Avoiding Foreclosure

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Avoid Foreclosure!

Falling behind on your bills can be very stressful, but 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 the best approach. If you're having trouble keeping up with your mortgage, this booklet will give you strategies for getting back on track.

How Does It Work?

How long it takes a lender to foreclose on your home, and the steps they must take to do so, varies by state. Foreclosure laws are specific to the state in which the property is located. States usually have either judicial foreclosure proceedings or 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 an 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 and 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:

www.foreclosurelaw.org or talk with a consumer law attorney in your area.

While the rules regarding foreclosure proceedings vary by state, here's what you can generally expect if you fall behind on your mortgage payments.

Your Options If You Are Behind On Your Mortgage:

Call your mortgage company.

You should contact your mortgage company as soon as you know you will have difficulty meeting your mortgages payments. You do not have to wait until your interest rate resets, nor do you have to wait until you are already behind in your payments. In fact, the sooner you call, the more options will be available to you. No matter what your situation is, CALL TODAY.

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.

Your lender may agree to make 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 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.

What if I don't want to talk to my mortgage company?

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. You may contact any HUD certified Housing Counseling Agency. 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 HUD and NeighborWorks America. There is no need to pay a private company for the counseling session. You may find a list of HUD certified Housing Counseling Agencies at www.HUD.gov.

Loan Modification

If you can no longer afford to make your monthly loan payments, you may qualify for a loan modification to make your monthly mortgage payment more affordable. Millions of borrowers who are current, but having difficulty making their payments and borrowers who have already missed one or more payments may be eligible for various government sponsored loan modifications

that alter the terms of your mortgage either temporarily or permantly. Information on the programs that are available can be obtained through a HUD certified Housing Counseling Agency or at www.hopenow.com

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 do have enough equity in your home to be able to afford to pay a real estate professional’s fee (usually 6% of the sales price, sometimes lower), 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 them as to what they will do to market your home. And don’t necessarily go with the agent who tells you she 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 your home, you may need to list your home for sale by owner – also known a “FSBO.”

Beware: This can be a lot of work. Visit your local library for books on selling your own home and implement as many strategies as you can. You don’t want to add to your stress by having no buyers show up to take a look at your home.

You may also be able to save the real estate commission by working with a real estate investor who will offer you a quick but fair sale on your home. Keep in mind that even while you're trying to sell, the lender may continue foreclosure proceedings so again, it's important to try to maintain an open dialogue with the lender.

Short Sales

If you've purchased your home within the last few years, you may not have a lot of equity, or you may even owe more than your home is worth; but you may still be able to sell your home for less than 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 you owe on it.

Let's say, for example, your home is worth $60,000 and you owe $75,000 on your first mortgage and $10,000 on the second 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 on your credit report as paid for less than the total amount and that will be a negative remark. On the other hand, if the documents are properly drawn up, you won't risk a deficiency judgment if the home was sold and didn't bring in enough to pay the lenders. To make sure you are protected, ask the seller if they will pay to have your documents reviewed by an attorney of your choice.

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 period of 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 have actually signed over your home to that buyer 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 your rights over 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.

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. But your credit report will likely say "deed in lieu of foreclosure" which is pretty much as negative 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.

Notes

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