



Facing Mortgage Foreclosure

From the Office of Minnesota Attorney General Lori Swanson

If you are a home owner and have fallen behind on your mortgage payments, you are not alone. 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 or she

has failed to meet the terms of the mortgage loan, or has "defaulted" on his or her payments. The foreclosure process takes place in several stages including default, sheriff sale, and redemption period.

Default.

A borrower can default on a loan as soon as one month's payment is late. By notifying a borrower that he or she is in default, the lender is putting the borrower on notice that he or 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 amount bid for the property at the sheriff sale, interest, attorney's fees, and various other fees relating to the foreclosure. Obtaining new financing for a loan that may be 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 twelve 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 bid for the property at the sheriff sale. The total amount the borrower must pay to redeem may be more or less than the amount owed on the mortgage before the sale. Alternately, the borrower may attempt to sell the home in order to take advantage of any equity built up in the home. If the borrower has been unable to refinance or sell the home after the six month redemption period, he or she must vacate the property.

Dual Tracking.

This process occurs when a mortgage servicer simultaneously reviews a mortgage for relief options, but moves forward with a sheriff’s sale. If you apply for a modification, short sale, or other assistance, your servicer must review the application and issue a written denial before scheduling a sheriff’s sale. You may still apply for relief options after a sheriff’s sale has been scheduled. In Minnesota, if a mortgage servicer receives an application before midnight of the seventh business day prior to the sale, the servicer must halt the sheriff’s sale and review the application. In some cases, the borrower may have the right to appeal the servicer’s decision. If this is the case, the servicer must wait until the end of all applicable appeals before proceeding with foreclosure.

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 are 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 amount 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. Do not 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 homeowner that he or she will solve all their problems and keep them in their home. The scammer may promise loan money that never appears, or have the homeowner sign a lot of complicated papers. The scam artist may convince the homeowner to sign the property over to him or her, claiming that only he or she can get a loan to save the home. In reality, the loan does not exist, and the homeowners become renters in their own homes, 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:

Lutheran Social Services Financial Counseling

424 West Superior Street, Suite 600
Duluth, MN 55802
888-577-2227 or 218-529-2227
www.lssmn.org/debt

(Ramsey, Rice, Goodhue, LeSueur, Nicollet, Sibley, Brown, Blue Earth, Waseca, Steele, Dodge, Wabasha, Winona, Houston, Fillmore, Mower, Freeborn, Faribault, Martin, Watonwan, McLeod, Meeker, Kandiyohi, Renville, Chippewa, Swift, Big Stone, Lac Qui Parle, Yellow Medicine, Lincoln, Lyon, Redwood, Pipestone, Murray, Cottonwood, Rock, Nobles, Jackson, Becker, Mahnomon, Hubbard, Crow Wing, Todd, Morrison, Mille Lacs, Pine, Kanabec, Chisago, Benton, Isanti, Sherburne, Stearns, Koochiching, Itasca, Aitken, Carlton, Duluth)

U.S. Dept. of Housing and Urban Development

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

Minnesota Housing Finance Agency

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

Minnesota Home Ownership Center

633 South Concord Street, Suite 250
South St. Paul, MN 55075
651-659-9336 or 866-462-6466
www.hocmn.org

Community Action Partnership of Suburban Hennepin

8800 Highway 7, Suite 401
St. Louis Park, MN 55426
952-933-9639 ext. 202
www.capsh.org

Twin Cities Habitat For Humanity

1954 University Avenue West
St. Paul, MN 55104
651-207-1700
www.tchabitat.org

City of St. Paul

Foreclosure Prevention Program

25 West Fourth Street,
1200 City Hall Annex
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 Center Drive
Eagan, MN 55123
651-675-4400
www.dakotacda.org

Carver County CDA (formerly HRA)

705 Walnut Street
Chaska, MN 55318
952-448-7715
(Carver and Scott)
www.carvercda.org

Wright County

Community Action

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

West Central

Community Action Program

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

Otter Tail Wadena

Community Action Council

125 West Lincoln Avenue, Suite 16
Fergus Falls, MN 56537
218-739-3011
(Otter Tail and Wadena)
www.mahube.org

Bi-County

Community Action Program

6603 Bemidji Avenue North
Bemidji, MN 56601
218-751-4631
(Cass and Beltrami)
www.bicap.org

Tri-Valley Opportunity Council

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

Northwest Community Action

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

Arrowhead Economic Opportunity Agency

702 Third Avenue South
Virginia, MN 55792
800-662-5711 ext. 117
218-749-2912
www.aeoa.org
(St. Louis, Lake, Cook)

Inter-County Community Council

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

Rochester/Olmsted Community Housing Partnership

2122 Campus Dr. SE, Suite 100
Rochester, MN 55904
507-328-7170
www.intercountycc.org

Washington County HRA

7645 Currell Boulevard
Woodbury, MN 55125
651-202-2822
www.wchra.com