Many homeowners face difficulties paying their mortgage. Job losses, changes in income, and adjustments to escrow accounts may lead to falling behind on payments. This brochure will give you some tips about what to do if you fall behind on your mortgage payments, what resources are available, and who can help you.

What is mortgage foreclosure?

Mortgage foreclosure is the legal process where a bank takes back your house after you have fallen behind on your mortgage payments and before you are able to cure or pay in full the amount you owe. The total payments you have missed are called the arrears. If you do not cure the amount or seek legal assistance to prevent the foreclosure, your house will be sold at a sheriff's sale and you will have to move.

What can you do to prevent foreclosure?

There are many resources and agencies to help you prevent foreclosure. But first, you need to take action before you find yourself with legal paperwork in your hands. Ignoring the problem will not make it go away. If you know that you are about to lose a job or have a decrease in your income, you should do the following:

✓ Contact your bank or mortgage company right away. Tell them why you are having financial problems and when you expect your situation to return to normal. Ask the lender if it can make an adjustment to your payment that is either temporary or permanent. Make sure that you ask the person you speak with to send the new terms to you in writing. Get the name of the person with whom you speak, and contact information in case you need to speak with him or her again.

✓ Talk to your current lender or another bank about refinancing your mortgage. You may be able to get a lower interest rate or a decreased payment. Be aware that the new lender will charge you fees to refinance. **Be sure that the savings that you gain from a lower interest rate or a decreased payment are equal to or more than the fees that you pay to refinance.** The key to refinancing is to do it before you miss a payment. A bank will not help you if you have fallen behind on your payments. If you know that your income or expenses might change soon, contact your bank right away to see what options you have. Be sure to watch out for high interest rate lenders who make promises about consolidating other debt or helping you to avoid foreclosure. Generally you should stay away from companies that call or write you directly.

✓ Ask your mortgage company or servicer for a loss mitigation application. Submit the requested information and documentation right away. If you act within the deadlines set by your servicer, it will not be permitted to file a lawsuit against you or conduct a sheriff's sale (if it has already filed a lawsuit), while it is evaluating your application. If you are approved for a trial mortgage modification plan, you will generally make three payments under this plan. You should be able to afford these payments as they will be based on your income at the time of your application. It is important that you make these payments on time. If you do, then you may be approved for a permanent mortgage modification plan. This permanent modification will bring you current, it may lower your interest rate, it may add your arrears to the total you owe for your mortgage, and it may extend the term of your mortgage for an additional number of years.

✓ Contact a housing counseling agency about evaluating your options and budget. A housing counselor will sit down with you, evaluate your income and expenses, and help you understand your options. The counselor may be able to direct you to state and federal resources that will help you either to refinance your mortgage or to bring it current. Sometimes the counselor can help you negotiate with your lender to come to more favorable payment terms. A housing counselor may also help you to apply for the Homeowners' Emergency Mortgage Assistance Program or HEMAP for short. If you are found eligible for this program, the Pennsylvania Housing Financial Agency ("PHFA") will extend a loan to you, at an affordable interest rate and on good repayment terms, that you may use to bring your mortgage current. To find an approved housing counseling agency, please visit PHFA's website at **www.phfa.org/counseling/hemap.aspx**

✓ Evaluate what bills you have and give priority to those bills necessary to keep your job, your home, and put food on your table. The basic rule of thumb should be to pay the bills for things you need to keep, such as, your house payment. If bill collectors are pressuring you to pay other bills, like credit card debts or medical bills, do not give into their harassment. For more information about dealing with debt collectors, review our brochure on **Creditor Harassment - Dealing with Debt Collectors.**

✓ Determine whether you can actually afford your house in the long term. If you cannot, you should ask your mortgage company for permission to sell your house. If your mortgage company gives you permission, you will hire a realtor and list your house for sale. A mortgage company may approve or disapprove of a sale. If there is any money left after your house sells and your mortgage is paid, you may be able to use that money to buy a less expensive home or pay a deposit and first month's rent on an apartment. If your house does not sell and you no longer want to live there, you may want to talk to your mortgage company about doing a deed-in-lieu of foreclosure. Instead of going through the foreclosure process, you will sign your deed over to the bank. This saves you from going through the foreclosure process and sheriff sale on your home. You will need to move from the house by a specific date. Make sure you are ready to move when you talk to your lender.

✓ Open and read all of your mail. Your lender will be sending you paperwork regarding your legal rights. If you do not understand the paperwork, you should contact an attorney to help you understand your rights. If a sheriff or constable brings you foreclosure paperwork, you should contact an attorney immediately.

Other Foreclosure Questions

Can foreclosure be stopped by catching up on the payments?
Yes. Generally, under Pennsylvania law, if you catch up on your mortgage payments before the sheriff's sale, the foreclosure must stop. You may do this up to 3 times during a calendar year. Not only do you have to pay the amount you owe for the missed mortgage payments, but you must also pay the court costs, late fees, and reasonable attorney's fees of the lender. These additional costs may be high.

What should I do if the mortgage company does not accept my payments?
Sometimes when you fall behind on your mortgage, the bank or lender will no longer accept your payments unless you catch up on your payments completely. In the meantime, you should save your mortgage payments and talk to an attorney about your options.

Can a bankruptcy help me?
In some cases, a Chapter 13 bankruptcy may save your home by allowing you to catch up on the payments that you owe over a three to five year period. During the bankruptcy, you will also be making your normal mortgage payments. If you are considering filing, you should contact an attorney to discuss your options.

Date Revised October 2018

Northwestern Legal Services

Preventing Mortgage Foreclosure

Information On Stopping Foreclosure Actions

To apply for services call:
1-800-665-6957;
452-6957 (Erie Area)
Or Online at www.nwls.org

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