South Carolina Legal Services
Balancing the Scales of Justice

SC HELP
South Carolina Homeownership and Employment Lending Program

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AVOID FORECLOSURE

General Overview of the South Carolina Homeownership and Employment Program (SC HELP)

Funding Source	• Because of the high rate of unemployment, the United States Department of Treasury, as an extension of the Troubled Asset Relief Program (TARP), awarded South Carolina Housing Corporation (SCHC) $295 million dollars to prevent mortgage foreclosure. • SCHC established South Carolina Homeownership and Employment Program (SC HELP) to administer the funds to homeowners.
Purpose	• SC HELP may provide a bridge to help homeowners across a temporary gap in employment or income and allow them to stay in their home. • It cannot provide long-term, permanent assistance such as loan modifications.
Targeted Borrowers	• SC HELP is targeted towards "responsible borrowers" who are facing the possibility of foreclosure due to hardships beyond their control. • It will assist unemployed, underemployed and self-employed borrowers.
Applying for Services	• Homeowners wishing to submit an application should apply online at **www.scmortgagehelp.com.** • Homeowners can select ***South Carolina Legal Services*** as the counseling agency or one of the 29 other counseling agencies. • Homeowners without internet access may call toll-free to ***South Carolina Legal Services:*** **1-888-257-1988 or 1-855-850-2933 or** **855 HELP 4 SC** to begin the process

Monthly Payment Assistance Program

Program Overview	The Monthly Payment Assistance Program will assist unemployed and underemployed (including self-employed) homeowners with full monthly mortgage payments for a defined period of time while they search for employment and return to self-sustainability for unemployed.
Amount of Assistance	• $36,000 - Statewide (includes amount under Direct Loan Assistance Program) • $18,000 Statewide for underemployment and self-employment
Length of Assistance	• 24 months - in Hardest Hit areas (See Qualifications) • 12 months - all other areas • 6 months or $18,000 Statewide - Underemployed and Self Employed
Maximum Assistance Amounts	May qualify for and use more than one SC HELP program, but the total maximum assistance a borrower can receive under SC HELP per household is $36,000.

Bankruptcy & Foreclosure	• Bankruptcy must be discharged or dismissed • Judgment of foreclosure may be issued but sales date not set
Credit History	Payment history prior to hardship not considered in underwriting
Eligible Borrower	Unemployed • "Responsible Borrower" - a borrower who is facing possible foreclosure due to unemployment. • One or more borrowers must be currently receiving unemployment compensation or must have exhausted unemployment compensation benefits within the last 12 months. Underemployed or Reduction in Household Income • "Responsible Borrower" - a borrower who is facing possible foreclosure due to circumstance beyond his/her control, i.e. unemployment, underemployment, death of a spouse, catastrophic medical expenses, and/or divorce. • Borrower must demonstrate the household income has been reduced by 25% or more in the last year. *Base pay is defined as hourly wage, overtime, or shift pay. Commissioned borrowers will be treated as self-employed. Self-employed • "Responsible Borrower" - a borrower who is facing possible foreclosures due to temporary loss or reduction of self-employment income. • One or more borrowers must have 2 years history of being self-employed in the same line of work. • Demonstrate the Gross Receipts or Sales has been reduced by 30%.
Ineligible Borrower	• Borrowers already under a non-South Carolina HFA Hardest Hit Fund program. • Borrowers facing foreclosure due to self-inflicted financial hardship and/or poor debt management, stripping the equity from their home for non-essential purpose, or overall mismanagement of their personal budget. • Borrowers that have liquid assets (excluding retirement and 401K) greater than 12 months Principal Interest Taxes Insurance Association (PITIA). • Borrowers with more than 10 financed properties. • Borrowers whose Foreclosure sale date has been issued by the courts.
Income/Employment Verification	Tax Returns For All • Most recent 2 years complete tax returns including all schedules - personal and business required (federal returns only) • Most recent W-2(s) Unemployed • Letter from the South Carolina Department of Employment & Workforce stating the borrower benefits or most recent bank statement verifying the unemployment income as direct deposit. • Documentation from previous employer show reason for unemployment and date unemployment started. *Note: Income documentation will be required for every person living in the home over the age of 18 that is not a full time student. Underemployed • Two most recent pay stubs; two most recent pay stubs from last employer • Copy of divorce degree; death certificate; medical bills and records and proof of payment Self Employed • Most recent 2 years complete tax returns including all schedules - personal and

	business required (federal returns only) • YTD Profit & Loss Statement or last 6 months business bank statements
Required Documentation	See Qualifications (Must be dated within 60 days of submission of application certificate)
Hardest Hit Areas By County	See Qualifications

