

Understanding Foreclosure

Reasons for Foreclosure

If you think back to when you first bought your home, losing it was probably the furthest thing from your mind. No one ever actually plan to go into foreclosure. Most homeowners find themselves faces with extenuating circumstances that force them to stop making timely mortgage payments. Here are a few of those reasons:

- Losing a job and/or income
- A death in the family
- Divorce / loss of second income
- Unexpected illness or medical crisis
- Overextended debt obligations
- Unable to pay an adjustable interest rate (ARM) that increases
- Unexpected major home maintenance expense

Understanding Your Mortgage to Avoid Foreclosure

Most homeowners who have lost their homes to a foreclosure will tell you that they were unaware of some very important features of their mortgage before signing the contract. It is imperative, whether buying, refinancing, or you currently own your home, that you have a comprehensive understanding of your mortgage in order to avoid going into foreclosure. As a homeowner with a mortgage or home equity line of credit (HELOC) you should take the time to find the answers to the questions below to better understand your mortgage.

1. Who is the lender? Is your mortgage a government loan?

The original lender on your may stay with you for the length or the loan, but your loan may be sold to another lender or loan service after the purchase of your home. In order to find out who your current mortgage holder is, take a look at your mortgage statements. (If you need a copy of you loan documents, contact your mortgage holder, your real estate agent, or your escrow holder.) Your mortgage statements will have the following information: lenders name, address, contact telephone, web address, and your account number. If you start to get into a financial bind or have already become late on your payments, you should contact your lender immediately. Many lenders are offering temporary loan modifications to help keep you from falling too far behind. To find out whether your loan is a FHA, Fannie Mae, Freddie Mac or VA loan, check your original loan documents. If you are starting to get into financial trouble and the loan is governmentally insured, you lender is required to offer you ways in which to help you keep your home.

2. What type of mortgage do you have?

Your mortgage may be an adjustable or a fixed rate loan. An adjustable-rate mortgage (ARM) differs from a fixed-rate mortgage in many ways. Most importantly, with a fixed-rate mortgage, the interest rate stays the same during

the life of the loan. With an ARM, the interest rate changes periodically, usually in relation to an index, and payments may go up or down accordingly. Find out when it will begin to adjust and how often. How often will it adjust? When it does adjust, find out if it will become amortized...will you have to start paying the principal in addition to the interest?

3. **Is there a prepayment penalty on the loan?**

Extra fees that may be due if you pay off your loan early by refinancing the loan or by selling the home. The penalty is usually limited to the first 3 to 5 years of the loan's term. If your loan includes a prepayment penalty, make sure you understand the cost. Even if you make just a partial prepayment, some loans may have a prepayment penalty attached.

4. **How sustainable are your household finances?**

Death, divorce, and disability are the most common reasons for causing financial problems. Have you thought about how you will make your mortgage payments should disaster strike? Start making a plan to cover your mortgage, including life and disability insurance.

Ways to Avoid Foreclosure

Foreclosure starts with the filing of a Notice of Default. No lender wants to foreclose but they will file a Notice of Default to protect their interests. To prevent that from happening, but knowing you are going to be unable to make your mortgage obligations, contact your lender immediately. Depending on your particular situation, here are some options your lender might suggest to you:

- **Spread out the missed payments over a longer term**

This is called a *repayment plan*. Let's say your payment is \$1,200 a month. The lender can agree to let you add \$100 to each monthly payment for a year until you are caught up.

- **Forgiving a payment**

This is called *debt forgiveness*, and it rarely happens. Let's say you and your lender can agree on a way in which you will be current after missing a payment or two but without the means to pay it back, the lender might waive your obligation.

- **Additional time to catch up on your payments**

This is called *forbearance*. Your lender is willing to work out a repayment plan that is affordable to you and hold off on taking legal action against you.

- **Add the back-payments to your loan balance**

This is called a *refinance*. Your lender might increase your loan balance by including your back payments, if you have sufficient equity and meet the lender's lending guidelines.

