

Handling Default and Foreclosure

Delinquency Vs. Default

- Delinquency = less than 3 payments behind. A collections account. Only late fees accrue
- Default= more than 3 payments behind. Mortgage automatically goes into foreclosure. Attorney fees, late fees, and other costs accrue that you will be responsible for

Foreclosure

- The process where the lender legally pursues taking back the collateral (your home) because you are not able to pay
- Your home can also be foreclosed on for failure to pay taxes.

Foreclosure in NYS

- NYS is a “judicial state” meaning lenders must follow a certain set of legal steps in order to foreclose on your home.
- This normally takes 8-12 months.

NYS Law for Subprime, High Cost and Non-Traditional Mortgages

- Effective 9/1/08 lenders are required to send homeowners in default a notice 90 days prior to filing a foreclosure lawsuit.
- Effective 9/1/08 there must be a mandatory settlement conference scheduled for all foreclosure filings within 60 days of that filing.
- Those currently in foreclosure have the right to a settlement conference as well.
- Lenders will identify the loans that apply and homeowners will be notified via mail.
- This applies to owner occupied residences only.

President Obama's Making Home Affordable Plan

1. Loan refinances for those with mortgages owned by Fannie Mae or Freddie Mac

<http://loanlookup.fanniemae.com/loanlookup>

<https://ww3.freddie.mac.com/corporate>

2. Voluntary loan modifications by servicers who agree to participate or those who have received TARP funds after March 1, 2009

www.financialstability.gov

STEP 1: Determine the Nature of Your Hardship

- What has caused your loss in income?
- Is it temporary or permanent?
- When will you be able to pay your mortgage?
- What kind of repayment plan will work for you?
- Do you want to keep your house?
- CAN you realistically keep your house?

STEP 2: Determine the Type of Loan You Have

- Conventional
- FHA
- Sub-prime
- Fixed rate
- Adjustable

Your Options

- The answers to the previous questions will determine your options
 - Chapter 13 bankruptcy
 - Deed-in-lieu
 - Short-sale or pre-foreclosure sale
 - Reinstatement
 - A lump sum payment to bring mortgage current
 - Use savings, 401k, borrow funds
 - Refinance to a better loan
 - Mortgage modification-changes terms of the current loan
 - Repayment plan
 - Get a part-time job, take in a roommate
 - Partial claim (FHA only)
 - Forbearance

STEP 3: Contact Your Lender

- The sooner you address this hardship the better
- Contact your lender! They MAY be willing to devise a workout plan with you depending on your current budget
- Document the date and time of all conversations and the name of the person you spoke with
- Insist on speaking with Loss Mitigation
- If <90 days delinquent, put your conversation in the form of a letter and mail it to the servicer as proof of the conversation and the solution.
- Remain calm; yelling will not help.

STEP 4: Contact a Housing Counseling Agency

- Make sure the agency is HUD-certified and not-for-profit. You should NOT be charged a fee for services, except in some cases, a small credit report fee.
- Some lenders/servicers offer Counselor only Hotlines
- Sometimes lenders are more willing to devise workout plans for customers involved in counseling
- Counselors are a neutral third party that act as a trusted advisor and help focus on the issue

Local Housing Counseling Agencies

- Albany County Rural Housing Alliance, Inc.
Cohoes, Voorheesville, Ravena
235-3002 or 756-3656
- Affordable Housing Partnership
255 Orange St. Albany
434-1734
- Better Neighborhoods, Inc.
986 Albany St. Schenectady
372-6469

Local Housing Counseling Agencies, Cont'd

- Housing Resources of Columbia County
605 State St. Hudson
822-0707
- TRIP Neighborworks ©Homeownership Center
251 River St. Troy
690-0020

What Housing Counseling Can Do to Help

- Explain all of your options
- Contact your lender and assist both parties to arrive at a mutually beneficial resolution
- Assist you with properly completing all non-legal documents to meet lender's requirements
- Refer you to low/no-cost legal services
- Seek another lender who may be able to offer a better rate
- Provide money management counseling and work to correct errors on credit reports

What Housing Counselors Cannot Do

- Give legal advice or prepare legal documents on your behalf
- Give tax advice
- Give you money to pay for your mortgage
- Counselors do not have a magic wand to solve all problems with one wish

STEP 5: Be Prepared to Make Changes

- There are no sources of money to make mortgage payments for you-even in time of hardship
- Be prepared to make sacrifices in your budget if you plan to keep your home
- Remember this is only temporary until you are back on track financially

What Is Expected of You?

- You are an active participant in the resolution of your mortgage
- You must be honest and forthcoming with all information and respond to all inquiries in a timely manner
- Provide all paperwork up front
- Be on time for appointments
- Be ready to accept long term counseling

Documents Needed

- Intake Form
- Budget
- Credit Report Authorization Form
- Authorization to Release Loan Information
- Foreclosure Mitigation Counseling Agreement
- Asset form
- Proof of income
- Budget
- Most recent bank statements
- Deed

Documents Needed, cont'd

- HUD-1 (Settlement Statement)
- GFE (Good Faith Estimate)
- Mortgage and Mortgage note for all grants and loans on property.
- Truth In Lending Disclosure
- Most recent mortgage statement
- All lender or attorney correspondence
- Hardship Letter

Why Do I Need to Gather So Much Information?

