Your Guide to Proactive Foreclosure Avoidance

STOP FORECLOSURE

Explains key elements of the foreclosure process with information essential to taking charge of your financial crisis today and in the future.

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INTRODUCTION

Are you or someone you know finding it increasingly difficult to make the mortgage payments? You're not alone!

Foreclosure of your home is devastating and stressful, both emotionally and financially, and should be avoided at all costs. There are steps you can take immediately to mitigate the situation.

A Proactive Approach Is the Best Approach

Nearly 10.7 million households had negative equity in their homes in the third quarter, 2009, according to First American Core Logic, a real estate information company based in Santa Ana, California. The First American report stated that home prices have plummeted so far that 5.3 million U.S. households are tied to mortgages that are at least 20% higher than their home's value. Economists from J.P. Morgan Chase & Company reported on November 23, 2009 that they didn't expect U.S. home prices to hit bottom until early 2011, citing the prospect of oversupply.

You do have options to **Stop Foreclosure** and **Save Your Home** and/or **Save Your Credit** rating. Before you decide too quickly on Refinancing, a Loan Modification, or Selling Your Home, it's very important to learn the positives and negatives of these solutions. Even though time is of the essence, there are logical steps you have to take in order to act in the best interest of your particular financial situation. One solution does not fit all circumstances and expert guidance by someone familiar with all aspects of the Pre-foreclosure and Foreclosure Processes is highly recommended.

We have developed a "Your Guide to Proactive Foreclosure Avoidance" to explain the key elements of the foreclosure process with your best interests as the top priority. The sooner you address your mortgage and home equity crisis the better your chances are of finding a solution that meets your needs. You'll learn information essential to taking charge of the financial challenge facing you and your family.

SAVE YOUR HOME, SAVE YOUR CREDIT

Most credit authorities advise that a foreclosure will significantly damage your credit and may prevent you from buying a home for three to seven years from the date of the foreclosure sale. Extenuating circumstances may reduce this time in a few cases. Home owners will most likely see a decrease to their credit score by going through foreclosure, giving their lender a deed-in-lieu of foreclosure or working with their lender to achieve a short sale. Some sources indicate a lesser impact on the credit score for a short sale or deed-in-lieu of foreclosure.

Effect of a Deed-in-Lieu of Foreclosure
Fannie Mae estimates that a deed-in-lieu of foreclosure will prevent you from being eligible to purchase a property until four years from the date the deed-in-lieu was executed.

Effect of a Short Sale
A preforeclosure sale or a short sale involves the sale of the property by the borrower to a third party for less than the amount owed to satisfy the delinquent mortgage, as agreed to by the lender, investor, and mortgage insurer. It will be a minimum of two years from the completion date of this sale before a consumer is eligible to purchase a property.

Effect of a Bankruptcy
A Chapter 7 bankruptcy may remain on your credit report up to 10 years and a Chapter 13 bankruptcy up to 7 years. A consumer may need to wait for four years after the dismissal date of a bankruptcy in order to obtain credit and purchase a property.

Missing mortgage payments will immediately begin to reduce the credit score of a borrower. We strongly recommend that you verify the potential affect on your personal credit score by consulting with a credit counseling service.

WHAT IS FORECLOSURE?

Foreclosure is the legal process by which an owner's right to a property is terminated, usually due to default. This typically involves a forced sale of the property at public auction, with the proceeds being applied to the mortgage debt. The home is collateral for the mortgage loan and the act of foreclosure will result in the sale of your home to a new owner at a public auction, or a takeover of ownership by the mortgage holder. The loss of a home due to unexpected events such as unemployment, divorce or sickness can be financially and personally devastating. Maybe you haven't missed a house payment yet, but are afraid you might because of significant changes coming in your financial situation.

Possibly your financial situation has already changed in a negative direction due to a mortgage payment increase, loss of job, forced job furlough, divorce, medical expenses, an increase in taxes or other reasons. Here are a few key indicators of trouble:

- You struggling to make your mortgage payment.
- Your credit card debt becoming unmanageable.
- You using your credit cards to buy groceries.
- It is becoming difficult to pay all your monthly bills on time.

If it’s becoming harder to make your house payment each month you may be facing foreclosure. The threat of foreclosure is serious. It poses a real threat to your financial well being that will not magically disappear. The foreclosure process can be like a runaway train on a clear track with no crossing stops ahead.

