

Look for reasonable rates and terms and have a knowledgeable advisor review the proposed loan if you have any questions. In addition, a Chapter 13 bankruptcy filing, under which you can ask the court to approve a repayment plan that would allow you to pay back delinquent mortgage payments over time, may be an option.

The decision to file a bankruptcy petition is a major one. Before doing so, you should review all of your options and consult a bankruptcy professional.

When Keeping Your Home Just Doesn't Make Sense

If you determine that you simply cannot afford to continue making your mortgage payments while providing for other basic needs, do not walk away from the mortgage. If the home is sold at a foreclosure sale, you run the risk of losing any equity you built up in your home and tarnishing your credit record, a result that could hurt you in obtaining credit down the road. Here are some alternatives for you to consider.

- Sell your home. You stand a better chance of getting more money for the home if you sell it through a reputable real estate agent than if it is sold in a foreclosure sale. In addition, if the proceeds from the sale of your home are not enough to pay off your mortgage, your lender may be willing

to accept less than the amount due on the mortgage and forgive a part of the debt. This is typically called a "short-sale" and can be negotiated directly with your lender or servicer.

- Negotiate with your lender to accept a deed in lieu of foreclosure. If you decide that keeping your home is not to your advantage, you may be able to negotiate with your lender to take the deed "in lieu of foreclosure." That is, you voluntarily turn over your home to the lender as an alternative to foreclosure. You should not agree to a deed in lieu unless the lender agrees to something in exchange, such as releasing you from liability for your balance or any "deficiency" remaining on your mortgage. To make sure that the lender sticks to the agreement, you should have an attorney (not the lender's attorney or an attorney recommended by the lender) review the agreement.

The National Consumer Law Center's Foreclosure Prevention Counseling: Preserving the American Dream, contains detailed information about avoiding foreclosure. It is available for purchase online at <http://www.consumerlaw.org>

This brochure was supported in part by a grant, number 90-AP-2647 from the Administration on Aging, Department of Health and Human Services, Washington, D.C.



ATTORNEY
ANN MOSTOLLER
865.482.4466
www.msw-law.com

SAVING YOUR HOME FROM FORECLOSURE

NATIONAL
CONSUMER LAW
CENTER



77 Summer St., 10th Fl.
Boston, MA 02110
www.consumerlaw.org

September 2007

Unemployment, divorce, death and abusive lending practices put many homeowners at risk of losing their home. If you are facing foreclosure, you may be tempted to give up and walk away from your home. Don't give up! There may be an option available that allows you to keep your home or sell or transfer your home quickly before a foreclosure sale. Here are some guidelines.

Get Legal Advice

Foreclosure is a harsh legal process that often moves very quickly. If you are threatened with foreclosure, obtain legal help immediately to protect your rights. This is especially important if you fear that you may have been taken advantage of by the lender or are the victim of a foreclosure-related scam. To find an attorney, consult your local legal services office, volunteer lawyers project or state bar association.

Beware of Foreclosure Rescue Scams

Be suspicious of anyone who contacts you and claims to be able to save your home. Many of these operations are fraudulent. The person offering to save your home may actually be intending to take it from you.

Negotiate with Your Lender or Servicer

Contact your mortgage lender or servicing company (the company that sends you your monthly statement) as soon as you can.

Negotiate with the lender to restructure the terms of your loan to make your monthly payments temporarily or permanently affordable. Since mortgages are complicated financial instruments, you might find it helpful to consult a reputable, non-profit housing counselor for assistance.

A housing counselor should educate you about available strategies for making your mortgage payments manageable, assess your financial situation, and assist you as you negotiate with your lender or servicer.

The Department of Housing and Urban Development (HUD) maintains a list of approved agencies at <http://www.hud.gov>.

The following list, which is not comprehensive, suggests some of the options you and your counselor may consider:

- A payment deferral under which payments that you missed are not considered delinquent but are added to the end of the loan term. Make sure the lender “reamortizes” your loan – in other words, re-calculates your payment based on the longer term. This means your monthly payment will go up a little, but you won’t face a huge amount of interest at the end of the loan.
- A repayment agreement where you agree to make regular monthly mortgage payments as they are due, together with partial monthly payments on the amount you owe.

- A temporary reduction of the interest rate of the loan. You must generally have a realistic plan for increasing your income to make full payments at the end of the rate-reduction period.
- A permanent modification of the loan’s terms. The loan may be modified by permanently reducing the interest rate, extending the loan’s payment period, adding missed payments to the loan and reamortizing it, or reducing of the principal

Consider Refinancing the Mortgage or Filing for Bankruptcy

Keep in mind that if your mortgage is held, guaranteed or insured by the federal government (the Federal Housing Authority, Department of Veterans Affairs or the Rural Housing Service), you may have additional protections and work-out options.

If you are not able to negotiate a plan with your current servicer you may consider refinancing your existing mortgage. Refinancing may make sense depending on your interest rate and the amount of time left on the mortgage. However, many refinancing options that look helpful may, on closer inspection, be far more costly than the existing mortgage or a scam.