



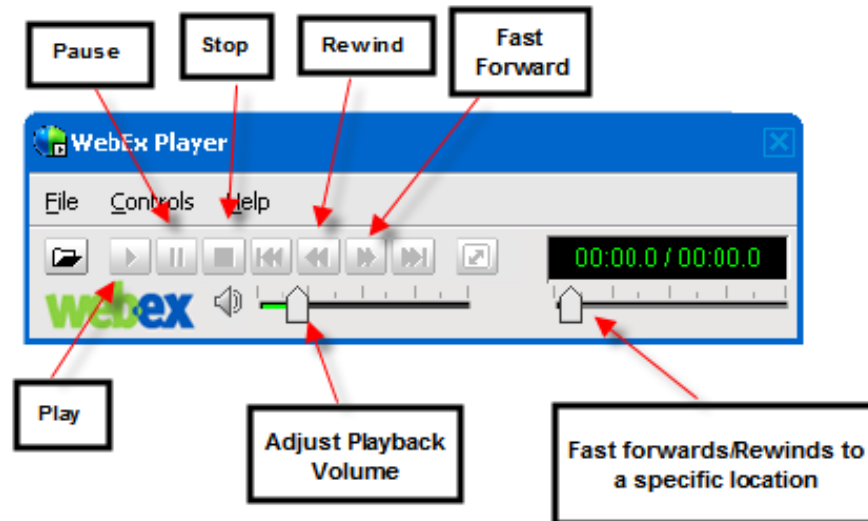
*Freddie Mac Customer Education*

***Short Payoff  
and  
Make-whole Preforeclosure Sale  
Overview***



# Tools and Tips

- ✓ Close all other applications to enhance your workstation's performance.
- ✓ Maximize the window used for viewing this recording.
- ✓ For technical Support, call (866) 229-3239.



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[www.freddiemac.com/learn](http://www.freddiemac.com/learn)



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# Objectives

After you complete this session, you will:

- Understand the difference between a short payoff and make-whole preforeclosure sale.
- Understand the eligibility requirements, and be able to determine if a borrower is eligible for a short payoff or make-whole preforeclosure sale.
- Be able to document short payoffs and make-whole preforeclosure sales.
- Understand how to obtain approval for short payoffs.
- Be able to complete short payoffs and make-whole preforeclosure sales.





# Background

- Loan modifications have been the workout of choice for the last several years.
- As property values decrease, there will likely be an increase in the number of short sales which will keep REO inventories down and preserve neighborhoods.



# Background

- It's becoming more difficult to negotiate short sales due to the frequency and size of junior liens.
- Many real estate professionals are new to the short sale experience.
- As short sales increase, the default servicing industry must re-develop relationships with all parties.



# Key Statistics

## Delinquent loan inventory:

- 30-day delinquent loans are at a record number.
- 90 days and greater continue to increase.
- Foreclosure sales are at an all-time high.



## Environment:

- House values are falling in many areas of the US.
- There is a high inventory of properties on the market with few sales.
- Tighter credit market makes it more difficult to finance.



# Key Statistics

## Data:

- We are completing a high number of workouts per year.
- 75 percent of loan modifications cure for good.
- 70 percent of late stage repayment plans fail versus 40 percent of early stage.
- Servicers report less than a 50 percent contact rate with borrowers that went to foreclosure sale.
- Roper survey shows that the majority of borrowers do not contact their Servicer, but are willing to talk to a financial counselor.





# Workout Options That Enable the Borrower to Retain Homeownership

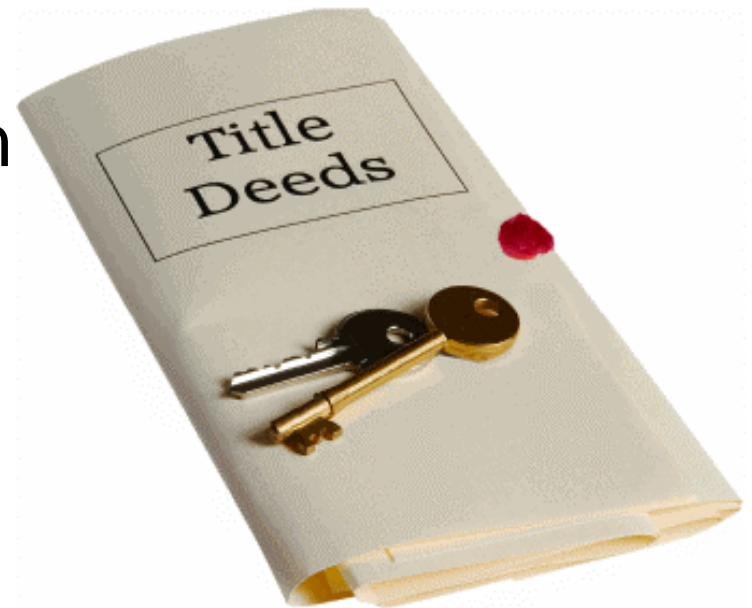
- Full and partial reinstatement
- Short- and long-term forbearance
- Repayment plan
- Loan modification
- FHA partial claim/MI claim advance





# Workout Options to Consider When the Borrower is Unable to Retain Ownership

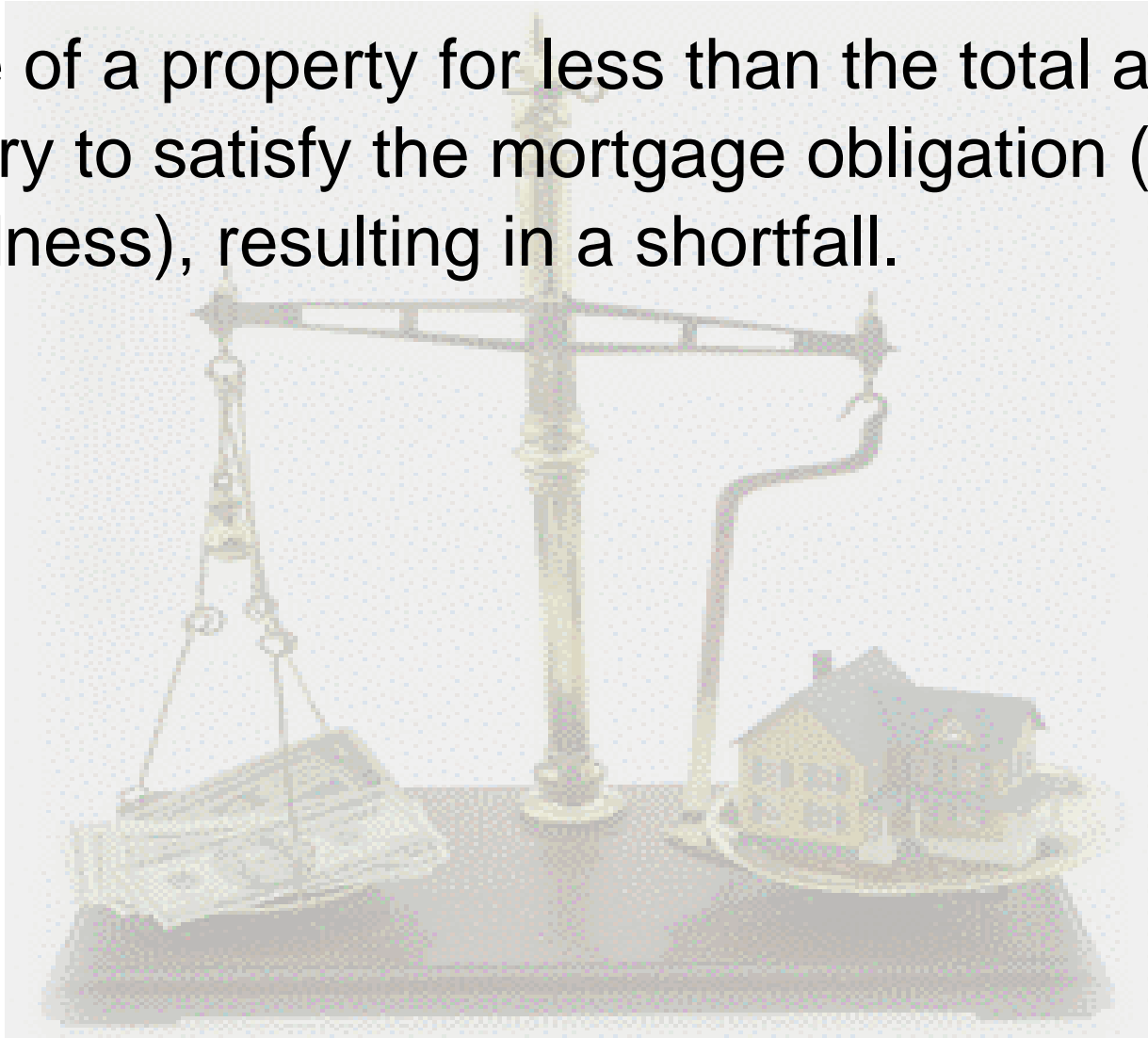
- Make-whole preforeclosure sale
- Short payoff
- Deed-in-lieu of foreclosure
- Workout mortgage assumption