Direct Loan Assistance Program

Program Overview	The Direct Loan Assistance Program is designed to help homeowners that may have fallen behind on their mortgage payments, but they have since regained the ability to make full payments. Funding will be provided to bring loan current and end fees and penalties.
Amount of Assistance	$20,000 - Statewide; any amount owed above $20,000 must be paid or forgiven by the lender prior to $20,000 being paid
Length of Assistance	One-time payment per borrower household
Maximum Assistance Amounts	The borrower may qualify for and use more than one SC HELP program, but the total maximum assistance a borrower can receive under SC HELP per household is $36,000.
Asset Verification	• 2 most recent bank statements - must provide explanation and documentation for any and all deposits that could be possible income *Note: Homeowners with liquid assets (excluding retirement and 401K) greater than 12 months PITIA are ineligible.
Bankruptcy & Foreclosure	• Bankruptcy must be discharged or dismissed • Judgment of foreclosure may be issued but no sale date
Credit History	Payment history prior to hardship no longer considered in underwriting.
Eligible Borrower	• "Responsible Borrower" - a borrower who is facing possible foreclosure due to a circumstance beyond his/her control, i.e. unemployment, temporary lost or reduction in income, death of a spouse, catastrophic medical expenses, and/or divorce.
Ineligible Borrower	• Borrowers already under a non-South Carolina HFA Hardest Hit Fund program. • Borrowers facing foreclosure due to self-inflicted financial hardship and/or poor debt management, stripping the equity from their home for non-essential purpose, or overall mismanagement of their personal budget. • Borrowers that have liquid assets (excluding retirement and 401K) greater than 12 months PITIA. • Borrowers whose Foreclosure sale date has been issued. • Borrowers who have more than 2 financed properties. • Borrowers who are more than $20,000 delinquent MAY be ineligible or may have to provide additional funds or supporting documentation.
Income/Employment Verification	Tax Returns For All • Most recent 2 years complete tax returns including all schedules - personal and business required (federal returns only) • Most recent W-2(s) Unemployed • Letter from the South Carolina Department of Employment & Workforce stating the borrower benefits or most recent bank statement verifying the unemployment income as direct deposit. • Documentation from previous employer show reason for unemployment and date unemployment started. *Note: Income documentation will be required for every person living in the home over the age of 18 that is not a full time student. Underemployed • Two most recent pay stubs; two most recent pay stubs from last employer

	• Copy of divorce degree; death certificate; medical bills and records and proof of payment Self Employed • Most recent 2 years complete tax returns including all schedules - personal and business required (federal returns only) • YTD Profit & Loss Statement or last 6 months business bank statements

Property Disposition Assistance Program

Program Overview	In cases where the homeowner does not qualify for the Monthly Payment Assistance or the Direct Loan Assistance Programs from SC HELP and is unable to pay the mortgage, funds may be used to facilitate short sales and deed-in-lieu of foreclosure. This program helps families transition from homeownership to rental housing.
Amount of Assistance	One-time payment of $5,000 to homeowners participating in a short-sale or deed-in-lieu of foreclosure. Payment is made post-closing.
Eligible Borrower	• "Responsible Borrower"- a borrower who is facing foreclosure due to a circumstance beyond his/her control, i.e. unemployment, temporary lost or reduction in income, death of a spouse, catastrophic medical expenses, and/or divorce with little hope of recovery. • Borrower must complete and close a deed-in-lieu of foreclosure or short sale prior to final approval and payment. • Borrower must apply for assistance prior to execution of short sale or deed-in-lieu.
Ineligible Borrower	• Borrowers receiving assistance under the Home Affordable Foreclosure Alternative (HAFA) Program or other similar Federal programs. • Borrowers already under a non-South Carolina HFA Hardest-Hit Fund program. • Borrowers facing foreclosure due to self-inflicted financial hardship and/or poor debt management, stripping the equity from their home for non-essential purpose, or overall mismanagement of their personal budget.
Time Frame for Assistance	The short-sale/deed-in-lieu must be complete and closed prior to final approval and payment.
Use of Assistance	• Payment may be used to cover moving expenses, various deposits and any other expenses that may be related to moving. • No receipts are required.
Time Frame for Ownership	None Required
Required Documentation	• Evidence of a completed deed-in-lieu or copy of Settlement Statement (HUD-1) from executed short sale • Provide a copy of the executed Sales Contract, if short sale. • Action Plan • Housing Counseling Intake Form • Financial Worksheet • Signed 4506-T • Homeowner/Counselor Contract • Authorization to Obtain a Credit Report • SC HELP Hardship Affidavit with Hardship Letter • Making Home Affordable/Hardest Hit Fund- Third Party Authorization Form

Qualifications For SC HELP Direct Loan Assistance And Monthly Payment Assistance

Structure of Assistance	• Nonrecourse zero-percent interest, non-amortizing, forgivable loan secured by a subordinate lien on the subject property; • Loan will be forgiven over a five (5) year period at a rate of 20% per year. If the property is sold or refinanced prior to the loan termination date, funds will be recovered should sufficient equity be available from the transaction.

