

Facing the Risk of Foreclosure?

Answers to Frequently Asked Questions on Foreclosure Prevention



frbatlanta.org/community-development.aspx



Facing the Risk of Foreclosure?

Answers to Frequently Asked Questions on Foreclosure Prevention

The high rate of mortgage foreclosures is an important concern for the Federal Reserve. We are collaborating with other regulatory agencies, community groups, policy organizations, financial institutions, and public officials to find ways to limit the number of foreclosures and minimize their negative effects on our communities and economy. This brochure is designed to help consumers concerned about the possibility of foreclosure make informed decisions about protecting their homes. As part of its commitment to the goal of homeownership for creditworthy individuals, the community and economic development program of the Federal Reserve Bank of Atlanta supports appropriate consumer protections and responsible lending practices.

I can no longer afford to make my mortgage payment. What are my options?

If you are no longer able to afford your current mortgage payment, a number of workout options described in this brochure may be available to you. As you evaluate your options, it is important to determine whether your short- and long-term financial situation will allow you to make the necessary mortgage payments.

A housing counselor is a good resource to help you if you are unable to make your mortgage payments. A counselor can review your financial situation, discuss various workout arrangements, contact your lender with you or on your behalf, and provide information on local resources for financial, legal, or other assistance. Information about HUD-approved housing counselors appears on the back of this brochure.

How can I determine if my financial situation will allow me to keep my home?

In evaluating your financial situation, you must consider your current and projected income, your outstanding debts (including your house payments), and other issues that will affect your ability to pay your mortgage. Here are some general guidelines to help you decide whether it is realistic for you to keep your home:

- How willing and determined are you to keep your home?
- What is the ratio of your monthly debt for housing to your monthly income?
- What is the ratio of your total monthly debt to your monthly income?

Answering these questions will help you decide which workout options are affordable for you based on your financial situation.

It is important to arrive at a solution that you can afford over the life of the loan—not just for a short period of time.

Mortgage Loan Workout Options

If you are temporarily unable to make your mortgage payments, here are some options to consider:

- **Forbearance:** Under a forbearance agreement, the lender may allow you to reduce or suspend payments for a short period of time and arrange another option to bring the loan current. A forbearance agreement is often combined with *reinstatement*. Through reinstatement, your mortgage is set to begin at a specific time when you project you will have sufficient funds to make your account current. Such funds might come from a hiring bonus or change in job, sale of an investment, or other asset such as an insurance settlement or a tax refund.
- **Reinstatement:** The lender may reinstate the mortgage if you can pay the total amount you owe in a lump sum by a specific date. From that point forward you will also need to resume making the loan payments according to the original loan repayment schedule. This option could take place at the end of a *forbearance* period.
- **Partial claim:** The partial claim option is available to individuals with an FHA mortgage. Through this option, your lender may be able to help you obtain a one-time payment from the FHA-Insurance fund to bring your mortgage current. You may qualify if you are able to resume making full mortgage payments. If you accept this payment, your lender will execute a subordinate mortgage payable to HUD at zero-percent interest that will not be due until you pay off your first mortgage or sell your home.
- **Repayment plan:** A repayment plan is negotiated between you and your lender based on your ability to resume making your regular monthly payments, plus a portion of the past-due payments each month until you are caught up. A separate agreement will set forth the amount and term for the repayment schedule.
- **Loan modification:** The lender may be able to change the terms of the original loan to make the payments more affordable. The loan could be permanently changed by adding the missed payment to the existing loan balance, revising the interest rate, converting an adjustable rate into a fixed rate mortgage, or extending the repayment term of the mortgage.

Each of these options may include fees, so be sure to ask about additional charges associated with a new loan or revised agreement when you discuss the alternatives offered to you.

Mortgage Loan Workout Options

If you determine it is unrealistic for you to continue to pay for your mortgage over the long haul, you may want to consider one of these options:

- **Short sale:** Selling your home is one option to prevent foreclosure. If you cannot sell the property for the full amount of the loan, the lender may accept less than the amount owed to avoid foreclosure proceedings. In this situation, the lender and the loan servicer would agree to accept the proceeds of the sale to satisfy the mortgage obligation even though it may be less than the amount owed on the mortgage. The remaining debt may or may not be forgiven.
- **Deed-in-lieu of foreclosure:** With a deed-in-lieu of foreclosure arrangement, you voluntarily give the property deed to the loan servicer. Generally, a deed-in-lieu is a last resort after all other alternatives to foreclosure have been explored.
- **Foreclosure:** If you are unable to work out any other arrangement to satisfy your mortgage obligation, foreclosure is the final alternative. When you fail to make your mortgage payments, the bank that holds the mortgage note can foreclose on the property. Foreclosure gives the bank legal ownership of the property.

