How to Avoid Foreclosure

The best way to avoid foreclosure is to prevent the filing of a Notice of Default. Lenders do not want to foreclose but will file a Notice of Default to protect their interests, if necessary. If you know you are unlikely to meet your mortgage obligation, the first thing you should do is call your lender.

Don't put it off, be embarrassed or ignore letters from your lender because those responses will make the situation worse, not better. Depending on your particular situation and hardship circumstances, here are some options your lender might propose to you:

- Time to make up your payments.
  Lenders might agree to wait before taking legal action against you and let you work out a repayment plan that is affordable for you. This is called forbearance.
- Forgiving a payment.
  If you can agree on a way that you will be current after missing a payment or two (without the means to pay it back), the lender might give you a break and waive your obligation. This is called debt forgiveness, and it rarely happens.
- Spread out the missed payments over a longer term.
  For example, if your payment is, say, $1,200 a month, the lender might let you add $100 a month to each payment for a year until you are caught up. This is called a repayment plan.
- Changing the terms of your loan.
  If your mortgage is an adjustable loan, the lender might freeze the interest rate before it increases or change the interest rate to a more manageable rate for you. A lender might also extend the amortization period. This is called a note modification.
- Add the back payments to your loan balance.
  If you have sufficient equity and meet the lender's lending guidelines, the lender might increase your loan balance to include the back payments and re-amortize the loan. This is called a refinance.
- Make a separate loan to you.
  Certain government loans contain provisions that let borrowers who meet specific criteria apply for another loan, which will pay back the missed payments. This is called a partial claim.

Ways to Stop Foreclosure

When the lender files a Notice of Default, your options are limited. That is why it is better for you to call your lender before falling behind on your payments, because lenders are often reluctant to work out repayment schedules after foreclosure proceedings have been commenced.

You will be given a certain time period to bring the payments current, pay the costs of filing the foreclosure and stop the foreclosure. This is called reinstatement of your loan. If you cannot make up the missed payments and the lender will not work with you, here are a few other options to stop foreclosure:

- Sell Your Home.
  Interview real estate agents to get an opinion of market value and average DOM to sell your home. You might be tempted to hire a discount broker, but many sellers feel they need the exposure and marketing that full-service brokers offer. Compare both to determine which best meets your needs and time frame.
- Consider a Short Sale. I will go into much more detail in the following sections
  If your home is worth less than the amount you owe, you might be a candidate for a short sale. A short sale affects credit but it's not as bad as a foreclosure. You or your agent will need to negotiate with your lender to find out if the lender will cooperate on a short sale. This is called a pre-foreclosure redeemed.
- Sign a Deed-in-Lieu of Foreclosure
  This is called deeding the home back to the lender. The homeowner gives the lender a properly prepared and notarized deed, and the lender forgives the mortgage, effectively canceling the foreclosure action. Lenders tell me that deeds-in-lieu of foreclosure affect credit the same as a foreclosure.

  The lender might also work an arrangement where a home owner can remain in the home until finding a place to move into. Owners in default should negotiate the right to retain occupancy, arguing that if the lender followed through on the foreclosure, an owner would still enjoy the right of possession during that procedure.

REO and Short Sale homes are commonly lumped together because they relate to foreclosures, but they are quite distinct from one another. Short sales happen before a property goes to foreclosure, while REO/Bank Owned properties are sold after the home is foreclosed and the bank or lender takes control of the property. Short Sales also typically involve the homeowner and/or their agent getting lender approval to sell below what is owned to the bank(s), while REO sales are usually direct negotiations with the lender and the real estate agent for the investor or potential buyer.

1 out of 4 of Orange County Homeowners are upside down on their Mortgage. Even with the recent upswing in the market there are over 2 million homeowners underwater and about 1 million home owners behind on their payments.

Due to the poor local real estate market in Southern California, and the nationwide Mortgage loan crisis, many California homeowners find themselves unable keep up with their increased mortgage payments, and many times the mortgage loan debt is more than the home is worth... in other words - No Equity left in the property. Many home owners are unable to modify the loan, nor re-finance the home. Unfortunately, many homeowners give up, because they think there is nothing they can do to stop the Foreclosure of the home. Well, there is something you can do that's far better than a foreclosure... it's called a Short Sale. In addition, the Federal Government has created the new HAFA Short Sale Program in order to help to prevent Foreclosure. I will explain the HAFA program later.

What is a Short Sale?

In simple terms, a short sale is transaction in which the bank(s) accepts a discount on their mortgage to allow a sale, and thus avoid foreclosure or bankruptcy. For example: A homeowner, who is facing foreclosure, has an existing first mortgage of $500,000. The market value of the home is $350,000. The Mortgage Bank agrees to wipe out $150,000 in mortgage debt, and accepts the offer for $350,000 and the home is sold. The result will be a short payoff on your credit, and forgiveness of the debt by your creditor(s); this will negatively affect your credit. This difference is then written off by the bank for tax purposes. In actual practice, a Short Sale is the most complex of all Residential transactions.

During a Short Sale, the representing agent will negotiate with your mortgage Banker(s), on your behalf. This allows them to sell your home to another buyer, versus allowing the bank to foreclose on the property which would ruin your credit, possibly leave unpaid debt. You may ask yourself "Why should I care, for I have no more equity left in my house ?"... Well, the fact is there are several important reasons why a Short Sale is far better for you compared to Foreclosure. I will go into the depth of the advantages of a short sale in my next post.