Fortunately there are steps you can take to prevent foreclosure, slow down the foreclosure process or lessen the impact of losing your home if there is no other choice. Most homeowners’ financial situations are unique so it is important to consider all the possible **Options** and **Strategies**, and to have a proactive plan in order to make the best decision. It is highly recommended that you seek the advice of real estate, legal or tax professionals to help you during this period.

CONSIDER YOUR OPTIONS

Alternative One: Stay in Your Home

There are several options we can help you with in order for you to stay in your home. One option is a loan modification which may be your best solution. We'll show you how to approach this option so you are fully prepared to present your best position to your lender. In addition, refinancing may be an option to avoid foreclosure and poor credit. You may even be able to rent your home out and move to another dwelling in order to preserve the potential future equity appreciation in your present home

Have you received a notice from your lender asking you to contact them? Don't ignore letters from your lender; contact your lender immediately. Foreclosure is expensive for lenders, mortgage insurers and investors. The U.S. Department of Housing and Urban Development (HUD) and the Federal Housing Authority (FHA), as well as private mortgage insurance companies and investors like Freddie Mac and Fannie Mae, now require lenders to work aggressively with borrowers who are facing money problems.

There is a general notification and communication process most lenders use with borrowers that are falling behind in their monthly payments. Inherent in the process are options available to you to stay in your home.

Don't ignore the problem and the danger signs

The further behind you become the harder it will be to reinstate your loan, which consequently increases the likelihood that you will lose your house.

Open and respond to all mail from your lender. The first notices you receive will offer good information about foreclosure prevention options that can help you weather financial problems. Future mailings may include important notices of pending legal action. Your failure to open the mail will not be an excuse to prevent the legal process from moving forward.

First, contact your lender as soon as you realize that you have a problem.

Second, contact a HUD-approved housing counselor.

HUD funds free or very low cost housing counseling nationwide. Housing counselors can help you understand the law and your options, organize your finances and represent you in negotiations with your lender if you need this assistance. Visit the helpful HUD web site at www.hud.gov. Call for a HUD-approved loan counselor toll free at (800) 569-4287

Warning: Avoid scams and foreclosure prevention companies

You don't need to pay fees for foreclosure prevention help; you could use that money to pay the mortgage instead. As of October 2009, it is illegal to require advance fees. Many for-profit companies will contact you promising to negotiate with your lender. While these may be legitimate businesses, they may want to charge you a hefty fee (often two or three month's *mortgage payments) for information and services your lender or a HUD approved housing counselor will provide for free.*

If any firm claims they can stop your foreclosure immediately if you sign a document appointing them to act on your behalf, you may well be signing over the title to your property and becoming a renter in your own home! Never sign a legal document without reading and understanding all the terms and getting professional advice from an attorney, a trusted real estate professional, or a HUD approved housing counselor. Beware of anyone who asks you to pay a fee in exchange for a counseling service or modification of a delinquent loan.

Loan Modification Option

Under some circumstances the lender will modify the terms of your loan so that you will have a new loan that covers back payments, and may even be at a new, lower, more affordable monthly mortgage payment. This requires some work on your part to submit a detailed application and supporting documentation, but will get you started on the right path to work directly with your lender for a fast decision.

The Making Home Affordable Program

The Federal Government's Making Home Affordable (MHA) Program gives homeowners with loans owned or guaranteed by Fannie Mae or Freddie Mac an opportunity to refinance or modify loans into more affordable monthly payments to help prevent avoidable foreclosures. Their consumer website provides homeowners with detailed information about these programs along with self-assessment tools and calculators to empower borrowers with the resources they need to determine whether they might be eligible for a modification or a refinance under this program. Also on this website is a very helpful list of Frequently Asked Questions (FAQs) from borrowers in similar circumstances. The MHA Program offers two different potential solutions for borrowers:

(1) Refinancing mortgage loans through the Home Affordable Refinance Program (HARP) and

(2) Modifying mortgage loans through the Home Affordable Modification Program (HAMP).

The Streamlined Modification Program

The Federal Government offers a Streamlined Modification Program (SMP) to borrowers to help prevent foreclosures. It is available to servicers and borrowers of Fannie Mae and Freddie Mac who work with numerous lenders and servicing companies in the HOPE NOW alliance to implement the SMP. Under the program borrowers who meet certain eligibility criteria and demonstrate financial hardship may be eligible for a loan modification that reduces their monthly mortgage payment. If approved, the borrower is allowed to establish a new monthly payment for a three-month trial period. Loan modification terms will take effect if the borrower makes the new payments during the trial period. The program is potentially available to borrowers who have missed at least three monthly payments on their existing mortgages.

