

SHORT PAYOFF REQUEST – FHA

Name: _____
Mailing Address: _____

Notice Date: _____
Account No.: _____
FHA Case #: _____
Property Address: _____

**Re: FHA Pre-Foreclosure Sale
Request For Information**

IMPORTANT MESSAGE ABOUT YOUR LOAN

You have asked us about a proposed sale of your property (the "Property") that would yield proceeds that are less than the full amount of the debt owed by you under your home Loan (the "Loan"). A sale such as this is commonly known as a "Short Payoff" or a "Pre-foreclosure Sale."

As you know, your Loan is an FHA insured Loan. The eligibility requirements for a Pre-foreclosure Sale on an FHA Loan include the following:

- The Property must be owner occupied or, if rented, you must provide supporting documentation showing that the renting of your Property was unavoidable and not done voluntarily.
- You can only have one FHA insured Loan.
- Your Loan must be past due for 2 or more payments. *The reason for your default must be documented as unavoidable and/or involuntary. If you have the ability to make your mortgage payments, you are ineligible for the Pre-foreclosure Sale program.*
- Prior to closing the Pre-foreclosure Sale transaction, any additional liens against this property must be released. In addition, prior to closing, the lienholder(s) must be willing to submit a written statement to Bank of America regarding the purpose of their lien and their intent to release their lien, and they must provide proof of recording the release of their lien.
- In the enclosed materials, you are advised of your rights to apply for a repayment or forbearance plan with Bank of America. *The Pre-foreclosure Sale program is only available to you when these alternative workout arrangements have been offered to you, considered, and rejected by you.*

Even if any of the requirements noted above have not been met, you still may apply for the Pre-foreclosure Sale program. A determination may need to be sought by Bank of America and approved by the Department of Housing and Urban Development ("HUD") in order for Bank of America to process your request.

In order for Bank of America to process your request for a Pre-foreclosure Sale, Bank of America first must obtain the items set forth in the attached checklist. The materials should be sent to Bank of America as follows:

**Send Via Fax: 888 491 4947
Attention: Short Sale Depart**

WHAT THIS MEANS

Please note that our evaluation of this matter is based on the information you provide. Therefore, your request will not be considered unless all of the documentation and information that we have requested has been received. All responsible parties on the Loan must provide all of the information and documentation that we have requested, even those parties who do not live at the property or do not make the monthly payments. If you cannot provide us with any particular item, please note the reason that it is unavailable in the documentation that you send to us.

As you may know, your Loan was previously sold to an investor ("Investor"). Bank of America Home Loans, Inc. ("Bank of America") services your Loan on behalf of the investor. In addition, your Loan is an FHA insured loan. As such, Bank of America may need to obtain HUD's approval prior to approving your request for assistance.

Please be advised that it takes substantial time to review and consider a request for a Pre-foreclosure Sale due to the need to evaluate the information submitted and to prepare the necessary paperwork. In order to process your Pre-foreclosure Sale request, Bank of America may require additional information from you about the proposed sale, the Property and/or the parties involved. **THE PROCESS FOR REVIEWING A PRE-FORECLOSURE SALE WILL TAKE A MINIMUM OF TEN (10) TO FOURTEEN (14) BUSINESS DAYS FROM THE DATE ALL NECESSARY MATERIALS ARE RECEIVED, AND MAY TAKE LONGER IF HUD REVIEWS YOUR REQUEST.** If Bank of America determines that you do not meet the program parameters, we may establish contact with the local HUD office to determine our next course of action, when required. This will result in additional delays. Bank of America appreciates your patience during this review period.

Please note that Bank of America in no way guarantees that your request for a Pre-foreclosure Sale will be approved. Please also note that if your Loan is delinquent currently, Bank of America will continue with any and all collection and/or foreclosure action concerning your Loan. Such action will not be suspended or canceled under any circumstances unless and until Bank of America specifically agrees in writing to suspend or cancel such action, or unless your Loan is fully reinstated or paid off. **Therefore, if your Loan is in foreclosure, a scheduled foreclosure sale will be conducted by Bank of America unless Bank of America specifically agrees in writing to suspend or cancel the foreclosure sale, or unless your Loan is fully reinstated or paid off in accordance with your Loan documents and applicable law prior to the scheduled foreclosure sale.** Bank of America will not consider entering into any such agreement until it first receives all the information it requires. Accordingly, please provide the requested information as quickly as possible.

