More Mortgage Refinance Help for Homeowners Through Enhanced HARP 2.0

By Lawrence 'D' Pew, Arizona Bankruptcy Attorney

Although some Arizona residents may be unfamiliar with the term "underwater mortgage," they are likely to be very familiar with the consequences. A mortgage is said to be underwater when the amount owed on the loan exceeds the market value of the real property. In this situation, there are few options for homeowners:

- ***Sell your home, pay off the mortgage, and move to more affordable housing.*** *In this buyer's market, however, selling may be easier said than done.*

- ***Continue paying your high mortgage and remain in your home.*** *The real estate market will always be in flex, so holding on to your home and waiting for market values to improve is not unreasonable.*

- ***Stop paying your mortgage and default on your loan.*** *This often brings individuals and couples to our doors, in pursuit of bankruptcy protection.*

- ***Refinance the loan under HARP, if you qualify.*** *With recent enhancements to this federal program, you may yet be able to refinance your home loan at an affordable interest rate.*

There is revived hope for homeowners who have kept current with their bank-owned loans, knowing full well they owe more than their homes are worth. You may qualify for the HARP if:

1. *You have a conventional mortgage.*
2. *Your mortgage is backed or owned by Freddie Mac or Fannie Mae.*
3. *Your current mortgage was "securitized" or sold to Fannie Mae or Freddie Mac before June 1, 2009.*
4. *You are current with your mortgage (not behind in your payments or in default).*
5. *You haven't already refinanced under HARP (only one HARP refi to a home).*
6. *And you are underwater on your home loan and need to refinance.*

If you affirmed the six pre-qualifiers above, then this article has some very good news for you and your family.

Refinancing Underwater Home Loans and Getting Rid of High Interest ARMs

A problem that many homeowners with Adjustable Rate Mortgages (ARMs) have been suffering with is the need to refinance their homes to get out from under the high-interest ARM they started with. Refinancing the loan can result in meaningful savings, as current interest rates are at historic lows.

The Problem?
When a lender is asked to refinance the home loan, it ordinarily requires that the home's market value exceed the amount it is asked to lend. Because home values have dropped markedly in many parts of the country over the past several years, refinancing is seemingly unavailable to many homeowners. For many mortgagors who have stayed in their homes and continued to make their high-interest mortgage payments, they may be figuratively pushed over a financial cliff by the banks who will not refinance their loans.

Approximately 11 million loans in the U.S. are underwater. Furthermore, 2.4 million homeowners hold less than 5% of the equity in what was likely the most important investment of their lives – that is called near-negative equity. To add insult to injury, most of these homeowners are paying significantly more in interest than the current market rate. Refinancing with a lower interest rate, then, would reduce the monthly payments on the home loan even when the principal amount owed remains unchanged.

News of Important Changes to HARP from the FHFA – Welcome HARP 2.0

In an October 24, 2011, Washington, D.C., press release, the *Federal Housing Finance Agency (FHFA)* announced changes to the *Home Affordable Refinance Program (HARP)*.

FHFA Acting Director Edward J. DeMarco stated that his agency knows that *"there are many homeowners who are eligible to refinance under HARP and those are the borrowers we want to reach."* The improved HARP, referred to as HARP 2.0, will make it easier for homeowners to refinance home loans guaranteed or owned by Fannie Mae or Freddie Mac. The HARP 2.0 program is available through any participating lender in the U.S., so you are not limited to refinancing the loan with your existing servicer. The hope is that these enhancements will bring some stability to the housing market, particularly those areas hit hardest in Nevada, Arizona, Florida, and California.

(Note that FHA, USDA, and Jumbo mortgages are not eligible for HARP. If you have an FHA loan, you may find mortgage relief through FHA Streamline Refinances which is a separate program administered by the FHA.)

Specific Enhancements to HARP 2.0

The Home Affordable Refinance Program (HARP) is available to homeowners with housing loans sold to Fannie Mae or Freddie Mac before May 31, 2009, with loan-to-value ratios (or LTVs) over 80%. Essential changes to HARP – the FHFA's so-called "enhancements" – include the following:

- *"Eliminating certain risk-based fees for borrowers who refinance into shorter-term mortgages and lowering fees for other borrowers."*

- *"Removing the current 125 percent LTV ceiling for fixed-rate mortgages backed by Fannie Mae and Freddie Mac."*

- *"Waiving certain representations and warranties that lenders commit to in making loans owned or guaranteed by Fannie Mae and Freddie Mac*."