Refinance Option

Lenders do not want your house. Lenders have options to help borrowers through difficult financial times. Be honest with your lender about your finances. If your income has decreased but is coming back it may be high enough that you can afford your existing loan or a new loan. If there is some equity left in your house, and you have acceptable credit, you may be able to refinance with a new loan at a more favorable interest rate and lower your monthly payments significantly. You may work directly with your lender or seek the services of a consultant.

Forbearance Option

Another possibility is that the lender may grant a forbearance which is simply allowing the current loan to be idle for a period of time, say a few months, at which time you will start paying on your current loan again. The lender will ask the borrower to show the ability to begin payments at the specified future date.

Reinstatement Option or Repayment Option

Alternatively, the borrower may be allowed to make a lump sum payment of all past due amounts to bring the loan account current and thus reinstate the original loan.

Another method lenders offer some borrowers is a repayment plan that allows a certain amount of time to catch up by combining past due and current payments on a schedule.

FHA Partial Claim Option

Your lender may agree to help you apply for an interest-free loan from HUD to cover the cost of bringing your mortgage current. HUD will request financial information regarding your ability to pay and if a loan is granted, will file a lien against your property. The loan would be paid off when you refinance or sell the property. This option applies to FHA loans but contact HUD for the latest information on types of loans they will cover.

Rent the Property Option

If your financial position is strong, then one way to potentially increase your future net worth is to rent out your existing home before falling behind on payments. Most economists believe that home values will rise again in time. While your credit is good you could buy a new primary home at today’s bargain prices, and turn your existing home into rental income property. You will then be positioned to receive the potential appreciation on two properties.

Bankruptcy, Chapter 13 Option

In chapter 13 bankruptcy you file a plan showing how you will pay off some of your past-due and current debts over a period of a few years. The most important thing about a chapter 13 case is that it will allow you to keep valuable property, like your home or car, even if you are behind on payments or have equity not covered by your exemptions. Your payments on these secured debts will generally be your regular monthly payments plus some extra amount if you need to get caught up on past due expenses. You may consider chapter 13 if you have valuable property not covered by an exemption, like a home or car, but want to keep this property. If you are behind on secured loan payments a chapter 13 bankruptcy can allow you to make up these payments over time while keeping the home or car. This information is intended to be only general in nature; it is highly recommended that you seek the advice of an attorney.

Summary of Alternative One: Stay in Your Home

- Apply for a loan modification to a new loan
- Apply to refinance to a new loan
- Apply for a forbearance with the same loan
- Agree to a reinstatement or repayment plan
- Apply for a partial claim
- Rent the property to retain potential appreciation
- File for bankruptcy, Chapter 13

A Proactive Approach Is the Best Approach

Alternative Two: Leave Your Home and Make a Fresh Start

Short Sale Option

A short sale may occur once a home is in pre-foreclosure or prior, but before the property goes to foreclosure. In a short sale, the lender accepts an offer from a third party buyer for less than the outstanding loan on the property and forgives the deficiency owed by the borrower. This arrangement may be appealing to lenders because it saves time and money by stopping the legal foreclosure process and by taking the property off the lender's books.

Before approving a short sale lenders weigh several factors and require a lot of financial information from the borrower and other information from the listing agent. Every bank can be different, but there has to be a hardship such as a job loss or health problem that makes it difficult for the borrower to keep up with payments.

H.R.3648, the Mortgage Forgiveness Debt Relief Act of 2007, provides relief to homeowners facing foreclosure from the phantom income realized from debt forgiveness or foreclosure. The benefit to the borrower of a short sale is that the credit report will show that the loan settled for less than full value as opposed to a foreclosure. Owners most interested in the short sale opportunity are those hoping to receive a smaller negative hit on their credit by avoiding foreclosure.

Deed in Lieu of Foreclosure Option

An alternative to a short sale or foreclosure to be considered by property owners is the possibility of deeding the encumbered property back to the lender, thus giving the lender a deed in lieu of foreclosure. A deed in lieu of foreclosure is a deed given by the trustor (the borrower) to the beneficiary (the lender) to stop the foreclosure process. By accepting a deed in lieu of foreclosure, the lender avoids the costs and delays of foreclosing. However, remember that:

1. Any junior liens are not extinguished (a foreclosure wipes out junior liens)

2. The borrower may later try to set the conveyance aside, and/or

3. The borrower's other creditors may argue that the conveyance was a fraudulent conveyance which jeopardizes their ability to satisfy their claims against the borrower. Lenders can protect themselves against hidden junior liens by obtaining an endorsement

to the beneficiary's title insurance policy that places title in the beneficiary free and clear of any junior liens.