Finally, if your Loan is delinquent, Bank of America will continue to report all delinquencies to the credit reporting agencies until your Loan is brought fully current under your Loan documents.

WHAT YOU NEED TO DO

Please provide the requested information as quickly as possible.

Should you have any questions, please do not hesitate to contact the Home Retention Department at 866 880 1232. When calling our office, please reference your Loan number.

Sincerely,

Home Retention Department

PRE-FORECLOSURE SALE DOCUMENTATION REQUIRED

Your workout package cannot be reviewed until we receive **ALL** of the following items. Each item must be fully completed, signed (when necessary), with your Loan number printed clearly on each separate piece of documentation.

All parties responsible on the Loan must provide the following information and documentation:

1. A letter, signed and dated by all parties on the Loan, describing your financial situation and requesting a Pre-foreclosure Sale. Please indicate whether any of the information that we have requested below is unavailable, and explain why the information is unavailable. At the beginning of your letter please be sure that you include your **DAY & EVENING NUMBERS & SOCIAL SECURITY NUMBERS FOR ALL PARTIES ON THE LOAN.**
2. The signed *ORIGINAL* Authorization and Acknowledgment (enclosed form).
3. **The completed, signed and dated ORIGINALS** of Borrower Request for Hardship Assistance
4. The signed *ORIGINAL* of the Negotiation Agreement (enclosed form). Please read this document carefully before signing.
5. If you would like Bank of America to discuss your request for a Pre-foreclosure Sale of your property with a third party acting on your behalf, please sign and return the *ORIGINAL* Authorization Form (enclosed form).
6. Documentation supporting your financial difficulties. (Examples: divorce papers, military transfer papers, termination papers from former employer, copies of medical bills, etc.). **DO NOT SEND ORIGINALS.**
7. Copies of your *most recent 2 months* of income receipts (pay stubs). If self-employed, you must provide your *last 2 quarters* of profit & loss statements. **DO NOT SEND ORIGINALS.**
8. A Purchase contract, signed by the buyer and seller, which contains language that the sale is contingent upon the seller obtaining Bank of America's approval. Also please be advised that when participating in the FHA short sale program, the maximum seller concession that HUD will allow is 1% only if the buyer is getting an FHA loan. If there is more than one purchase contract, the seller may only submit **ONE** offer to Bank of America for review.
9. The current listing agreement. Your listing agreement with your Agent/Broker **must** contain the following language: *"Seller may cancel this agreement prior to the ending date of the listing period without advance notice to the broker, and without payment of a commission or any other consideration if the property is conveyed to the mortgage insurer or the mortgage holder."*
10. A statement of the seller's closing costs or a HUD-1 settlement statement. The figures in these statements must be accurate, as Bank of America's approval will be based, in part, on the figures submitted with the package. Please note that the **maximum commission paid on a short sale is limited to 6%**, with the exception of the State of Washington which may be less
11. All other lien holders must provide written notice of their willingness to release their liens prior to Bank of America issuing an approval letter for the pre-foreclosure sale. In most cases, no proceeds will be given to any other lien holders to release their lien.
12. Please provide us with your contact name & phone number for us to be able to gain access to the property to perform an FHA appraisal. Please be advised that HUD requires that all utilities be on in the property in order for the appraisal to be completed.

Please write your Loan number on **EVERY** single item that you return to Bank of America.