# Short Payoff

The sale of a property for less than the total amount necessary to satisfy the mortgage obligation (total indebtedness), resulting in a shortfall.





# Make-whole Preforeclosure Sale

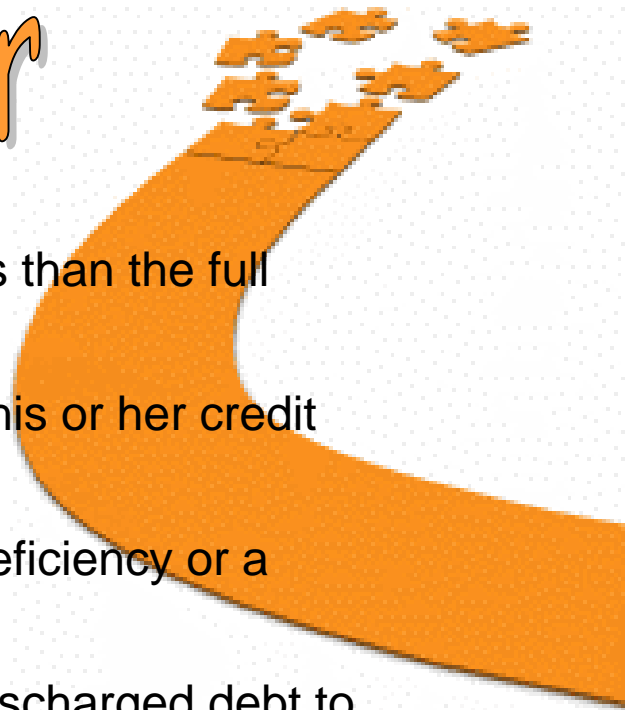
- A short payoff becomes a make-whole preforeclosure sale when you determine that the shortfall between the net sale proceeds and total indebtedness will be paid at settlement so that Freddie Mac does not sustain a loss.
- The shortfall may be paid by:
  - ✓ MI
  - ✓ Cash contribution
  - ✓ Insurance proceeds
  - ✓ Combination of sources



# Who Benefits From a Short Sale?

## Homeowner

- Satisfies the debt for less than the full amount
- Avoids a foreclosure on his or her credit record
- Avoids the pursuit of a deficiency or a deficiency judgment
- May avoid reporting of discharged debt to the IRS



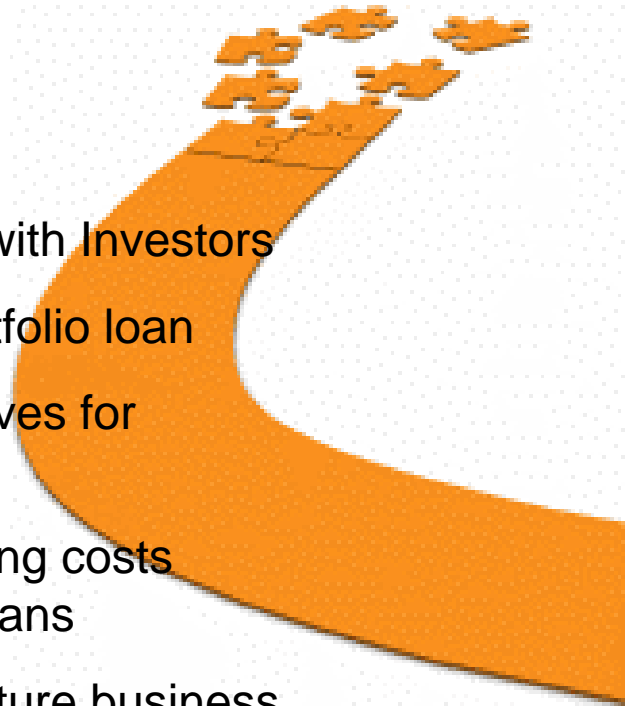
Source – “Effective Short Sale Workouts” – Genworth Financial, Inc



# Who Benefits From a Short Sale?

## Servicer

- Enhances relationships with Investors
- Avoids an REO on a portfolio loan
- Potential investor incentives for completed Short Sales
- Avoids expensive servicing costs incurred on delinquent loans
- Enhances goodwill for future business



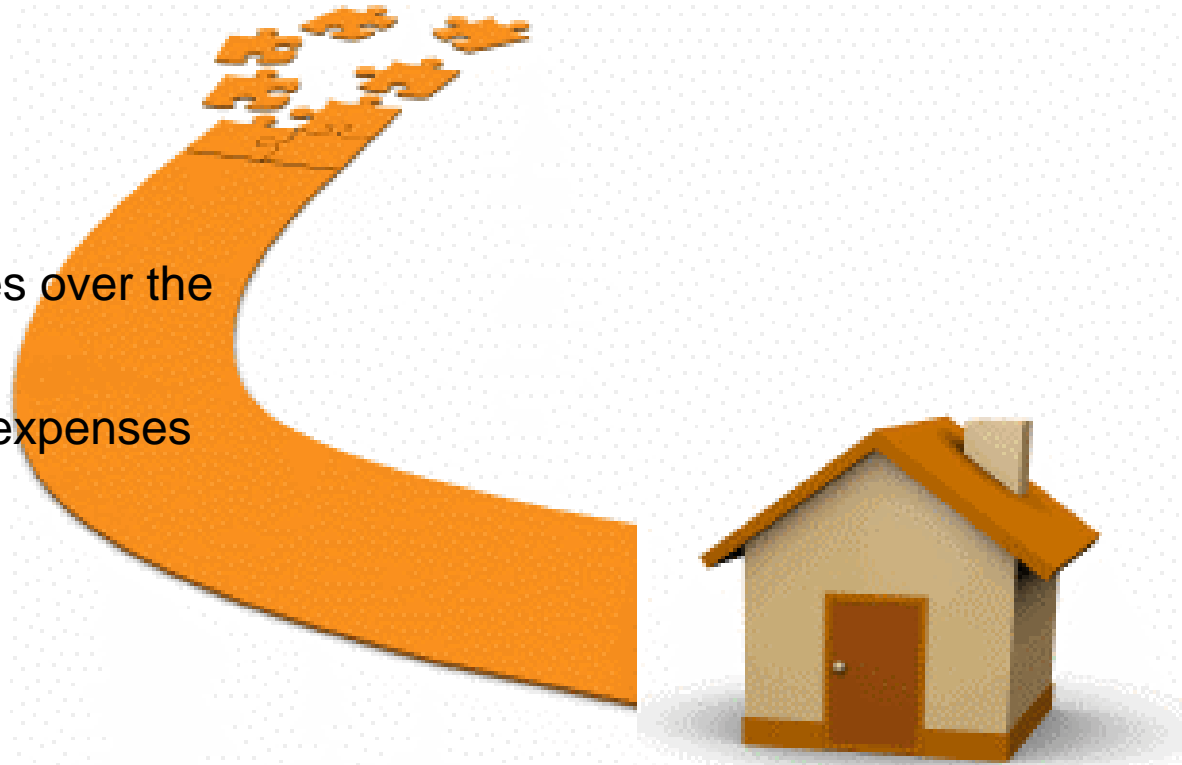
Source – “Effective Short Sale Workouts” – Genworth Financial, Inc



