

## **I. MAKE A WORKOUT PLAN WITH YOUR LENDER**

### A. Action Plan:

1. Develop a budget. Cut all unnecessary spending. Increase your income. What can you promise and realistically do? You should be spending 30% or less of your gross monthly income on your mortgage payment and only 11% for all other monthly debt payments.
2. Write a hardship letter presenting a past, present and future narrative about your mortgage crisis. Detail what happened in your life that led up to the delinquency on the mortgage. Describe what your current situation is and how you would like the lender to help you. Emphasize how your life will be improved by getting the lenders help with the mortgage.
3. Call your bank or mortgage company as soon as you have a budget and hardship letter. Ask to speak to someone in the loss mitigation department and ask for a workout package. A workout package is an agreement between you and your lender that outlines how you will pay your mortgage default and avoid foreclosure. To negotiate a workout package, know what you need and what you are able to give. Be assertive, but not rude.
4. Fill out the workout form promptly, keep a copy for your records, and send the form back by certified mail. Include your hardship letter.
5. Keep a record of all communications (calls, letters, etc.) between you and your lender including dates, times, names and phone numbers. Purchase a spiral bound notebook to organize your records.
6. If the lender does not allow partial payments, it is important to *save the money* that you would have sent to the mortgage lender each month in a designated savings account. This will allow you to have a lump sum to offer for a workout or to move if you lose the house. Do not pay other debt with this money. Focus on saving your house.

B. Possible Workout Options: Not all lenders offer the same workout options. It is important to know who your lender is and do research about what they offer. Ask the servicer: *Who owns my loan? Who has the most to lose if this loan goes into foreclosure?* Consult a certified housing counselor if you are in doubt. The following are general guidelines of workout options when the mortgage is in crisis.

1. Short-term:

- a. Request a delay of the Sheriff's sale. After the Sheriff's sale, there are no workout options available to you. You must get a WRITTEN AGREEMENT from your lender to delay the sale. Be aware of the timeline. Move quickly!
- b. Reinstatement: All servicers are required to pursue a reinstatement as the first option for resolving a delinquency. A reinstatement occurs when a homeowner pays all delinquent mortgage payments and past -due amounts, making the mortgage current. A homeowner may reinstate a delinquent mortgage at any time, even after foreclosure proceedings begin or while a relief or workout plan is in progress. A reinstatement can be partial with a repayment option, or full bring the mortgage completely current.

2. Long-term:

- a. Forbearance: Not all lenders offer forbearance agreements. If one is offered to you, it will allow you to 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 best if you had *temporary financial difficulties*, are now able to maintain financial stability, AND have enough money to pay the extra amount owed each month. Do not agree to an unrealistic plan—if you default on a workout package agreement, your lender will not be as likely to work with you in the future.
- b. Loan modification: When you can no longer afford the original loan terms due to a permanent change in your financial circumstances AND the lender is willing to avoid foreclosure as well, you may be able to ask them to:
  - Reduce your interest rate (the cost of borrowing money)
  - Extend the loan (increase the number of years over which you pay back the money borrowed)
  - Re-figure the loan using your equity (the amount of the home that you own). The past dues amount and fees are rolled into the loan amount.
  - Combine any of these approaches.
- c. Bankruptcy: Bankruptcy can stop the collection activity and the foreclosure allowing the homeowner time to bring the mortgage current. Seek the advice of an attorney.

C. Special Mortgage Protections: You should expect and ask for the *most* help from lenders that are servicing FHA/HUD, Fannie Mae or Freddie Mac loans.

1. **Forbearance:** If you have a reasonable chance to recover from the crisis and begin paying again, the lender 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 the missed payments each month. Do not agree to an unrealistic plan—if you default on a workout package agreement, your lender will not be as likely to work with you in the future.
2. **Partial Claim:** (HUD loans only). If you are 4 to 12 months behind but have not recovered from the crisis, the lender can loan you money to get your monthly payments caught up. HUD pays the lender and puts an interest-free loan as a lien against your property. When you sell or refinance, you pay the partial claim loan back.
3. **Assumptions:** A mortgage assumption permits a qualified applicant to assume both the title to the property and the mortgage obligation from a homeowner who is currently delinquent in the mortgage payments.

## **II. REFINANCE YOUR MORTGAGE WITH ANOTHER LENDER**

### A. Consider this when:

1. You have a high enough credit score to refinance.
2. You have enough income to support the new mortgage amount including your insurance and taxes.
3. You would have a lower interest rate or longer payment period than on your existing mortgage.
4. You refinance a low interest first mortgage and a high interest home equity loan into a single medium interest mortgage that is affordable and include taxes and insurance.

### B. How to refinance:

1. Shop 'til you drop. Be honest with banks, credit unions, and mortgage companies. Tell them your credit score and current mortgage rate. Ask if they could do better.
2. Compare interest rates, length of the loan and closing costs. Get an idea of what you would qualify for, and *then* apply to a reputable lender.
3. Do not assume that you can only get a high interest loan.
4. Review the loan documents carefully with a real estate attorney if a possible, to be sure you are getting what you asked for!

### C. Reverse Mortgage: For people over 62 years of age only.

1. You can use the equity in your home to live on, with payments not due until you move or pass away.

2. It is a VERY expensive mortgage and may not solve your financial problems, but in some circumstances, it is a good choice.

### **III. LEGAL POSSIBILITIES TO SAVE THE HOME**

*(This information should NOT be considered legal advice. For legal advice please contact the Washtenaw County Bar Association Lawyer Referral Service 996 -3229)*

- A. Procedural defenses: If anything was done incorrectly with the foreclosure process, the lender has to start over. This could buy you some time in the process.
- B. Bankruptcy: This 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. This is a very complicated process and should not be entered into lightly. Please consult a Bankruptcy counselor to understand the implications of this option.
- C. Substantial hardship or substantial equity: Some circumstances can result in special judicial consideration, including a high amount of equity in the home or an unforeseen catastrophe.
- 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.

### **IV. GENERAL MORTGAGE FORECLOSURE PREVENTION TIPS**

- A. Get help early in the process. You don't have to go down this road alone, contact a certified housing counselor and discuss all of your options.
- B. If the foreclosure sale date is close at hand or the lender will not agree to a workout, try to save your house through the courts.
- C. Often, people postpone getting legal help until it is too late. Others walk away from the homes in frustration, leaving themselves without equity and vulnerable to deficiency claims.
- D. Most lawyers will provide a free or low cost 30-minute consultation. Go prepared with a copy of your mortgage document, your home budget and a hardship letter. It is up to you and the attorney to negotiate fee for service.

**OPTIONS IN FORECLOSURE**  
*II. KEEPING YOUR HOME*

**Washtenaw County MSUE**  
*Mortgage Foreclosure Prevention Program*  
(734) 997-1678