Interactions with Other Programs	• Direct Loan Assistance Program - Households that are delinquent at the time monthly assistance begins may be eligible for direct assistance to help with any capitalized arrearage that exists. • Monthly Payment Assistance Program - Households with a capitalized arrearage and a temporary reduced level of income may also be eligible for the Program and the Monthly Payment Assistance to cure the immediate delinquency and to insure that further delinquencies are not incurred. Approved borrowers will receive Direct Loan Assistance prior to monthly payments being paid. • HAMP Assistance Program - Households successfully coming out of the Program may be eligible for HAMP Assistance to obtain a permanent modification. • Property Disposition Assistance Program - Households that are not self-supporting after exhausting allowable funding under this Program may be eligible for Property Disposition Assistance.
Eligible Existing Mortgage	1st Mortgage Only Fixed rate Fixed term ARM Fully amortizing Original loan amount cannot exceed $729,750 HELOC - must be closed to future advances Balloon term mortgages
Ineligible Existing Mortgage	Interest amortizing loan Open End Mortgage/Future Advance Clause Loan held by non-participating servicer Seller financed Contract for Deed Lease with Option to Purchase Bond for Title HELOC - open to future advances Construction to Perm loan - not modified to permanent financing
Multiple Property Ownership	Borrowers owing multiple properties will be considered on a case by case basis.
Occupancy Requirements	Owner Occupied *Not eligible: second home or investment property
Property Types	• Single family (attached or detached) • Condominium unit • Manufactured Home on a foundation permanently affixed to real estate owned by the borrower. Title to manufactured home must be surrendered and the manufactured home must be taxed as real property. • 2 unit properties where the borrower is living in one of the units • Property must not be abandoned, vacant, condemned or in a serious state of disrepair.
Required Documentation **(Must be dated within 60 days of the submission date)**	• Most recent W-2(s) • If unemployed - current unemployment income documentation - can be verified by a letter from the South Carolina Employment Securities Commission or most recent bank statement showing the unemployment income as a direct deposit • If unemployed - documentation from previous employer showing reason for unemployment and date unemployment started • If unemployed - 2 most recent paystubs - at least one paystub should be dated within 30 days of application • If self employed - 2 most recent years tax returns - complete tax returns including all schedules for both personal and business returns (federal returns only) • If self employed - YTD Profit and Loss Statement or 6 months business bank statements • Current SSI awards letter or current bank statements showing the direct deposit

	(if applicable) • Divorce Decree or Court Ordered Document indicating they are paying or receiving child support or alimony (if applicable) • 2 most recent months bank statements - any deposits may need to be explained and documented to determine additional income • Most recent monthly mortgage statement for both the 1st and 2nd mortgage • Statement from lender showing a detailed breakdown on past due amount to include all fees and the amount the lender will accept to bring the loan current • Property tax bill or printout from the county tax assessor to verify the amount of property taxes • Financial Statement - must be completed and signed by the borrower • Copy of current deed • Housing Counseling Intake Form • Financial Worksheet • Hardship Letter • Make Home Affordable Program - Request for Modification and Affidavit • Signed 4506-T • Authorization to Release Information • Homeowner/Counselor Contract • Authorization to Obtain a Credit Report • SC HELP Hardship Affidavit • Privacy Policy • Making Home Affordable/Hardest Hit Fund - Third party Authorization Form • Action Plan • Attorney/Insurance Preference • Dodd-Frank Certificate *Note: Income documentation will be required for every person living in the home over the age of 18 that is not a full-time student.
Ownership Requirements	Borrower must have a 24 month homeownership history. Borrowers who do not have at least 24 month history of owning a home are not eligible.
Title/Deed Restrictions: The Following are Ineligible	• Life Estates • Blind Trusts • Irrevocable Trusts • 1031 Exchanges
Title Requirements:	All person(s) on the title to the affected real property must be on the loan. They must all sign the loan closing documents.
Underwriting:	Loans will be underwritten by contract underwriters approved by SCHC.
Hardest Hit Areas By County	Abbeville, Allendale, Bamberg, Barnwell, Cherokee, Chester, Chesterfield, Clarendon, Colleton, Darlington, Dillon, Fairfield, Hampton, Lancaster, Lee, Marion, Marlboro, McCormick, Orangeburg, Sumter, Union, Williamsburg, York