- As a homeowner, you are an ACTIVE participant in the resolution of your mortgage situation
- This information is required for the housing counselor to assess your situation, provide an action plan, speak with the servicer or lender and move your case forward quickly
- Do NOT call to schedule an appointment until you have the complete checklist of documents. You will not be seen without all of these documents.

Beware of Scams

- Beware of businesses that market themselves as “rescue” operations or “your only/last hope”
- Beware of companies that ask you to sign your deed over with the promise of buying your home back at a later date
- You should NOT have to pay a fee for consulting services, especially up front before there any positive results. (You should only pay for a qualified attorney.)
- If someone is soliciting YOU, rather than you seeking them, be cautious

Information Privacy and Security

- All client information is maintained under lock and key. (Locked file cabinets and offices, secure password driven databases)
- Client information is never shared unless written authorization is given
- Aggregate information that does not use your identity may be used for obtaining grants

Your Budget will Determine Your Action Plan

- The **FIRST STEP** to resolve your mortgage crisis is to complete a thorough and accurate household budget.
- **BE HONEST** and realistic about your income and expenses.
- This budget should reflect only the necessities.
- This is temporary until your finances are back on track.

Frequently Asked Questions



■ How do I find out who owns my loan (the investor)?

You may access the Fannie Mae or Freddie Mac websites to determine if the loan is owned by either and to determine if you may be eligible under the Making Home Affordable Mortgage Refinance option.

<http://www.fanniemae.com> and click on "Does Fannie Mae Own My Mortgage"

<http://www.freddie.com> and click on "Information for Homeowners" and then "Does Freddie Mac Own My Mortgage"

*You may also request this information from the servicer in writing or verbally.

■ What should I have prepared before calling my lender/ servicer?

- Be prepared to explain why you have had difficulty making your payments or why you expect to have difficulty (nature of your hardship)
- Income information for the household and monthly budget
- Property information such as value and condition

Frequently Asked Questions



■ How do I find a legitimate credit counseling agency?

- You may start by calling 1-888-995-HOPE (4673)
- Does it have the required licenses to do business in your state?
- Does it have a community presence?
- Does the company charge fees for service beyond credit reporting for counseling?
- Access the HUD website at www.HUD.gov/foreclosure and click on "talk to a foreclosure avoidance counselor"

■ How long is the foreclosure process and how soon can I be evicted?

- This varies from state to state and you should consult the HUD website for links and information specific to your state
- In New York State expect an 8-12 month period depending on the lender, NY is a judicial state and certain legal avenues must be followed to foreclose on a home.

Recommended Websites



- <http://www.Financialstability.gov>
- <http://www.HUD.gov>
- <http://www.nw.org>
- <http://loanlookup.fanniemae.com/>
- loanlookup/
- <http://www.freddie.mac.com/corporate/>
- <http://www.banking.state.ny.us>
- <http://www.dhcr.gov>

Tips for Avoiding Foreclosure

1. Don't ignore the problem.

The further behind you become, the harder it will be to reinstate your loan and the more likely that you will lose your house.

2. Contact your lender as soon as you realize that you have a problem.

Lenders do not want your house. They have options to help borrowers through difficult financial times.

3. Open and respond to all mail from your lender.

The first notices you receive will offer good information about foreclosure prevention options that can help you weather financial problems. Later mail may include important notice of pending legal action. Your failure to open the mail will not be an excuse in foreclosure court.

4. Know your mortgage rights.

Find your loan documents and read them so you know what your lender may do if you can't make your payments. Learn about the foreclosure laws and timeframes in your state (as every state is different) by contacting the State Government Housing Office.

Tips for Avoiding Foreclosure

5. Understand foreclosure prevention options.

Valuable information about foreclosure prevention (also called loss mitigation) options can be found on the internet at portal.hud.gov/portal/page?_pageid=33,717348&_dad=portal&_schema=PORTAL.

6. Contact a HUD-approved housing counselor.

The U.S. Department of Housing and Urban Development (HUD) funds free or very low cost housing counseling nationwide. Housing counselors can help you understand the law and your options, organize your finances and represent you in negotiations with your lender if you need this assistance. [Find a HUD-approved housing counselor near you](#) or call (800) 569-4287 or TTY (800) 877-8339.

7. Prioritize your spending.

After healthcare, keeping your house should be your first priority. Review your finances and see where you can cut spending in order to make your mortgage payment. Look for optional expenses-cable TV, memberships, entertainment-that you can eliminate. Delay payments on credit cards and other "unsecured" debt until you have paid your mortgage.

Tips for Avoiding Foreclosure

8. Use your assets.

Do you have assets—a second car, jewelry, a whole life insurance policy—that you can sell for cash to help reinstate your loan? Can anyone in your household get an extra job to bring in additional income? Even if these efforts don't significantly increase your available cash or your income, they demonstrate to your lender that you are willing to make sacrifices to keep your home.

9. Avoid foreclosure prevention companies.

You don't need to pay fees for foreclosure prevention help—use that money to pay the mortgage instead. Many for-profit companies will contact you promising to negotiate with your lender. While these may be legitimate businesses, they will charge you a hefty fee (often two or three month's mortgage payment) for information and services your lender or a HUD approved housing counselor will provide free if you contact them.

10. Don't lose your house to foreclosure recovery scams!

If any firm claims they can stop your foreclosure immediately if you sign a document appointing them to act on your behalf, you may well be signing over the title to your property and becoming a renter in your own home! Never sign a legal document without reading and understanding all the terms and getting professional advice from an attorney, a trusted real estate professional, or a HUD approved housing counselor.