



Facing Mortgage Foreclosure

From the Office of Minnesota Attorney General Lori Swanson

If you are a home owner that has fallen behind on your mortgage payments, you are not alone. Millions of Americans may face mortgage foreclosure over the next few years. Predatory mortgage lending, exploding interest rates and a tight economy have contributed to a mortgage crisis that threatens to destroy the American Dream of home ownership for people across the state. If you are faced with mortgage default or foreclosure, arm yourself with information, ask for help, and take decisive action to protect your interests.

TAKE ACTION IMMEDIATELY!

The most important step in preventing foreclosure or the loss of your home is timely action. Don't be embarrassed to ask for help. Contact the lender and contact a reputable counselor at the first signs of trouble in paying your mortgage.

Non-Traditional Mortgages. If you are one of the millions of Americans who were sold an Adjustable Rate Mortgage, or an “ARM,” over the last several years, you may experience exploding interest rates that may nearly double your monthly payment. Adjustable Rate Mortgages may begin with a low introductory “teaser” rate that a borrower is able to afford, but quickly become unmanageable when the “teaser” period ends and the interest rate resets to a higher rate. These “exploding ARMs” are one of the primary causes of the current foreclosure epidemic. In recent years, some lenders began relaxing standards, no longer verifying whether a given borrower can actually afford the loan. Since most mortgages today are subsequently sold to another entity, the original lender may no longer be interested in the long-term viability of the mortgage, or whether a borrower will be able to afford to keep the home if the interest rate resets to a level that is unmanageable.

How does Foreclosure Work? Foreclosure is a process by which a lender that is servicing a mortgage loan repossesses the property and forces the borrower out of the home because he/she has failed to meet the terms of the mortgage loan, or has “defaulted” on his/her payments. The foreclosure process takes place in several stages including default, sheriff sale, and redemption period.

Default. A borrower can default on his/her loan as soon as one month's payment is late. By notifying a borrower that he/she is in default, the lender is putting the borrower on notice that he/she has failed to make payments required in the mortgage agreement and is in jeopardy of losing the home. Generally, the lender will request that the borrower contact the lender to discuss options and may begin additional collection efforts on the mortgage. Borrowers should take affirmative action to contact the lender at this point to try to work out any short-term or long-term payment problems. Do *not* ignore correspondence from the lender or its legal representatives. The sooner the borrower contacts the lender to address the problem, the better.

Sheriff Sale. In the event that the default is not resolved, the lender may take action to force a sale of the property, known as the “sheriff sale.” The borrower will either receive a notice of sale four weeks before the sheriff sale, or in some cases, a summons to court, where the lender will request the court to authorize the sheriff sale. The sheriff for the county where the property is located will conduct a sheriff sale in a public place. Once the sheriff sale has occurred, it may be difficult to save the home. Generally, the mortgage can no longer be “cured” or “worked out,” but rather a whole new loan must be obtained to cover the cost of the mortgage, late fees, attorneys fees, etc. Obtaining new financing for a loan that is larger than the original loan (due to fees) is difficult and may be compounded by damage to the borrower's credit caused by the foreclosure. If at all possible, borrowers are encouraged to take action to resolve the defaulted mortgage *before the sheriff sale*. After

the sheriff sale, the borrower does have some options for recourse, however, during the “redemption period.”

Redemption Period. After the sheriff sale, the borrower typically has a “redemption period” of six months and can remain in the home during this period (in some cases, the redemption period may be extended to 12 months). During the redemption period, the borrower may attempt to refinance the home through a new mortgage. Remember, however, that the borrower may be responsible for fees incurred during the foreclosure process in addition to the amount of the defaulted loan. Alternately, the borrower may attempt to sell the home in order to take advantage of any equity that he/she has built up in the home. If the borrower has been unable to refinance or sell the home after the six-month redemption period, he/she must vacate the property.

Postponing the Sheriff Sale. Recent changes to Minnesota law allow a borrower to postpone the sheriff sale for five months. The request can be made only once and must occur at least 15 days before the scheduled sale date. Postponing the sheriff sale under this law reduces the redemption period from six months to five weeks.

