

How To Address Your Mortgage Issues

In many cases you can work things out with the lender directly. Contact the lender as soon as you know you are having trouble keeping up with your mortgage payment. If you contact them, lenders are often motivated to offer alternatives to foreclosure, such as modified payments, extended contracts, etc.



When calling your lender to negotiate additional time or a modified payment plan, ask to speak to the lender's Loss Mitigation department to do a 'work-out' plan, instead of talking to the lender's Collection department. A 'work-out' plan will be your way to get back on track with your payments, with your lender's cooperation. Talking to the lender's Collection department may not be as helpful; their job is to collect the full payment to bring the account current, without offering opportunities for a 'work-out'.

If you are having trouble communicating effectively with your lender, contact a Housing and Urban Development (HUD) approved housing counselor. Housing counselors can help you understand the law, organize your finances, and represent you in negotiations with your lender, if needed. To find a HUD-approved housing counselor near you, call (800) 569-4287 or TTY (800) 877-8339, or check HUD's website at www.hud.gov.

Avoid foreclosure prevention companies. 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 for little or no cost.

Be aware of foreclosure recovery scams! Never sign a legal document without reading and understanding all the terms.

If you are considering bankruptcy, be sure and get advice from a qualified attorney.

If you can no longer afford the home

If you cannot afford to keep your home, discuss these possibilities with your lender:

- **Sell the home:** If you are behind on your mortgage payment and you can no longer afford your home, your lender will usually give you a specific amount of time to find a purchaser and pay off the total amount owed. You will be expected to use the services of a real estate professional that can aggressively market the property. If you need to sell your home, you'll have to answer many questions. You'll need to find how much your house is actually worth, and you'll have to find a real estate agent you feel can sell the home within the amount of time allowed by the lender.
- **Pre-foreclosure sale or short payoff:** If you can't sell the property for the full amount of the loan, your lender may accept less than the amount owed. Financial help may also be available to pay other lien holders and/or help towards some moving costs. You may qualify if:
 1. The loan is at least 2 months delinquent.
 2. You (or your real estate professional) can sell the house within 3 to 5 months.
 3. A new appraisal (obtained by your lender) shows that the value of your home meets HUD program guidelines.
- **Assumption:** A qualified buyer may be allowed to take over your mortgage, even if your original loan documents state that it is non-assumable.

- **Deed-in-lieu of foreclosure:** As a last resort, you "give back" your property to the lender, and the debt is forgiven. This will not save your house, but it is less damaging to your credit rating. This option might sound like the easiest way out, but it has limitations. You usually have to try to sell the home for its fair market value for at least 90 days before the lender will consider this option. This option may not be available if you have other liens, such as other creditor judgments, second mortgages, IRS or state tax liens. The foreclosure process allows the lender to clear the property's legal title of these other notes and liens.

Keep in mind that with two of the options mentioned above (pre-foreclosure sale/short payoff and deed-in-lieu of foreclosure), where the lender is canceling or forgiving the debt, you may have to report the forgiven amount as income for tax purposes, depending on the circumstances. When you borrowed the money, you were not required to include the loan proceeds in income because you had an obligation to repay the lender. When that obligation is subsequently forgiven, the amount you received as loan proceeds is reportable as income because you no longer have an obligation to repay the lender.

As part of your decision making process regarding your home mortgage, you should check with a tax advisor to find out potential tax consequences associated with any decision you make. In addition to the tax considerations, it is important to understand that any time the lender agrees to accept less than the balance due on the loan, there is typically going to be a negative entry on the borrower's credit report that remains for at least seven years, as well as a negative impact to their credit score.

Foreclosure and the IRS

The IRS urges struggling homeowners to consider their options carefully before giving up their homes through foreclosure. The following is an excerpt from the Internal Revenue Service (IRS) website, (www.irs.gov/newsroom/article/0,,id=174022,00.html) regarding tax considerations for those who go through foreclosure:

Under the tax law, if the debt wiped out through foreclosure exceeds the value of the property, the difference is normally taxable income. But a special rule allows insolvent borrowers to offset that income to the extent their liabilities exceed their assets. The IRS cautions that under the law, relief may be limited or unavailable in some situations where, for example, part or all of a home was ever used for business or rented out.

Borrowers whose debt is reduced or eliminated receive a year-end statement (Form 1099-C) from their lender. By law, this form must show the amount of debt forgiven and the fair market value of property given up through foreclosure. Though the winning bid at a foreclosure auction is normally a property's fair market value, it may not necessarily reflect its true value in some cases. The IRS urges borrowers to check the Form 1099-C carefully. They should notify the lender immediately if any of the information shown on their form is incorrect. Borrowers should pay particular attention to the amount of debt forgiven (Box 2) and the value listed for their home (Box 7).

Pick up the phone

If you are having problems making your mortgage payment, keep in mind, most people are embarrassed to discuss money problems with others or believe that if lenders know they are in trouble, they will rush to collection or foreclosure. The good news is that lenders want to help borrowers keep their homes. Foreclosure is expensive for lenders, mortgage insurers and investors. Now more than ever, it is important to get advice and help.

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