# Who Benefits From a Short Sale?

## Investor

- Potentially reduces losses over the insured amount
- Avoids an REO and the expenses incurred



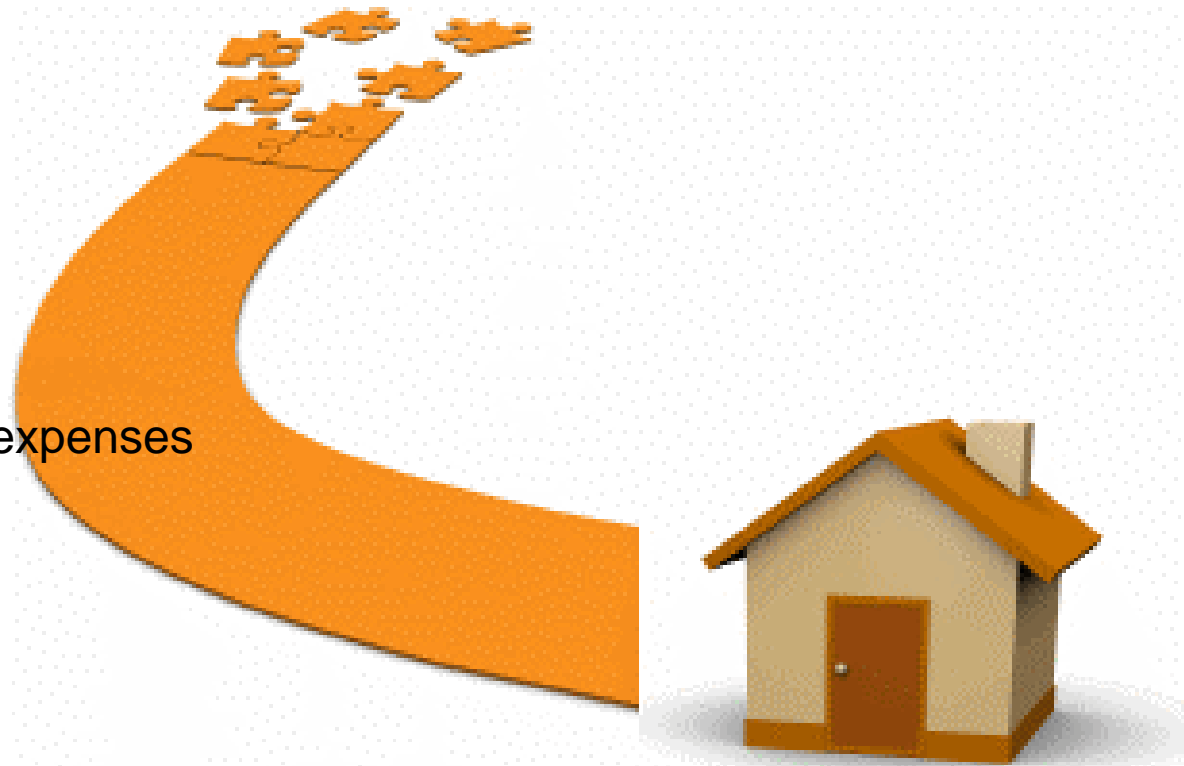
Source – “Effective Short Sale Workouts” – Genworth Financial, Inc