By giving a deed in lieu of foreclosure and thus stopping the foreclosure, the borrower may avoid any further injury to his/her credit and insulates himself/herself from any possible exposure to a deficiency judgment. If the deed in lieu is given to the lender early on, the borrower avoids having a notice of default recorded against his or her name. However, the borrower will be denied any opportunity to retain the excess proceeds, if there are any, following a trustee's sale.

In a deed in lieu of foreclosure plan the borrower returns the deed on the property to the lender in exchange for a release of the security interest and a cancellation of the note. As in the case of foreclosures and short sales, the borrower may be able to claim relief under the Mortgage Forgiveness Debt Relief Act.

Foreclosure Option

In California there are two types of foreclosure with which a home owner might face. These are the judicial foreclosure and the trustee sale sometimes called the power of sale foreclosure. Most foreclosures by far are by trustee sale.

Foreclosure by Trustee Sale
In contrast to the judicial foreclosure, in a trustee sale there is no court filing. Instead the lender elects to accelerate the loan under the power of sale clause contained in the deed of trust and the property is sold at a trustee sale. In actual practice, when the borrower is approximately 45 to 60 days in default, the lender sends a letter advising that the loan is in foreclosure and that the lender is going to exercise the option to accelerate the loan. The borrower is also provided information about how to reinstate the loan. If the borrower does not cure the default, the lender then records a notice of default against the property. The soonest the actual foreclosure sale can occur once the notice of default is recorded is three months and twenty one days.

If the property sells at foreclosure for more than the amount due plus costs of foreclosure, the excess proceeds are distributed to junior lien holders whose loans or liens were wiped out by the foreclosure and any remaining excess is returned to the property owner. Where the junior lien holder’s security is wiped out by the foreclosure of the primary lender, the junior lien holder may choose to sue on the note under a breach of contract claim. While this was rarely done in the past, some lenders are now pursuing this course of action to recover the lost security on their loans.

The recovery of a deficiency is not possible on a “purchase money” loan, including seller-carried financing, on any real property or loans on property consisting of 1-4 family units of owner occupied residential property. Recovery of the deficiency amount is possible, however, on a refinanced property loan (non purchase money) or on 1-4 family non-owner occupied residential property loans. The property owner is advised to consult an attorney if there are questions about deficiency judgments.

Judicial Foreclosure
Fewer than 5% of residential foreclosures in the state of California are judicial foreclosures. A judicial foreclosure is initiated by the lender filing a lawsuit against the defaulting borrower in

Superior Court. Upon sufficient proof at trial, the court enters judgment of foreclosure and orders the sale of the property. After the sale the lender files an application for fair value deficiency after which there is a hearing on the deficiency. Upon approval the court issues a fair value finding on the deficiency and enters a conventional money judgment called a deficiency judgment. A judicial foreclosure generally takes much longer than a trustee sale. Subsequent to the issuance of the judgment there is a time period during which the borrower can exercise his right of redemption and repurchase the property by paying the full amount of the defaulted loan.

Bankruptcy, Chapter 7 Option

Chapter 7 bankruptcy is another option that defaulting borrowers may sometimes consider. Generally, bankruptcy will be attractive where the borrower is in debt with no feasible way of recovering. The most common scenario is where the borrower is in default on a loan where the lender is seeking judicial foreclosure or where the lender is suing on a note where the underlying security has been wiped out by a senior creditor. Again, whenever a borrower is facing possible foreclosure it is wise to contact a bankruptcy attorney who is qualified to address all of the available options.

Under the federal bankruptcy statute, a discharge is a release of the debtor from personal liability for certain specified types of debts. In other words, the debtor is no longer required by law to pay any debts that are discharged. The discharge operates as a permanent order directed to the creditors of the debtor that they refrain from taking any form of collection action on discharged debts, including legal action and communications with the debtor, such as telephone calls, letters, and personal contacts. Although a debtor is relieved of personal liability for all debts that are discharged, a valid lien (i.e., a charge upon specific property to secure payment of a debt) that has not been avoided (i.e., made unenforceable) in the bankruptcy case will remain after the bankruptcy case. Therefore, a secured creditor may enforce the lien to recover the property secured by the lien.