SEE THE REVERSE SIDE OF THIS DOCUMENT FOR IMPORTANT ITEMS THAT YOU SHOULD KNOW ABOUT A PRE-FORECLOSURE SALE

IMPORTANT ITEMS THAT THE CURRENT HOMEOWNER SHOULD KNOW

- Any documents that you submit to Bank of America in connection with your request will not be returned to you.
- You must actively market the property and maintain it in an acceptable and marketable condition.
- A monetary contribution from you may be required.
- During our review of your request for a Pre-foreclosure Sale of your Property, you are not released from any obligations under your Note and Security Instrument, including the obligation of making your mortgage payments.
- If your Loan is delinquent, Bank of America will continue to report all delinquencies to all respective credit reporting agencies until your Loan is brought fully current. In addition, while reviewing your request for a Pre-foreclosure Sale of your Property, Bank of America will commence or continue, as the case may be, foreclosure proceedings concerning your property, and may take such other action as is permitted by law, unless Bank of America agrees in writing to suspend or cancel such action, or unless your Loan is paid off or brought current.
- **Upon the closing of a Pre-foreclosure Sale transaction, your account will be reported to the credit reporting agencies as "settled".**
- Should a Pre-foreclosure Sale transaction close, an IRS form 1099 (c) will be filed pursuant to current FHA and IRS guidelines. Should you have any questions concerning the tax consequences that may arise out of a Pre-foreclosure Sale transaction, you should seek independent tax advice. Bank of America will not advise you regarding such tax consequences, if any.
- **Should your request not meet the required parameters, you will be responsible for all fees incurred for processing your request and/or valuing the property, if any.**
- Your listing agreement with your Agent/Broker **must** contain the following language: *"Seller may cancel this agreement prior to the ending date of the listing period without advance notice to the broker, and without payment of a commission or any other consideration if the property is conveyed to the mortgage insurer or the mortgage holder."*
- Please note that the **maximum commission paid on a short sale is limited to 6%**, with the exception of the State of Washington which may be less.

Account No.: _____
Borrower Name: _____
FHA Case #: _____
Property Address: _____

AUTHORIZATION AND ACKNOWLEDGMENT

I have described my financial condition in the enclosed Financial Statement and certify that all information presented therein as well as all attachments are true, accurate, and correct to the best of my knowledge. I understand that submission of this information in no way obligates Bank of America, the Investor or the Mortgage Insurers to provide assistance to me.

By sending this Financial Statement to Bank of America, I hereby authorize Bank of America, the Investor and the Mortgage Insurers to:

- Order a credit report from any credit agency.
- Order a title search from any title agency.
- Verify the accuracy of the information contained in this Financial Statement, including without limitation, any current or previous employment information.

I agree that I will notify Bank of America immediately of any material change in the financial information that I have provided herein. If I fail to do so, or if it is determined that the financial information provided herein has been misrepresented by me, and Bank of America, the Investor or the Mortgage Insurers make decisions which would not have been made had the true facts been known, then (1) I shall be liable for all costs incurred or damages suffered by Bank of America, the Investors or the Mortgage Insurers, and (2) Bank of America shall have the right, in its sole discretion, to terminate any arrangement or agreement that has been extended to me based, in whole or in part, on the inaccurate or incomplete information that I have provided.

Submitted this _____ day of _____, 20_____.

BORROWER:

CO-BORROWER:

Signature

Signature

Name (please print)

Name (please print)

Account No.: _____
Borrower Name: _____
FHA Case #: _____
Property Address: _____

NEGOTIATION AGREEMENT

We have received your request for workout assistance concerning your Loan with BANK OF AMERICA. When signed by both of us, this letter will constitute a binding agreement ("Agreement") between you and BANK OF AMERICA concerning BANK OF AMERICA'S workout discussions with you.

1. Written Agreement and Amendments. We each acknowledge and agree that neither of us shall be bound by any workout agreement concerning your Loan until such agreement has been put in writing, is signed by each of us and is returned to BANK OF AMERICA. Furthermore, in order to avoid any confusion or misunderstanding, each of us also agrees that any such written agreement may only be amended in a writing that is agreed to and signed by each of us. We each acknowledge and agree that BANK OF AMERICA will not consider entering into any workout agreement concerning your Loan until it first receives all the information that it requires in its sole judgment to evaluate such an agreement. Each of us also acknowledges and agrees that BANK OF AMERICA will be under no obligation to accept partial payments on your Loan unless a written agreement signed by each of us and returned to BANK OF AMERICA provides for the payment and receipt of such amounts. During our workout discussions, any amounts received by BANK OF AMERICA which are less than the full amount due and owing under your Loan shall be, at BANK OF America's option, either (a) returned to you, or (b) credited towards the past due amount under your Loan and shall not be refunded to you.

2. Discussions. BANK OF AMERICA is acting on behalf of the holder of your loan (the investor) and the mortgage and/or pool insurers. As such, any information that BANK OF AMERICA provides to you is on their behalf.

