

# How to Apply for HAMP

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- It is a good idea to seek legal advice before signing any kind of agreement or modification of your loan. You can also seek legal advice on whether you may have any existing legal claims against your lender or servicer. Every situation is different; this brochure only provides general information to help you think about what kind of help you might need.

## What is the Home Affordable Modification Program (HAMP)?

- In 2009, President Obama announced that the federal government had created a loan modification program to help struggling homeowners. Any bank that took part in the second round of bank bailouts would be required to sign a contract to implement this loan modification program, the Home Affordable Modification Program (HAMP).
- The goal of HAMP was to provide a streamlined process for modifying mortgage loans on people's principal residences where the borrower's monthly mortgage payment is currently taking up more than 31% of his or her monthly income and the borrower is facing the risk of foreclosure.

## Is my servicer participating in HAMP?

- HAMP applies to all loans that were sold to Fannie Mae or Freddie Mac, regardless of the servicer. Even if you send your monthly payments to Main Street Bank (or whatever lender), your loan might be owned by Fannie Mae or Freddie Mac, and you may not know it. Find out by entering your loan information here:  
[www.fanniemae.com/loanlookup](http://www.fanniemae.com/loanlookup)  
[www.freddie.mac.com/mymortgage](http://www.freddie.mac.com/mymortgage)
- If your mortgage is not owned by Fannie Mae or Freddie Mac, you may be eligible for HAMP if your servicer (the company who accepts your monthly mortgage payments) is participating in HAMP. All of the largest servicers are participating, including Bank of America, Chase, Wells Fargo, and Citi. Find out if your servicer has signed a contract to participate in HAMP here: [http://www.makinghomeaffordable.gov/contact\\_servicer.html](http://www.makinghomeaffordable.gov/contact_servicer.html)
- If you have an FHA, VA, or USDA loan, you may be able to apply for a number of possible loan modification programs, including the FHA, VA, and USDA versions of HAMP.

## Am I eligible for HAMP?

- If your servicer is participating in HAMP or your loan is owned by Fannie Mae or Freddie Mac, you are eligible to apply for a HAMP modification if:
  - You are behind on your mortgage payments OR facing imminent default (generally you may be considered to be facing imminent default if your income has recently gone down and you can't afford to keep making your mortgage payments)

- AND your current monthly mortgage payment consumes more than 31% of your gross monthly income.
- Just because you are eligible to apply for HAMP does not mean you will be approved for a HAMP modification. In order to decide whether to extend a modification, your servicer will run what is called the Net Present Value (“NPV”) test. The point of this test is to figure out whether a foreclosure will result in more money for the lender than a modification, or vice versa. If the modification is of financial benefit to the lender, it should be approved.

### How do I apply for HAMP?

- **Get help from a HUD-certified housing counselor.** The counselor can help you to download the necessary forms, make sure that you fill them out correctly and completely, and make sure that you attach all the necessary proof of your income. The counselor can also help you to communicate with your servicer. HUD-certified counselors provide help **for free**. You should never have to pay for help avoiding foreclosure: most often it is a scam! Find a certified counselor near you at [www.ncforeclosurehelp.org](http://www.ncforeclosurehelp.org).
- Call the Loss Mitigation Department for your servicer (this number should be on the back of your monthly statement) and say that you want to apply for HAMP. The person you speak with may ask you some initial questions, and then should mail you the application documents.
- If your servicer fails to send you the HAMP application form, but you know that they are participating in HAMP, you can download the application forms here: [www.makinghomeaffordable.gov/requestmod.shtml](http://www.makinghomeaffordable.gov/requestmod.shtml)
- Send your HAMP application by certified mail or fax to your servicer. Find the correct address or fax number: [http://www.makinghomeaffordable.gov/contact\\_servicer.html](http://www.makinghomeaffordable.gov/contact_servicer.html).
- To be complete, your HAMP application must include the Request for Modification and Affidavit (RMA), the IRS Form 4506T, and the necessary proof of your income.

### If I am approved for HAMP, how will my loan be modified?

- The modification should result in a total monthly payment (including property taxes, homeowner’s insurance, and HOA fees, if applicable) that takes up 31% of the borrower’s monthly income, by going through the following steps:
  - Add the missed payments to the current unpaid principal balance
  - Reduce interest rate as much as necessary, possibly as low as 2%
  - Extend the term if necessary, possibly as long as 40 years
  - Take a principal forbearance (a chunk of principal that will not bear interest and will be paid back in a balloon payment at the end of the loan), if necessary
  - Optional principal forgiveness over the first three years of timely payments on the modification
- If you are approved for a HAMP modification, you will receive a letter informing you that you are being given a three month trial modification. It is very important to make the trial payments on time!

- If you make all three payments, you should receive the papers for a permanent HAMP modification to sign and send back to your servicer. These documents will explain the specific terms of the modification (new principal balance, new interest rate, new loan term, etc).
- If your initial interest rate is below the current market rate, it will stay at that low rate for the first five years, after which time it will increase by 1% each year until it reaches the market rate on the date your modification was generated.

