

Ask these questions every time you call to make sure there has been no change in the status of the file.

Many lenders will automatically request updated documents each month your file is open in the system. Do not assume documents are missing just because you get a form letter. Banks are looking for reasons to delay or decline your modification and more often than not, these letters result in borrowers providing updated information that results in delays or a decline.

If the file ages longer than 90 days for any reason, the lender is likely to request updated bank statements and pay stubs (proof of income). Before you send them anything else, insist that you have already given them everything they have asked for and make sure that what you sent them already is not sufficient.

Never send updated documents unless you have discussed it first with the lender and the lender advises that the only way to make progress is to provide updated information. In this event, you want the information to be as consistent as possible to the previously submitted documents.





Negotiation – Phase 3

Once a negotiator has been assigned, you begin Phase 3 of the negotiation process. In this phase, you should continue to call weekly. If you have the negotiator's number, call them directly, though you will probably not hear back from them. It is recommended that you call the negotiator and the number you called in Phase 2.

During these calls, you still want to verify:

- They have everything they need to process your application.
- That your negotiator has not changed.

In addition, you want to ask:

- What is the status of the file?
- What income are you using to calculate my modification?
- What expenses are you using to calculate my modification?
- When do you think a decision will be made?
- When and how do you recommend I get an update?

Your modification is going to be approved based on the math, not hardship. If the bank believes they will make more money by foreclosing on your loan, they are going to decline your request for a loan modification.

If the lender has calculated your income and expenses differently than what was submitted, you are going to get a different result than expected. Making sure you and the bank agree on income and expenses (based on the application submitted) dramatically increases the likelihood that you will get the modification you have requested.

Repeat this process each week until you get a decision one way or the other.

Remember, getting a loan modification is much more difficult than it looks. The banks are making a financial decision based on:

- Front-end debt-to-income
- Back -end debt-to-income
- Pre-modification cash flow
- Post-modification cash flow



- Net Present Value of the modification versus Net Present Value of foreclosure

To get a loan modification approved, all five of these formulas must meet the investor guidelines for loan modification.

If we have prepared your loan modification application package for you, we have done our best to make sure that your application is consistent with these guidelines, but there is no guarantee that you will get a loan modification. Because loan servicers continually update their policies and guidelines as it relates to loan modifications, what may be applicable today may not be applicable tomorrow and vice versa. Some investors will not do modifications under any circumstances, some will not modify unless you are in default, but most will modify your loan if you have a hardship and can verify that you meet the criteria.

Negotiation - Phase 4

In most cases, when you are approved for a loan modification, you will be approved on a trial basis. This is the fourth phase of getting a loan modification. Lenders do trial modifications to make sure you are able and willing to make on-time payments and to give them more time to evaluate your application.

During this period, it is very important that you make your payments on-time and submit the requested documents to them quickly. Making on-time trial payments alone is not sufficient to get a permanent modification, but failing to make them will result in you being declined for a permanent loan modification.

In addition, the bank is going to review your updated bank statements and pay stubs to make sure that your income and expenses are similar to the income and expenses that were used to approve your trial modification. If there is an increase in income and the bank no longer believes you have a hardship, they will decline you for a permanent loan modification. If there is a decrease in your income and the lender is concerned that you would not be able to make the modified payment based on their cash flow calculations, they will decline you for a permanent loan modification. Therefore, it is important for you to keep your income and expenses consistent with the income and expenses that were used to approve you for a trial modification.

One more thing. If you fail to submit the updated documents requested, you will be turned down for a permanent loan modification. Even if you make your trial payments on time.

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What if My Application for Loan Modification is Denied?

If you believe you meet the criteria for a loan modification and are denied, you should try again by resubmitting your application or by filing a complaint online at www.hmpadmin.com or both.

Unfortunately, sometimes getting a loan modification just is not possible. This is distressing for most homeowners because almost 100% of homeowners that fall 30 or more days behind on their mortgage end up defaulting on their mortgage.

Short Sale Versus Foreclosure

The emotional and financial strain foreclosure causes families are enormous. The idea of wondering if today is the day someone is going to show up and tell you to move can be overwhelming. The impact a foreclosure has on your ability to purchase another home, or even get a job, could last for 10 years. For most people, short selling their home is a far better alternative to foreclosure in most cases.

To help homeowners facing foreclosure, US Home Loan Advocates works with investors, real estate agents, and the lenders to minimize the impact foreclosure has on families. Through our network, we are able to quickly find a cash buyer for your home and handle all the negotiations with the bank at no out of pocket expense to you.

Short selling your home offers a number of advantages over foreclosure:

- You can tell your friends and family that you sold you home versus lost your home to foreclosure.
- You know in advance when the move date will be (based on when the buyer closes on the property).
- You avoid the court proceedings, the threatening collection calls, and attempts to collect in person.
- The net income/expense is the same in a short sale as it is in a foreclosure.
- Typically, a short sale affects your ability to buy a home for just two or three years versus what could be seven to ten years for a foreclosure.

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Before losing your home to foreclosure or completing a short sale, you should take the time to clearly understand your options and seek expert advice regarding potential liability from a trusted source, including an accountant and an attorney.

If you would like professional assistance preparing your loan modification application package (even if you are not eligible for Making Home Affordable or are current on your mortgage) or if you are faced with foreclosure and want a quicker, less painful way to transition out of your current home and into another home, contact us right away at 805-413-8000.

US Home Loan Advocates was formed to help financially struggling homeowners. Our staff is comprised of industry experts and consumer advocates whose sole purpose is to provide you with the most suitable solution for your situation. To learn more about how we might be able to serve you, call 805-413-8000 or visit www.ushla.com.

We would be happy to assist you.

