



PREFORECLOSURE SALES PROGRAM

The Preforeclosure Sale (PFS) Program allows the defaulted and/or imminent defaulted Borrower to sell his/her home and use the Net Sales Proceeds to satisfy the mortgage debt even though the Proceeds are less than the amount owed. Ref: Mortgage Letters 2003-19, 2008-43, 2010-08, 2013-19, 2013-23, and 2013-34.

SERVICERS “MUST” refer to Mortgagee Letter 2013-23 for “FULL” requirements when determining the type of PFS Transaction the Borrower is eligible.

FACTS

The following applies to ALL PFS Transactions:

- Outright sale of mortgaged property to a third party and must be an “arms length” transaction.
- Outstanding indebtedness includes: unpaid principal balance + delinquent interest + Partial Claim (if applicable).
- PFS Addendum must be signed by all Borrowers on all cases.
- **HUD will** allow an amount up to \$1,500 for the discharge of junior liens.
- PFS Allowable and Disallowable Fees can be found at:
http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/nsc/faqsctc
- Tiered Net Sales Proceeds requirement during the 120 day marketing period is applicable as follows:
 - For the first 30 days of marketing, Sales Contract must equal a minimum net sale proceeds of 88% of the “As-Is” Appraised Fair Market Value.
 - During the second 30 days of marketing, Sales Contract must equal a minimum net sale proceeds of 86% of the “As-Is” Appraised Fair Market Value.
 - For the duration of the PFS marketing period, Sales Contract must equal a minimum net sale proceeds of 84% of the “As-Is” Appraised Fair Market Value.
- Under no circumstance should the Borrower be encouraged to default on their mortgage for the purpose of participating in the PFS.

Standard PFS Transaction

Supporting Documentation for the DIT

- Servicer must determine the Borrower's income and expenses for their Deficit Income Test (DIT):
 - Verify the Borrower's monthly net income.
 - Verify the Borrower's monthly expenses.

Calculating Cash Reserve Contributions

- Prior to approving a Borrower to participate in a Standard PFS Transaction, the Servicer must calculate and disclose to the Borrower the amount of the Borrower's Cash Reserve Contribution.
- The Servicer must calculate the total cash reserves using the highest ending balance of each cash reserve asset.
- Cash Reserves include all non-retirement liquid assets available for withdrawal or liquidation from all financial institutions.
- A Borrower with cash reserves greater than \$5,000 will be required to contribute 20 percent (20%) of the total amount exceeding \$5,000 (not to exceed the difference between the unpaid principal balance and the appraised value of the property).

Owner Occupant – Imminent Default

- Owner-Occupant Borrowers may be considered for a standard PFS if they are current or less than 30 days past due on the mortgage obligation and can clearly demonstrate that they are at risk of imminent default due to one or more of the following hardships.
- When approving a Borrower for a standard PFS based on the Borrower's imminent default, the Servicer's servicing file must include evidence of the Borrower's imminent default hardship and evidence that the DIT results in a negative value.

Owner-Occupant Borrower Incentive for Successful PFS Sale

Owner-Occupant Borrowers, acting in good faith, who successfully sell their properties using the PFS Option are relieved of their mortgage obligation and are entitled to a consideration of up to \$3,000.

- The Owner-Occupant Borrower may elect to apply the entire amount of the \$3,000 consideration or a portion of it to resolve junior liens and to offset the sales transaction costs not paid by HUD.

- Only those Borrowers who are *not* required to make minimum Cash Reserve Contribution are permitted to receive the remaining amount of the \$3,000 consideration.
 - This remaining amount may only be used for transition or relocation assistance. The Servicer must instruct the closing agent to pay the HUD relocation or transition assistance from sales proceeds and itemize it and any assistance received from other entities separately on the HUD-1 Settlement Statement to the extent that the Servicer is aware of other relocation or transition assistance being paid as part of the PFS transaction.