### What if my servicer has threatened to start foreclosure?

- Servicers are not supposed to refer a loan to foreclosure while a HAMP application is under review, but this happens with alarming frequency. It is important to **seek legal help immediately** in order to delay or contest the foreclosure hearing.
- North Carolina provides for a hearing in front of a Clerk of Superior Court before the foreclosure sale will be allowed to go forward. The Clerk will hear evidence on six main issues: (1) whether a valid debt exists and the party seeking to foreclose owns the debt, (2) whether the debt is in default, (3) whether the mortgage documents provide for the right to foreclose in this way, (4) whether proper notice of the hearing was given to the borrower, (5) whether the pre-foreclosure notice was provided at least 45 days prior to the notice of hearing, if applicable, and (6) whether the foreclosure is barred under N.C.G.S. § 45-21.12A (special protection for active military personnel). The Clerk will not hear evidence outside of these six issues at the hearing; any other issues must be raised in a separate proceeding.
- North Carolina law provides that the if the home being foreclosed upon is the owner's principal residence, the Clerk shall postpone the foreclosure hearing if there is good cause to believe that "additional time or additional measures have a reasonable likelihood of resolving the delinquency without foreclosure." N.C.G.S. § 45-21.16C. In other words, if you explain (and show) the Clerk that you are actively applying for a loan modification and the servicer has not yet made a decision on your application, the Clerk may postpone the foreclosure hearing for up to 60 days.
- If a foreclosure hearing has already been held and a foreclosure sale has been scheduled, the servicer must suspend the foreclosure sale as necessary to evaluate the borrower for HAMP so long as the HAMP application is received by midnight seven business days prior to the scheduled foreclosure sale. After that deadline, the servicer is not required to suspend the sale.
- If a borrower has been approved for a trial modification and is current on the trial payments, the foreclosure sale should not proceed. If you receive notice of a foreclosure hearing or foreclosure sale while you are in a trial modification, **seek legal help immediately**.

### What if my servicer ignores my requests for HAMP, loses the documents that I send in, or fails to send me the papers to sign for a permanent modification?

- Unfortunately, problems like these do happen. If you run into problems with your HAMP application, you should **seek legal advice immediately** from one of the organizations listed below.
- It is very important to keep copies of everything you send to your servicer, and to send the documents by fax or certified mail, so that you have a good paper trail! Also, keep notes of each phone conversation that you have with your servicer (date, time, whom you spoke with, and what was communicated).
- It is very important to make your trial payments on time and keep proof of those payments.

### What if I have a second mortgage too?

- If you are approved for a HAMP modification on your first mortgage, you may be eligible for a modification of your second mortgage through the 2MP program.
- Find out if the servicer of your second mortgage is participating in 2MP here: [http://www.makinghomeaffordable.gov/contact\\_servicer.html](http://www.makinghomeaffordable.gov/contact_servicer.html).
- If you get a HAMP modification on your first mortgage and your second mortgage servicer is participating in 2MP, you should be contacted about a 2MP modification option. If you do not hear from your second mortgage servicer about 2MP, you should contact them and ask to be evaluated for this program.

### Where can I get help?

- The Land Loss Prevention Project provides free legal services to income-eligible landowners and homeowners throughout the state of North Carolina. Contact us toll-free at 1-800-672-5839.
- Find a HUD-certified housing counselor near you and additional information about how to avoid foreclosure: [www.ncforeclosurehelp.org](http://www.ncforeclosurehelp.org)
- Legal Aid of North Carolina provides free legal services for income-eligible persons; find the office that serves your county: <http://www.legalaidnc.org/public/Learn/Locations/>.
- NC Lawyer Referral Service can be reached at (919) 677-8574 or toll-free 1-800-662-7660, or online at [www.ncbar.gov/public/findalawyer.asp](http://www.ncbar.gov/public/findalawyer.asp).
- To find a private consumer attorney, go to [www.naca.net](http://www.naca.net) and click on “Find an Attorney.”
- Legal Services of Southern Piedmont serves low-income people in Mecklenburg and surrounding counties and Western North Carolina. Contact them at 704-376-1600 or 800-247-1931.
- Pisgah Legal Services primarily helps people in Buncombe, Madison, Transylvania, Henderson, Polk, Rutherford and Yancey Counties. Contact them at 828-253-0406 or toll free 1-800-489-6144.
- The Financial Protection Law Center is located in Wilmington and represents homeowners and victims of predatory lending in a limited number of cases throughout the state. Contact them at 910-442-1010.
- The NC Justice Center is located in Raleigh and represents homeowners and victims of predatory lending in a limited number of cases. Contact them at 919-863-2403.

**Information, Not Legal Advice.**

**This brochure provides general information only. This is not legal advice and cannot replace legal advice. You can get legal advice only from a lawyer who knows the facts of your case.**

**Deadlines are extremely important in most legal matters. You may lose important legal rights if you do not retain an attorney immediately to advise you.**