At –A- Glance Loan Closing Report

Total Closings completed from January 12, 2011 through October 17, 2011 = 573

Counties	Served
Abbeville	1
Aiken	5
Allendale	0
Anderson	15
Bamberg	1
Barnwell	0
Beaufort	9
Berkeley	21
Calhoun	0
Charleston	38
Cherokee	8
Chester	2
Chesterfield	6
Clarendon	3
Colleton	2
Darlington	2
Dillon	3
Dorchester	12
Edgefield	3
Fairfield	3
Florence	9
Georgetown	7
Greenville	81
Greenwood	5
Hampton	2
Horry	38
Jasper	4
Kershaw	13
Lancaster	13
Laurens	3
Lee	0
Lexington	61
Marion	2
Marlboro	1
McCormick	0
Newberry	2
Oconee	1
Orangeburg	3
Pickens	4
Richland	111
Saluda	0
Spartanburg	44
Sumter	11
Union	0
Williamsburg	2
York	22

Total =573

Italicized counties indicate those SC HELP identifies as the "hardest hit unemployment counties"

IRS.gov

Internal Revenue Bulletin: 2011-11

March 14, 2011

Notice 2011-14

Tax Consequences to Homeowners, Mortgage Servicers, and State Housing Finance Agencies of Participation in the HFA Hardest Hit Fund and The Emergency Homeowners' Loan Program

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PURPOSE

This notice provides guidance on the federal tax consequences of, and information reporting requirements for, payments made to or on behalf of financially distressed homeowners under programs designed by state housing finance agencies (State HFAs)[1] with funds allocated from the Housing Finance Agency Innovative Fund for the Hardest-Hit Housing Markets (HFA Hardest Hit Fund). This notice applies to the programs designed by State HFAs that are listed in the Appendix to this notice (State Programs).

This notice also provides guidance on the federal tax consequences of, and information reporting requirements for, payments made on behalf of financially distressed homeowners under the Department of Housing and Urban Development's Emergency Homeowners' Loan Program (EHLP) and any existing state program receiving funding from the EHLP (the substantially similar state programs or SSSPs).

Specifically, this notice addresses whether—

- Disbursements under a "Forgivable Loan" (as defined below) or a HUD Note (as defined below) are treated as payments to homeowners and not as disbursements of loan proceeds;

- Homeowners who receive or benefit from payments made under the State Programs, the EHLP, or the SSSPs exclude the payments from gross income under the general welfare exclusion and deduct otherwise deductible expenses (for example, mortgage interest and real property taxes) paid from those payments; and

- Payments to or on behalf of homeowners made under the State Programs, the EHLP, or the SSSPs are exempt from the information reporting requirements of §§ 6041 and 6050H of the Internal Revenue Code.

THE HFA HARDEST HIT FUND PROGRAM

Overview

In February 2010, the United States Department of the Treasury (Treasury Department) established the HFA Hardest Hit Fund, which is authorized by section 109 of the Emergency Economic Stabilization Act (EESA), Division A of Pub. L. 110-343, 112 Stat. 3774 (2008). The purposes of the HFA Hardest Hit Fund are to provide funds to the State Programs (1) to assist homeowners in preventing avoidable foreclosures, and (2) to stabilize housing markets. The HFA Hardest Hit Fund is designed to allow each State HFA maximum flexibility in designing locally focused programs to address the needs of financially distressed homeowners within the state or a specific region of the state. Each of the State Programs that receives funding from the HFA Hardest Hit Fund has as its primary objective preventing avoidable foreclosures of homeowners' homes and stabilizing housing markets.

The HFA Hardest Hit Fund is available in states where either housing prices have declined more than 20 percent from peak prices or the unemployment rate equals or exceeds the national average. The states eligible for this funding are Alabama, Arizona, California, the District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Michigan, Mississippi, Nevada, New Jersey, North Carolina, Ohio, Oregon, Rhode Island, South Carolina, and Tennessee.

To receive funding from the HFA Hardest Hit Fund, each of these states submitted proposals describing its programs and verifying that each of the programs would meet the requirements of the EESA and the purposes of the HFA Hardest Hit Fund. Funding under the HFA Hardest Hit Fund is available for, but not limited to, programs involving the following transactions: mortgage modifications, principal forbearance to facilitate additional mortgage modifications, short sales and deeds-in-lieu of foreclosure, unemployment programs, principal reductions for homeowners with severe negative equity, and second-lien reductions and modifications.

