

NH HOMEOWNER ASSISTANCE FUND LOSS MITIGATION REQUIREMENT FOR MORTGAGE ASSISTANCE



REQUIREMENT: Proof of completed loss mitigation is required of any NH Homeowner Assistance Fund applicant applying for Mortgage Loan Reinstatement Assistance.

DEFINITION: Loss Mitigation is the process where a borrower and their loan servicer work together to help avoid the foreclosure process. The loan servicer has a duty to lessen the loss to their investors created by the borrower's default by working with that borrower to come up with a less costly solution. This can be beneficial for the servicer, investor, and the borrower.

PERMANENT LOSS MITIGATION OPTIONS

Although both formal and informal types of forbearance options do help avoid the foreclosure process, they are temporary solutions and therefore do not qualify as permanent loss mitigation options. NH Homeowner Assistance Fund applicants must apply for permanent loss mitigation options prior to qualifying for Mortgage Loan Reinstatement Assistance. Loss mitigation includes both retention and transition solutions.

Retention Solutions are those that result in the borrower maintaining their home and could include (among others) the following broad categories:

- **Loan Modification** – Terms of the loan are modified to accommodate arrearages and attempt to ensure borrower affordability and sustainability. Modification can result in a lower monthly payment but does not always. Modification can include interest rate adjustment, an extension of loan term, and even principal reduction or deferment. Most loan modifications require (even if not previously required) establishment of escrow to provide for property tax and homeowner insurance payments. Loan Modification may require a three-month trial period to test the borrower's ability to afford the offer.
- **Repayment Plan** – A repayment plan over time is structured to give the borrower time to repay their arrearage. The servicer is required to assess disposable income and determine an affordable plan. If none is available, it will not be offered.

- **Partial Claim** – If a borrower has paid for mortgage insurance, they may be entitled to a partial claim to help bring their arrearage current. A partial claim places the arrearage in a non-interest-bearing lien against the property that requires no payments until after the first mortgage is paid off, the loan is refinanced, or the property is sold.
- Retention solutions may include a combination of these options to resolve the delinquency.

Transition Solutions are those that result in the borrower transitioning from the home with a method that avoids actual foreclosure. These include:

- **Pre-foreclosure, full satisfaction sale** – The borrower voluntarily sells their home and pays the mortgage debt off in full, keeping any extra funds.
- **Short Sale** – The borrower voluntarily sells their home, subject to servicer approval, and the servicer agrees to accept less than what is owed as full satisfaction of the mortgage debt. Borrowers should be careful to secure evidence of deficiency waiver.
- **Deed-in-lieu of foreclosure** – If a borrower cannot secure a buyer for their home, they may offer a deed-in-lieu of foreclosure to the mortgage holder. This is a voluntary transfer of deed from borrower to mortgage holder. Borrowers should be careful to secure evidence of deficiency waiver.

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The NH Homeowner Assistance Fund program is funded through the American Rescue Plan Act of 2021 and the Governor's Office for Emergency Relief and Recovery (GOFERR). It is administered by New Hampshire Housing.





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THE LOSS MITIGATION PROCESS

(See Consumer Financial Protection Bureau §1024.31 – 41)

- A loss mitigation application is completed and submitted to the servicer. It includes all required information and documentation from the borrower that has been submitted to the servicer. The servicer evaluates the application for all available loss mitigation options.
- When an application is received, the servicer must promptly review for completeness and notify the borrower within 5 business days if additional documentation is required or if the application is complete. Borrower must be given a reasonable amount of time to return requested documentation.
- Once a complete application is received, if within 45 days of a foreclosure sale, that sale must be postponed.
- Borrower must be notified that the application is complete.
- Servicer has 30 days from completed application to evaluate and determine available options and inform the borrower in writing of what those options include.

PROOF OF LOSS MITIGATION AND EXCEPTIONS TO THIS REQUIREMENT

Proof of loss mitigation can be provided as follows:

- Provide a copy of the servicer's letter indicating approved/denied loss mitigation options. (Dated within the last 6 months or one month after cessation of a forbearance.)
- All NH Homeowner Assistance Fund applicants will be provided referral to housing counseling, so a housing counselor's attestation of completed loss mitigation or good-faith, unsuccessful effort will be accepted.

- In cases where NH Homeowner Assistance Fund contracted legal services were used, an attorney's attestation of completed loss mitigation or good-faith, unsuccessful effort will be accepted.
- The NH Homeowner Assistance Fund will supplement existing loss mitigation efforts if a solution can be secured with this collaboration (example: FHA waterfall).

EXCEPTION

For program integrity and equity, homeowners must make a good-faith effort at loss mitigation. It is understood that there will be circumstances where adhering to this loss-mitigation-first policy could hinder an eligible homeowner's ability to access NH Homeowner Assistance Fund financial support and put the homeowner in threat of displacement. An exception clause is in place for those:

- Whose servicer has not been timely and responsive with a homeowner's loss-mitigation efforts;
- Who have demonstrated imminent threat of losing their home, which makes it unlikely that loss mitigation can be completed in time; or
- Who for other good cause when extenuating circumstances outside of the homeowner's control prevent completion of loss mitigation.
- Examples include: a servicer that is not working with the homeowner/counseling agency/legal services; or where the delay in pursuing loss mitigation would pose an imminent threat of the homeowner being displaced.

NOTE

A homeowner's preference to use the NH Homeowner Assistance Fund financial support rather than completing loss mitigation is not considered "good cause" for an exception.

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