# Who Benefits From a Short Sale?

MI Company

- Reduces claim losses
- Avoids an REO and the expenses incurred

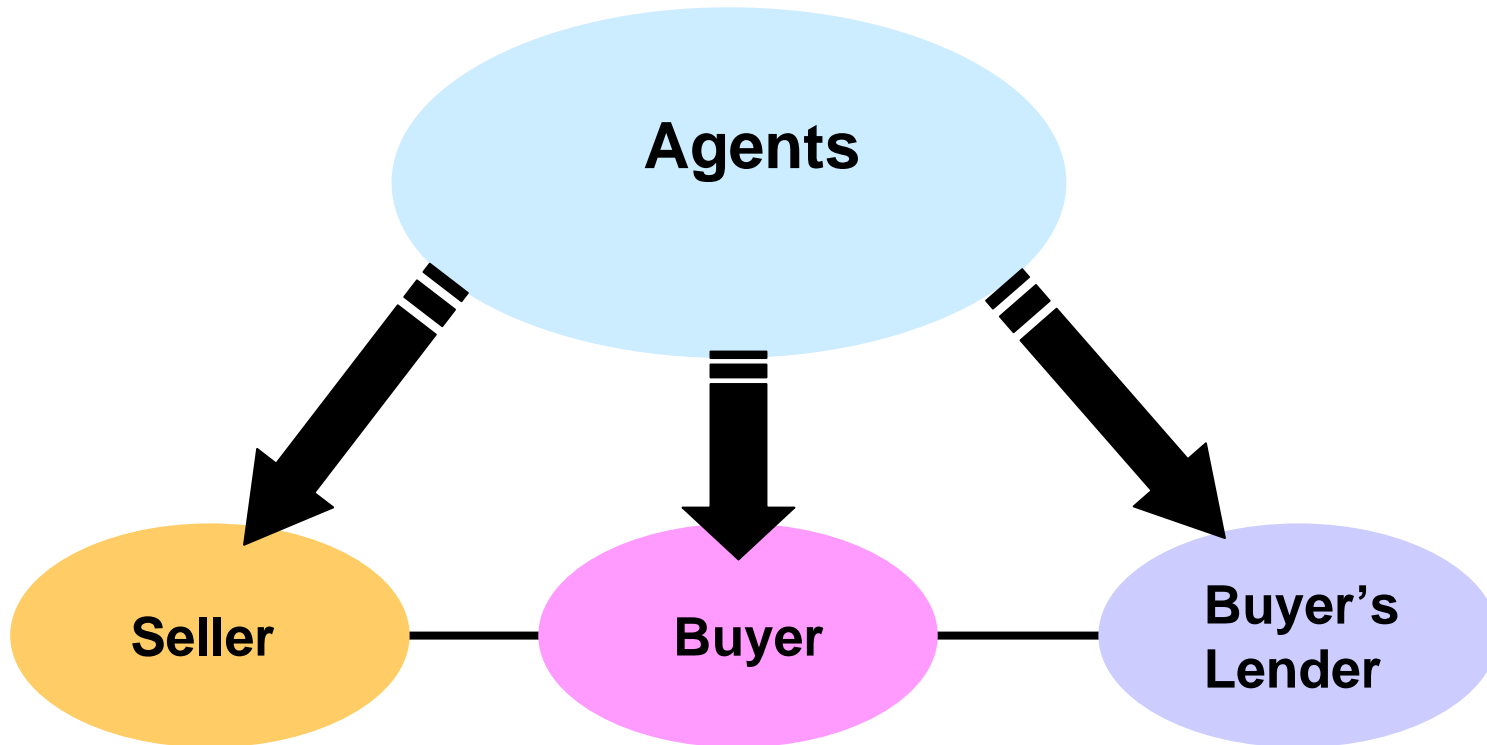


Source – “Effective Short Sale Workouts – Genworth Financial, Inc





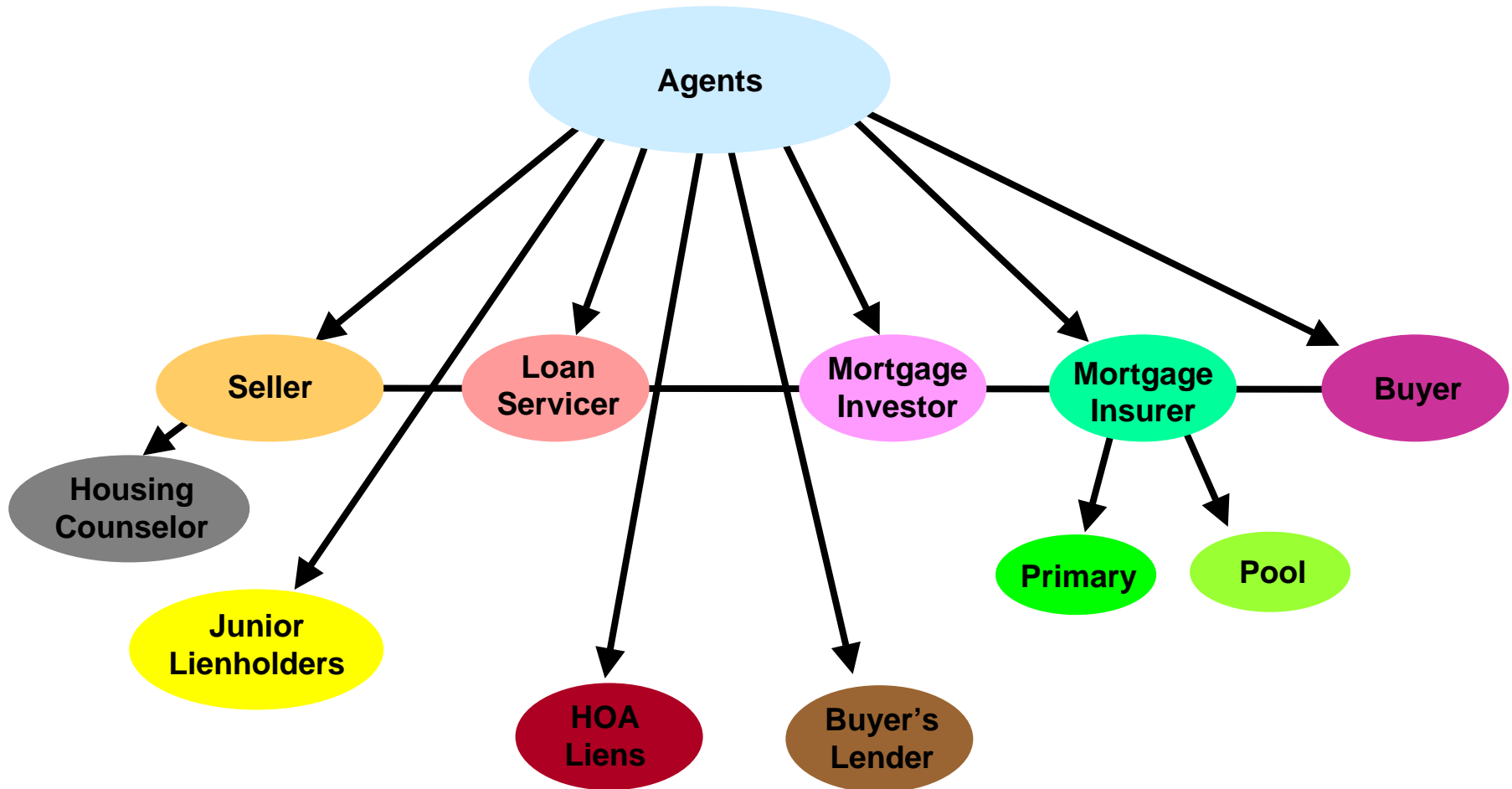
# Parties in Typical Real Estate Transactions



Source – Effective Short Sale Workouts, Genworth Financial, Inc.



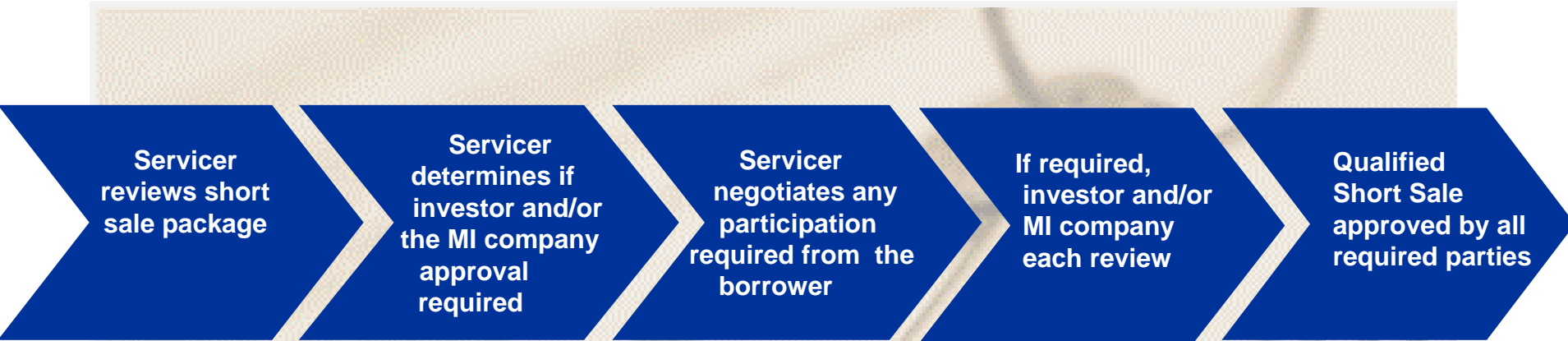
# Parties in a Short Sale



Source – “Effective Short Sale Workouts, Genworth Financial, Inc



# Short Sale Process



- Short sale closes
- Borrower contributes to minimize the loss based on ability
- Borrower avoids foreclosure
- The investor and the MI company minimize losses
- Real Estate Professional closes an additional sale
- Neighborhood avoids the stigma of foreclosure

Source – “Effective Short Sale Workouts” Genworth Financial, Inc



# Short Payoff or Make-whole Preforeclosure Sale?

When you decide to pursue a short payoff, you must determine if it can become a make-whole preforeclosure sale or remain a short payoff.





# Determine if Short Payoff Can Be a Make-whole Preforeclosure Sale

Once you have the borrower's executed sales contract

- Calculate the difference between estimated net sales proceeds and the total indebtedness.
- Calculate the MI claim payment.
- Determine the approximate amount of cash due from the borrower.
- Determine other sources for the shortfall.



