



Foreclosure Problems? What to Do?

By Susan Oliver

First, what is foreclosure? Foreclosure is a legal action used by a mortgage company or community association to recover any money from a homeowner when his or her debt is not paid in accordance with the mortgage agreement and/or governing documents of the community association. It is the legal remedy used to assume ownership of a property when the required loan payments are not made. Foreclosure affects credit scores. Foreclosure results from a homeowner's inability to keep up with monthly payments. The farther behind the homeowner gets, the closer to foreclosure the homeowner becomes. Everyone with a mortgage and/or community assessments is subject to foreclosure, should non-payment become an issue.

There are alternatives to avoid foreclosure. When you fall behind on the payments, you should first talk with someone from your mortgage company and community association's collection department. Their aim is to get you caught up. Some organizations are more flexible than others, but don't give up. The loan service might agree to suspend payments for a few weeks, until you get financially stable. This is known as forbearance. This is not for an indefinite period; it might be for one, three, or six months, and after that, you'll be expected to make full payments on time, and the money owed during the grace period will be added to the end of the loan. However, this option is usually offered to homeowners during a natural disaster, such as an earthquake or tornado.

To assist with mortgage company loans, you may want to explore a loan modification as another option. This is when the lender agrees to alter the loan, but with few or no fees. The lender might reduce the interest rate or change the loan terms. The effect of a modification on your credit record is minimal, compared to foreclosure depending on how far behind you fell on your monthly payments.

Another mortgage option is a "deed in lieu." This option allows the owner to hand over the deed to the property to the lender. They then take possession of the house and sell it. The lender can refuse to accept a deed in lieu of foreclosure, and it often does. The lender does not want to incur the costs of fixing up the house and paying real estate commissions, and they want to avoid any problems with the title. The effect of a deed in lieu of foreclosure on your credit record is serious.

An additional mortgage option is the Partial Claim option (available only for HUD loans). A mortgage will advance funds on behalf of a mortgagor in an amount necessary to reinstate a delinquent loan. Special rules will apply, and you will need to obtain information on this through HUD at (202) 708-1112. The mortgagor will execute a promissory note and subordinate mortgage payable to HUD. Currently, these

promissory or "Partial Claim" notes assess no interest and are not due and payable until the mortgagor either pays off the first mortgage or no longer owns the property.

The option of a short sale avoids a foreclosure as well. You sell the house for less than you owe. You must have the lender's permission to accept a contract for a short sale, and that process is quite time consuming. With a short sale, you make necessary repairs to the house; pay the real estate commission, taxes and government fees; and give the lender whatever money is left over. The effect of short sale on your credit record is severe but not as serious as foreclosure.

If you don't feel comfortable talking with your lender, you should immediately contact a housing counseling agency and make an appointment with a counselor. Most FHA counselors are free or cost very little. A counselor can help you:

- Review your financial situation; determine what options are available to you.
- Learn which of the available arrangements makes the most sense for you and your family, based on your circumstances.
- Call the lender with you or on your behalf to discuss a workout plan.
- Protect you from future credit problems before you get behind on payments.
- Give you information on services and programs in your area.

To find out more about HUD-approved housing counseling agencies and their services, call toll free (800) 569-4287 on weekdays between 9:00 a.m. and 5:00 p.m. The same number can give you an automated referral to the three housing counseling agencies located closest to you.

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