Generally people file chapter 7 bankruptcy if they have a large amount of unsecured debt such as credit card debt or medical expenses that they are no longer able to pay. Often unemployment, unexpected medical expenses, or divorce prompt the cause the debtor to seek protection from creditors by filing chapter 7 bankruptcy. This information is intended to be only general in nature; it is highly recommended that you seek the advice of an attorney.

Summary of Alternative Two: Leave Your Home and Make a Fresh Start

- Sell as a short sale
- Agree to a deed in lieu of foreclosure
- Let the foreclosure process proceed
- File for bankruptcy, chapter 7

There are significant differences in the consequences of implementing a loan modification, a short sale or a foreclosure (see Table 1 for an overview). These differences affect your ability to purchase property in the future.

Table 1: CONSEQUENCES OF A HOME LOAN DEFICIENCY

Issue	Loan Modification	Short Sale	Foreclosure
Credit Report	Type of notation depends on type of modification program (e.g., government-sponsored), lender's policy, and consumer's credit profile*.	Generally, noted as "not paid as agreed" or "settle". But depends on lender's policy*.	Noted as "not paid as agreed"*.
Credit Score	May drop your score but depends on several factors (see above).	There is conflicting information on this point. Some authorities state there isn't any difference between a short sale and foreclosure and how it affects your FICO score. And it depends on the consumer's credit profile. Others claim a short sale adversely affects your score between 100 – 200 points. Whereas a foreclosure will ding your score upwards of 280 points.	
Home Purchase	N/A	**Fannie Mae:** 2 years from completion date. **FHA:** 3 years from completed sale for borrowers in default at time of sale. ***Immediately*** for borrower's current for the preceding 12 months. Lenders may make exceptions for extenuating circumstances (e.g., death, illness, etc.) or have their own requirements.	**Fannie Mae:** 5 – 7 years from completed sale and 3 years with extenuating circumstances (e.g. divorce, death, job loss, etc.; documentation required). **FHA:** 3 years from completed sale.

*Nothing precludes the consumers from negotiating with the lender on how they report the event to the credit bureaus. Any derogatory/negative items stay on the consumer's credit file for 7 years.

THE FORECLOSURE TIMELINE DRIVES YOUR AVOIDANCE STRATEGIES

A lender may initiate the foreclosure process when a borrower defaults on a loan, such as by missing one or more mortgage payments. A slight delay may not justify acceleration and foreclosure by the lender. Hence, in practice, lenders generally wait a few months after a missed payment before starting the foreclosure process. The times will vary from lender to lender because of their workloads and policies, but a generalized timeline you can plan with follows:

- ***Step 1: Initial Contact from Lender***

  For most loans the lender will contact the borrower in one or more ways to initiate the foreclosure process. The contact may by phone, by mail or in person to assess the borrower's financial situation and explore options for avoiding foreclosure.

- ***Step 2: Filing of a Notice of Default (NOD)***

  For owner-occupied loans the lender may file a notice of default 30 days after contacting the borrower to explore options for avoiding foreclosure. After the second missed monthly payment your lender is likely to begin calling you to discuss why you have not made your payments. After the third payment is missed, you will receive a letter from your lender stating the amount you are delinquent, and that you have 30 days to bring your mortgage current. This is called a "Demand Letter" or "Notice to Accelerate." If you do not pay the specified amount or make some type of arrangements by the given date, the lender may begin foreclosure proceedings.

  After the fourth month missed payment you are nearing the end of time allowed in your demand or notice to accelerate letter. After 30 days, if you have not paid the full amount or worked out arrangements, you may be referred to your lender's attorneys. You will most likely incur all attorney fees as part of your delinquency. A housing counselor can still help you.

- ***Step 3: Filing of Notice of Sheriff's or Trustee's Sale***

  Three months after the filing of the notice of default, the lender, through an attorney, may record a notice of trustee's sale setting forth the date, time and place of the upcoming trustee's sale. This is the actual day of foreclosure**.** Because of the gravity of a notice of trustee's sale, it must be widely disseminated. The notice of trustee's sale must be recorded, posted and mailed to the borrower, and to others, as well as published once a week for three consecutive weeks in a newspaper of general circulation. It often is posted on the front door of the property. The time between the demand or notice to accelerate letter and the actual sale varies by state. In some states it can be as soon as two to three months. This is not necessarily the move-out date. You have until the date of sale to make arrangements with your lender or to pay the total amount owed, including attorney fees.