# Example

Property value -	\$150,000	
Total amount due on first lien	\$178,000	
Sales price -	\$148,000	(99% of value)
6% Commission and closing costs	(\$ 13,000)	(9% of sales price)
Less funds from homeowner for cc	\$ 1,000	
Payment to \$20K lienholder	(\$ 2,000)	
Net proceeds -	\$134,000	(90% of value)
Shortage/loss -	<b>(\$44,000)</b>	
20% MI Claim (100% of claim)	\$35,600	
Shortage/loss	<b>(\$ 8,400)</b>	



# Determine if Short Payoff Can Be a Make-whole Preforeclosure Sale

## Scenario 2:

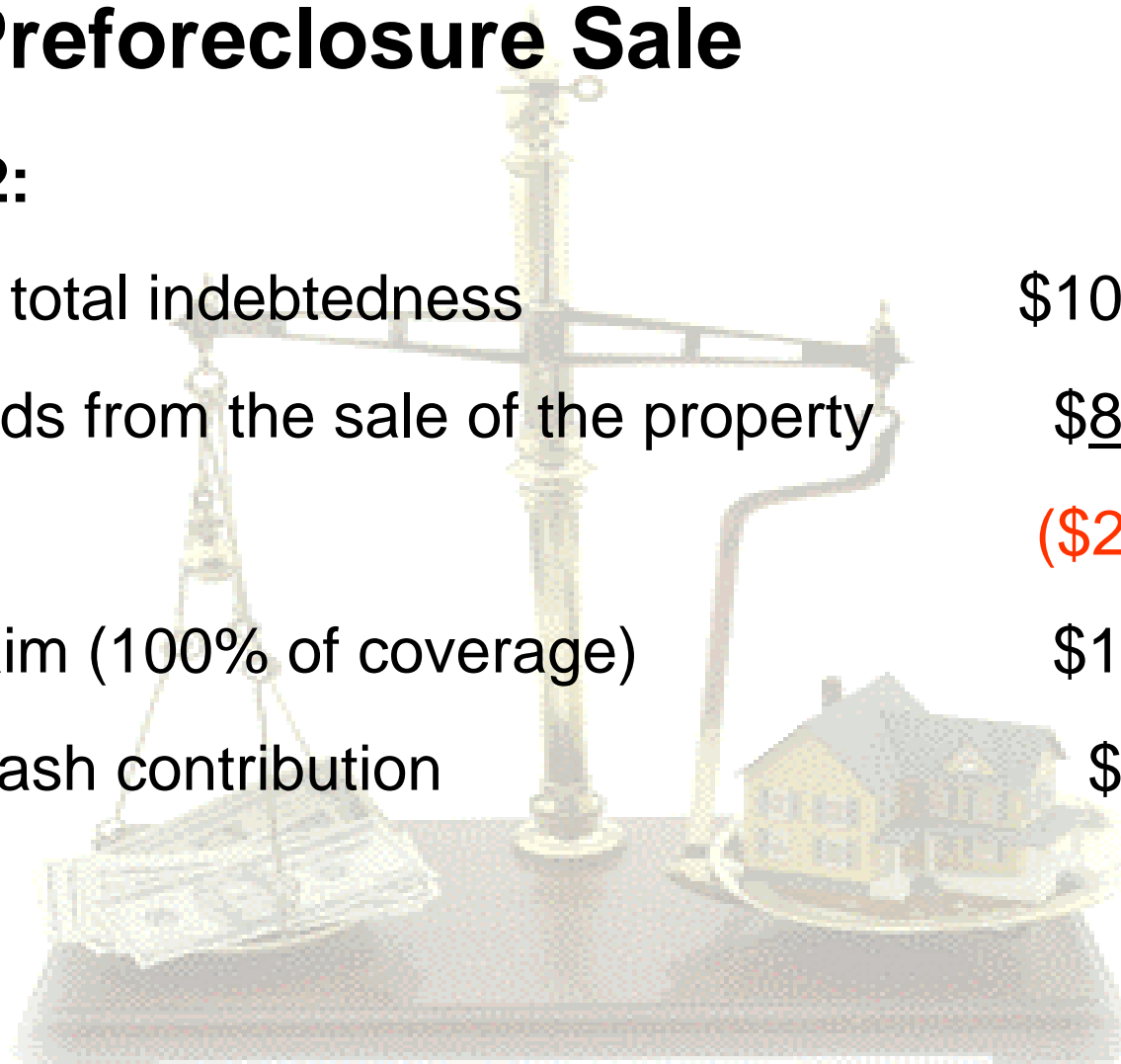
Borrower's total indebtedness \$100,000

Net proceeds from the sale of the property \$80,000

**Shortfall** (\$20,000) ←

15% MI claim (100% of coverage) \$15,000 ↙

Borrower cash contribution \$5,000 ↘





A short payoff with a note to cover the shortfall is a make-whole preforeclosure sale.

- True
- False

Scenario:

Borrower's total indebtedness	\$100,000
Net proceeds from the sale of the property	<u>\$80,000</u>
<b>Shortfall</b>	<b>(\$20,000)</b>
MI claim payment	\$15,000
Borrower signs a promissory note	\$5,000







A short payoff with a note to cover the shortfall is a make-whole preforeclosure sale.

**False**

A promise to pay is not the same as making Freddie Mac whole at closing.





# Compensation for Short Payoffs and Make-whole Preforeclosure Sales

Situation	Incentive Amount
You process and settle the short payoff or make-whole preforeclosure sale	\$2,200
Freddie Mac or a third party retained by Freddie Mac processes and settles the short payoff or make-whole preforeclosure sale	\$200



# How to Execute Short Payoffs and Make-whole Preforeclosure Sales

- Step 1: Identify candidates.
- Step 2: Determine eligibility.
- Step 3: Negotiate the terms.
- Step 4: Document and submit your recommendation to us.
- Step 5: Complete the short payoff or make-whole preforeclosure sale.



# Step 1: Identify Candidates

- Leverage technology to identify potential candidates.
  - ✓ EarlyIndicator®
  - ✓ Workout Manager®
    - Enhanced Short Payoff Program Report (SPEED List)
    - Re-defaulted Mod Analysis
  - ✓ Timeline Manager<sup>SM</sup>
    - Past Standard Report
    - Past Standard Detail Report
- Leverage your in-house data.
  - ✓ In-house delinquency tracking and reporting systems
  - ✓ Property inspections
  - ✓ Collection notes



# Enhanced Short Payoff Program

- Uses EarlyIndicator<sup>®</sup> scores to proactively identify borrowers who may qualify for a short payoff.
- Available to all Servicers with one or more 60+ delinquent mortgages.
- Review the Enhanced Short Payoff Program Report (SPEED List) available in Workout Manager<sup>®</sup>.



# Benefits of the Enhanced Short Payoff Program

- Reduced documentation requirements
- Expedited approval process
- Increased workout-to-REO ratio
- Reduced credit losses



# Enhanced Short Payoff Program Requirements

- The EarlyIndicator loss mitigation score must be 350 or less.
- The credit report must reflect that
  - ✓ The borrower has not taken out a new mortgage in the last 12 months.
  - ✓ Our mortgage is not the only delinquent account.



# Enhanced Short Payoff Program Requirements

- The net sale proceeds to Freddie Mac (including all pay outs to any junior lienholders) must be based on the 90-day marketing timeframe from the interior BPO. Refer to the SPEED List for the minimum percentage of net sales proceeds that is due to Freddie Mac.
- Attempt to negotiate the maximum contribution possible from the borrower.
- Obtain MI approval, if applicable.



# Enhanced Short Payoff Program (Speed List)

BEST SERVICING, INC. / 123789

For Period Ending Thursday, January 14, XXXY

Last Updated Friday, January 15, XXXY at 6:34 am.