- **Give you a new, separate loan**

This is called a *partial claim*. Many government loans include provisions that allow borrowers to apply for another loan which will pay back the missed payments.

- **Changing the terms of your loan**

This is called a *note modification*. Let's say your mortgage is an adjustable loan, the lender might change the

interest rate to a more manageable rate or freeze the interest rate before it increases. Or they might also extend the amortization period.

Ways to Stop Foreclosure

If you have missed fewer than three mortgage payments or are anticipating that you might have to miss them in a month or so because of life circumstances, put your smarts in action and implement this simple plan to avoid foreclosure. Don't confuse simple with easy; avoiding foreclosure can take time, patience, money and effort, but if you save your home, it could be worth it!

- **Get perspective on your home's worth**

Before you make the massive commitment of time, money and energy it might take to avoid foreclosure, make sure that saving your home is going to be worth it. If, for instance, you have extra mortgages and home equity lines of credit (HELOCs) on your home, it may not make sense for you to restructure that debt so that you still have a \$500,000 mortgage on a home that is worth \$300,000.

- **Contact your lender now**

If you can make a persuasive request, as in a "hardship letter" to your Lender, they may be willing to offer a new or temporary loan or a loan modification.

- **Don't be afraid**

Not being able to meet your mortgage obligations can strike fear in the heart of most people. This fear can be paralyzing. People stop paying any of their bills, avoid answering the phone, stop opening their mail...but the quickest way to conquer your fear is to do "something" about it. Doing something will get things moving, whether it's calling your lender to explain your situation, pulling your bills together, or looking for a new job. These actions can ultimately stop the Notice of Default or Notice of Trustee Sale. Because by the time that happens, there's not a whole lot left to do to save your home.

- **Up your cash flow**

Obviously at this point, not having enough money is the real issue. Think about doing some freelance work or getting a second job, or taking in a roommate. Look at the things you don't need or use that might be valuable to someone else. Carefully examine your budget; where can you cut unnecessary expenses? Be willing to make sacrifices and your lender might be willing to negotiate with you.

- **Is refinancing an option?**

Let's say your mortgage balance is close to or less than what your home is now worth. Then you might be able to refinance your home. Refinancing could mean getting a lower interest rate, lowering your monthly payment, skipping a few payments, or even receiving cash at the end of close of the transaction. Start with your current mortgage lender since some lenders will be more apt to get you into a new loan with them than they will to modify your current loan.

Also, look to nonprofit, alternative and governmental lenders. For example, the Neighborhood Assistance

Corporation of America offers a Home Save refinance mortgage with interest rates far below market averages for homeowners in distress. The Federal Housing Administration (FHA) is another source for refinancing loans to help borrowers who have fallen behind on their mortgages.

- **Sell your home without delay**

If you have tried all other avenues with no luck and it looks like you will not be able to find a solution, then you should seriously consider putting your home up for sale without delay. There are many agents today that have knowledge and experience with selling distressed properties. Find an agent that specializes in this area...your home will sell quicker with possibly less damage to your credit – and less mental stress.

- **Options for Seniors**

There are other options available for persons over 62. Reverse mortgages and advances on your future appreciation, which unlock the equity in your home, are just 2 areas to consider. But do not make any financial decisions regarding these options without first speaking to your financial adviser, CPA, and/or your estate planner before you decide on anything.

Already in a Foreclosure? Ways to Stop the Foreclosure Process

If you have missed more than three mortgage payments, your choices have significantly narrowed. And your lender has probably already filed a Notice of Default (NOD). If you haven't already contacted your lender, do so immediately. Most lenders are reluctant to work with you if you have already falling way behind on your payments and foreclosure proceedings have already been set in motion.

At this point you may be given a certain time period to make up your late payment and pay the costs for the filings which will stop the foreclosure process. This is called reinstatement of your loan. But if your lender will not work with you and/or you are not able to make up the payments, here are a few additional options that might help to stop the foreclosure:

- **Foreclosure workout**

Try to work out a compromise with your lender. Until the home is actually up for auction, most lenders would prefer to get you back on track with your payments than take your home back.

