AVOIDING FORECLOSURE

Avoid Foreclosure

Find Solutions to Save Your Home or Facilitate a Graceful Exit

Falling behind on your mortgage can be downright frightening. The thought of losing your home may be so overwhelming that you try to avoid even thinking about it, but that's never a good approach.

If you're having trouble keeping up with your mortgage payments, this booklet will give you strategies for getting back on track. If you can't keep your home, it will also help you understand options that can help you gracefully exit to avoid foreclosure.

What to do first

In many cases, it may be possible to bounce back from missed payments. Stay calm if you are having trouble. You will not lose your home right away and panicking isn't productive.

Start by calling your lender

You should contact your mortgage company as soon as you know you will have difficulty meeting your mortgage payments. The sooner you call, the more options will be available to you. No matter what your situation is, CALL TODAY.

Bear in mind that lenders don't want to foreclose on homes. It's expensive for them and can drag out for months in many states. At the same time, they don't want to waste time and money on risky borrowers who are chronically late with payments – and who may not be taking good care of the home they may have to later take back and sell.

Ask about payment plans to catch up

Your lender may agree to accept smaller payments for a short period of time and then add the rest to the balance of the loan. Or they may agree to interest-only payments for a time. They may even agree to permanently modify the terms of your loan, including reducing the interest rate or extending the term (length) of your loan to make payments more affordable. If you are upside down on your loan (you owe more than the property is worth), you may also be able to have the lender agree to reduce the amount of money that you owe on the mortgage, although this does not happen often.

If you are going to try to work out a modified payment arrangement with your lender, it's important to present them with factual – not emotional – information about your situation and be willing to back it up with documentation.

To help you, lenders typically need:

- Your loan account number
- A brief explanation of your circumstances
- Recent income documents such as pay stubs, Social Security benefits statements, disability, unemployment, retirement, or public assistance. If you are self-employed, have your tax returns or a year-to-date profit and loss statement from your business available for reference.
- List of household expenses

Expect to have more than one phone conversation with your lender. Typically, your lender will mail you a “loan workout” package. This package contains information, forms, and instructions. If you want to be considered for assistance, you must complete the forms and return them to your lender quickly. The completed package will be reviewed before the lender talks about a solution with you.

Talk with a housing counselor

If you don’t want to talk to your lender directly, HUD-approved housing counseling agencies are available to provide you with the information and assistance you need to avoid foreclosure.

Foreclosure prevention counseling services are provided free of charge by nonprofit housing counseling agencies working in partnership with the federal government. These agencies are funded in part by U.S. Department of Housing and Urban Development (HUD) and NeighborWorks America. There is no need to pay a private company for the counseling session. You can find a list of HUD-approved housing counseling agencies at HUD.gov.

Methods to prevent foreclosure

When speaking with your lender, you may be presented with options besides a repayment plan. Two main solutions are loan modification and refinancing.

Loan modification

If you can no longer afford to make your monthly loan payments, you may qualify for a loan modification which could make your monthly mortgage payment more affordable. This solution is also good for homeowners who are underwater on their loan or need a principal reduction. In certain economic circumstances, federal housing agencies sponsor loan modification programs that allow you to permanently modify your loan agreement. Information on the programs that are available can be obtained through a HUD-certified housing counseling agency or at HousingPolicyCouncil.com.

There are a several ways a loan can be modified:

- Combine late fees with the principal
- Lower the principal balance
- Switch from an adjustable-rate mortgage (ARM) to a fixed-rate mortgage
- Reduce the interest rate
- Add time to the loan term

All or some of these changes can be made when undergoing loan modification. Mortgage loan modification may cause some harm your credit score, but not as much as foreclosure would. Contact your lender to learn if you can modify your loan. You will likely have to fill out a loss mitigation form and provide a hardship statement that explains why you are having trouble making mortgage payments.

Refinancing

Refinancing your mortgage is an alternative to loan modification that is more widely available. Instead of modifying your current loan, refinancing means replacing it with a new loan that has different terms. You could qualify for a longer or shorter term, a lower interest rate, or even a different loan type. While loan modification is good for those who are underwater on their loan, refinancing is not. Refinancing is easier when you have equity in your home.

To refinance your home, you need to submit an application to your preferred lender. This can be your current lender or a new one. After an appraisal and underwriting, you can close on the new loan with terms that make it easier to keep up with your mortgage payments.