- ***Step 4: Deadline to Cure Default***

  Up to five business days before the trustee's sale, the borrower may reinstate the loan by curing the default or paying the missed payments plus allowable costs. After the reinstatement period expires, the borrower still has the right to redeem the property by paying the entire debt, plus interest and costs (not just the arrearage), before the bidding begins at the trustee's sale.

- ***Step 5: The Trustee's Sale***

  Although California law allows a trustee's sale to take place 20 days after the posting of the notice of trustee's sale, lenders customarily wait at least 31 days instead to help protect against federal tax liens. At the trustee's sale, the property is sold through a public auction to the highest bidder. Title is transferred to the successful bidder by trustee's deed. Even after the sale you need to check with your lender to make sure they don't come after you with a deficiency judgment.

- ***Step 6: Foreclosed – New Owner***

  The actual public auction may result in an immediate purchase by a private party, a corporation or some other organization. If the property fails to sell at the auction it becomes the property of your lender and is recorded as such with the county. Once title has transferred to the lender it is commonly called Real Estate Owned or an REO property. The new owner will make arrangements for the departure of anyone still occupying the property.

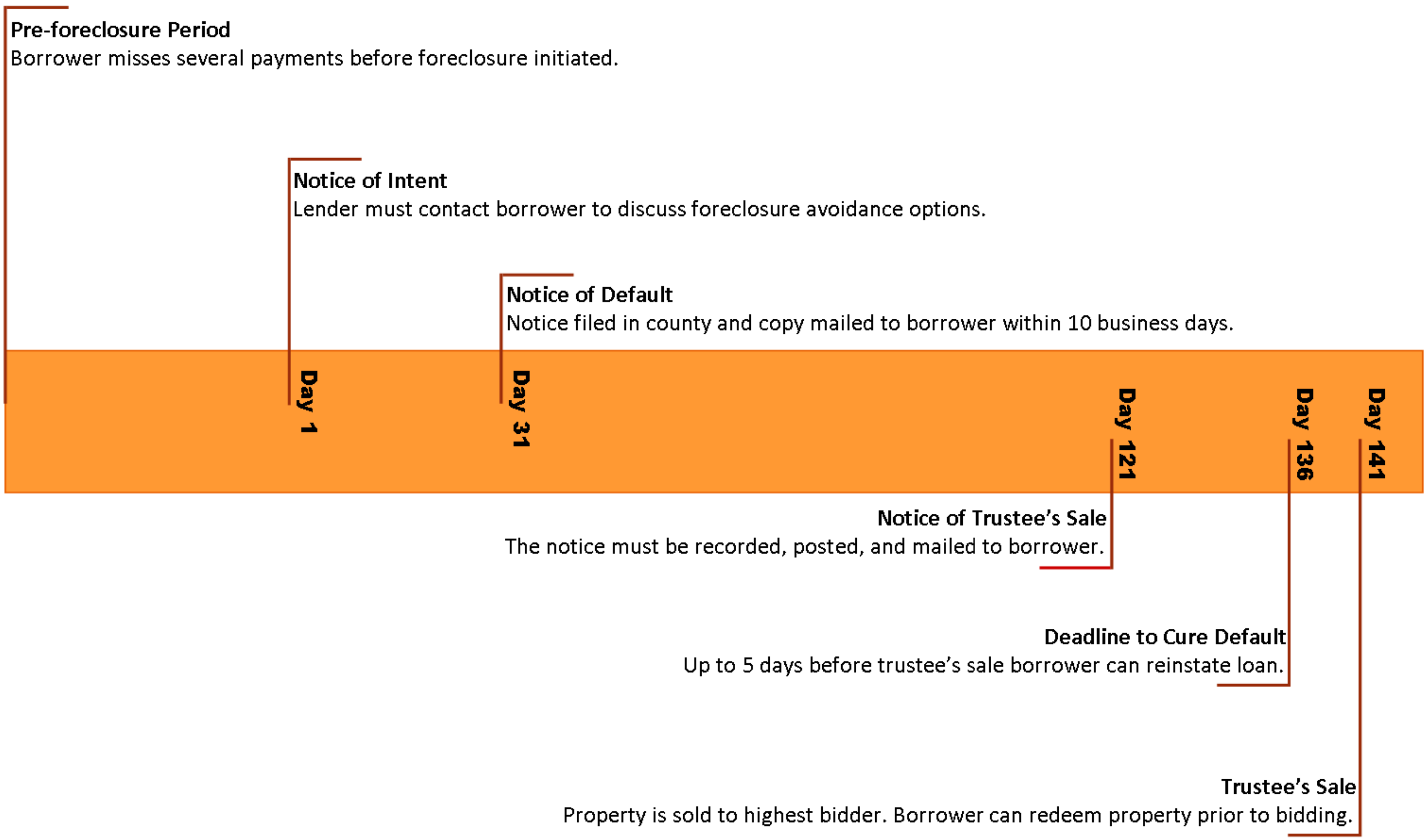
The non-judicial timeline shows the approximate times of key events as the foreclosure process moves forward from the borrower's missed payments to a possible trustee sale which will render the property foreclosed. Although the legal proceedings move forward at a steady pace, the borrower can take proactive steps to change, delay or resolve the process.

