

- **Your home is sold.** If you do not pay off your loan or work out some other agreement with your lender, after 90 days, your home will be sold in an auction.
- **After the home is sold.** The lender's lawyer will go to court to ask the court to approve the sale. Generally, you will have 30 days from this court date before you must move.
- **If you still owe money.** If the lender sells your house for less than what is owed on the mortgage, you may still owe money. If this happens, you will have a chance to appear in court.
- **If there is money left after the sale.** If the lender sells your house for more than what is owed on the mortgage, you will be entitled to that money once all debt against your house is paid. This money is called the "surplus". You can go to court to file the necessary documents to claim the surplus. You do not need an attorney to help you.

WHAT ABOUT FORECLOSURE SCAMS?

- **Foreclosure scams.** You will receive a lot of mail, phone calls, and even people at your door offering to help you. Be careful. People who solicit you with offers to help may be trying to take advantage of you.
- **Foreclosure consultants.** Some people will approach you and say they can help negotiate with your lender, slow down the foreclosure, improve your credit or get you a new loan. These are usually empty promises. There are non-profit agencies and legal aid organizations that often help for free. You should never pay any money for these services up front.
- **Foreclosure rescue fraud.** Companies often advertise programs where you sell your home and rent it back, with the promise that you can buy back your home later. However, the repurchase price is set so high that you will never be able to afford it, and once you sign your home over, you can be evicted.

WHERE CAN I GO FOR HELP?

- Illinois Legal Aid Online for general legal information and referrals throughout the state of Illinois: www.IllinoisLegalAid.org
- Chicago Legal Clinic: 773-731-1762
- Chicago Volunteer Legal Services Foundation – Access to Justice Project, in conjunction with The Chicago Bar Association: 312-332-1624
- Legal Assistance Foundation of Metropolitan Chicago: 312-341-1070
- The Chicago Bar Association Lawyer Referral Service: 312-554-2001

This pamphlet is based on Illinois law as of the copyright date of this pamphlet, and was written to provide you with general information about Illinois mortgage foreclosure law. It is not intended as legal advice and does not constitute an attorney-client relationship.

Looking for an Attorney?

The Chicago Bar Association Lawyer Referral Service makes referrals to experienced lawyers in all areas of the law, including adoption, wills and estate planning, consumer fraud, employment law and real estate.

For referral to a lawyer right away:

- Call (312) 554-2001 (M-F, 9:00 a.m. - 12:00 noon, 1:00 - 4:30 p.m.)
- www.chicagobar.org (24 hrs.)



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Mortgage Foreclosure: What to do When It Happens and Where to Get Help

Mortgage Foreclosure



A public service pamphlet by the Young Lawyers Section of The Chicago Bar Association

WHAT SHOULD I DO IF I HAVE MISSED MORTGAGE PAYMENTS?

- **Call your lender.** You should try to resolve the problem before your lender sues you in court. You may be able to work out a plan to get caught up.
- **Send a letter to your lender.** If you have any problems with your loan or the servicing of your loan, send a certified letter asking for information related to the problem. You can do this in addition to calling your lender to work it out.

WHAT SHOULD I DO IF I HAVE ALREADY BEEN SUED IN COURT?

- **Actively seek options.** Call your lender. You may still be able to work out a plan to get caught up or to change the terms of your loan. You may also sell your home, refinance your mortgage or file for bankruptcy.
- **Go to court.** The court process usually takes at least seven months. But, if you don't go to court, you will not know if and when your home is being sold.
- **You do not have to move.** You have the right to stay in your home until the judge tells you that you must move. This normally takes seven months or more.

WHAT ARE THE OPTIONS TO AVOID OR SOLVE A FORECLOSURE?

- **Negotiate with your lender.** Your lender may be willing to work with you to explore the possibility of a workout plan. Be sure to take notes of all of your conversations and get all agreements in writing. Even if you are talking with your lender regarding a workout, you should still attend court and explain your efforts to the judge.
- **Forbearance.** This is a way for you to repay what you owe on the mortgage over time. Often the lender will ask you to pay a lump sum, then something like one-and-a-half payments per month until you are caught up.

- **Loan modification.** The lender may agree to put your missed payments at the back end of the loan and you can resume making your regular monthly payments, or the lender may agree to reduce the interest rate.
- **Refinance.** You may pay off your current mortgage by taking out a new loan. You should work with a reputable bank and be aware that your payments on the new loan will usually be higher than on your old loan.
- **Reverse mortgage.** A reverse mortgage allows you to receive payments from the lender, rather than the other way around. The amount you receive gets paid back when you die or sell your home. You must be 62 or older and have a lot of equity in your home to qualify for a reverse mortgage.
- **Sell your home.** If you cannot afford to keep your home through any other option, you can try to sell it. You should list it for sale as soon as possible. If you get a low offer, your lender may accept a price that is less than what you owe on the mortgage. This is called a "short sale."
- **Give the home back to the lender.** If you are unable to sell your home, you may be able to give it back to the lender. In exchange, you will owe nothing else on the loan. This is called a "deed in lieu"
- **Bankruptcy.** Bankruptcy is a last resort option. It may not be appropriate for everyone and it is never your only option. A bankruptcy may stop the foreclosure temporarily, but you must be able to afford to make your mortgage payments and make a payment to cover the amount you are behind on your mortgage and your other debt.

WHAT HAPPENS ONCE A FORECLOSURE LAWSUIT IS FILED?

- **When it begins.** The lender's lawyer will usually file a lawsuit after you have missed 3 mortgage payments.

- **Complaint and Summons.** These are the legal documents that begin the lawsuit. Someone may deliver them to you, or they may come in the mail addressed to you or "unknown owners". Remember, you do not have to move when you receive these papers, but you should not ignore them.
- **Work toward your options to avoid foreclosure.** You still have time to do all of the options listed in this brochure, but these options take time, so you must move quickly and diligently.
- **File your appearance and answer in court.** You have 30 days from the date you are served to file an appearance and answer. If you do not, then you may not receive notice of when your home will be sold. The summons will tell you where to go to file. You can find sample forms on www.illinoislegalaid.org.
- **Reinstate your loan.** You have 90 days to bring your payments up to date, and resume making your regular monthly payments. You should contact your lender for the exact amount needed to reinstate, which will include some additional costs and fees.
- **A court date is scheduled.** You should receive notice in the mail of the first court date. You should go to court and tell the judge if you did not receive the summons and complaint, what you are trying to do to save or sell your home, and if you are trying to hire a lawyer. You should bring all of your documents and notes with you. The judge may give you more time, or enter a foreclosure judgment against you.
- **Foreclosure judgment.** If the judge enters judgment against you, you still have some rights and options.
- **Working with the lender.** Although they are not legally required, most lenders will continue to work with you on all options to save your home. The lender may still be willing to allow you to do a workout.
- **Redemption.** You have at least 90 days to pay off your loan either by refinancing or selling your home.