I’m Behind In Payments-What Can I Do?

Contact the lender as soon as possible. Ask the lender what the options are. Don’t ignore the problem or correspondence from the lender, as late charges (and other fees) can pile up, compounding the problem. Be realistic about your financial situation. Since each person’s situation is different, there may be a range of solutions. For instance, some borrowers may fall behind *temporarily* due to a change in work status, health issues, or other short-term economic changes. Other borrowers may have long-term problems in their ability to pay a given mortgage, because they could not afford the loan in the first place, or are a victim of exploding interest rates. If you’re behind in your payments, consider the following tips:

1. Find a reputable mortgage counselor. Contact the Minnesota Housing Finance Agency or U.S. Department of Housing and Urban Development

(“HUD”) to find an approved counselor. A reputable counselor may be able to help you locate funding assistance or negotiate a solution with your lender.

2. Request a loan modification. The lender may be willing to permanently modify the terms of the loan to make it more affordable for you. For instance, if you have an exploding ARM, ask the lender to modify you into a fixed-rate loan that you can afford.

3. Refinance with a new loan. You may be able to find another lender that will give you a loan with better terms (such as a fixed rate) that are more manageable. Before pursuing refinancing, however, review your current loan to determine whether it contains a prepayment penalty.

4. Consider reinstatement. Under a reinstatement, you pay off the past-due amount and any fees in order to bring the mortgage current again. Reinstatement may be a good option if your default was caused by *temporary* financial fluctuations that you are able to rectify.

5. Ask for a forbearance. A forbearance may reduce or temporarily suspend your monthly payments until a set date, allowing you to get back on your feet and begin repaying the mortgage.

6. Set up a repayment plan with the lender. Ask the lender to allow you to pay the past-due amount in partial payments along with each of your monthly payments, rather than all at once. This may be more manageable than having to pay back the past-due all at once.

7. Ask the lender to waive fees or penalties. A lender may be willing to waive fees, penalties, or other charges if it believes in good faith that a resolution can be reached where you can begin making timely monthly payments and repay the past-due principal and interest.

8. Explore selling the home. In some cases, selling the house may be the best option. If you have equity built up in the property, this may allow you to benefit financially, and perhaps afford another home.

Beware of Scams. Unfortunately, scam artists often attempt to take advantage of people in vulnerable financial situations such as default or foreclosure. These unscrupulous actors prey on people while pretending to offer them assistance. Don't be fooled by these scams! If you seek assistance from a third party, make sure that it is a reputable counseling agency. In particular, homeowners should be on guard against two forms of scams: 1) equity stripping scams; and 2) foreclosure consulting scams.

Equity Stripping Scams. This scam works in a variety of ways, but typically starts when someone promises the home owner that he/she will solve all their problems and keep them in their home. The scammer may promise loan money that never appears, or have the home owner sign a lot of complicated papers. The scam artist may convince the homeowner to sign the property over to him/her, claiming that only he/she can get a loan to save the home. In reality, the loan does not exist, and the homeowner becomes a renter in their own home, until they are eventually forced out by the inevitable foreclosure. In most cases, the homeowner receives little or nothing for their home equity, which has, in essence, been stolen by the scam artist. Under Minnesota law, homeowners must be paid at least 82 percent of the fair market value of their former homes (minus certain permitted costs or expenses) if they are not able to stay in their homes following a foreclosure.

Mortgage Foreclosure Consulting Scams. Some organizations or individuals may represent themselves as counseling agencies, but are actually only out to make a profit off the misfortune of others. Typically, these entities will ask for up-front fees in exchange for "counseling" services such as financial advice, negotiating payments or other solutions with the lender, or exploring the sale of the property. These are services that borrowers can do themselves, and may be offered for free by reputable organizations. Scam artists that collect up-front fees may not actually provide any of the services promised, or may even disappear overnight. Under Minnesota law, a foreclosure counselor is prohibited from collecting a fee until after it has provided a service to you. Don't be scammed by Mortgage Foreclosure Consulting Scams!

