

HOME AFFORDABLE FORECLOSURE ALTERNATIVES PROGRAM— HAFA

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History of HAFA

- ◎ NAR Work Group—2/2008
- ◎ Discussions with Lender Groups—2008
- ◎ Discussions with Treasury and FHFA
- ◎ May 14, 2009—general announcement
- ◎ November 30, 2009—details posted
- ◎ April 5, 2010—effective date

What Did NAR Ask For?

- ◎ Uniform Process
- ◎ Model Forms
- ◎ Deadlines

What Did We Get?

- ◎ Uniform process, model forms, deadlines
- ◎ Up-front closing costs & net proceeds required
- ◎ HAMP servicers must participate and adopt written guidelines

Objective of HAFA

- ◎ Help HAMP-eligible borrowers/sellers avoid foreclosure—hardship required (usually)
- ◎ Short Sale or Deed-in-Lieu of Foreclosure

HAMP Eligibility

- ◎ Pre-2009 loan
- ◎ Outstanding principal balance up to \$729,750
- ◎ Delinquent or reasonably foreseeable default
- ◎ Principal residence (may have moved for job)
- ◎ Payment exceeds 31% of gross income

Process Overview

- ◎ Servicer considers borrower/seller for HAFA within 30 days after borrower:
 - Does not qualify for trial HAMP
 - Does not successfully complete trial
 - Misses 2+ HAMP payments
 - Requests SS or DIL

Process Overview-- continued

- ◎ If borrower and property qualify, servicer sends the Short Sale Agreement
- ◎ Borrower/seller signs and returns in 14 days
- ◎ SSA gives borrower/seller 4 months to sell; servicer may extend up to a total of one year

Process Overview- continued

- ◎ Once an offer is received, borrower/seller must submit it to the servicer with a Request for Approval of Short Sale (RASS)
- ◎ Servicer has 10 days to approve, or not
- ◎ Closing in 45+ days

Why Sellers Will Like HAFA

- ◎ Avoids foreclosure
- ◎ No contribution, promissory note, or deficiency judgment--first lien holders and second lien holders that accept an incentive
- ◎ Pre-approved terms
- ◎ \$3,000 moving costs



Other Reasons Sellers Will Like HAFA:

- Mortgage insurer must approve and waive any right to collect additional sums from the borrower/seller
- Foreclosure may not be completed if borrower/seller performing under the SSA

Incentives Payments- Increased 3-26-2010

- ◎ Seller relocation—\$3,000
- ◎ Servicer incentive—\$1,500
- ◎ Investor incentive—\$2,000 for allowing \$6,000 for junior lien holder incentives (6% cap per lien). No payments by agent or seller to junior lien holders are allowed.

Commissions Policy

- ◎ Servicers specify reasonable and customary commission up front (may be negotiated)
- ◎ Buyers and sellers may not earn commissions
- ◎ Negotiators may not be paid from commissions



PROCESS—More Details

[Fannie & Freddie will be adopting a variation of HAFA for mortgages they own or guarantee.]



Model Forms

- ◎ Short Sale Agreement
- ◎ Request for Approval of Short Sale
- ◎ Alternative Request for Approval of Short Sale (if offer before SSA)



Servicer Evaluates the Property

- ◎ Assess current market value based on investor guidelines
- ◎ Determine if the seller can convey clear title
- ◎ Determine minimum acceptable net proceeds (\$ amount, % of current value, or % of list price set by servicer)



SSA—Listing Broker Signs

Listing broker not a party, but signs to acknowledge broker:

- ◎ Has been retained to sell
- ◎ Has reviewed the SSA
- ◎ Agrees SSA controls
- ◎ Understands servicer will only review offers with a RASS



The SSA:

- ◎ Specifies payment, if any (\leq 31% of gross income)
- ◎ Requires arms length transaction
- ◎ Authorizes servicers to talk to real estate broker



The SSA also:

- ◎ Advises seller that the servicer will report to credit reporting agencies that mortgage was settled for less than full payment
- ◎ Requires sales contract to specify buyer will not sell within 90 days

The SSA specifies terms & conditions

- ◎ List price or minimum net proceeds
- ◎ Allowable closing costs
- ◎ Duty to maintain property and pay expenses
- ◎ Real estate commission—SSA governs so double check

The SSA specifies
additional terms &
conditions:

- ◎ Seller must pay off 2nd liens or negotiate release—work with RE broker, settlement agent, &/or other lien holders.

Request for Approval of SS- -RASS

- ◎ Contracts must be submitted within 3 days, with a RASS
- ◎ Requires certifications
- ◎ Borrower/seller fills in sale terms
- ◎ Attachments:
 - Sales contract (and addenda)
 - Buyer's fund documentation or preapproval/commitment letter

RASS

- ◎ If approved, servicer signs the RASS.
- ◎ Includes warning about phantom income—may be exempt.
- ◎ Closing and payment instructions are included

RASS

- ◎ If disapproved, the servicer must explain why:
 - Inconsistent with specified terms & conditions
 - Lacks two required addenda (sales contract and evidence of buyer financial capacity)
 - Net proceeds insufficient
 - Mortgage insurer did not approve
 - Other

Alternative RASS

- ◎ Combination of a SSA & RASS
- ◎ Used if borrower/seller has an executed sales contract before an SSA is executed
- ◎ Servicer must give borrower/seller opportunity to qualify for loan mod
- ◎ Commission is amount in listing agreement

More Information

- ◎ www.realtor.org/shortsales
- ◎ www.realtorsfr.org (Short Sales and Foreclosure Resource Certification)
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