

Is the HAFA Short Sale Program Right for You?

HAFA Pays Sellers \$3,000 to do a Short Sale

By [Elizabeth Weintraub](#), About.com Guide

The HAFA short sale program, effective from April 5, 2010, through December 31, 2012, has been touted as the answer to every short sale agent's nightmare. HAFA promises [short sale approval](#) within 10 days and gives the seller up to \$3,000 in cash at closing. But because HAFA is a government-sponsored program, it's a lot more complicated than that.

HAFA is an acronym for Home Affordable Foreclosure Alternatives, and it's part of President Obama's [Making Home Affordable Program](#). The first step is for a borrower to apply to HAMP, Home Affordable Modification Program. Here are the rules to be eligible for the HAMP program:

- Only personal residences are eligible.
- The mortgage amount must be less than \$729,750.
- The borrower suffers a hardship such as loss of income, an increased mortgage payment or an unexpected increase of expenses.
- The mortgage originated before January 1, 2009.
- The [PITI](#) mortgage payment, including [HOA](#), is more than 31% of the borrower's gross monthly income.

If any one of the 5 rules do not apply, then the borrower is not eligible for HAMP. I know this because I went to the [Home Affordable Modification](#) page to answer each of the 5 questions. I did this 5 times, and changed a different answer to no each time. A no answer to any one of the 5 resulted in a rejection.

If you are not eligible for HAMP, then you may need to find a [short sale agent](#) to help you. If you are eligible for HAMP, it does not mean that you will qualify for HAMP. Eligibility and qualification for HAMP are two different animals. Your goal, if you want to do a [short sale](#), is to hope that HAMP will turn you down. Then you will be eligible for HAFA. Or, if accepted into HAMP, and you stop making your [loan modification](#) payments, you can apply to HAFA. This may sound like goofy rules, but it's the way our government works.

I think it's interesting to point out that very few borrowers tend to qualify for a loan modification. In fact, almost every single short sale that I do in Sacramento is for a seller who was rejected for a loan modification.

Determine if Your Lender Participates in the HAMP Program

It's important to know if your lender participates in HAMP, because lenders that participate in HAMP also participate in HAFA. All Fannie Mae and Freddie Mac lenders are required to participate. Here is a partial list of some of the big-name [HAMP participating lenders](#):

- Aurora Loan Services, LLC
- [Bank of America, NA](#)
- Chase Home Finance, LLC
- CitiMortgage, Inc
- Countrywide Home Loans Servicing, LP
- EMC Mortgage Corporation
- GMAC Mortgage LLC
- Green Tree Servicing LLC
- HomeEq Servicing
- Horizon Bank
- J.P.Morgan Chase Bank, NA
- Litton Loan Servicing
- Navy Federal Credit Union
- Ocwen Financial Corporation, Inc.
- OneWest Bank
- PNC Bank, National Association

- Saxon Mortgage Services
- The Golden 1 Credit Union
- US Bank, National Association
- Wachovia Mortgage, FSB
- [Wachovia Bank, NA](#)
- [Wells Fargo Bank, NA](#)

Eligibility Requirements for HAFA Short Sales

Once the borrower is rejected for a loan modification through the HAMP Program, the borrower is then eligible to apply to the HAFA Short Sale program or pursue a Deed in-Lieu-of [Foreclosure](#). Since I don't know why anybody in their right minds would do a deed in-lieu, I'll stick to the [short sale process](#). HAFA will preapprove the price of that short sale and give the seller 4 months to sell the property through a real estate agent. Here are the eligibility requirements:

- Only personal residences are eligible.
- The mortgage amount must be less than \$729,750.
- The seller must be 60 days behind on the mortgage.
- The mortgage originated before January 1, 2009.
- The seller was rejected by HAMP for a loan modification.
- Sellers who have government loans do not qualify.

Benefits to a HAFA Short Sale

After a seller has jumped through all of these hoops, there should be benefits, right? There are. For example, second lenders can no longer try to force a seller to commit [short sale mortgage fraud](#) by demanding payments outside of escrow or holding the seller's first-born as collateral. Here are other HAFA benefits:

- Lenders that participate in HAFA waive the right to a [deficiency judgment](#).
- Junior lenders can receive up to 6% of the loan balance or \$6,000 maximum to release the loan. As of Feb 1, 2011, the 6% cap has been removed by the U.S. Treasury.
- Sellers will receive a government payment of \$3,000 at close of escrow to cover relocation expenses.
- Sellers will not be required to make a [seller contribution](#).
- Lenders must agree not to foreclose during the short sale process.
- With the exception of Fannie Mae, Freddie Mac, VA and FHA loans, the sellers' mortgage payment does not need to exceed the 31% ratio after 2/1/11.

Another condition of HAFA is all parties must sign an [arm's length affidavit](#). In other words, the seller cannot sell to a person the seller knows or to whom the seller is related. The buyer must also agree not to sell the property for a minimum of 90 days.