What are the Advantages of a Short Sale?

1.) Less Damaging to Credit Rating: A Foreclosure will severely damage ones credit rating for 7 years, but a Short Sale is less damaging and its effect does not last as long.(averaging about 2 years)

2.) It is free. Unlike a traditional sale the short sale commissions are paid by the bank. You have an experienced professional representing you every step of the way. At the end the bank pays. There is no upfront cost, and if there is someone who is trying to charge you a up front premium cease contact and report them. This is illegal. The person representing you makes enough money on the sale.

3.) Major Banks are Encouraging Short Sales over Foreclosure: Fannie Mae (FNMA) recently changed their underwriting policy so that a past home owner now has to wait 5 years after a foreclosure before FNMA will underwrite a new loan. If the homeowner conducted a short sale the wait time is just 2 years.(possibly less if you have stayed current on your house payments) Freddie Mac also offers participating Banks a $2,200 incentive to conduct a Short Sale versus Foreclosure.

4.) Probable Relief from HELOC 2nd Mortgage: When the 1st Mortgage Bank forecloses, the 2nd TD HELOC loan is not deleted from your debt. The 2nd TD HELOC Mortgage Bank may take legal means to collect their debt after the Foreclosure. With a Short Sale, all liens are negotiated and resolved in the sale of the home. You will be free of all debt in relation to the property.

5.) Dignified Solution: With a Short Sale, you home just like your neighbors have done. It's a dignified resolution to a tough situation. On the other hand, after a Foreclosure, a Sheriff performs a lock out, the grass turns brown, and a Bank Sales Rep places 'Bank Foreclosure For Sale' signs in front of the property.

6.) You know when you have to move: With a short sale you have more control. You will know when your home will be sold and can make the best moving situation for you and your family. A foreclosure you are waiting for the bank to make their decision not knowing when the actual move date will be.

7.) "Cash for Cooperation": Some of the banks are now offering home owners a Cash incentive in order to cooperate with a short sale, versus allowing the property to be foreclosed on by the Bank. Which banks and amount of cash offered, is on a case by case basis.

What are the disadvantages of a Short Sale?

Extra work. Yes there will be some more work to be done on your part. You will need to show the home to multiple interested buyers. This will mean people coming by on weekends and weekdays at various times. This is all based on what you are willing to do. There are many options to make this process as lease painful as possible. You can choose to only allow minimal show times for example Mon and Wen from 5-8pm.(the less flexible the less likely you will find a qualified buyer) You will also need to be a part of the decision of what offer to take to the bank. You will most likely get multiple offers and you want to make sure you select serious qualified buyers who are going to wait for bank approval which could take months.

The selected buyer walks: This is unfortunately the biggest problem with a short sale. The negotiation process can take multiple months and the buyer may have decided on another property. They are in the market to find a new home and they may have either found a better deal or just became impatient. (They are just looking out for their best interest) It is part of this current market. This will most likely start the process over.

There is another option to hiring a Real Estate Agent.

You can find an investor buyer.

Most of the time these professionals are either agents themselves or work with specific agents. They have creative ways of finding money and can purchase the home for cash. They have a tremendous amount of leverage and use that leverage to negotiate a win win situation for everyone. There is no need to show the home to other potential buyers and no stress on the buyer walking away. If for some reason the investor buyer cannot get the deal they want the agent will then use the already negotiated price and sell it on the market. Most likely you will have an approved price from the bank and the interested buyers will know what price they need to come in at. This takes away a majority of the work on the homeowners end. As an investor buyer and Realtor I can say that if you are considering a short sale I can find a solution to the problem. I am here to help and want the best answer to your problems. I have and can find multiple avenues to solve your unique situation. I can even help you stay in your house and at the least give you a road map on what to expect and what to do.

Common questions and objections.

Why would I pursue a short sale if I will lose the house anyway?

One major difference is that a short sale will allow you to obtain a home loan as little as 2 years after the close and a foreclosure will be a minimum of 7 years. A short sale will have a far less effect on your credit rating. This results in obvious decrease in cost when it comes to borrowing money. If you plan to ever receive a loan again pursuing a short sale will save you thousands of dollars in the long run. Plan for the future and do what you can to avoid a foreclosure. On every loan application there is one question that does not have a time limit. Have you ever had a property foreclosed upon? Where in a question in regards to a BK will be structured more like this. Have you filed for bankruptcy in the past 10 years? So even though after 7 years you can technically purchase a home loan again, a foreclosure will always affect your application.

I have heard of that homeowners are receiving cash for conducting a short sale. Is this true?

Yes, this is true. Not every situation is the same and not every situation will grant this cash. The bank will decide this and there is no gurantee. I am HAFA certified and this program is geared toward helping distressed homeowners with moving expenses after the sale.(or as you hear in the industry cash for keys)

Time is of the Essence.

If Foreclosure proceedings have started on your home, then you may have less than 3 months before your home is sold at the public Foreclosure Auction on the courthouse steps. I have seen the process range from 30 days to 3 years. Every property and situation is different. Even if your sale date is within days a professional can intercede and delay the process. Banks will be cooperative if they know your situation and that you want to help sell your home. The best thing to do is hire a professional. They understand the process and can take tremendous amount of work and stress away. A professional can help find you a new home and possibly help you purchase a new home at the same time allowing you to take advantage the current deals available in the market.