<u>Servicer/ FHLMC Loan #</u>	<u>Servicer</u>	<u>Property City</u>	<u>Property State</u>	<u>MI</u>	<u>Occupancy Status</u>	<u>New Inflow</u>	<u>Date Referred</u>	<u>Loan Status</u>	<u>Pre-Qual Status</u>
9977741	123789	Beachtown	SC		Borrower			60	Green
931648526									
2221111	123789	Georgetown	VT	Y	Unknown	Y	02/13/xxxx	FCL	Green
731666665									
7771111	123789	Grand Valley	CA		Unknown		05/29/xxxx	FCL	Yellow
133322222									
9965488	123789	Hillsboro	NY		Borrower		07/20/xxxv	FCL	Yellow
911144447									
9995413	123789	Sunset	CA		Borrower		09/19/xxxv	FCL	Red
311166625									

**GREEN:** If there is no new mortgage in last 12 months AND borrower is delinquent on more than just their FHLMC mortgage.

**YELLOW:** If there is not enough data to determine whether borrower has a new mortgage OR borrower is delinquent on more than just their FHMLC mortgage.

**RED:** If borrower's only delinquency is on their FHLMC mortgage OR borrower has a new mortgage tradeline.



If the net proceeds do not meet the minimum percentage requirements, the loan does not qualify for a short payoff.

- True
- False





If the net proceeds do not meet the minimum percentage requirements the loan does not qualify for a short payoff.

False

If the offer does not meet the minimum requirements determine if it meets our standard short payoff program requirements or submit the deal to us for a possible exception.





## Step 2: Determine Eligibility

The borrower must:

- Be experiencing involuntary inability to pay (or allowable exception).
- Be delinquent or in imminent danger of default.
- Be cooperative and allow access to the interior of the property for a BPO. <https://www.bpodirect.net> [bpoquestion@freddiemac.com](mailto:bpoquestion@freddiemac.com)
- Complete and sign Form 1126, *Borrower Financial Statement*.
- Have the property listed with licensed real estate broker at fair market value.



# Determine Eligibility

The borrower must:

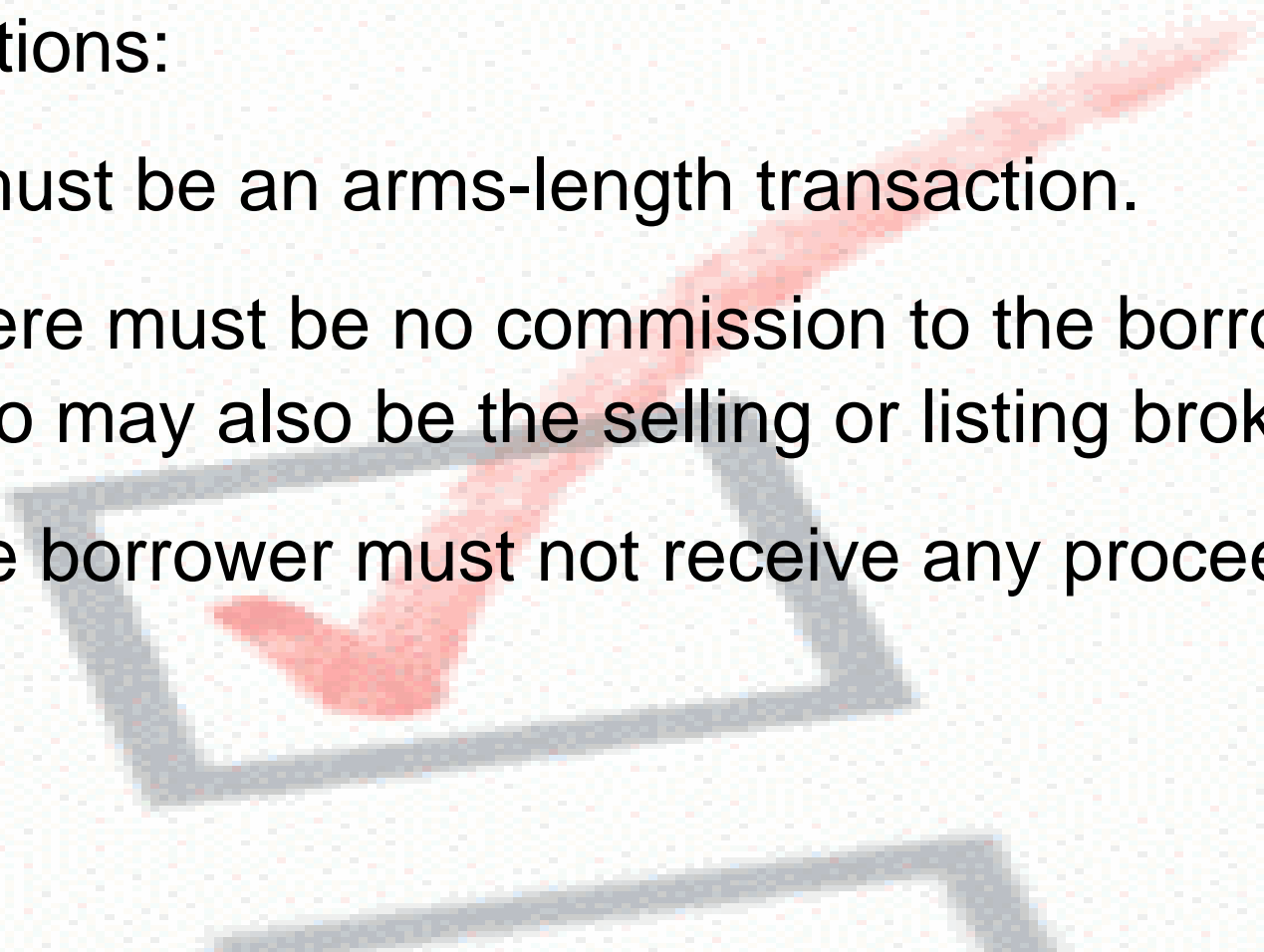
- Make the maximum contribution possible.
- Not be participating in a program that involves a third-party taking title and arranging the short payoff for a fee.
- Waive escrow, buydown funds, prepaid items and assign any insurance proceeds.



# Determine Eligibility

The sales transaction must meet the following conditions:

- It must be an arms-length transaction.
- There must be no commission to the borrower who may also be the selling or listing broker.
- The borrower must not receive any proceeds.





# Additional Requirements

- Interior broker's price opinion (BPO) with the 90-day "as is" marketing timeframe.
  - ✓ Sale is always "as is."
  - ✓ Will accept more recent comps to support current value.
- Net proceeds required:
  - ✓ Percentage of interior BPO value
  - ✓ Closing costs and commissions
  - ✓ Includes any payment to junior lienholders
- Borrower's financial participation in the transaction

As is Sale



# Documentation to Help You Determine Eligibility

Obtain a copy of the following:

- The fully executed sales contract, with addenda
- Listing agreement
- The original loan application
- An estimate of the seller's closing costs