Approved State Programs and their Common Elements

The Treasury Department has approved all of the State Programs listed in the Appendix to this notice[2] and is distributing funds from the HFA Hardest Hit Fund for use by the State HFAs. Generally, under the State Programs homeowners must demonstrate that they have suffered a financial hardship due to certain events, such as unemployment, underemployment, medical condition, death of a spouse, or divorce, and as a result are in danger of losing their homes in foreclosure or need financial assistance to ensure that their loans become or remain affordable. Although most of the State Programs have the goal of helping financially distressed homeowners remain in their homes, some State Programs also help homeowners who can no longer afford their homes to transition to more affordable homes. Some states limit participation in their programs to homeowners whose income does not exceed certain limits.

In some cases, the State Programs assist a homeowner by making cash payments directly to or on behalf of the homeowner without mentioning any repayment obligation. On the other hand, sometimes the governing documents discuss repayment and call the arrangement a "loan" or a "forgivable loan." Even in these cases, however, the terms of the arrangement generally operate to relieve the homeowner of an obligation to make any repayments. The terms achieve this end by reducing the stated principal amount to zero over time if the homeowner meets certain program requirements. Though State Programs may vary, an arrangement like this is generally secured by a subordinate lien on the home and is documented as a zero-percent-interest, nonrecourse, non-amortizing "loan" to the homeowner with a term ranging from 3 to 10 years. (This notice calls these arrangements "Forgivable Loans.") For example, under some programs the unpaid stated principal of a Forgivable Loan declines 20 percent each year for 5 years if the homeowner remains current on the homeowner's mortgage loan payments and continues to use the property as a principal residence. In general, no payments are due on a Forgivable Loan unless (1) the homeowner sells, refinances, or transfers title to the property before the term expires, and (2) equity proceeds from the sale, refinancing, or title transfer are available to pay some or all of the remaining unpaid stated principal balance. As a result, the Treasury Department and the State Programs do not expect homeowners to make more than a minimal amount of payments on Forgivable Loans.

THE EMERGENCY HOMEOWNERS' LOAN PROGRAM AND SUBSTANTIALLY SIMILAR STATE PROGRAMS

Overview

Section 1496 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), Pub. L. 111-203, 124 Stat. 2207 (2010), reauthorized and revised the Emergency Homeowners' Loan Program (EHLP), 12 U.S.C. §§ 2701-2712, and provided $1 billion to the Department of Housing and Urban Development (HUD) to implement the EHLP and existing state programs that are substantially similar to the EHLP (the substantially similar state programs or SSSPs). The purpose of the EHLP and the SSSPs is to provide assistance to homeowners who are at risk of foreclosure and have experienced a substantial reduction in income as a result of involuntary unemployment or underemployment due to adverse economic or medical conditions. *See* 12 U.S.C. § 2702(4). The $1 billion of funding is allocated based on a state's approximate share of unemployed homeowners. The EHLP and the SSSPs complement the HFA Hardest Hit Fund by providing assistance to homeowners in Puerto Rico and the 32 states that did not receive funds from the HFA Hardest Hit Fund. *See* Emergency Homeowners' Loan Program: Notice of Allocation of Funding for Substantially Similar State Programs ("Funding Notice"), 75 Fed. Reg. 69,454 (November 12, 2010).

Eligible Pre-Existing State Programs

The Dodd-Frank Act provides that a state may administer EHLP funds if HUD determines that the state program qualifies as an SSSP. An SSSP is a state program existing on July 21, 2010, that provides substantially similar assistance to homeowners. 12 U.S.C. § 2707(d). A state with an SSSP may exercise greater flexibility in program design and is not required to modify its program to comply with Title 12 after HUD determines that the program is an SSSP. 12 U.S.C. § 2707(d). To receive funding from the EHLP, State HFAs submitted proposals describing how their programs provide assistance to homeowners that is substantially similar to that provided under the EHLP. Only SSSPs are eligible to administer an allocation from the $1 billion provided to the EHLP under the Dodd-Frank Act. Section III.B.2 of the Funding Notice. If a state does not have an SSSP, then HUD administers the state's allocation from the $1 billion of funding in accordance with the EHLP.

Homeowners Eligible for Assistance and Operation of the EHLP and SSSPs

To receive assistance from the EHLP or an SSSP, a homeowner must meet certain eligibility requirements. The homeowner must reside in the mortgaged property as his or her principal residence at the time of application and for the duration of the assistance. The homeowner must also be involuntarily unemployed or underemployed because of adverse economic or medical conditions. The homeowner must have household income equal to or less than 120% of the area median income for the area in which the homeowner resides, and have experienced a substantial reduction in income as a result of involuntary unemployment or underemployment due to adverse economic or medical conditions. *See* 12 U.S.C. § 2702(4). The homeowner also must be at least three months delinquent on the homeowner's first mortgage and provide evidence that foreclosure on that mortgage is likely or imminent. In addition, the homeowner must have a reasonable likelihood of being able to (1) resume repayments of the first mortgage obligation within two years, and (2) meet other housing expenses and debt obligations when the assistance ends. *See* 12 U.S.C. § 2702.