Streamlined Eligibility Requirements for PFS

Principal residences, second homes, and investment properties are eligible for disposition under the Streamlined PFS processes, provided that all Borrowers meet all program requirements. Such properties may be vacant, but cannot be condemned.

Servicers may approve a Borrower for a Streamlined PFS without verifying hardship or obtaining a complete Borrower workout packet if each of the conditions below exists:

For Non-Owner-Occupants:

- Borrower is 90 days or more delinquent on their FHA-insured loan as of the date of the Servicer's review; and
- Each Borrower has a credit score of 620 or below.

For Owner-Occupants:

- Borrower is 90 days or more delinquent on their FHA-insured loan as of the date of the Servicer's review;
- Each Borrower has a credit score of 620 or below; and
- Except for Servicemembers with PCS orders that meet the requirements for a Streamlined PFS, owner-occupant Borrowers must have been reviewed for loss mitigation home retention options. Servicers may only offer a Streamlined PFS or DIL to owner-occupant Borrowers when one or more of the following conditions have also been met:
 - The Borrower has defaulted on a Trial Payment Plan within the last six months;
 - The Borrower has defaulted on an FHA-HAMP or standard (rate-and-term) modification within the last two years;
 - The Borrower has been deemed ineligible for a permanent home-retention option;

- The Borrower received a Special Forbearance but, did not otherwise qualify for a permanent home-retention option by the end of the forbearance period;
- Homeowners who are deemed eligible for and offered a loss mitigation home retention option must meet the following additional requirements:
 - Credit score must be below 580
 - Must provide written documentation that he/she chooses not to accept the loss mitigation home retention option offered by the Servicer.

Streamlined PFS Eligibility Requirements for Servicemembers with PCS Orders

Servicers may also approve a Servicemember for a Streamlined PFS without verifying hardship or obtaining a complete Borrower workout packet if the following conditions exist:

- The Servicemember has PCS Orders to relocate to a duty station at least 50 miles away from his/her existing residence and provides the Servicer with a copy of such orders; and
- The Servicemember submits an affidavit certifying that:
 - The property securing the FHA-insured mortgage is or was his/her principal residence when the PCS orders were issued; and
 - New permanent housing has been or will be obtained as a result of the orders.

Appraisal Validation Requirements for PFS Transaction

After its review of an FHA Roster Appraisal, a Servicer must submit a Request for a Variance through the Extensions and Variances Automated Requests System (EVARS) to approve a PFS transaction if one of the following conditions exists:

- The current appraised value of the property is less than the Unpaid Principal Balance (UPB) by an amount of \$75,000 or greater; *or*
- The appraised value is less than 50% of the UPB.

If neither of these conditions exists, the PFS Appraisal will be considered acceptable if the “as is” value of the property is affirmed using a Broker’s Price Opinion (BPO) or Automated Valuation Model (AVM) that is within 10% of the value assessed by the Appraiser.

However, if the Appraisal is deemed unacceptable the Servicer must:

- Submit a Variance through EVARS; and
- Obtain approval prior to authorizing the marketing of the property.

Disclosure Requirements for all PFS Transactions

Before being approved for a PFS, the Borrower must be notified in writing of the following:

- The mortgage must be in default on the date the PFS transaction closes, pursuant to Section 204 of the National Housing Act (12 U.S.C. 1710 (1)D);
- PFS transaction is generally reported to credit bureaus, and will likely affect the Borrower's ability to obtain another mortgage and other types of credit;
- If the Borrower is a Servicemember, it is recommended that the Borrower obtain guidance from his/her employer regarding the PFS's impact on his/her security clearance and employment; and
- PFS transactions are generally reported to the Credit Alert Interactive Voice Response System (CAIVRS) which may result in his/her inability to obtain government financing or affect other government benefits for a certain period of time.

If you have any question you may contact NSC at:

National Servicing Center

http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/nsc/nschome

NSC's Call Center - 1-877-622-8525

Frequently Asked Questions:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/nsc/faqsctc

Preforeclosure Sale Forms:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/nsc/lmmltrs