

Federal Government Short Sale Program Effective 4/5/2010

Short Sales and Deed in Lieu of Foreclosure (commonly referred to as Cash for Keys) have received major attention on the Hill. In an effort to curtail foreclosures, the Feds have introduced HAFA. HAFA stands for [Home Affordable Foreclosure Alternatives](#) and it goes into effect in April of 2010. This is a big push to get banks to approve and move expeditiously on allowing homeowners to short sale their homes or possibly turn in their keys **WITHOUT** deficiency recourse. Up until now, foreclosures have outnumbered short sales and loan modifications 20:1. Banks have been very non-responsive to short sales...or they take "a month of Sundays" to even respond to an inquiry. Homeowners, buyers and agents may see some relief around the horizon. With [HAFA](#), banks will be required to streamline and simplify the process of short sales or DILs.

Here are the highlights:

- Allows homeowner to receive preapproved short sale terms before property listing
- Prohibits servicer from reducing real estate commissions as a condition of approving the short sale.
- Homeowners are fully released from future liability for the debt...**No more deficiency judgments!**
- Servicer must respond within 30 days of the homeowner requesting a short sale. **Yes...an established time frame!**
- \$1,500 relocation incentive to the homeowner
- **The bank MUST respond within 10 business days of receiving an executed purchase agreement, its decision on approval or denial. You read it right...TEN DAYS!**
- The servicer (bank) may not charge the homeowner administrative processing fees...the servicer must pay all out of pocket expenses

Additional Information

HAFA - Home Affordable Foreclosure Alternatives

The new Short Sale Process will be crucially important in 2010. We believe that having timely information on this issue is vital to our community. Scroll down to find the latest updates and information on the new Short Sale process.

The Treasury department has released new rules to help simplify the 'short sale' process. For months, we have been preparing our followers for this great announcement. It should mean we will have less foreclosures in 2010. The sellers will be able to leave the property with dignity and on a

**timetable. Our neighborhoods will have less vacant houses.
As of now, these seem to be the key points:**

- **Mortgage servicers have 10 days to accept or deny a short sale request. After a sale is completed, the borrower could be completely released from debt.**
- **Borrowers are eligible to receive a \$1,500 moving allowance, if they sell their home through a short sale.**
- **Mortgage servicers will receive \$1,000 for each completed short sale.**
- **Investors who hold first mortgages can get as much as \$1,000 for allowing second lienholders to release their liens.**
- **Second lienholders can get only as much as \$3,000 in proceeds from short sale to release their liens.**
- **The property must be the homeowner's principal residence.**
- **The homeowner is delinquent on the mortgage or default looks likely.**
- **The loan was made before Jan. 1 this year and is less than \$729,750**
- **The borrowers' total monthly mortgage payment exceeds 31 percent of their before-tax income.**

More good info ...

1. **Lenders will be preapproving short sales-** What does this mean to you? A big reason short sales fail is that lenders won't work with agents to tell them what price they should list the property at. Then when a real estate agent does get a great offer the lender takes 90 to 180 days to evaluate the offer and during that time the buyer walks and the property goes down in value another 20 percent.
2. **Lenders must fully release borrowers-** Many sellers biggest fear is that their lenders will come after them for the deficiency left over after a short sale. As a short sale negotiation expert I always attempt to make sure that there are no ways the lender can come back and collect the deficiency on my client. However there are some lenders that have standard non negotiable acceptance letters that they refuse to change that specifically reserve the right for further collection on that amount. Some lenders will require the borrower sign a promissory note for that difference. You won't have to worry about any of these big fears.
3. **No more out of pocket demands from second lien holders-** Some lien holders have in the past asked for sellers to bring cash to close. Now it will be NADA!

4. **3 grand is maximum for 2nds-** 2nd lien holders and 1st lien holders have traditionally fought each other about how much the 2nd mortgage should get. I have seen these battles cause short sales to be rejected. Now there is one less barrier to your home being sold on a short sale.
5. **borrowers can be paid up to \$1500-** That is right! Sell your house and you get paid right out of closing to as a reimbursement for your moving expenses!
6. **response in 10 days-** Of all the requirements... **THIS IS THE BIG ONE!** A 10 days response will make short sales feel almost like an ordinary sale... except better because if you are selling on a short sale you have more freedom to price your property properly!
7. **No cutting commission-** Sellers typically don't worry about an agent's commission. However a well paid agent can afford to spend the time he or she needs to really take care of you.

So who gets to take advantage of this program? The following conditions must be met:

1. **Primary residence-** The short sale must be the borrower's primary residence. This could be bad news for investors trying to get rid of their upside down portfolio as servicers will be rushing to meet the requirements for home owner occupants and investors may get ignored. However I have a feeling that what this will serve to do is to get servicers moving with a speedy process that ends up benefiting the investor looking to short sale his rental as well.
2. **Mortgage must be 1st lien and older than January 2nd 2009-** So you folks that are buying right now know that this program might not apply to you.
3. **Verified hardship-** The mortgage must be delinquent or default must be unavoidable in the near future.
4. **Balance limit-** The total delinquent balance must be equal or less than \$729,750.

5. **DTI > than 31 percent gross income-** That is right... your debt to income ratio (mortgage payment to total gross income) must be more than your 31 percent. If that is not the case then the logic is that you should make the payments and keep your home through the HAMP modification program. In fact before you participate in the HAFA program you need to be evaluated for eligibility in the HAMP modification program to see if you can keep your home. However according to my reading of the program just because you could qualify to keep your home under the HAMP program does not mean that you cannot still participate in HAFA and short sale your home.

Time will tell how successful these directives are. If your mortgage is a Fannie Mae or Freddie Mac mortgage then this program will be available to you. For some servicers it will be optional for them to participate in this program however it may make financial sense for them to do so. Maybe not to because a lender may not feel the extra \$1000 they get will overcome the extra costs and regulations associated with the program.

The effective date for the directive is April 5, 2010 however servicers can start earlier if they comply with all the requirements for reporting.