

Foreclosure Prevention

Homeowners face foreclosures for many reasons. The primary causes are job loss, marital problems and prolonged illness. The beginning stages of the foreclosure procedure can start quickly, normally when payments become three to four months late, depending on the mortgage terms.

It's important to point out that no one benefits from a foreclosure and most lenders will do all they can to help borrowers stay in their homes. Lenders are not allowed to make a profit from the sale of a home in a foreclosure. The homeowner would get any **excess proceeds** from a sale of a **foreclosed home**; however, all the fee's, i.e.: lawyer, court, filing, late, etc., that the lender had to pay as part of the foreclosure process would be paid before any of the excess money from the sale is distributed to the homeowner. Unfortunately for both the lender and defaulted borrower, foreclosures usually result in a loss for both parties.

The lender's willingness to help a homeowner through their current problem may depend heavily on their past payment records. If the owner has "always" made timely payments and had no past late payments before being hit with their current crisis, the lender will be more receptive than if the borrower has a record of unexplained chronic late payments. Clearly, having a good payment record is important as well as meeting with the lender at the first sign of trouble and being honest about any impending difficulties. There's no shame in having problems. Hiding them just makes overcoming them more difficult and borrowers should remember that lenders are financial partners.

For those falling behind in payments or who are aware of an upcoming event that will likely result in lost income or inflated expenses, they should contact their lender right away to discuss alternative payment arrangements. The owner must stay in communication with the lender and be honest about their financial situation. Expect the lender to ask hard questions regarding your monthly income and expenses. It is very important for the owner to use real figures based on their current or impending financial situation. The lender will also ask about your sources of income and amounts. Have all that information at hand, no estimating or guessing.

Loan Modification

A loan modification, or workout plan for us from the old school, is simply an agreement between the borrower and lender to prevent the loss of a home. The agreement will be legally binding and will contain specific deadlines that must be met in order to avoid foreclosure.

For those owners who only experienced a temporary loss of income and are now back on their financial feet, a lender may offer a "repayment plan." This is a plan where the lender stops the foreclosure process in favor of having the borrower re-start their monthly mortgage payment along with repaying part of the delinquency each and every month until paid in full. Usually the delinquency would need to be paid off within 12 to 24 months. In some cases, the additional amount may be a lump sum due at a specific date in the future. Repayment plans are probably the most frequently used type of agreement. This all sounds easy right? It is not easy. A loan modification process is complicated, frustrating and time consuming. Delinquencies that took months to grow won't be solved in a single e-mail or phone call, so be prepared to stick it out.

A little knowledge can go a long way

Hopefully you'll never have to face the harsh reality of defaulting on your mortgage, but a little knowledge can go a long way. Mortgage Notes or Promissory Notes always carry a grace period, usually its 15-days, but occasionally I will see Notes that only have a 10-day grace period. (Dig out your Note or payment coupon and take a look). Most of us play the float game and delay making that large payment until the last minute and the lender doesn't seem to care. On day 16 however, they start to care a little and a late fee is assessed. Even then, you make your payment and add in the fee and all is good. On day 30; however, things get serious and the lender will ask for immediate payment of all the money due including late fees, some will even return your payment check if it does not cover both the current and past due payments. By day 45, the lender's collection company will call. By 60-90 days after the first missed payment the lender will send a Notice of Default, usually by Certified Mail, which gives a finite period in which the owner needs to correct the default.

Once that remedial period passes, the lender's collection department will pass your loan file to the legal department and after another period of time, the documents are sent to a local attorney and the foreclosure proceeding begins. All the while the fees are adding up. (Remember that these late fees are paid to the lender first in a foreclosure sale before any excess money from the sale is given back to the borrower). Between when the time the Notice of Default is recorded and up to about 5 days before the home is auctioned off, the borrower can reinstate and correct the default by paying the past due payments and fees. Explain how a defaulted borrower can reinstate - by another lender, guarantor?

The Obama Administration has enacted a program to help homeowners who are having difficulty making their mortgage payments. The Making Home Affordable program is a partnership between the mortgage industry and the federal government. To see if you qualify for this program call 888-995-HOPE.

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