Additional considerations when weighing alternatives to foreclosure:

Several factors in addition to your financial situation may determine which options are available to you.

- Investors who purchase loans may attach certain requirements that affect which workout options you can pursue.
- If you have mortgage insurance on your loan, the insurer may also maintain guidelines that will modify your options.
- If you have assumed a second mortgage on your home, you will need to discuss the impact of the second mortgage with both of the lenders. A second mortgage frequently limits foreclosure mitigation alternatives.
- Be sure to consider the costs and credit implications of the alternatives available to you.

Mortgage Loan Workout Options

Some frequently asked questions:

The interest rate on my loan is about to reset. How will this affect my loan?

It is important to understand the terms of your adjustable rate mortgage (ARM). An ARM's rate fluctuates according to an index described in your closing documents. The lender uses the index value as a baseline, adds a margin, and recalculates your new rate and payment. The recalculation of your rate will take place on dates predetermined in your contract. You should know when your loan is scheduled to readjust, be aware of the margin that the lender will add to the index rate, and know the maximum rate allowable under your loan agreement (the cap). If you determine that you will not be able to make the new mortgage payment, consider one of the workout options described in this brochure.

I have received a letter from my lender stating that my house will be foreclosed on. What do I do next?

Most importantly, DO NOT ignore any letter from your lender. Review the letter to see if the lender is offering you a workout plan. Immediately contact your lender to discuss options available for your particular loan. If the lender offers you a payment plan you cannot afford, contact a local HUD-approved counseling agency to assist you. HUD's toll free number 800-569-4287 may be listed at the bottom of the letter from your lender, or visit www.hud.gov for a list of housing counseling agencies in your area.

You may also consider seeking legal counsel to make sure you have not been a victim of questionable lending practices. A local housing counselor may be able to refer you to an attorney who can review your loan. Some individuals qualify for free legal aid. Visit www.lawhelp.org to find programs in your community.

In some cases, you may receive a letter from a third party claiming to represent your lender. Immediately contact your lender to verify whether it is affiliated with this third party. If so, then carefully read the options the third party is offering and decide if you are comfortable with the offer. If not, contact a HUD-approved counseling agency to assist you.

Contrary to popular belief, lenders are open to working with you and would rather not foreclose on your home.

Mortgage Loan Workout Options

What information do I need before contacting my lender or a counseling agency?

It is a good idea to contact your lender or a housing counseling agency right away. There are some documents that they may eventually need in order to help you. Try to gather the following documents before you call, but if you cannot gather them all or you are unsure which would apply to you, do not hesitate to reach out anyway.

- your previous month's pay stubs
- your previous year's W-2s and tax returns
- proof of any additional income such as child support or alimony
- a current bank statement
- a list of your outstanding debts and obligations
- a list of your assets
- a letter of hardship with a detailed explanation of why you are not able to make your mortgage payment.

Do I need to keep living in my house to obtain assistance or a workout?

Yes, it is very important that you stay in your home for now. You may not qualify for many assistance programs if you abandon your property.

I am facing foreclosure, and I have been contacted by a company offering to save my home. How can I be sure it's not a scam?

Beware of organizations or persons that guarantee to stop the foreclosure process. Do not make payments to anyone other than your mortgage company, even if they promise to save your home. HUD-approved counseling agencies provide foreclosure prevention and loss mitigation services free of charge. *Never sign documents that transfer the title of your home or any documents you do not fully understand.* For more information on rescue scams, visit www.ftc.gov.

Someone has offered me money to turn over the keys to my home. Is there a program called "Cash for Keys?"

HUD runs a program called "Cash for Keys" for individuals with a HUD loan (FHA or VA). Visit www.hud.gov for more details. Some lenders have also partnered with third-party contractors to offer cash for keys. Make sure you contact your lender to verify that an organization offering cash for keys is affiliated with the lender. Do not turn over your keys without researching who is making the offer. In any event, *consider your options carefully before turning over your keys*; if you vacate your premises, you won't be able to receive assistance from emergency relief funds that may be able to help you.

Mortgage Loan Workout Options

If I file for bankruptcy, will this prevent foreclosure?

