

# How to Get a Loan Modification



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# What Happens if You Can't Pay

## Pre-Foreclosure

- Short Sale
  - Deficiency
  - Promissory Note
- Loan Modification
  - MHA, HAMP, Internal
- Deed In-lieu
  - Deficiency

## Foreclosure

- Notice of Default
  - Notice of Trustee Sale
- Deficiency Judgment
  - Wage Garnishment
  - Attachment
  - Lien



# Types of Loan Modifications

- Government Programs
  - Making Home Affordable (MHA)
  - Home Affordable Modification Program (HAMP)
  - Second Lien Modification Program (2MP)
- Internal Modification
  - Lender Defined/ Investor guidelines



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## Home Affordable Modification Program (HAMP)

### Eligibility

- Primary Residence
- Loan amount under \$729,750
- Prior to January 1, 2009
- Payment more than 31% of Gross Income
- Financial Hardship



## How Does the Process Start?

- Call the bank and request the loan modification department
- Go to the servicer/lender's website and initiate the process online
- Send a loan modification packet
- Servicer/Lender may contact you by phone or in writing if you fall behind on payments



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## Home Affordable Modification Program (HAMP)

### Waterfall

- Lower the interest rate (as low as 2%)
  - Not all homeowners will need a rate reduction to 2% in order to achieve a monthly mortgage payment that is affordable.
- Extend the term (up to 40 years)
  - At the servicer's option
- Forbear (defer) principal
  - Still owe the principal; but repayment is deferred until a later date



## Home Affordable Modification Program Documents You Must Submit

- Request for Modification and Affidavit (RMA)
- Signed 4506T
- Signed 2009 Tax Return (2010 if available)
- Last 30 days of paystubs OR 6 month Profit & Loss
- Last 60 days of bank statements
- Signed Dodd-Frank Certification
- Most recent utility bill
- Most recent HOA statement
- Recent Property Tax bill



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## Foreclosure: Process

- After 90 days delinquency, Servicer may refer the loan to a Trustee or Law Firm to initiate foreclosure
  - Larger banks are averaging between 6-12 months
  - Smaller banks are averaging between 4-7 months
- Non-Judicial Foreclosure State
  - Notice of Default and Election to Sell
  - Notice of Certificate of Completion (Foreclosure Mediation)
  - Notice of Sale
  - Trustee's Deed



## Foreclosure: Timeline

- Only 30 days after receipt of Notice of Default to elect mediation
  - If Homeowner fails to elect, foreclosure proceeds
  - If Homeowner elects mediation, foreclosure is stayed until mediation process is completed
- 90 days after the Notice of Default, the Notice of Sale may be filed
  - Must personally serve or send by registered or certified mail
  - Must post for 20 successive days in 3 public places
  - Must publish for 3 consecutive weeks in a newspaper



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# Foreclosure: After the Sale

- Unlawful Detainer action is filed to evict former owner
- Deficiency Judgment may be sought
  - Foreclosure Auctions sell for less than the Fair Market Value
  - The costs of foreclosure & attorneys fees will be added
- Lender on the 1<sup>ST</sup> has only has six (6) months to pursue a Deficiency Judgment
  
- THE LENDER ON THE 2<sup>ND</sup> HAS SIX (6) YEARS IF NO PROCEEDS FROM FORECLOSURE SALE



# Foreclosure Mediation

## Eligibility

- Must be primary residence
- Must be owner-occupied
- If Bankruptcy case open, must have order from the Court permitting mediation
- Must elect mediation within 30 days of receiving the Notice of Default



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## Assistance with Mediation

Homeowners may only be represented by:

- Licensed Nevada Attorney (State Bar of Nevada)
- Loan Modification Specialist (Division of Mortgage Lending)
- Certified HUD Counselor (Dept. Of Housing & Urban Dev.)



## Bankruptcy

- Chapter 7- Liquidation Bankruptcy
  - Can still apply for HAMP
  - Can still do a short sale
    - Must have Trustee's Permission
- Chapter 13- Wage Earner's Bankruptcy
  - Strip off 2<sup>nd</sup> Mortgage
  - Can Still apply for HAMP
  - Allows Debtor to keep Non-Exempt Property



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