

FORECLOSURE INFORMATION

There are two types of foreclosure, mortgage foreclosure and tax reversion.

A **mortgage foreclosure** starts with missed payments, and the lender is the foreclosing agent. It is very important that you:

- Call your lender as soon as you realize that you have a problem. Ask for the **loss mitigation department** (or whatever your lender names this department). Do not talk to the collections department.
- Banks are more willing to work with you if you call them within the first thirty (30) days after a payment is due as banks do not want to end up owning your home.

The U.S. Department of Housing and Urban Development (HUD) offers suggestions to homeowners to avoid mortgage foreclosure by listing the following alternatives that a lender may offer:

Special forbearance:

Your lender may be able to arrange a repayment plan based on your financial situation and may even provide a temporary reduction or suspension of payments.

Mortgage modification:

You may be able to refinance the debt or extend the term of the loan. This may help you catch up by reducing the monthly payments to a more affordable level. You may qualify if you have recovered from a financial problem and can afford the new payment amount.

Partial claim:

Your lender may work with you to obtain a one-time payment from the FHA-Insurance fund to bring your mortgage current. This strategy is used on FHA loans or those with Private Mortgage Insurance (PMI) only. You may qualify if:

- Your loan is at least four (4) months delinquent, but no more than twelve (12) months delinquent.
- You are able to begin making full mortgage payments.

When your lender files a partial claim, HUD will pay your lender the amount necessary to bring your mortgage current. You must execute a promissory note, and a lien will be placed on your property until the promissory note is paid in full.

Pre-foreclosure sale (or “short sale”)

A “short sale” will allow you to avoid foreclosure by selling the home for less than what is owed on the mortgage.

Deed-in-lieu of foreclosure:

As a last resort, you may be able to voluntarily give back your property to the lender. This won't save your house, but it is not as damaging as your credit rating as a foreclosure. This must be done before the Sheriff's Sale.

Source: U.S. Department of Housing and Urban Development (HUD)-www.hud.gov

In August 2007, President Bush responded to the national foreclosure crisis with a plan to make it easier to refinance costly mortgages and to encourage financial institutions to reduce foreclosures. The plan included legislation proposed by Senator Debbie Stabenow that would reduce the income tax burden on homeowners who negotiate debt-forgiveness deals with their lenders.

The impact of a single mortgage foreclosure affects several parties such as the homeowner, the lender, the municipality and neighboring homeowners.

FORECLOSURE TIMELINES

Mortgage Foreclosure:

- **1st missed payment:** Lender likely to phone or mail notice of delinquent status.
- **2nd missed payment:** Lender may continue contact; late charges accrue.
- **3rd missed payment:** Lender may send “demand letter” stating the delinquent amount and due date. Referred to lender’s attorney if there is not payment or response.
- **4th missed payment:** Lender’s attorney may schedule Sheriff’s Sale (typically six weeks after Sheriff receives paperwork). Lender notifies borrower of sale date by mail, and with a notice taped to the door.
- **Publication:** Notice of scheduled sheriff’s auction is published four (4) consecutive weeks in a local newspaper.
- **Sheriff’s Sale:** If borrower is still delinquent and no payment arrangement has been made, the home is sold at public auction. If no bids are received, it becomes property of the lender.
- **Redemption Period:** Starts from the date of the Sheriff’s Sale. State law requires that this period be not less than thirty (30) days and no more than one year. Most lenders allow the homeowner six (6) months to redeem property, paying the amount owed plus interest and fees. During the redemption period, the borrower may refinance the home, sell the home, or stay in the home free of charge for the six months and save money to move.
- **Eviction:** If the borrower does not redeem, the lender can start eviction proceedings. An eviction hearing is held within two (2) weeks, followed by a ten (10) day grace period for the former homeowner to vacate the premises. When the grace period ends, eviction is certified. Court bailiffs are notified and empty the premises.

TIPS FOR AVOIDING MORTGAGE FORECLOSURE

- Don’t ignore the problem. The further behind you become, the harder it will be to reinstate your loan and the more likely that you will lose your home.
- Contact your lender as soon as you realize you have a problem. Lenders do not want your house. They have options to help borrowers through difficult financial times.