Filing for bankruptcy will automatically delay a foreclosure; however, it is not a guaranteed solution for preventing foreclosure. In some cases, the mortgage holder can proceed with the foreclosure if you have no equity in the property. How the process affects foreclosure is a complicated issue that depends on the type of bankruptcy petition you file (Chapter 13 or Chapter 7) and on your equity in the property. It is also important to know that filing bankruptcy may limit your options for modifying your loan, as lenders and servicers are not allowed to contact you once you have filed for bankruptcy. You should consult a reputable attorney familiar with both foreclosure and bankruptcy law for guidance in this area. If you do file for bankruptcy, be sure that your lender sends you a periodic statement updating you on the status of your loan.

If my lender “writes down” a portion of my mortgage, will I have to pay taxes?

Normally if a lender “writes down” or forgives a portion of your mortgage debt, it is considered taxable income. But under the Mortgage Forgiveness Debt Relief Act, taxpayers may generally exclude debt forgiven on their principal residence if the balance of their loan was less than \$2 million. The exclusion amount is \$1 million for married taxpayers who are filing separately. The exclusion, which applies to debt forgiven between 2007 and 2019, is not available on second homes, investment property, or any other type of consumer debt. Debt reduced through mortgage restructuring, deed in lieu, short sales, or foreclosure may also qualify for this relief. The debt must have been incurred to buy, build, or substantially improve the taxpayer’s principal residence and must have been secured by that residence. Debt used to refinance qualifying debt is also eligible for the exclusion, but only up to the amount of the original mortgage principal prior to refinancing.

If you qualify for this exclusion, your lender should send you a Form 1099-C, Cancellation of Debt, by January 31 of the year that the debt was written down. Additional information may be found at www.irs.gov.

How will a short sale versus a foreclosure affect my credit score?

Your lender may allow you to sell your home before foreclosure, agreeing to forgive any shortfall between the sale price and the mortgage balance. This approach prevents a damaging foreclosure entry on your credit report and its negative impact on your credit score. Your credit score will still drop if you are delinquent on your mortgage payments prior to the sale.

Mortgage Loan Workout Options

How long will a foreclosure or deed in lieu stay on my credit report?

Although it is worse to have a foreclosure on your credit history, both a foreclosure and a deed in lieu are damaging to your credit rating and stay on your report for seven years. It will probably be difficult for you to obtain credit for at least a few years after the deed in lieu or foreclosure. You may send a written statement to the three major credit reporting agencies explaining the circumstances surrounding the deed in lieu or foreclosure. The letter will remain in your credit file as long as the negative item remains on the report.

I am renting, and my landlord is in foreclosure. What are my rights?

Foreclosure laws differ from state to state; however, the lease between the tenant and the original owner or landlord will, in most cases, be terminated by the foreclosure sale. The rule in most states is that if the mortgage was recorded before the lease was signed, a foreclosure will nullify the lease. Be sure to refer to the laws in your state of residence.

When a mortgage goes into default, the landlord still has the right to collect rent and remains in charge of the rental unit until the property is sold at the trustee sale. If you stop paying your rent, your landlord can evict you. Once the landlord loses title to the property, tenants should no longer pay rent to the former owner. It is important to seek legal advice about how to protect your rights before withholding rent.

Programs That Provide Foreclosure Assistance

Several national programs may be able to help if you are at risk of losing your home. Working with a qualified organization and consulting with a counselor can help guide you through the process of dealing with a problem mortgage loan. If you are facing the risk of foreclosure, these programs can help you make a sound decision.

- **HOPE Hotline:** Counseling services are available nationwide by calling the Homeowners HOPE hotline: **888-995-HOPE**. Online counseling is available at www.995hope.org.
- **HOPE NOW Alliance:** HOPE NOW is an alliance between counselors, loan servicers, investors, and other mortgage market participants to maximize outreach to at-risk homeowners and help them stay in their homes. Additional information is available at www.hopenow.com.

In addition, foreclosure prevention programs are available in individual communities nationwide. A good starting point to find out more about programs in your area is a HUD-certified housing counselor. For a listing of HUD-certified counselors, call **800-569-4287** or search online at www.hud.gov.

Additional Resources

For a detailed listing of other foreclosure prevention resources, log on to www.federalreserve.gov/pubs/foreclosure/default.htm.

View *Foreclosure Prevention: Help for Georgia Homeowners*, <http://consumer.georgia.gov/consumer-topics/foreclosure-prevention-help>

The material contained in this brochure is provided for information purposes only and does not constitute legal advice. Anyone seeking specific legal advice should contact an attorney licensed in the appropriate state and should not rely on information provided herein.