Under the EHLP (but not an SSSP), eligible homeowners must contribute the greater of 31 percent of their monthly gross income or $25 towards the monthly payments on the first mortgage. Under the EHLP, homeowner contributions will be combined with the governmental funds and forwarded to the servicer/lender as the monthly payment on the first mortgage. HUD expects the SSSPs to use their existing procedures for handling borrower contributions.

The EHLP will provide a reasonably necessary amount to assist an eligible homeowner with (i) a maximum of 24 months of monthly payments of mortgage principal, interest, mortgage insurance premiums, taxes, and hazard insurance, and (ii) payments of arrearages (mortgage principal, interest, mortgage insurance premiums, taxes, hazard insurance, late fees, and certain foreclosure related legal expenses). HUD prefers, but does not require, the SSSPs to limit assistance to a 24-month period. The EHLP and the SSSPs must include assistance in making monthly payments to the servicer of the first mortgage and may not restrict payments only to arrearages. If the household's gross income increases to 85% or more of the income prior to the unemployment, underemployment, or medical condition, then the assistance will be phased out over a two-month period.

The assistance that the EHLP and the SSSPs provide to a homeowner must be pursuant to a note with terms and repayment conditions that are similar to the Forgivable Loan described above, except that the homeowner is responsible for repayment of the applicable balance of the note if the homeowner defaults on the homeowner's monthly mortgage payment obligation during the five-year period after the assistance ends. (This notice calls these arrangements "HUD Notes.") As a result, HUD and the SSSPs do not expect homeowners to make more than a minimal amount of payments on the HUD Notes.

APPLICABLE PROVISIONS OF LAW

Characterization of Forgivable Loans and the HUD Notes

If assistance to a homeowner under a State Program is structured as a Forgivable Loan, the Internal Revenue Service will treat the disbursements to or on behalf of the homeowner as payments to the homeowner rather than as disbursements of loan proceeds, and those payments are treated as occurring at the time the disbursements are made. Similarly, if assistance to a homeowner under the EHLP or an SSSP is pursuant to a HUD Note, the IRS will treat the disbursements to or on behalf of the homeowner as payments to the homeowner rather than as disbursements of loan proceeds, and those payments are treated as occurring at the time the disbursements are made.

Income Tax Consequences to Homeowners

Section 61(a) of the Code provides that, except as otherwise provided by law, gross income means all income from whatever source derived. The Service has consistently held, however, that payments made under governmental programs for the promotion of the general welfare are not includible in an individual recipient's gross income (general welfare exclusion). *See* Rev. Rul. 2009-19, 2009-28 I.R.B. 111, holding that Pay-for-Performance Success Payments made under the Home Affordable Modification Program to help homeowners who are at risk of losing their homes pay their mortgage loans on their principal residences are excluded from income under the general welfare exclusion. *See also* Rev. Rul. 76-373, 1976-2 C.B. 16.

Similar to the payments in Rev. Rul. 2009-19, the payments made under the State Programs with funds from the HFA Hardest Hit Fund and the payments made under the EHLP and the SSSPs with funds authorized by the Dodd-Frank Act promote the general welfare by helping homeowners who are at risk of losing their homes either pay their mortgage loans or transition to more affordable housing and do not involve the performance of services. Therefore, payments made under the State Programs, the EHLP, and the SSSPs to or on behalf of a homeowner are excluded from gross income under the general welfare exclusion.

For taxable years 2010, 2011, and 2012, this notice provides a safe harbor method pursuant to which a homeowner may deduct on his or her federal income tax return an amount equal to the sum of all payments the homeowner actually makes during that year to the mortgage servicer, HUD, or the State HFA on the home mortgage, but not in excess of the sum of the amounts shown on Form 1098, *Mortgage Interest Statement*, in box 1 (mortgage interest received), box 4 (mortgage insurance premiums) for years 2010 and 2011 only, and box 5 (real property taxes). This safe harbor method of computing the homeowner's deduction applies for a taxable year if (1) the homeowner meets the requirements of §§ 163 and 164 to deduct all of the mortgage interest on the loan and all of the real property taxes on the principal residence; and (2) the homeowner participates in the EHLP, an SSSP, or a State Program described in the Appendix to this notice in which the program payments could be used to pay interest on the home mortgage.