See Figure 1: California Non-Judicial Foreclosure Timeline. This shows the progression of legal activity through the foreclosure process. This applies to a large majority of cases in California.

The authors are not attorneys or tax professionals and do not intend any information in this guide to give legal or tax advice. It is highly recommended that you seek the advice of real estate, legal or tax professionals to help you during this period.

Figure 1: CALIFORNIA NON–JUDICAL FORECLOSURE TIMELINE*

OWNER-OCCUPIED LOANS MADE 2003 –2007



Source: C.A.R. Legal Department

*Approximate Minimum Timeframe

PROACTIVE STRATEGIES FOR STAYING IN YOUR HOME OR LETTING IT GO

Now that you understand the entire foreclosure process and the possible options you have available, it's time to determine your course of action. Our experience shows that it is much better for you to take decisive steps that will benefit you most, and not wait for events to happen. If you allow your bank, the foreclosure timeline or other outside forces to have their way you may end up much worse off.

A Proactive Approach Is the Best Approach

Here is a summary of the decision-making process you can move forward with instead of being stuck in a state of financial paralysis that a foreclosure can cause.

- ***Step 1***. First determine if you have the financial assets and income to refinance, repay or modify your loan. Fill out a financial statement to determine your current and projected income and expenses; or a profit and loss statement if you are an independent business person. Also produce a personal balance sheet to determine your net worth.

- ***Step 2.*** If you believe that you may be able to afford to **Save Your Home**, you can decide if you want to live there or rent it out as an investment and move to a new property. You may do much of the work yourself by negotiating with your lender to determine what loan terms you can afford and commit to. You may choose to work with a consultant to help you through the process. Or you may decide to invest in a reputable loan modification negotiator.

- ***Step 3.*** If you determine that there is no way any of the Save Your Home options are affordable with your current and projected income, then you should Leave Your Home and Make a Fresh Start by immediately choosing the best option that will have the least negative impact on your ability to purchase and hold assets in the future. There are pros and cons for each of these paths that depend on your personal situation. There is not an automatic answer that can be covered in a short guide such as this one. Again, you may choose to work with a consultant to help you through the process.

But never just do absolutely nothing as that will likely cause you the most financial pain, physical stress and emotional discomfort.

In summary, even with numerous options possible, you have only two strategic directions to choose from: Stay In Your Home or Leave Your Home to Make a Fresh Start.

To implement either strategy you can do a lot of the work yourself and will benefit the most by deciding to make it a financial business decision where you actively drive the process, and rise above the emotion and trauma of the financial predicament. Expert consultants are available to help every step of the way if needed.

OTHER CONSIDERATIONS

Tax Consequences

Depending on the option you choose there may be tax consequences. Therefore, you should consult with a tax preparation professional to weigh the various outcomes against your ability to pay income taxes at both the federal and state level. Do not rely on "friends," guesses or on-line information sources. Your situation is unique and deserves an objective, professional analysis. There are different tax ramifications for personal residences, second homes and investment property. A qualified tax professional will be able to show you the pros and cons of a short sale, foreclosure or bankruptcy. The authors are not attorneys or tax professional and do not intend any information in this guide to give legal or tax advice.

Deficiency Judgment

Upon foreclosure your lender may seek a deficiency judgment against you and attempt to collect any amount they do not recuperate at the trustee sale.

Promissory Note

Some lenders may approve a short sale but still request a promissory note for some amount, especially if they believe you have the assets and earning power to pay over time.

