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## **Forget What You Know about Short Sales - The Rules Just Changed**

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There's an old saying, *"It's not always what you don't know that hurts you, it's what you know for sure that isn't so."*

Agents currently working the short sale market may soon find themselves in this situation. What we've been taught about how to do successful short sales will soon work against us and our sellers, because the government just changed all the rules with the new Making Home Affordable (MHA) program. We must do things differently. Very differently,

The Making Home Affordable program is being managed by Treasury and Fannie Mae. It covers more than 85% of mortgage loans, including loans owned or guaranteed by Fannie Mae or Freddie Mac, FHA loans, and loans managed by about 50 of the major servicers. For these loans, the new MHA policies and processes are mandatory.

### **Good news and bad news**

There's good news and there's bad news associated with the MHA changes. The good news is that it is actually an attempt to simplify and standardize the short sale process, rules and paperwork. The bad news is that there are tens of thousands of loss mitigators out there who have to be trained before the new program will be implemented in a consistent way. So right now, implementation is patchy at best.

## **Making sure it is implemented**

To speed up the implementation, Freddie Mac has been tapped to audit servicers' files and fine servicers who aren't using the new MHA process. With this "big stick" and some financial incentives, the program should pick up speed.

## **It's mandatory**

Realtors who want to close short sales will need to [learn the new MHA rules](#), guidelines and use the new standard forms. And, yikes! Things are really different under Making Home Affordable. There are some small differences based on whose loan it is, but in general, here are just three key changes:

## **Some of the changes in how you'll do business**

**Change #1:** There are clearly defined steps which the servicer's loss mitigator must follow in sequence when a loan is in default (or imminent default ). If attempted refinancing or a loan modification do not work -- then and only then -- will a loss mitigator consider the possibility of a short sale. This is the only time during the loss mitigation process when a short sale will be a possibility. The loss mitigator will use a specific net present value formula to determine if the lender/investor will net more from a short sale than from a foreclosure. The decision is strictly a financial one. This means the short sale attempt will be approved in advance if it is financially to the lender's advantage.

**Change #2:** You will continue to list with the seller, but the loss mitigator sets the price and the listing term. The listing term can range from as few as 90 days to as long as 365 days. The servicer/lender still must accept the contract which your seller has approved.

**Change #3:** Good news! Fannie Mae's Servicing Guide Announcement #09-03 clearly says there is to be no negotiation of short sale commissions.

“..closing of pre-foreclosure sales may not be conditioned upon a reduction of the total commission to be paid to real estate agents to the level below what was negotiated by the listing agent with the borrower, unless the fee exceeds 6% of the sales price of the property in aggregate.” In other words, if you've negotiated a listing fee with the seller, the servicer/lender may not ask you to reduce that fee.

### **Important work -- helping homeowners in distress**

This should give you a quick idea of how significant the changes are for the short sale process. In short sales there is a lot more to know, so if you are helping homeowners in financial distress avoid foreclosure, you'll want to learn all you can about the Making Home Affordable program. This is important work and I'd encourage you to -- Get Involved. Get Trained. Get to Work. America's homeowners need you.

*Editor's Note:* Get up to speed on the new short sale process, better assist your clients in financial distress, and position yourself for more success through [this new online course](#) with Laurie Moore-Moore. *Endorsed by Broker Agent.*

*Laurie Moore-Moore is CEO of The Institute for Luxury Home Marketing and co-founder of its new division, The Center for Asset Preservation. For information on the industry's first and only comprehensive training (live and online) on Short Sales under the new Making Home Affordable program, [click here](#). For information on luxury home training and the Certified Luxury Home Marketing Specialist designation, [click here](#).*