



## MODEL LANGUAGE TO PROTECT HOMEOWNERS SEEKING FUNDS UNDER THE HOMEOWNER ASSISTANCE FUND (HAF) PROGRAM

The Homeowner Assistance Fund (HAF) was established as part of the American Rescue Plan of 2021. Under HAF, the United States Department of the Treasury is providing \$9.9 billion in financial assistance through states, territories and tribes. States have the flexibility to allow eligible homeowners to use HAF funds to, for example, reinstate a delinquent mortgage, reduce the mortgage principal, or pay delinquent property taxes, past-due condominium or homeowner association fees, and past-due utility bills. The funds are targeted for low- and moderate-income borrowers based on area median income and also for socially disadvantaged individuals.

The following proposed model language requires important notifications to be provided to homeowners about HAF before a foreclosure is initiated. The language also provides that a loan servicer who receives notice from the state, territory or tribal HAF administrator that a homeowner is conditionally eligible and has a HAF application pending is prohibited from initiating or proceeding with any foreclosure activity for 60 days. This ensures that homeowners who are eligible for HAF and need such funds to save their homes have time to apply and receive a decision on their application without fear that their home will be sold while they wait for a response. It also ensures that homeowners will not be charged foreclosure-related fees that would affect their eligibility for loss mitigation and increase the amount of funds needed from HAF.

This language can be used in the drafting of state legislation, in seeking an order from the judiciary, or in requesting an executive order. The language should be adapted to conform with each state's unique foreclosure process. We have provided two versions below, the first for states where judicial proceedings are the primary method of foreclosure and the second for non-judicial foreclosure states.

### Model Language for Judicial Foreclosure States

a. Together with any notice of acceleration and opportunity to cure or other pre-foreclosure notice required either under the security instrument or by state statute, or if no such notice is required, together with the earliest document required under state law to be filed, recorded or published to initiate the foreclosure process, a mortgage servicer that accepts funds in connection with the state's Homeowner Assistance Fund (HAF) program shall provide the homeowner with notice in writing ("HAF Notice") that includes the following:

1. A description of the state's HAF program, the website address and phone number where homeowners can find information about and apply for HAF assistance, and the name and phone number of the HAF administrator; and

2. A statement that if the servicer is notified by the HAF administrator that the homeowner has a HAF application pending, the servicer will not initiate or proceed with foreclosure activity for 60 days.

b. Upon receipt of notification from the HAF administrator by the servicer that the homeowner has applied for HAF benefits, the servicer shall not initiate or proceed with foreclosure activity for 60 days.

c. Upon the filing of a request for entry of judgment in foreclosure, whether by default, summary judgment, or at trial, the servicer shall attach to the documents requesting judgment filed with the court or submitted to the court at trial a certification stating i) that the servicer provided the homeowner with the HAF Notice on a date specified in the certification and ii) either A) that the servicer did not receive notification from the HAF administrator that the homeowner applied for HAF benefits, or B) that the servicer was notified by the HAF administrator that an application was received and more than 60 days have passed since the servicer's receipt of notice of the application. A copy of this certification shall be provided simultaneously to the homeowner.

## Model Language for Non-Judicial Foreclosure States

a. Together with any notice of acceleration and opportunity to cure or other pre-foreclosure notice required either under the security instrument or by state statute, or if no such notice is required, together with the earliest document required under state law to be filed, recorded or published to initiate the foreclosure process, a mortgage servicer that accepts funds in connection with the state's Homeowner Assistance Fund (HAF) program shall provide the homeowner with notice in writing ("HAF Notice") that includes the following:

1. A description of the state's HAF program, the website address and phone number where homeowners can find information about and apply for HAF assistance, and the name and phone number of the HAF administrator; and

2. A statement that if the HAF administrator notifies the servicer that the homeowner has applied for HAF benefits, the servicer will not initiate or proceed with foreclosure activity for 60 days.

b. If before a foreclosure sale takes place the HAF administrator notifies the servicer that the homeowner has applied for HAF benefits, the servicer will not initiate or proceed with foreclosure activity for 60 days.

c. At least thirty days before any scheduled foreclosure sale date, the servicer shall record in the appropriate land records a certification stating i) that the servicer provided the homeowner with the HAF Notice on a date specified in the certification and ii) either A) that the servicer did not receive notification from the HAF administrator that the homeowner applied for HAF benefits, or B) that the servicer was notified by the HAF administrator that an application was received and more than 60 days have passed since the servicer's receipt of notice of the application. A copy of this certification shall be provided simultaneously to the homeowner.