

Handling Default and Foreclosure

TRIP NeighborWorks®
HomeOwnership Center

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.

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
 - 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
235-3920 or 756-3656
- ◆ Affordable Housing Partnership
255 Orange St. Albany
434-1734

Local Housing Counseling Agencies, Cont'd

- ◆ TRIP Neighborworks ©Homeownership Center
251 River St. Troy
690-0020
- ◆ Better Neighborhoods, Inc.
986 Albany St. Schenectady
372-6469

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 Before You Leave Today

- ◆ Intake Form
 - ◆ Budget
 - ◆ Credit Report Authorization Form
 - ◆ Authorization to Release Loan Information
 - ◆ Foreclosure Mitigation Counseling Agreement
 - ◆ Self-Selected Action Plan
- ◆ Leave these 6 documents with the class instructor for information purposes. They will be forwarded to the counseling agency you choose if you wish to continue counseling.

Documents Needed AT or BEFORE the Counseling Session

- ◆ Asset form
- ◆ Proof of income
- ◆ Verified Budget
- ◆ Most recent bank statements
- ◆ Deed
- ◆ HUD-1 (Settlement Statement)
- ◆ GFE (Good Faith Estimate)
- ◆ Mortgage and Mortgage note for all grants and loans on property.

Documents Needed, Cont'd

- ✦ Truth In Lending Disclosure
- ✦ Most recent mortgage statement
- ✦ All lender or attorney correspondence
- ✦ Hardship Letter (see attached explanation)
- ✦ ONLY WHEN YOU HAVE ALL DOCUMENTS, will you be granted an appointment.

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.

NO Budget Surplus/A Shortage

- ◆ You will need to make up that shortage in order to qualify for a mortgage resolution plan.
 - Increase Income
 - Decrease Expenses
- ◆ If you cannot pay for your mortgage some options might be:
 - Short Sale
 - Full Sale
 - Deed in Lieu

A Budget Surplus

• If you have enough income to cover all necessities some options to keep your home might be:

- Repayment Plans
- Forbearance Plan
- Loan Modification
