Mortgage Payments Sending You Reeling?

Here's What to Do

The possibility of losing your home because you can't make the mortgage payments can be terrifying. Perhaps you are one of the many consumers who took out a mortgage that had a fixed rate for the first two or three years and then had an adjustable rate. Or maybe you're anticipating an adjustment, and want to know what your payments will be and whether you'll be able to make them. Or maybe you're having trouble making ends meet because of an unrelated financial crisis.

Regardless of the reason for your mortgage anxiety, the Federal Trade Commission (FTC), the nation's consumer protection agency, wants you to know how to help save your home, and how to recognize and avoid foreclosure scams.

Know Your Mortgage

Do you know what kind of mortgage you have? Do you know whether your payments are going to increase? If you can't tell by reading the mortgage documents you received at settlement, contact your loan servicer and ask. A loan servicer is responsible for collecting your monthly loan payments and crediting your account.

Here are some examples of types of mortgages:

- Hybrid Adjustable Rate Mortgages (ARMs): Mortgages that have fixed payments for a few years, and then turn into adjustable loans. Some are called 2/28 or 3/27 hybrid ARMs: the first number refers to the years the loan has a fixed rate and the second number refers to the years the loan has an adjustable rate. Others are 5/1 or 3/1 hybrid ARMs: the first number refers to the years the loan has a fixed rate, and the second number refers to how often the rate changes. In a 3/1 hybrid ARM, for example, the interest rate is fixed for three years, then adjusts every year thereafter.
- ARMs: Mortgages that have adjustable rates from the start, which means your payments change over time.
- Fixed Rate Mortgages: Mortgages where the rate is fixed for the life of the loan; the only change in your payment would result from changes in your taxes and insurance if you have an escrow account with your loan servicer.

If you have a hybrid ARM or an ARM and the payments will increase — and you have trouble making the increased payments, find out if you can refinance to a fixed-rate loan. Review your contract first, checking for prepayment penalties. Many ARMs carry prepayment penalties that force borrowers to come up with thousands of dollars if they decide to refinance within the first few years of the loan. If you're planning to sell soon after your adjustment, refinancing may not be worth the cost. But if you're planning to stay in your home for a while, a fixed-rate mortgage might be the way to go. Online calculators can help you determine your costs and payments.

If You Are Behind On Your Payments

If you are having trouble making your payments, contact your loan servicer to discuss your options as early as you can. Most loan servicers are willing to work with customers they believe are acting in good faith, and those who call them early on. The longer you wait to call, the fewer options you will have. After you've missed three or four payments and your loan is in default, most loan servicers won't accept a partial payment of what you owe. They will start foreclosure unless you can come up with the money to cover all your missed payments, plus any late fees.

Avoiding Default and Foreclosure

If you have fallen behind on your payments, consider discussing the following foreclosure prevention options with your loan servicer:

Reinstatement: You pay the loan servicer the entire past-due amount, plus any late fees or penalties, by a date you both agree to. This option may be appropriate if your problem paying your mortgage is temporary.

Repayment plan: Your servicer gives you a fixed amount of time to repay the amount you are behind by adding a portion of what is past due to your regular payment. This option may be appropriate if you've missed only a small number of payments.

Forbearance: Your mortgage payments are reduced or suspended for a period you and your servicer agree to. At the end of that time, you resume making your regular payments as well as a lump sum payment or additional partial payments for a number of months to bring the loan current. Forbearance may be an option if your income is reduced temporarily (for example, you are on disability leave from a job, and you expect to go back to your full time position shortly). Forbearance isn't going to help you if you're in a home you can't afford.

Loan modification: You and your loan servicer agree to permanently change one or more of the terms of the mortgage contract to make your payments more manageable for you. Modifications can include lowering the interest rate, extending the term of the loan, or adding missed payments to the loan balance. A loan modification may be necessary if you are facing a long-term reduction in your income.

Before you ask for forbearance or a loan modification, be prepared to show that you are making a good-faith effort to pay your mortgage. For example, if you can show that you've reduced other expenses, your loan servicer may be more likely to negotiate with you.

Selling your home: Depending on the real estate market in your area, selling your home may provide the funds you need to pay off your current mortgage debt in full.

Bankruptcy: Personal bankruptcy generally is considered the debt management option of last resort because the results are long-lasting and far-reaching. A bankruptcy stays on your credit report for 10 years, and can make it difficult to obtain credit, buy another home, get life insurance, or sometimes, even get a job. Still, it is a legal procedure that can offer a fresh start for people who can't satisfy their debts.

If you and your loan servicer cannot agree on a repayment plan or other remedy, you may want to investigate filing Chapter 13 bankruptcy. If you have a regular income, Chapter 13 may allow you to keep property, like a mortgaged house or car, that you might otherwise lose. In Chapter 13, the court approves a repayment plan that allows you to use your future income toward payment of your debts during a three-to-five-year period, rather than surrender the property. After you have made all the payments under the plan, you receive a discharge of certain debts.

To learn more about Chapter 13, visit **www.usdoj.gov/ust**; it's the website of the U.S. Trustee Program, the organization within the U.S.

Department of Justice that supervises bankruptcy cases and trustees.

If you have a mortgage through the Federal Housing Administration (FHA) or Veterans Administration (VA), you may have other foreclosure alternatives. Contact the FHA (**www.fha.gov**) or VA (**www.homeloans.va.gov**) to discuss your options.