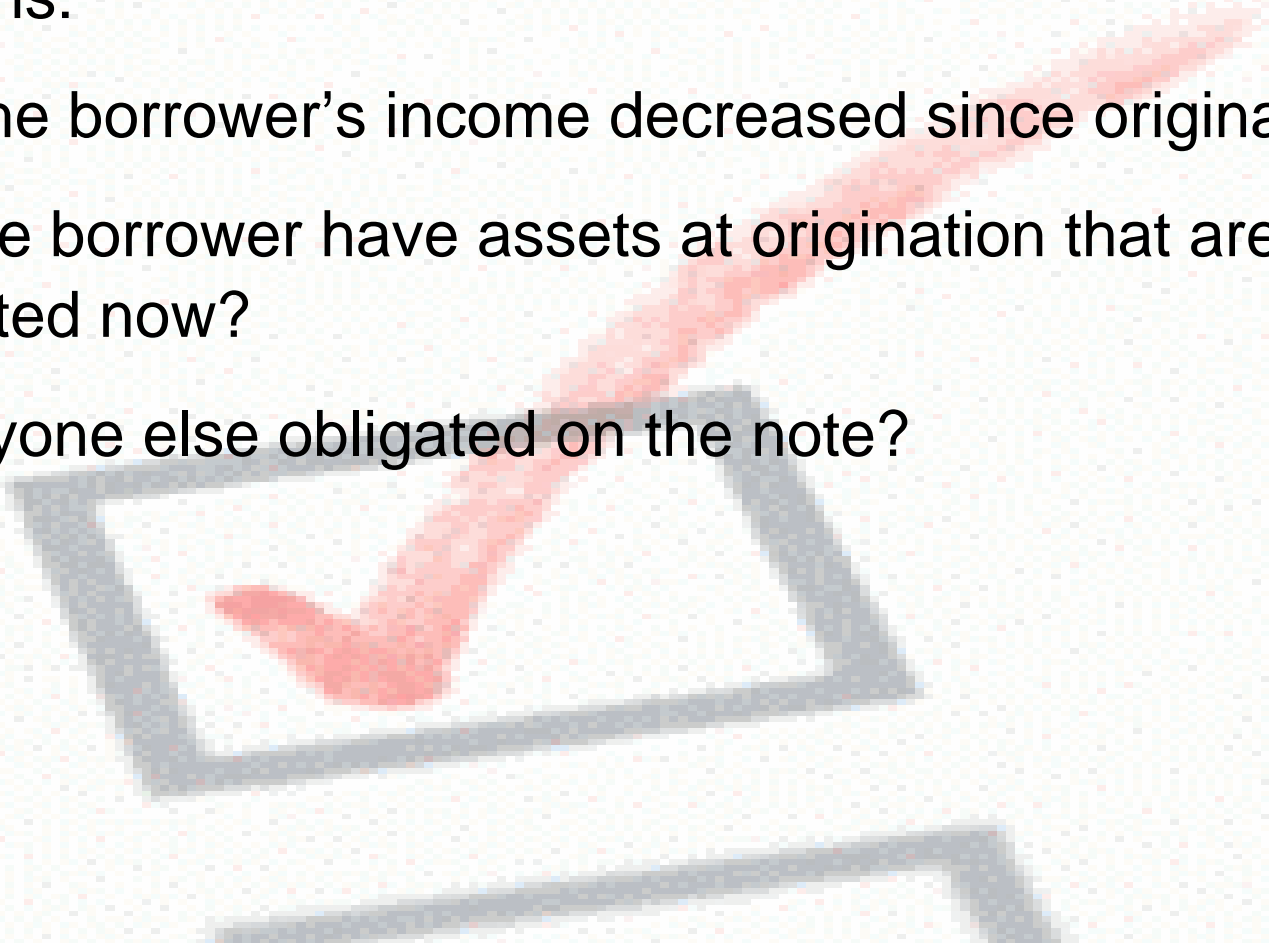




# Review the Borrower's Financial Information

Review borrower financial information and ask the following questions:

- Has the borrower's income decreased since origination?
- Did the borrower have assets at origination that aren't reflected now?
- Is anyone else obligated on the note?





# Borrower Is Not Eligible for Short Payoff

If either the borrower or sales transaction don't meet the eligibility requirements, take one of the following actions:

- If you still believe a short payoff is the best solution, submit a recommendation to us. We will consider exceptions on a case-by-case basis.
- Pursue another alternative.
- Proceed with foreclosure.

# Determine Savings Over REO

Circumstance/Data	Finding
Unpaid Principal Balance	\$120,596
Mortgage Interest Rate	8%
Due Date of Last Paid Installment (DDLPI)	11/1/xx
Schedule Short Payoff Settlement Date	3/29/xy
Scheduled/Estimated Foreclosure Sale Date	7/20/xy
Date of BPO	3/1/xy
Interest accrued to estimated short payoff close date	\$4,020
Interest accrued to the foreclosure sale date	\$6,970
Escrow Advance (estimate to short payoff close date)	None
Escrow advance (estimate to foreclosure sale date)	\$1,300
Foreclosure fees and costs (incurred to date)	\$800
Foreclosure fees and costs (estimate to foreclosure sale date) Note: includes the \$800 already incurred.	\$2,000
Short payoff offer	\$95,000
As-is BPO value (90-day marketing time frame)	\$92,000
Short Payoff closing costs	\$8,000
MI?	Yes
MI Coverage %	25%
Borrower contribution to the loss from the short payoff	0

<b>Short Payoff</b>	
Unpaid Principal Balance	\$120,596
Interest accrued to estimated short payoff close	+ \$4,020
Escrow Advance (estimate to short payoff close date)	+ \$0
Other advances, fees and costs	+ \$0
Foreclosure fees and costs (incurred to date)	+ \$800
<b>Total Debt</b>	<b>= \$125,416</b>
Short Payoff Offer	\$95,000
Short Payoff closing costs	- \$8,000
Short Payoff Net Proceeds	= \$87,000
Mortgage insurance proceeds (total debt x mortgage insurance percent coverage)	+ \$31,354
Borrower contribution (cash)	+ \$0
<b>Total Proceeds</b> (Short payoff net proceeds + mortgage insurance proceeds + borrower contribution)	<b>= \$118,354</b>
<b>Estimated Short Payoff Loss</b> (Total debt - total proceeds)	<b>\$7,062</b>

<b>Short Payoff</b>	
Unpaid Principal Balance	\$120,596
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Escrow Advance (estimate to short payoff close date)	+ \$0
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<b>REO</b>	
Unpaid Principal Balance	\$120,596
Interest accrued to the foreclosure sale date	+ \$6,970
Escrow advance (estimate to foreclosure sale date)	+ \$1,300
Other advances, fees and costs	+ \$0
Foreclosure fees and costs (estimate to foreclosure sale date)	+ \$2,000
<b>Total Debt</b>	<b>= \$130,866</b>
As-is BPO value (90-day marketing time)	\$92,000
As-is BPO value x .10	- \$9,200
Estimated REO Net Proceeds	= \$82,800
Mortgage insurance proceeds (total debt x mortgage insurance percent coverage)	+ \$32,717
<b>Total Proceeds</b> (Estimated REO net proceeds + mortgage insurance proceeds)	<b>= \$115,517</b>
<b>Estimated REO Loss</b> (Total debt - total proceeds)	<b>\$15,349</b>



# Savings Over REO

<b>Estimated Short Payoff Loss</b> (Total debt - total proceeds)	<b>\$7,062</b>	<b>Estimated REO Loss</b> (Total debt - total proceeds)	<b>\$15,349</b>
<b>Estimated Savings Over REO</b> (Estimated REO Loss minus estimated Short Payoff Loss):			<b>\$8,287</b>





## Step 3: Negotiate the Terms

- Focus on the bottom line.
- If the borrower is not willing to make a contribution, suggest that he or she pay closing costs and commission rather than paying toward the loss.
- Always consider the loss resulting from the short payoff compared to the loss resulting from foreclosure.
- Know what the MI will contribute, and the borrower contribution required by the MI before you negotiate with the borrower, if possible.



# Step 4: Document and Submit Your Recommendation

To request approval for a short payoff or notify us of a make-whole preforeclosure sale electronically, what should you do?