Information Reporting Obligations

Section 6041 of the Code requires every person engaged in a trade or business (including state governments and their agencies) to (1) file an information return for each calendar year in which the person makes in the course of its trade or business payments to another person of fixed and determinable income aggregating $600 or more, and (2) furnish a copy of the information return to that person. *See* § 6041(a) and (d) and § 1.6041-1(a)(1) and (b) of the Income Tax Regulations.

Because the payments made under the State Programs, the EHLP, and the SSSPs are excluded from the gross income of the homeowners, they are not fixed or determinable income under § 6041. Thus, under § 6041 payors do not file information returns or furnish copies to homeowners for payments made under the State Programs, the EHLP, or the SSSPs.

Section 6050H of the Code requires every person engaged in a trade or business (including state governments and their agencies) to (1) file an information return for each calendar year in which the person receives in the course of its trade or business payments from an individual of interest on a mortgage aggregating $600 or more, and (2) furnish a copy of the information return to that individual. See § 6050H(a) and (d) and § 1.6050H-1(a) of the regulations.

For purposes of § 6050H, interest received from a governmental unit or its agency or instrumentality is not interest received on a mortgage, and thus should not be reported as interest received on a mortgage. See § 1.6050H-1(e)(3)(ii) of the regulations.

Accordingly, if a person receives payments under a State Program, the EHLP, or an SSSP from a governmental unit or its agency or instrumentality of interest on the homeowner's mortgage, that person should not include those payments in the amount reported as interest received on a mortgage on Form 1098.

Section 6721 of the Code imposes penalties on a person for failing to include all required information or including incorrect information on an information return. Section 6722 imposes penalties on a person for failing to include all required information or including incorrect information on a payee statement. However, the Service will not assert penalties under §§ 6721 and 6722 against a mortgage servicer that reports on Forms 1098 payments received under a State Program, the EHLP, or an SSSP during calendar year 2010. Additionally, the Service will not assert penalties under §§ 6721 and 6722 against a mortgage servicer that reports on Forms 1098 payments received under a State Program, the EHLP, or an SSSP during calendar years 2011 or 2012 if the servicer notifies homeowners that the amounts reported on the Form 1098 are overstated because they include government subsidy payments. The Service will not assert penalties under §§ 6721 and 6722 against any State HFA for failing to file and furnish Forms 1098 for calendar year 2010. Furthermore, the Service will not assert penalties under §§ 6721 and 6722 against any State HFA for failing to file and furnish Forms 1098 for calendar years 2011 and 2012 if the State HFA provides each homeowner and the IRS a statement setting forth (1) the homeowner's name and TIN, and (2) the amount of payments the State HFA made to the mortgage servicer under the State Program or the SSSP during that year (separately stating the amount the State HFA paid and the amount the homeowner paid). The statement the State HFA provides to the IRS must be a single statement that separately lists the names, TINs, and relevant payment amounts for each homeowner. In addition, for calendar years 2011 and 2012, HUD should provide each homeowner and the IRS a statement setting forth (1) the homeowner's name and TIN, and (2) the amount of payments HUD made to the mortgage servicer under the EHLP during that year (separately stating the amount HUD paid and the amount the homeowner paid). The statement HUD provides to the IRS should be a single statement that separately lists the names, TINs, and relevant payment amounts for each homeowner. The IRS intends to issue future published guidance specifying the IRS office where the State HFAs and HUD should send the single statements.

SUMMARY OF FEDERAL TAX CONSEQUENCES OF PAYMENTS UNDER THE STATE PROGRAMS, THE EHLP, OR THE SSSPS TO ASSIST FINANCIALLY DISTRESSED HOMEOWNERS

Disbursements under a Forgivable Loan or a HUD Note are treated as payments to a homeowner and not as disbursements of loan proceeds.

A homeowner who receives or benefits from payments made under the State Programs, the EHLP, or an SSSP excludes the payments from gross income under the general welfare exclusion.

Payments to or on behalf of a homeowner made under the State Programs, the EHLP, and the SSSP are not subject to the information reporting requirements of § 6041.

The Service will not assert penalties under §§ 6721 and 6722 against a mortgage servicer that reports on Forms 1098 payments received under a State Program, the EHLP or an SSSP during calendar year 2010. Additionally, the Service will not assert penalties under §§ 6721 and 6722 against a mortgage servicer that reports on Forms 1098 payments received under a State Program, the EHLP, or an SSSP during calendar years 2011 or 2012 if the servicer notifies homeowners that the amounts reported on the Form 1098 are overstated because they include government subsidy payments.