  The enhancement above limits the lenders' liability, making the lending process less risky. For same servicer relief refinance mortgage loans with LTVs over 80%, the same servicer will not be forced to buy the mortgage back in the event the mortgage documents were fraudulent or missing information before they were sold to Fannie or Freddie. The refinancing lender will also enjoy limited representation and warranty liability, so long as the borrower's file was complete and proper income and asset verification procedures were followed.

- *"Eliminating the need for a new property appraisal where there is a reliable AVM (automated valuation model) estimate provided by the [Fannie Mae and Freddie Mac]."*

  The enhancement above removes a major hurdle for homeowners whose property values have decreased significantly in a falling housing market, and saves borrowers the cost of another appraisal which is typically several hundred dollars.

- *"Extending the end date for HARP until Dec. 31, 2013, for loans originally sold to [Fannie Mae and Freddie Mac] on or before May 31, 2009."*

A loan application dated December 1, 2011, or later, with a settlement date of January 3, 2012, or later, will fall under the HARP 2.0 enhancements.

New Guides from Fannie Mae and Freddie Mac Reflect HARP Enhancements

On November 15, 2011, both Fannie Mae and Freddie Mac released their new guides incorporating the HARP 2.0 enhancements. It is clear that same servicers of relief refinance mortgages, Refi Plus, or DU Refi Plus, will have the burden of representation and warranty risk lifted in many circumstances, which should encourage refinancing. Furthermore, risk-based fees were either reduced or eliminated for different loan types. Fannie Mae's loan-level price adjustments (LLPAs) and Adverse Market Delivery Charges (AMDCs) for both Refi Plus and DU Refi Plus (HARP loans with LTV ratios greater than 80%) were dropped to 0.00% for loans amortized for 20 years or less; LLPAs/AMDCs dropped to 0.75% for loans amortized over 20 years. Freddie Mac made similar fee cap reductions: HARP relief refinance mortgages (non-investment) for 20-year and under fixed mortgages are capped at 0.00%; fixed rate mortgages for over 20 years are capped at 0.75%; and all ARM fees are capped at 0.75%.

Think You Are Too Far Underwater? Think Again!

Fortunately, it does not matter how far underwater your mortgage loan is because HARP 2.0 has an unlimited LTV. Your new mortgage, the refinance, must be a fixed rate loan for a 30-year or under period. Regardless of whether your home's value is $100,000 and you owe $300,000, there is still an unlimited LTV for those fixed rate loans. However, if you opt for an ARM (which by definition is not a fixed rate loan), then there will be an LTV cap of 105%.

The goal of the HARP 2.0 refinance loan is to reduce the monthly mortgage payment. That is, to get the homeowner out of his or her existing high interest loan and into more reasonable terms with a lower interest rate. In much-needed recognition of the challenges faced by homeowners, a borrower is now permitted to have one 30-day delinquency in the past year and still qualify for the refinance, so long as the delinquency didn't occur during the six-month period prior to the refinance. Occupancy of the mortgage being refinanced no longer has to match the occupancy of the relief refinance mortgage.

Importantly, homeowners with employment struggles can still take advantage of HARP as there is no requalifying for the new loan; and there is no verifying income if you had a stated income loan. The only barrier involved is when the homeowner's *principal plus interest payment* increases by more than 20%. When there is a 20%-plus increase in the payments, then the borrower must requalify and income verification is a part of that process. *But remember, the purpose of a HARP refinance is to reduce the monthly payments, not increase them!*

When you owe more on your home than it is worth, consider refinancing your loan sooner rather than later. The newly expanded HARP 2.0 continues only through the end of 2013. You may be able to refinance at a much lower interest rate, particularly if you are struggling to get out from under an ARM. If you can shorten the duration of the mortgage period and still sustain a manageable payment schedule, then the principal will reduce all the more quickly, giving you the greatest benefit from today's historically low interest rates.

Finally we have HARP 2.0, a program that really provides meaningful mortgage refinance help for those distressed homeowners who want to remain in their homes.

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Lawrence 'D' Pew is an experienced tax, bankruptcy, and transactional attorney, and founder of the Pew Law Center, PLLC, a leading Arizona tax and bankruptcy law firm focused exclusively on debt relief. With offices in Mesa, the law firm serves Arizona residents in the greater Phoenix area, including Scottsdale, Mesa, Tempe, Gilbert, and Chandler. As a client-oriented law firm with a mission to always exceed client expectations, the Pew Law Center has helped over 2,000 people file for bankruptcy and eliminate over $100 Million in debt.

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