- Open and respond to all mail from your lender. The first notices you receive will offer information about foreclosure prevention. Later mail may include important notice of pending legal action. Failure to open mail will not be an excuse in foreclosure court.
- Know your mortgage rights. Find your loan documents and read them so you know what your lender may do if you can't make your payments.
- Understand foreclosure prevention options. See list of Online Resources at end of this article.
- Talk to an attorney about bankruptcy options. This strategy will not cancel the foreclosure, but may give you more time.
- Stay in your home for now, you may not qualify for assistance if you abandon your property. Give thought to where you will live if you can't redeem your foreclosure.
- Contact a HUD-approved housing counselor. The U.S. Department of Housing and Urban Development funds free or low-cost counselors nationwide, who can help you understand the law and represent you in negotiations with your lender if needed. For a list of Michigan counselors, go to www.hud.gov or call (800) 569-4287.
- Prioritize spending. After healthcare, keeping your house should be your first priority. Review your finances and see where you can cut spending in order to make your mortgage payment.
- Use assets to pay down mortgage debt. Sell assets such as a second car or jewelry for cash to help reinstate your mortgage. This demonstrates to your lender that you are willing to make sacrifices to keep your home.
- Avoid foreclosure prevention companies. Don't pay a fee to a for-profit company when you can receive services for free from your lender or a HUD approved housing counselor.
- Look out for foreclosure recovery scams. If a firm claims they can stop your foreclosure immediately if you sign a document appointing them to represent you, beware – you may be signing over the title of your property. Foreclosure listings are public information so homeowners are flooded with solicitations from finance companies, attorneys, and investors.

Source: U.S. Department of Housing & Urban Development

ONLINE RESOURCES

Hold on to Your Home – sponsored by Clinton, Eaton & Ingham Counties.
Free, confidential, certified help in a private meeting.
www.holdontoyourhome.org or call 211

Michigan State Housing and Development (MSHDA) How to Keep Your Home
www.michigan.gov/mshda

Click on “Save the Dream” icon or call toll free at 866-946-7432

HUD's How to Avoid Foreclosure
www.hud.gov/foreclosure/index.cfm

HUD's Predatory Lending
www.hud.gov/offices/fheo/lending/predatory.cfm

Freddie Mac on Avoiding Foreclosure
www.freddiemac.com/corporate/buyown/english/owning/avoid_foreclosure.html

Federal Housing Administration
www.fha.gov/foreclosure/index.cfm

Avoiding Foreclosure Brochure (MI Attorney General)
www.michigan.gov/documents/ag/Avoiding_Foreclosure_Brochure_215948_7.pdf

Americans for Fairness in Lending – “File a Complaint”
www.affil.org/get_active/complaint.php

Federal Citizen Information Center – Consumer Action Website
www.consumeraction.gov/

Tax reversion occurs when property taxes are not paid and the county is the foreclosing governmental unit. For detailed tax reversion information, click here on “Property Tax Reversion Act”.

Tax Reversion (Property Tax Foreclosure):

- **July 1 and December 1:** Property taxes due and payable to local unit treasurer.
- **March 1:** Unpaid taxes from the preceding year are sent from the local unit treasurer to the county treasurer, known as “return of delinquent taxes”.
- **June 1, September 1, and February 1:** County treasurer sends a statutory notice to taxpayer.
- **March 1 (one year after taxes returned delinquent to county treasurer):** The property is now in “forfeiture”, which is the first step in the foreclosure process.
- **June 15:** County treasurer petitions the court for foreclosure, listing all property forfeited and not redeemed, to be foreclosed for the total of the forfeited unpaid delinquent taxes, interest, penalties, and fees.
- **February:** After the property has been in forfeiture for one year, it may be foreclosed under circuit court judicial order.
- **March 31 (two years after taxes returned delinquent to county treasurer):** Last day to redeem foreclosed property in uncontested matter.
- **July-November:** Foreclosed property is auctioned.