How to make a graceful exit

Unfortunately, staying in your home isn't always feasible. The following solutions enable you to gracefully leave your home without waiting for it to be foreclosed on.

Pre-foreclosure sale

If your problems aren't temporary, you may need to sell your home. If you have built up equity in your home that you would lose in a foreclosure, then this may be your best bet.

If you have enough equity in your home to be able to afford to pay a real estate professional's fee (usually six percent of the sale price, although it may be lower in some cases), it's a good idea to interview three real estate professionals and let them handle the sale for you. Statistics show that homes sold by professionals sell faster than ones where the owner is making the sale.

Make sure you get any agreements in writing from your Realtor® or agent as to what they will do to market your home. And don't necessarily go with the agent who tells you they can sell your home for top dollar. Choose the one who you believe will do the most to help your home sell quickly at a fair price.

If you're going to go this route, talk with your lender and let them know that you have put the home up for sale. Ask if they will hold off on their foreclosure proceedings longer since you have the house listed.

If you don't have much equity in our home, you may need to list your home as "for sale by owner," also known as "FSBO."

Short sales

If you've purchased your home recently or home prices have dropped since you purchased the property, you may not have a lot of equity. In some cases, you may owe more than your home is worth. However, you may still be able to sell your home for less than what is owed on it. This is done through a process known as a "short sale."

In a short sale, the buyer will prepare documentation showing the lender that you are in financial hardship and will end up in foreclosure anyway. They will then offer to buy the home for less than remaining balance on your mortgage.

Let's say, for example, your home is worth $60,000 and you owe $75,000 on your first mortgage and $10,000 on a second mortgage for a total of $85,000. The buyer may convince the first mortgage lender to settle for $55,000 and the second lender (who may get nothing in a foreclosure or bankruptcy) to settle for $3,000. They may even pay you $500 or so to cover your moving expenses.

A short sale will help you avoid foreclosure, but it will still appear as a negative remark on your credit report, showing you paid for less than the total amount. This notation will remain on your credit for seven years.

On the other hand, if the documents are properly drawn up, you may not risk a deficiency judgment if the home was sold and didn't bring in enough to pay the lenders. A deficiency judgment happens when the lender sues a former homeowner to collect the remaining balance owed on the mortgage.

Deed-in-lieu of foreclosure

With a deed-in-lieu, you basically give the lender back the home. By doing so, you may minimize the foreclosure expenses. They may also offer deed-for-lease, where you can remain in the home for a limited time as a renter.

Deed-in-lieu of foreclosure will likely be noted in your credit report. It may be viewed by creditors as negatively as a foreclosure.

Bankruptcy

In some states and in some situations, filing for bankruptcy can delay or stop the foreclosure process. Since bankruptcy laws vary from state to state, it's a good idea to talk with an attorney as soon as possible if you think you may need to go this route.

Options to Avoid: Equity Skimming or Leasebacks

One of the less scrupulous methods for "helping" homeowners stay in their homes is equity skimming or leaseback programs. The individual offering to help you out will offer to catch you up on your payments and take them over for a set time while you continue to "rent" the home. The contract, however, usually contains strict provisions so that if you are one day late with your monthly payment, for example, the home is no longer yours. Or you may actually sign over ownership of your home with the opportunity to buy it back at terms you'll never be able to afford. Either way, you lose.

Be very careful if someone offers you an easy way out of your foreclosure situation. When you are in foreclosure, you're a high-risk borrower. Your lender won't let you off the hook easily, why would someone else?

A note about quitclaims: You can quitclaim your ownership in a property by signing a legal document turning over your rights to someone else. This does not get you off the hook with the lender. It just leaves you with no rights to the property. Do not quitclaim your property if you cannot get an attorney to look over the documents for you.

What happens if my lender proceeds with foreclosure?

The length of time it takes your lender to foreclose on your home and the steps they must take vary by state. Foreclosure laws are specific to the state in which the property is located. States usually have either judicial foreclosure proceedings, non-judicial or statutory foreclosure proceedings.

- **In judicial foreclosure** states, the mortgage holder must take you to court and get the court's order to foreclose. If you're working with an attorney, this may give you the opportunity to stay in your home longer or even stop the proceedings.
- **In non-judicial or statutory foreclosure** states, lenders

may be able to foreclose without going to court, which can be faster or easier for the lender. Some states allow a combination of both, depending on how the contract is written. For information on state foreclosure laws, visit ForeclosureLaw.org or talk with a consumer law attorney in your area.