



OPTIONS IN FORECLOSURE *KEEP YOUR HOME*

MSUE HOUSING DEPARTMENT (586) 469-6430

I. MAKE A WORKOUT PLAN WITH YOUR BANK / MORTGAGE COMPANY

A. What to Do First

1. Write a budget. Cut all unnecessary spending. Increase income. What can you promise and realistically do? You should spend 30% or less of your gross income for a mortgage and only 11% for all other monthly debt payments.
2. Call your bank or mortgage company as soon as you have a budget. Ask to speak to someone in the loss mitigation department and ask for a workout package. A workout is a plan between you and the lender to decide how you will pay your mortgage default. Keep in mind that the collections department will continue to call you to try to collect the debt. During this process, always ask when you get a phone call from the lender: are you from collections? Do not make agreements with them; ask them to stop calling you because you are working with loss mitigation.
3. To negotiate a workout, know what to ask for and be assertive (not rude). The lenders want you to make a proposal to them.
4. Ask who owns the mortgage (FHA, Fannie Mae, Freddie Mac, private investors or the bank / credit union that gave you the loan originally). The lender servicing your loan (whom you pay each month) may not own it. What you can do to save your home depends in part on who owns the loan. (For example, with Fannie Mae and Freddie Mac a loan modification may be possible at 45 days late (not before). If you are paying PMI, ask what PMI company is involved. Contact them.
5. Fill out the workout form promptly, keep a copy and send the form back by certified mail. Include a hardship letter that explains your financial crisis and when and how you will recover.
6. Keep a record of all calls and letters: dates, times, names and phone numbers.
7. If the lender does not allow partial payments, save the money in a separate account each month. You will have a lump sum for a workout or to move if you lose the house. Do not pay other debt with it. Focus on saving the house.

B. Workout Choices

1. Short-term: Request a delay of the foreclosure sale. Because the Sheriff's sale cuts off all workout possibilities, get a written agreement from your bank or mortgage company to delay the sale. Keep on top of dates. Move quickly.

2. Long-term: Pay the back payments and fees and keep payments current.
 - a. Forbearance – Eliminate the default (what you owe) by making your regular house payment AND some of the past due amount for a certain number of months. This method works if you had temporary financial difficulties and are back on track AND you have enough money to pay the extra amount each month. Do not agree to an unrealistic plan.
 - b. Loan modification – When you can no longer afford the original loan terms due to a permanent change in circumstances AND the bank or mortgage company wants to avoid foreclosure too you can ask them to:
 - Reduce the interest rate (cost of borrowing money).
 - Extend the loan – Stretch out the loan. Pay for additional years.
 - Re-figure the loan using your equity (what you own of the home). The past due amount and fees are rolled in.
 - Combine approaches.

C. Special FHA / HUD Mortgage Protections

1. Forbearance – If you have a reasonable chance to recover from the crisis and begin paying again, the bank or mortgage company may agree to reduce or suspend payments for up to 12 months. After the period ends, you make the original payment and a small installment on your missed payments each month.
2. Partial Claim – If you are 4 - 12 months behind but have not recovered from the crisis, the bank or mortgage company can loan you money to get your monthly payments caught up. Then, HUD pays the bank or mortgage company and puts an interest-free loan as a lien against your property. When you sell or refinance, you pay it back.

II. REFINANCE YOUR MORTGAGE WITH ANOTHER LENDER

A. Do when:

1. You have high enough credit scores to refinance.
2. You have enough income to support the new mortgage amount, including taxes and insurance.
3. Your property is worth enough to cover what you owe (mortgage, fees and penalties). You also must have the money to pay closing costs or enough equity in your house to include the amount in the new loan.
4. You would have a lower interest rate or longer payment period.

- B. How to Refinance – Shop ‘til you drop. Be honest with banks, credit union and mortgage companies. Tell them your credit score and current mortgage rate. Ask if they could do better. Compare interest rates, length of the loan and closing costs. Get an idea what you would qualify for, and *then* apply to a reputable lender. Check out the FHA Secure loan, www.hud.gov; it may work.
- C. Reverse Mortgage – For people over 62 years of age only. You use the equity in your home to live on and you do not have to pay it back until you move. It is an expensive mortgage and may not solve your financial problems, but in some circumstances, it is a good choice.

III. LEGAL POSSIBILITIES TO SAVE THE HOUSE

(This information is not legal advice.)

- A. Procedural defenses – If anything was done incorrectly with the foreclosure process, the lender has to start over. It buys you time.
- B. Bankruptcy – Slows everything down so you have more time to get money together, sell the house or get rid of other debt so you can pay the mortgage.
- C. Substantial hardship or substantial equity – Terrible circumstances or a house that is almost paid off could result in special judicial consideration.
- D. Truth-in-Lending Recission – A complicated, but powerful tool when dealing with predatory mortgage companies and home improvement companies. It is only for refinanced mortgages, home equity loans or credit lines, debt-consolidation loans and home improvement loans that involve the house as collateral. Was the lender dishonest? Did a bad loan put you at risk of foreclosure? A truth-in-lending recission cancels the mortgage and therefore, the foreclosure.
- E. General Tips
 - If the foreclosure sale date is too close or the lender will not agree to a workout, try to save your house through the courts.
 - Often, people postpone getting legal help until it is too late. Others walk away from their homes in frustration leaving themselves without equity and vulnerable to deficiency claims.
 - Most lawyers will give you a free 30-minute appointment. Go prepared. If you decide to proceed, you will need to pay a retainer of \$1,000 - \$1,500.

Source: National Consumer Law Center, *Guide to Surviving Debt*

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