- **Sell your home fast**

Contact a real estate agent immediately. Find one that specializes in foreclosures and has a track record of getting these homes sold quickly. An agent with expertise in this area will be able to give you a realistic market value of your home and tell you the truth about its sell ability.

- **Is Short Sale an option?**

If the home is worth less than what is owed on the mortgage, a short sale may be an option. Again, find an agent who is an expert in short sales and can work with your lender to find out if they are willing to work out a short sale. This is called a *pre-foreclosure redeemed*.

If you get an offer from a buyer prior to the home being auctioned, your lender must consider it. Because the

lender is going to sell your property if foreclosed on, presenting them with a short sale offer would save them time and money and effort in finding a buyer on their own. And though your credit will be damaged with a short sale, it will be far less damaged than with a foreclosure. Therefore continue to be persistent if finding a buyer, even while the home is in foreclosure proceedings.

- **Sign the deed back to the lender a Deed-in-Lieu of Foreclosure**

By voluntarily signing the deed to the home back to the bank -- the lender forgives the mortgage, thereby canceling the foreclosure action. This is called a deed-in-lieu of foreclosure. But Deeds-in-Lieu of Foreclosure will affect your credit the same as a foreclosure will. And lenders are usually very reluctant to agree to a Deed-in-Lieu of Foreclosure: the homeowner will sue claiming they didn't realize what was happening, the lender must pay off any second or third mortgages or home equity lines of credit (HELOCs) before off before the Deed-in-Lieu can be executed, and by allowing the foreclosure process to proceed, the lender can be certain of the borrower's true financial distress.

As such, a Deed-in-Lieu of Foreclosure is virtually never granted unless: foreclosure is imminent; the owner has had their home on the market for several months and has been unable to sell it; there are few or no junior loans or liens the lender will have to pay off; the seller can document their financial hardship; and the seller initiates the process and documents the voluntary nature of their request for a Deeds-in-Lieu. Even when all these factors are present, many lenders will not agree to a Deeds-in-Lieu, but it is worth a try!

- **Assumption of your loan**

Although most loans are no longer assumable, meaning they have a "due on sale" clause stating the borrower agrees to pay off the loan off when the property is transferred, it's may be possible for you to you might be able to convince your lender to modify your loan by deleting this clause and allowing another buyer to assume the loan. Though the lender may want to qualify the new buyer, it could be a winning option for all parties. Additionally, you might be able to settle on a down-payment from the buyer which could be used to make up any late payments on the loan.

- **Try a Lease-Option**

To effectively utilize a lease-option to stop the foreclosure process, your lease income payments must cover most or all of your mortgage, property tax, and insurance payments. The buyer is now your tenant but you continue to own your home. Your tenant may also make a lump option payment to acquire the purchase of your home, which could then be used to bring your loan payments current.

- **File bankruptcy**

If there seems to be no other way out, filing bankruptcy will stop a foreclosure proceeding immediately. Foreclosure is considered a collection activity, so when you file a bankruptcy petition, federal law prohibits any debt collectors, including mortgage lenders, from continuing collection activities and the foreclosure process will effectively stop.

But here's the deal; in reality, bankruptcy just gives you additional time to get your finances together, it doesn't alleviate your debts. By law, your mortgage lender and other creditors must work with you to create a realistic

repayment plan to help you get back on your feet financially. Contact a good bankruptcy attorney to find out if bankruptcy is the right option for you.

Foreclosure Resources

- [HUD's Advice on Avoiding Foreclosure](#)
- [Freddie Macs Advice on Avoiding Foreclosure](#)
- [National Foundation for Credit Counseling – Avoiding Foreclosure](#)
- [Fannie Mae Homeowners Information and Guidance](#)
- [Housing Help Now](#)
- [Foreclosure Glossary](#)