

How to Avoid Foreclosure

Foreclosures are climbing. But there are options to explore before it's too late.

As more hybrid ARMs (adjustable rate mortgages) move upward and housing prices begin to dip, many Americans are finding themselves trapped in too-high monthly payments. This year, more than \$300 billion worth of hybrid ARMs will readjust for the first time. That number will jump to about \$1 trillion in 2007, according to the Mortgage Brokers Association. Monthly payments will leap too, many beyond what homeowners can afford. James Gaines, a research economist at the Real Estate Center, has pointed out that although California's default notices are rising by the thousands, actual foreclosure sales remain in the hundreds. Because of California's still-active housing market, homeowners there can sell their properties before going into foreclosure!

KEEPING THE PROPERTY VS. SELLING THE PROPERTY

If your monthly house payment (including property taxes and insurance) does not exceed 40% of your gross monthly income, it should be possible for you to keep the property. If the payment is greater than 40% of gross monthly income, consider selling or transferring the property to avoid negative impacts to your credit. The objectives in order of importance should be:

1. Keeping the property if possible.
2. Don't give away equity if you can keep it or liquidate and put it in your pocket.
3. Minimize damage to your credit. You will need it later on.

LENDER WORKOUT

Before exploring new options, have you tried to come to terms with your existing lender? Lenders want the loan to be current - they don't want to have to complete a foreclosure. Can you make up the defaulted amount over a period of months? Can you re-write the note and include the defaulted amount? Can you give the lender a deed-in-lieu of foreclosure and preserve your credit? These are questions you should ask yourself and possibly your lender if you haven't done so already. They will want to know why the loan is in default and why you think you will be able to make the payments in the future. Temporary financial setbacks that have since been cured are the best candidates for this. Your lender will probably not be inclined to stop foreclosure proceedings if they have reason to believe they will have to start again in 6 months.

REFINANCING AND NEW JUNIOR LOANS

Basic lending guidelines require that all home loans total up to less than 75% of the current market value of the property. If you have more equity than that, you should have no difficulty in obtaining a new refinance or a 2nd Trust Deed to make your loan current. Expect higher interest rates and loan fees.

LOANS TO GET YOU CURRENT

If you experienced a temporary financial setback that has since been cured and are going to be able to keep the property, first consider asking family and friends for a loan to get current. It's much cheaper than hard money loans, but MAKE SURE you will be able to pay them back. You do not want to put them in the position of having to foreclose to get their money back. Hard money loans are typically private investors who will lend money based on equity in the property. Credit and income are not issues of importance and loan approval is usually a matter of days with funding following shortly. Loan amounts will usually be enough to bring existing loans current, pay the financing costs and put some money in your pocket. Loans will be amortized over 30 years to keep the payments lower and the balance will be due in 2 to 5 years.

BANKRUPTCY

This is a major step that will have lasting impact on credit reports. Seek appropriate legal advice. If the Notice of Default has just been filed on your home, you have sufficient time to explore the options for new loans or selling the property. If the foreclosure sale is going to be held very shortly, bankruptcy is a very common way to delay the sale. When you file bankruptcy, your financial matters fall under the jurisdiction of the courts which could limit your options.

SEEK LEGAL ADVICE.

