



## WHAT TO DO WHEN YOU CAN'T AFFORD YOUR MORTGAGE

A home mortgage is a secured debt. Secured debt is held against an asset, if the debt is not paid, the asset can be taken. If you do not adhere to your mortgage agreement, the lender can take your house.

If you are having trouble, or think you may be facing future payments that you cannot afford, do everything in your power to make up the missed or late payments. Prioritize your mortgage payments.

If you do fall behind and are unable to catch up then you probably cannot afford the mortgage you currently have and must act quickly. **Contact your lender or loan servicer immediately.** Do not ignore their letters or calls. Let them know that you are having difficulty and are willing to do whatever is necessary to stay current on payments and keep your house.

A general timeline, from late payment to foreclosure, that shows what might happen if you do not communicate with your lender and resolve late payment issues in a timely manner might be:

- **Day 1**  
A mortgage payment is missed.
- **Day 16-30**  
A late charge is assessed on payment. The mortgage servicer (the company that processes borrower's payments) will attempt to make contact with the borrower.
- **Day 45-60**  
Servicer will send a "demand" or "breach" letter to the borrower pointing out that terms of the mortgage have been violated. The borrower has 30 days to pay the delinquent amount.
- **Day 90-105**  
The servicer refers the loan to its foreclosure department and hires an attorney or representative to initiate foreclosure proceedings. That representative may record a formal notice of foreclosure at a courthouse, publish details of the debt in the local newspaper, attend hearings on the case, etc.
- **Day 150-415**  
The house will be sold at foreclosure sale or auction

There are a number of things the lender may consider doing to remedy the situation such as:

**Repayment plan:** The lender may be willing to agree to a repayment plan and split the late payment(s) up and tack them on to future monthly payments.

**Short refinancing:** The lender may forgive some of your debt and refinance the rest into a new loan that you can afford.

**Loan modification:** The lender may adjust the terms of the loan to make it affordable. They may lengthen the amortization schedule or lower the interest rate or include the past due

amount into the loan and re-amortize the new balance so that you can pay the additional debt back over time.

**Short sale:** The lender lets the borrower sell the house for less than the outstanding loan amount, takes the proceeds and forgives the remaining debt.

**Deed in lieu of foreclosure:** You surrender the home to the bank and they sell it.

**Hard money loan:** These loans have high rates and fees but may buy you enough time to sell the home and avoid foreclosure.

**Bankruptcy:** Filing for bankruptcy will temporarily halt the foreclosure process and may force the mortgage lender to accept a more borrower-friendly repayment plan but a bankruptcy should only be considered as an absolute last resort. Doing so will remain on your credit report for ten years.

If you think that you are in trouble or at risk of falling behind on your mortgage payments call the **New York State Banking Department's Consumer Helpline at 1-877-BANK-NYS** (1-877-226-5697).

**Contact a certified housing counselor:** Housing counselors that handle foreclosure related issues can give you advice on your options and resources . They can also help you find free legal services and help you negotiate with your lender. Find a foreclosure counselor in your area by calling the Banking Department's Consumer Helpline or by visiting our Web site and clicking on the link titled "Help For Homeowners in Foreclosure."

**Contact a lawyer and review your mortgage documents.** Make sure your loan is not in violation of any laws governing interest rates, in violation of New York's High Cost Home Loans Act, and any other laws governing predatory lending and abusive loans. If you do not have a lawyer, call the New York State Bar Association's Lawyer Referral Program at 1-800-342-3661 to find one, or visit [www.nysba.org](http://www.nysba.org). If you do not think you can afford a lawyer call the Banking Department's Consumer Helpline for assistance in locating free legal services in your area, call Legal Aid or visit Law Help at [www.lawhelp.org/ny](http://www.lawhelp.org/ny)

**Use a licensed real estate broker.** If you do decide to sell your home, use a licensed real estate broker. To find a licensed broker in your area contact the Department of State at (518) 474-4429, or search their Web site at [www.dos.state.ny.us](http://www.dos.state.ny.us)

### **WATCH OUT FOR SCAMS OR TEMPORARY FIXES!**

Solutions that sound too good to be true usually are. **Be aware that certain individuals who will be interested in buying your home may actually be attempting to scam you.**

These individuals perpetrate what is known as "equity theft"; they steal ownership of your home through fraudulent sales contracts and other tactics. To avoid falling victim to these scammers, never do business with anyone who posts a flyer or advertisement, calls you out of the blue, sends you unsolicited mail or knocks on your door with offers to help "rescue" you from foreclosure or default. See the Department's fact sheet on Home Equity Theft Scams for more information at [www.banking.state.ny.us/brhmfrs.htm](http://www.banking.state.ny.us/brhmfrs.htm)

### **HOPE NOW TOLL-FREE NUMBER**

Consumers seeking counseling support or advice can also call the nationwide toll-free number, accessible 24 hours a day to borrowers across the country at 1-888-995-HOPE (1-888-995-4673).