3. Enforceability of Loan Documents. Notwithstanding any other provision of this Agreement to the contrary, or any claims by you to the contrary, any and all loan documents (the "Loan Documents") relating to your Loan, including without limitation the Note and Security Instrument, are presently in full force and effect, and shall remain in full force and effect unless and until a written document is signed by the appropriate parties specifically superseding and replacing all or some of the Loan Documents. **We each acknowledge and agree that if your Loan is delinquent currently, BANK OF AMERICA will continue to report all delinquencies to the credit reporting agencies. In addition, BANK OF AMERICA will continue with any and all collection and foreclosure action concerning your Loan, and such action will not be suspended or canceled under any circumstances unless and until BANK OF AMERICA specifically agrees in writing to suspend or cancel such action, or unless your Loan is fully reinstated or paid off. Therefore, each of us acknowledges and agrees that if your Loan is in foreclosure, a scheduled foreclosure sale will be conducted by BANK OF AMERICA unless BANK OF AMERICA specifically agrees in writing to suspend or cancel the foreclosure sale, or unless your Loan is fully reinstated or paid off in accordance with the Loan Documents and applicable law prior to the scheduled foreclosure sale.**

4. Obligation to Report Material Change in Circumstances. During the course of our workout discussions, you may be asked to provide certain information to BANK OF AMERICA concerning your personal finances, the property, your Loan, or otherwise. You hereby acknowledge and agree that you will advise BANK OF AMERICA immediately of any material change in the information that you provide to BANK OF AMERICA.

5. No Waivers. No negotiations or any other action undertaken by you and/or BANK OF AMERICA pursuant to this Agreement shall constitute a waiver of any party's rights under the Loan Documents, except to the extent specifically stated in a written agreement complying with the provisions of paragraph 1. In addition, any forbearance by BANK OF AMERICA in exercising any right or remedy under this Agreement or as otherwise afforded by applicable law shall not be a waiver or preclude the exercise of that or any other right or remedy.

6. **Miscellaneous.** This Agreement (i) constitutes our entire agreement relating to the ongoing or contemplated discussions identified herein and supersedes any prior or contemporaneous representations or agreements (whether oral or written) not contained herein concerning your Loan or the subject matter of this Agreement; (ii) shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, successors and assigns; (iii) shall be governed by California law, without giving affect to principles of conflicts of law; and (iv) may be executed in one or more counterparts, each of which shall constitute an original and all of which taken together shall constitute one and the same instrument. In the event of any dispute hereunder, the prevailing party shall be entitled to recover all of such party's costs and attorneys' fees from the non-prevailing party. The Headings used in this Agreement are used for convenience only and shall not be used to interpret any term hereof. Each party executing this Agreement represents that such party has the full authority and legal power to do so.

If the foregoing accurately sets forth your understanding concerning your workout discussions with BANK OF AMERICA, please sign this Agreement in the space provided below and return one duplicate original to the undersigned. Under no circumstances will a workout arrangement be entered into with you until this Agreement is first signed and returned to BANK OF AMERICA.

Sincerely,
Home Retention Division

I ACKNOWLEDGE AND AGREE THAT I HAVE READ AND AM FAMILIAR WITH THE TERMS AND CONDITIONS CONTAINED IN THIS LETTER AGREEMENT. I AGREE TO ABIDE BY THEM.

BORROWER:

_____, 20____
Signature Date

Name (please print)

CO-BORROWER:

_____, 20____
Signature Date

Name (please print)

AUTHORIZATION FORM

Account No.: _____

I hereby authorize BANK OF AMERICA ("BANK OF AMERICA") to discuss my request for a Short Payoff with the individual(s) that I have identified below as my designated agent(s) (hereinafter the "Designated Agent"). Further, BANK OF AMERICA is hereby authorized to negotiate the terms of a Short Payoff with my Designated Agent and to deliver documents to my Designated Agent which concern my request for a Short Payoff. I understand that I will be fully responsible for reviewing any information that is sent by BANK OF AMERICA to my Designated Agent. This Authorization will remain effective until I specifically notify BANK OF America's Workout Department in writing that this Authorization is of no further force and effect.

My Designated Agents are: _____
(insert name)

(insert name)

(insert name)

Date: ____/____/____

Borrower

Date: ____/____/____

Co-Borrower