The Service will not assert penalties under §§ 6721 and 6722 against any State HFA for failing to file and furnish Forms 1098 for calendar year 2010. In addition, the Service will not assert penalties under §§ 6721 and 6722 for calendar years 2011 and 2012 against any State HFA if the State HFA provides each homeowner and the IRS a statement setting forth (1) the homeowner's name and TIN, and (2) the amount of payments the State HFA made to a mortgage servicer under the State Program or the SSSP during that year (separately stating the amount the State HFA paid and the amount the homeowner paid). The statement the State HFA provides to the IRS must be a single statement that separately lists the names, TINs, and relevant payment amounts for each homeowner. For calendar years 2011 and 2012, HUD should provide each homeowner and the IRS a statement setting forth (1) the homeowner's name and TIN, and (2) the amount of payments HUD made to the mortgage servicer under the EHLP during that year (separately stating the amount HUD paid and the amount the homeowner paid). The statement HUD provides to the IRS should be a single statement that separately lists the names, TINs, and relevant payment amounts for each homeowner. The IRS intends to issue future published guidance specifying the IRS office where the State HFAs and HUD should send the single statements.

For taxable years 2010, 2011, and 2012, this notice provides a safe harbor method pursuant to which a homeowner may deduct on his or her federal income tax return an amount equal to the sum of all payments the homeowner actually makes during that year to the mortgage servicer, HUD, or the State HFA on the home mortgage, but not in excess of the sum of the amounts shown on Form 1098, *Mortgage Interest Statement*, in box 1 (mortgage interest received), box 4 (mortgage insurance premiums) for years 2010 and 2011 only, and box 5 (real property taxes). This safe harbor method of computing the homeowner's deduction applies for a taxable year if (1) the homeowner meets the requirements of §§ 163 and 164 to deduct all of the mortgage interest on the loan and all of the real property taxes on the principal residence, and (2) the homeowner participates in the EHLP, an SSSP, or a State Program described in the Appendix to this notice in which the program payments could be used to pay interest on the home mortgage.

PERSON TO CONTACT

The principal author of this notice is Shareen S. Pflanz of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding this notice, contact Shareen S. Pflanz at (202) 622-4920 (not a toll-free call).

Appendix
Alabama
Hardest Hit for Alabama's Unemployed Homeowners
Arizona
Save My Home AZ Program: Permanent Modifications Component Second Mortgage Assistance Component Temporary Modification Component
California
Unemployment Mortgage Assistance Program Mortgage Reinstatement Assistance Program Principal Reduction Program The Transition Assistance Program
District of Columbia
Homesaver Program
Florida
Unemployment Mortgage Assistance Program Mortgage Loan Reinstatement Program
Georgia
Mortgage Payment Assistance (MPA)
Illinois

Hardest Hit Fund Homeowner Emergency Loan Program (HHF HELP)
Indiana
Hardest Hit Fund Unemployment Bridge Program
Kentucky
Kentucky Unemployment Bridge Program
Michigan
Principal Curtailment Program Loan Rescue Program Unemployment Mortgage Subsidy Program
Mississippi
Home Saver Program
Nevada
Principal Reduction Program Second Mortgage Reduction Plan Short-Sale Acceleration Program Mortgage Assistance Program (MAP)
New Jersey
New Jersey Homekeeper Program (NJHK)
North Carolina
Mortgage Payment Program (MPP-1) Mortgage Payment Program (MPP-2) Second Mortgage Refinance Program (SMRP) Permanent Loan Modification Program (PLMP)
Ohio
Rescue Payment Assistance Program Partial Mortgage Payment Assistance Program Mortgage Modification with Principal Reduction Program Transition Assistance Program Short Refinance Program
Oregon
Loan Modification Assistance Program Mortgage Payment Assistance Program Loan Preservation Assistance Program Transition Assistance Program
Rhode Island
Loan Modification Assistance for HAMP Customers (LMA-HAMP) Loan Modification Assistance for Non-HAMP Customers (LMA-Non-HAMP) Temporary and Immediate Homeowner Assistance (TIHA) Moving Forward Assistance Mortgage Payment Assistance — Unemployment Program
South Carolina
Monthly Payment Assistance Program Direct Loan Assistance Program HAMP Assistance Program Second Mortgage Assistance Program Property Disposition Assistance Program
Tennessee
Hardest Hit Fund Program (HHFP)

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[1] For purposes of this notice, the term "state housing finance agencies" includes other non-profit agencies organized and controlled by a state. In addition, the term "state" means the 50 states, the District of Columbia, and the Commonwealth of Puerto Rico.

[2] The Treasury Department may amend the list of State Programs in the Appendix to this notice through subsequent published guidance.