

SAVING YOUR HOME FROM FORECLOSURE

A foreclosure is the process by which the mortgage company removes a person's right to own a piece of real estate. The process may begin if you miss one or more mortgage payments.

How long does the foreclosure process usually take?

If your payment is 31 days late, and sometimes sooner, your mortgage company can usually begin preparing to start the foreclosure process. The time between one or more missed payments and the foreclosure sale of your home is usually about 6 months. Depending on your mortgage company, the time may be shorter or longer.

Does my mortgage company have to go to court to foreclose on and sell my home?

Usually not. If you have signed a document called a deed of trust, a person or company called a "Trustee" will usually sell your home in a "non-judicial" foreclosure sale. If you have a question about whether your mortgage company has to go to court to foreclose on your home, contact a lawyer.

How will I know if my home is in foreclosure and is set to be sold?

If the foreclosure process has started, you should receive a notice called "Notice of Trustee's Sale" that sets a date for the foreclosure sale of your home. If a mortgage company wants to go to court to foreclose on and sell your home, you should be served with court papers.

If I can't afford my mortgage or I'm behind on my payments, how can I stop a foreclosure?

Whether you can stop a foreclosure may depend on: how many payments you have missed, if you have a job, your income, expenses and who your mortgage company is.

Here are some steps to take:

1. Don't move out of your home! To qualify for help, you usually have to be living in your home.
2. The sooner you act to try to prevent a foreclosure on your home, the better. Don't wait until you're behind on your loan to try to solve your problem. Be honest with yourself. If you think there's a chance you soon won't be able to afford your loan, the time to act is NOW! If you're already behind on your loan, the time to act is NOW! If you're already behind on your loan, it doesn't matter whether a foreclosure sale is scheduled. You should still act NOW!
3. Open all mail from your mortgage company or the Trustee. Throwing away this mail is a big mistake.
4. Learn about all your options.

If I get a Notice of Trustee's Sale, what should I do?

Under a new state law, if you get a "Notice of Trustee's Sale," you are also required to get two other forms. The *first* form is titled

“NOTICE: YOU ARE IN DANGER OF LOSING YOUR PROPERTY IF YOU DO NOT TAKE ACTION IMMEDIATELY” and is signed by the Trustee. The *second* form is a Modification Request Form. Under this new law, if you want to try to get a loan modification, you must complete the Modification Request Form, attach any required information and documentation, and send it to the address listed on the Modification Request Form so that your mortgage company gets it within 30 days of the date the Trustee signed the *first* form. Also, if the address on the Modification Request Form is not that of your lender, be sure to send a copy of the Modification Request Form and any required information and documentation to the lender.

Note that in addition to sending in the Modification Request Form with any required information and documentation, you can also try to get a loan modification under the federal government’s Home Affordable Modification Program (HAMP). (Note: You don’t have to be behind on your loan to qualify for a HAMP modification, and you can apply even if you miss the 30-day deadline for sending in the Modification Request Form.)

But before you send in the Modification Request Form or apply for a HAMP modification, you may first want to try contacting a Department of Housing and Urban Development (HUD) approved housing counseling agency or a lawyer licensed in Oregon. See the last page of this information sheet for contact information. If you can’t get help from a HUD approved counselor or Oregon lawyer, you should contact your mortgage company.

If I can’t get help from a HUD approved housing counseling agency or an Oregon-licensed lawyer, should I contact my mortgage company myself?

Yes. But try to do everything by mail or fax, not phone. If you communicate with your mortgage company by phone, a few bad things can happen:

You may end up talking to a person who will try to make you lose your home, not save it. It may sound strange, but your mortgage company may actually make more money by foreclosing on your home than by helping you save it.

A lot of times, the person may lie, make a promise that won’t be kept, or give you wrong information. If you talk to different people at the company, they may tell you different things, and you may not know whom to believe.

If you do talk to your mortgage company by phone, take notes. Write down the date, time, the name of the person you talked to, and what was said.

What are my options to stop a foreclosure?

Apply for a loan modification or try to refinance.