- Send an e-mail to [distressed\\_property@FreddieMac.com](mailto:distressed_property@FreddieMac.com).
- Transmit the recommendation via Workout Prospector®.
- Send an e-mail to [foreclosuresales@FreddieMac.com](mailto:foreclosuresales@FreddieMac.com).







# Workout Prospector®

A web-based application, available on FreddieMac.com, that gives you the ability to analyze, structure, and send alternative to foreclosure recommendations to Freddie Mac electronically.

<http://www.freddiemac.com/singlefamily/service/tools.html>



# Benefits of Workout Prospector®

- Reduces labor-intensive data entry and minimizes the potential for data entry errors.
- Displays warning messages when the parameters of your recommendation do not meet Freddie Mac's requirements for a selected alternative to foreclosure.
- Delivers your workout recommendation to Freddie Mac electronically.
- Guards against subjectivity in decision making.
- Can help reduce credit losses.



# Documenting Borrower Financial Data in Workout Prospector®

- Borrower Income screen
- Borrower Expenses screen
- Borrower Assets and Liabilities screen



# Document Short Payoff and Obtain Approval

Submit the following to Freddie Mac for review and approval:

- Form 1126, *Borrower Financial Statement*
- Copies of the following:
  - ✓ Borrower letter
  - ✓ Pay stub
  - ✓ Federal income tax return (if self-employed)
  - ✓ Previous year's & YTD profit and loss statement (if self-employed)
- Copy of fully executed sales contract with addenda
- Estimated seller closing costs
- Copy of MI approval letter





# Document Make-whole Preforeclosure Sale

- Freddie Mac's approval is not required when there is no shortfall due to MI proceeds, a cash contribution, insurance proceeds, or a combination of these sources.
- Obtain MI approval (primary and pool), if applicable, before notifying us of the make-whole preforeclosure sale.
- Notify us:
  - ✓ Form 1126, *Borrower Financial Statement*
  - ✓ Copy of fully executed sales contract with addenda
  - ✓ Estimated seller closing costs
  - ✓ Copy of MI approval letter, if applicable





# Where to Send Your Recommendation

- Include name, phone and fax number on Form 1126.

## Regular or overnight mail:

Attention: File Preparation  
Freddie Mac  
8250 Jones Branch Drive  
Mailstop A61  
McLean, VA 22102

## Fax:

(703) 918- 8019

- Fax title report and MI approval letter within two business days of receipt.
- If the foreclosure timeline will exceed our state timeline, contact your Loss Mitigation Representative.



## Step 5: Complete the Short Payoff or Make-whole Preforeclosure Sale

- Pay all delinquent real estate taxes and assessments.
- Ensure the borrower pays all settlement cash contributions in cash or certified funds.
- Ensure title will be conveyed to the buyer identified in the sales contract.
- Complete the short payoff within timeframe specified in Freddie Mac's approval letter.



# Complete the Short Payoff or Make-whole Preforeclosure Sale

- Waive your rights to any accrued fees or late charges.
- Obtain MI approval, if applicable.
- Follow any specific approval conditions in Freddie Mac's approval letter.
- Complete Investor Accounting activities.







# Complete the Short Payoff or Make-whole Preforeclosure Sale

Ensure your loss mitigation area submits the following to us:

- A copy of the settlement statement
- A copy of the proceeds check
- The original promissory note(s), if applicable (must be sent by overnight mail)
- Copies of any addenda to the sales contract subsequent to our approval



# Complete the Short Payoff or Make-whole Preforeclosure Sale

- If the loan is scheduled/scheduled, for each month of delinquency include a list of
  - ✓ All ending principal balances reported to us
  - ✓ Interest advanced to us
- If the loan is a cost of funds (COF), for each month of delinquency include a list of
  - ✓ The accounting net yield in effect
  - ✓ Interest advanced to us
  - ✓ All ending principal balances reported to us



# Avoiding Short Payoff Hurdles

- Obtain borrower financial participation in the usual seller's closing costs.
- Have better or recent comps available.
- Get buyers pre-approved through reputable lenders.
- Must be an arms-length transaction. Obtain a notarized affidavit if relationship is unclear.





# Avoiding Short Payoff Hurdles

- Know who the owner (Investor) of the loan is.
- Offers should reflect the property's present market value.
- Negotiate with all junior lien holders.
- Provide clear, easy to read documentation.



# Avoiding Short Payoff Hurdles

- The buyer on HUD-1 must be same buyer on approval letter.
- The borrower must receive no commission or proceeds from the sale.
- Include POA when sending the HUD-1 to the Servicer.
- HUD-1 must be certified true final.”



Who certifies that the HUD-1 is a “certified true final?”

- a) Servicer
- b) Closing Agent
- c) Real Estate Agent
- d) Investor





Who certifies that the HUD-1 is a “certified true final?”

Closing Agent





# Avoiding Short Payoff Hurdles

- Freddie Mac must prepare the promissory notes.
- The executed promissory note must accompany HUD-1.
- Do not reduce the seller cash contribution.
- Changes on the HUD-1 to the contract sales price or buyer will negate the short sale.





# Review

- A short payoff becomes a make-whole preforeclosure sale when you determine that the shortfall between the net sales proceeds and the total indebtedness will be paid at settlement, so that Freddie Mac does not sustain a loss.
- The Enhanced Short Payoff Program uses EarlyIndicator scores to proactively identify borrowers that may qualify for a short payoff.

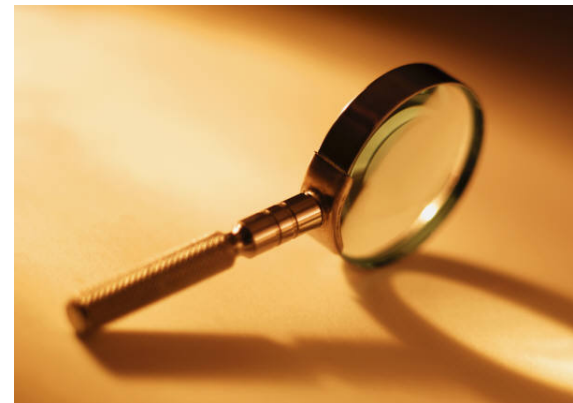
This program is available to all Servicers with one or more 60+ day delinquencies.





# Review

- With a make-whole preforeclosure sale, the shortfall is usually paid by:
  - ✓ Mortgage insurer (MI) through a claim payment
  - ✓ Borrower cash contribution
  - ✓ Hazard insurance proceeds
  - ✓ Combination of sources
- The sale must be an arms-length transaction.
- If the borrower and sales transaction do not meet all of the eligibility requirements, but you still believe that a short payoff is the best solution, submit a recommendation to us.





# Resources

- Servicing Technology Tools

<http://www.freddiemac.com/singlefamily/service/tools.html>

- For questions about specific loans, contact your Freddie Mac Workout Representative.

- Default Servicing Training

[Tara\\_Connors@FreddieMac.com](mailto:Tara_Connors@FreddieMac.com)

(571) 382-3142

[Wayne\\_Ferguson@FreddieMac.com](mailto:Wayne_Ferguson@FreddieMac.com)

(571)-382-5214

- The Learning Center

[www.FreddieMac.com/learn](http://www.FreddieMac.com/learn)



# Learning Center Updates

The **Learning Center Updates** page provides quick access to new and updated resources to help you with underwriting, mortgage products, selling, servicing, and more.



View a summary of recent changes at [www.FreddieMac.com/learn/ch\\_ind/](http://www.FreddieMac.com/learn/ch_ind/)

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