Reminder: we recommend you seek tax advice from a qualified tax professional.

PROACTIVE FORECLOSURE AVOIDANCE PROCESS™

There is not one solution that fits everyone so we offer our foreclosure services and real estate experience as an option to consider. We believe that you will make the best decision by gathering information from trusted, licensed professionals. Each professional may have a contribution to make to your unique financial situation. Consulting with a licensed REALTOR® is a good place to start. We also have access to financial advisors, accountants and attorneys if you need such help. Caution: seeking answers from family and friends can be misleading and cost you valuable time and money. Always validate your information sources. An expert consultant may be able to save you both time and money by providing the materials and decision making process your particular situation warrants.

You may contact us directly for a free, private consultation session at our Sacramento office where we can help you decide on the best actions to take. You will be under no obligation to use our services. You will leave filled with new knowledge that could help meet your financial challenges.

We call our solutions-based approach the Proactive Foreclosure Avoidance Process™. This is a hands-on, teamwork-oriented, consulting methodology that we implement in person with our clients. We develop a personalized, step-by-step plan, using our own unique, easy-to-follow materials that enable us to implement your plan together.

WEBSITE RESOURCES

1. Making Home Affordable: A government consumer website that provides information on the Making Home Affordable program and tools to help borrowers determine their eligibility for a modification or refinance.

2. Fannie Mae: Fannie Mae is a government-sponsored enterprise (GSE) that deals in the U.S. secondary market. It works directly with mortgage banks, brokers, and other primary mortgage partners. The website has a wealth of information for investors, business partners, homebuyers, and distressed homeowners. For distressed homeowners it's a good place to find out if your mortgage is owned by Fannie Mae and find information about your options.

3. Freddie Mac: Freddie Mac is another GSE and their website provides similar resources as Fannie Mae to distressed homeowners.

4. U. S. Dept. of Housing and Urban Development (HUD) Portal: A redesigned website to facilitate usability. The website provides information on avoiding foreclosure, the HOPE for Homeowners (H4H), finding a HUD-approved counseling center, and on Federal Housing Administration's (FHA) home buying programs,

5. HOPE NOW: Is an alliance between counselors, mortgage companies, investors, and other mortgage market participants. The organization's goal is to maximize outreach efforts and provide a cohesive game plan for distressed homeowners. The website provides similar information and links and the sites mentioned above.

6. Service member's Civil Relief Act: Formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940 (SSCRA), is a federal law that gives all military members important rights as they enter active duty. It covers such issues as rental agreements, security deposits, prepaid rent, eviction, installment contracts, credit card interest rates, mortgage interest rates, mortgage foreclosure, civil judicial proceedings, and income tax payments.

7. Help for veterans. See www.homeloans.va.gov/paytrbl.htm

8. Help for seniors. See www.consumerlaw.org/issues/seniors_initiative/advforcl.shtml

APPENDIX

Sources

- California Association of Realtors. www.car.org
- Credit After Foreclosure, Bankruptcy, or Short Sale, by the C.A.R Legal Department, 2009
- California Department of Real Estate. www.dre.ca.gov
- HUD. http://portal.hud.gov/portal/page/portal/HUD/topics/avoiding_foreclosure
- FNMA Announcement 08-16, 6-25-08
- Money Alert. http://www.themoneyalert.com/avoidingforeclosure.html

OWNERSHIP AND DISTRIBUTION INFORMATION

This Guide is intended as a general purpose guide to the real estate topics contained herein, specifically related to real estate and the issues surrounding foreclosure. It does not purport to give financial, legal or accounting advice; readers are advised to contact an appropriate licensed professional with questions regarding specific issues and potential problems.

About The Authors

We are real estate professionals licensed by the California Department of Real Estate. We provide consulting services to help homeowners stay in their home or go through the foreclosure process in the best way possible. We do not charge up-front fees. For years we have represented many clients in the process of buying, selling and investing in California real estate.

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Mr. Ingols has over 25 years experience in marketing consulting, ownership of real estate companies, technology brand building, corporate communications and community service. He is currently a broker-associate at Keller Williams Realty, the third largest and fastest growing real estate company in the U.S. Ingols' services include negotiating contracts for short sales, bank-owned properties, 1031 exchanges and conventional sales or purchases of residential and income property. Ingols also owns and operates Apple One Property Management.

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Be Proactive, Call Immediately

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