There are a few different ways to modify your loan:

Home Affordable Modification Program (HAMP) This federal program lets homeowners reduce their monthly loan

payments. If your “loan servicer” participates in HAMP, you may be able to get a modification under the program. Your “loan servicer” is the company that communicates with you and collects payments for the mortgage company that actually owns your loan. To find out whether your servicer participates in HAMP, contact your servicer or go to http://makinghomeaffordable.gov/contact_servicer.html.

Second Lien Modification Program (2MP)
This federal program allows homeowners to reduce or eliminate payments on second mortgages. For more information about 2MP, see <http://www.financialstability.gov>.

A non-HAMP modification offered by your loan servicer If your servicer does not participate in HAMP, you don’t qualify for HAMP or even if you do qualify for HAMP, your servicer may have other loan modification programs.

Important: Under Oregon state law, if you have received a notice that your home is scheduled to be sold, you have an absolute right to ask to meet with your mortgage company to see if your loan can be modified.

A warning about loan modifications: Many times, a loan servicer will offer a modification that doesn’t follow the rules of the HAMP program or ends up being a bad deal. You may want to get information from a HUD approved housing counselor or talk to an attorney (see back page) before you sign.

Whatever you do, don’t pay anyone to help you try to modify your loan! HUD approved housing counselors are free!

Beware of foreclosure rescue scams! If anyone besides your mortgage company offers to save your home from foreclosure, don’t pay or sign anything! Check with a HUD approved housing counselor or Oregon-licensed attorney first!

Home Affordable Refinance Program (HARP) If your loan is owned by the companies Fannie Mae or Freddie Mac, you may be able to refinance your home. To find out whether Fannie Mae or Freddie Mac owns your loan and whether you are eligible for HARP, see http://makinghomeaffordable.gov/refinance_eligibility.html or contact a HUD approved housing counselor.

A non-HARP refinance Local banks and credit unions are generally the best places to refinance your home. National banks, non-bank mortgage companies and mortgage brokers are usually the worst.

Reverse mortgage A reverse mortgage may be available if you are 62 or older and your house is worth quite a bit more than you owe on it. You don’t make any loan payments under a reverse mortgage, but you do have to keep paying for things like taxes and insurance. For more information, find a “home equity conversion mortgage counselor” by calling (800) 569-4287 or visiting <http://www.hud.gov>.

File a bankruptcy

A bankruptcy may give you the chance to keep your home while making up the payments you missed over a 3- to 5-year period.

Sell your house in a “short sale” or through a “deed in lieu of foreclosure”

A short sale is a sale of a home for less than what you owe on it. The mortgage company must approve. A deed in lieu is the transfer of your home to the mortgage company in exchange for a reduction or elimination of your loan balance. Talk to a qualified attorney and a tax professional about the dangers of short sales and deeds in lieu.

Where to call for help:

A HUD approved housing counseling agency: (800) 569-4287; <http://www.hud.gov>.

Civil legal assistance:

- Legal Aid Services of Oregon:
Multnomah County Office: (503) 224-4086;
toll free: (888-610-8764);
<http://www.lawhelp.org> (click on Oregon;
then Directory of Legal Aid Programs).
- Oregon State Bar Lawyer Referral
Service: 503- 684-3763; toll free in Oregon:
800-452-7636; <http://www.osbar.org> (click
on Lawyer Referral Service).

Federal/state government agencies:

- Office of the Comptroller of the
Currency: toll free: (800) 613-6743;
<http://www.helpwithmybank.gov/>.
- Office of Thrift Supervision: toll free:
(800) 842-6929; [http://www.ots.treas.gov/
?p=ConsumerComplaintsInquiries](http://www.ots.treas.gov/?p=ConsumerComplaintsInquiries).
- Oregon Department of Consumer &
Business Services Division of Finance and
Corporate Securities: 503-378-4140, 503-
378-4387: toll free within Oregon only:
(866) 814-9710; <http://www.dcbs.oregon.gov>
(click on Foreclosure information).

2/10

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<p>LEGAL AID SERVICES OF OREGON 921 SW Washington, Suite 500 Portland, OR 97205 www.oregonlawhelp.org 1-888-610-8764 or 503-224-4086</p>	