Resources for Help. If you experience financial trouble that may jeopardize your mortgage payments,

ask for help. Timely action can make the difference! The following agencies and organizations may be available to provide information, referrals, and assistance to homeowners regarding foreclosure issues:

U.S. Dept. of Housing and Urban Development

451 7th Street SW
Washington, DC 20410
1-800-569-4287 or TTY: 1-800-877-8339
www.hud.gov/foreclosure

Minnesota Housing Finance Agency

400 Sibley Street, Suite 300
St. Paul, MN 55101
(651) 296-7608 or 1-800-657-3769
www.mnhousing.gov

Minnesota Home Ownership Center

1000 Payne Avenue, Suite 200
St. Paul, MN 55130
(651) 659-9336 or 1-866-462-6466
www.hocmn.org

Lutheran Social Services Financial Counseling

1-888-577-2227
www.lssmn.org/housing.htm
(in-person locations: Brainerd, Duluth, Eveleth, Hopkins, Mankato, St. Paul, Superior [WI], University of Minnesota, and Willmar)

Community Action Partnership of Suburban Hennepin

33 10th Ave South, Suite 150
Hopkins, MN 55343
(952) 933-1993
www.cashenn.org

Twin Cities Habitat For Humanity

3001 Fourth Street SE
Minneapolis, MN 55414
(612) 331-4090
www.tchabitat.org

City of St. Paul Foreclosure Prevention Program

Department of Planning and Development
25 West Fourth Street, Suite 1200
St. Paul, MN 55102
(651) 266-6626
www.ci.stpaul.mn.us/cityliving

Anoka County Community Action Program

1201 89th Avenue NE, Suite 345
Blaine, MN 55434
(763) 783-4747
www.accap.org

Dakota County Community Development Agency

1228 Town Centre Drive
Eagan, MN 55123
(651) 675-4555
www.dakotacda.org

Carver County CDA (formerly HRA)

705 North Walnut Street
Chaska, MN 55318
(952) 448-7715
www.hra.carver.mn.us

West Central Community Action Program

411 Industrial Park Boulevard
Elbow Lake, MN 56531
(218) 685-4486 or 1-800-492-4805
(Douglas, Grant, Pope, Stevens, Traverse)

Otter Tail Wadena Community Action Council

109 South Walker
New York Mills, MN 56567
(218) 385-2900 or 1-800-450-2900
www.otwcac.org
(Otter Tail and Wadena)

Lakes & Prairies Community Action Partnership

715 11th Street North, Suite 402
Moorhead, MN 56560
(218) 299-7000 or 1-800-452-3646
www.lakesandprairies.net
(Clay and Wilkin)

Wright County Community Action

130 West Division Street, PO Box 787
Maple Lake, MN 55358
(320) 963-6500
www.wccaweb.com

Bi-County Community Action Program

2529 15th Street NW
Bemidji, MN 56601
(218) 751-4631 or 1-800-332-7161
www.paulbunyan.net/users/bicap
(Cass and Beltrami)

Tri-Valley Opportunity Council

102 North Broadway
Crookston, MN 56716
(218) 281-5832 or 1-800-584-7020
www.tvoc.org
(West Marshall, Norman, and West Polk)

Northwest Community Action Agency

312 North Main Street
Badger, MN 56714
(218) 528-3258
www.nwcaa.org
(Kittson, Lake of the Woods, Marshall, and Roseau)

Arrowhead Economic Opportunity Agency

702 Third Avenue South
Virginia, MN 55792
(218) 749-2912 ext. 217 or 1-800-662-5711
www.aeoa.org
(St. Louis, Lake, and Cook)

Inter-County Community Council

207 Main Street
PO Box 189
Oklee, MN 56742
(218) 796-5144
(Pennington, Red Lake, Clearwater, and Polk)

Rochester/Olmsted Community Housing Partnership

2122 Campus Dr. SE, Suite 100
Rochester, MN 55904
www.co.olmsted.mn.us
(507) 328-7170