The Rural Housing Service (RHS), a division of the U.S. Department of Agriculture and formerly known as FmHA, runs two home loan programs. This section describes options for the program that guaranties loans made by private lenders. For more detail, see chapter 18 of RHS Handbook HB-1-3555, available at www.rd.usda.gov/files/hb-1-3555.pdf [1]. The next section describes options for the RHS program that makes government loans directly to borrowers.

Special Forbearance. An RHS special forbearance is an agreement between you and the servicer to temporarily reduce or suspend payments for one or more months, followed by a repayment plan which may be combined with a loan modification. There is no time limit on the repayment plan, so long as, during the term of the plan, the amount past-due (also referred to as “accumulated arrears”) do not exceed an amount equal to twelve monthly mortgage payments. To be eligible for a forbearance plan you must have experienced a loss of income or increase in expenses and your payment must be at least thirty days past-due (“in arrears”).

Modification. RHS offers two modification options that permanently change one or more loan term. These options, described below, are available if you have experienced a permanent drop in income or increase in expenses, have regular income to support reduced payments, and are in default or at imminent risk of default.

The Standard Modification. This option allows your servicer to add onto your principal balance delinquent interest, escrow advances, and foreclosure fees and costs (except for late fees and administrative costs). It then sets a fixed interest rate that can even be below the current market rate, and extends the repayment term up to thirty years from the date of the modification. No trial period is required. If the loan has been modified within the last two years, the RHS’s approval is required to authorize a second modification.

The “Special Loan Servicing” Modification. This option allows for a more flexible restructuring of the loan by extending the term up to forty years, reducing the interest rate to the current market rate or below, and setting aside a portion of your principle balance called a “mortgage recovery advance.” The advance amount, which is a non-interest bearing lien on the property, cannot exceed an amount equal to twelve months of principal and interest due under the mortgage plus foreclosure fees and costs. Subject to this limit, the servicer must apply enough of an advance so that the modified total monthly payment (including escrow) is no more than 31% of your current monthly gross income. After the modification, the ratio of the total debt payments to your monthly income can be no more than 55%. If you are in default you must complete a three-month trial plan before the modification becomes permanent. You can receive only one permanent Special Loan Servicing Modification over the life of your loan.

Preforeclosure Sale and Deed in Lieu of Foreclosure. A pre-foreclosure sale is the RHS’s term for a short sale. It allows you to cancel the mortgage debt with the proceeds of a market sale, even if the sale proceeds are less than the amount owed. You must submit an application and be approved for this option. The sale price must fall within a certain range based on the property’s market value and the sale must be completed within a designated time frame. Get written confirmation that you do not owe anything on the loan even if the sale proceeds are less than the outstanding debt.

A deed in lieu of foreclosure lets you voluntarily transfer the property in exchange for a release from all your obligations under the mortgage. The agreement must be in writing and should clearly state that you have no further obligation on the mortgage loan after turning over the deed. Other loss mitigation options should be considered first, including a pre-foreclosure sale. More information about short sales and “deeds in lieu” is found earlier in this chapter’s section on Fannie Mae and Freddie Mac short sales and deeds in lieu.

Source: National Consumer Law Center, Surviving Debt [50th NCLC Anniversary Edition], updated at www.nclc.org/library

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