Contacting Your Loan Servicer

Before you have any conversation with your loan servicer, prepare. Record your income and expenses, and calculate the equity in your home. To calculate the equity, estimate the market value less the balance of your first and any second mortgage or home equity loan. Then, write down the answers to the following questions:

- What happened to make you miss your mortgage payment(s)? Do you have any documents to back up your explanation for falling behind? How have you tried to resolve the problem?
- Is your problem temporary, long-term, or permanent? What changes in your situation do you see in the short term, and in the long term? What other financial issues may be stopping you from getting back on track with your mortgage?
- What would you like to see happen? Do you want to keep the home? What type of payment arrangement would be feasible for you?

Throughout the foreclosure prevention process:

- Keep notes of all your communications with the servicer, including date and time of contact, the nature of the contact (face-to-face, by phone, email, fax or postal mail), the name of the representative, and the outcome.
- Follow up any oral requests you make with a letter to the servicer. Send your letter by certified mail, "return receipt requested," so you can document what the servicer received. Keep copies of your letter and any enclosures.
- Meet all deadlines the servicer gives you.
- Stay in your home during the process, since you may not qualify for certain types of assistance if you move out. Renting your home will change it from a primary residence to an investment property. Most likely, it will disqualify you for any additional "workout" assistance from the servicer. If you choose this route, be sure the rental income is enough to help you get and keep your loan current.

Consider Giving Up Your Home Without Foreclosure

Not every situation can be resolved through your loan servicer's foreclosure prevention programs. If you're not able to keep your home, or if you don't want to keep it, consider:

Selling Your House: Your servicers might postpone foreclosure proceedings if you have a pending sales contract or if you put your home on the market. This approach works if proceeds from the sale can pay off the entire loan balance plus the expenses connected to selling the home (for example, real estate agent fees). Such a sale also would allow you to avoid late and legal fees and damage to your credit rating, and protect your equity in the property.

Short Sale: Your servicers may allow you sell the home yourself before it forecloses on the property, agreeing to forgive any shortfall between the sale price and the mortgage balance. This approach avoids a damaging foreclosure entry on your credit report. You still may face a tax liability on the amount of debt forgiven. Consider consulting a financial advisor, accountant, or attorney for more information.

Deed in Lieu of Foreclosure: You voluntarily transfer your property title to the servicers (with the servicer's agreement) in exchange for cancellation of the remainder of your debt. Though you lose the home, a deed in lieu of foreclosure can be less damaging to your credit than a foreclosure. You will lose any equity in the property, and you may face an income tax liability on the amount of debt forgiven. A deed in lieu may not be an option for you if other loans or obligations are secured by the property on your home.

Housing and Credit Counseling

You don't have to go through the foreclosure prevention process alone. A counselor with a housing counseling agency can assess your situation, answer your questions, go over your options, prioritize your debts, and help you prepare for discussions with your loan servicer. Housing counseling services usually are free or low cost.

While some agencies limit their counseling services to homeowners with FHA mortgages, many others offer free help to any homeowner who is having trouble making mortgage payments. Call the local office of the U.S. Department of Housing and Urban Development (**www.hud.gov**) or the housing authority in your state, city, or county for help in finding a legitimate housing counseling agency nearby. Or consider contacting the NeighborWorks® Center for Foreclosure Solutions at 888-995-HOPE or **www.nw.org**. The Center is an initiative of NeighborWorks America.

Be Alert to Scams

Scam artists follow the headlines, and know there are homeowners falling behind in their mortgage payments or at risk for foreclosure. Their pitches may sound like a way for you to get out from under, but their intentions are as far away from honorable as they can be. They mean to take your money. Among the predatory scams that have been reported are:

- The foreclosure prevention specialist: The "specialist" really is a phony counselor who charges outrageous fees in exchange for making a few phone calls or completing some paperwork that a homeowner could easily do for himself. None of the actions results in saving the home. This scam gives homeowners a false sense of hope, delays them from seeking qualified help, and exposes their personal financial information to a fraudster.
- The lease/buy back: Homeowners are deceived into signing over the deed to their home to a scam artist who tells them they will be able to remain in the house as a renter and eventually buy it back. Usually, the terms of this scheme are so demanding that the buy-back becomes impossible, the homeowner gets evicted, and the "rescuer" walks off with most or all of the equity.
- The bait-and-switch: Homeowners think they are signing documents to bring the mortgage current. Instead, they are signing over the deed to their home. Homeowners usually don't know they've been scammed until they get an eviction notice.

For More Information

To learn more about mortgages and other credit-related issues, visit **www.ftc.gov/credit** and **MyMoney.gov**, the U.S. government's portal to financial education.

The FTC works for the consumer to prevent fraudulent, deceptive, and unfair business practices in the marketplace and to provide information to help consumers spot, stop, and avoid them. To file a complaint or to get free information on consumer issues, visit **www.ftc.gov** or call toll-free, 1-877-FTC-HELP (1-877-382-4357); TTY: 1-866-653-4261. The FTC enters Internet, telemarketing, identity theft, and other fraud-related complaints into Consumer Sentinel, a secure online database available to hundreds of civil and criminal law enforcement agencies in the U.S. and abroad.

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