Frequently Asked Questions - IHDA and NAFP

Q: What does it mean to be in foreclosure?
A: To foreclose is the legal process that a homeowner in default on a mortgage is deprived of interest in the property. This usually involves a forced sale of the property at public auction with the proceeds of the sale being applied to the mortgage debt. When you have missed two months worth of payments you have defaulted on your loan, but you are not yet in foreclosure. The foreclosure proceedings will not initiate until the mortgage lender or bank submits paper work to a prosecuting attorney.

Q: What are my options?
A: Once the mortgage lender sends letters informing you of the foreclosure it is important that you keep your head up; find a way to fix things. Immediately start considering your options of another loan, refinancing, etc. On the other hand, if you know you are in over your head then selling is always an option. To keep from falling deep into the foreclosure process, it is really important to weigh out your options, looking at your finances and what you can afford in the future.

Q: Who do I turn to?
A: You can talk to your mortgage lender about your options with payments adjustments on another loan. If you decide to sell the house, there are local investors who can help you get your feet back on the ground. If you decide to sell your home, make sure you are getting help from credible sources and of course don’t ever sign anything before reading it.

Q: If I am in foreclosure, how much time do I have until I have to leave the house?
A: Most states, the house is not publicly advertised until the 130th day of the foreclosure process. If you look online or go to the library and look up your state legislature, you will find a slue of detailed statutes. Do some research so you know exactly what timeline you are dealing with, but the bottom line is to act as quickly and wisely as possible.

Q: Does the lender have the right to repossess my house, even though I have been paying for it all this time?
A: Unfortunately, yes. Even though you only missed those few payments and had paid so many others, the mortgage documents or deed of trust (depending if you live in a judicial or non-judicial state) gives the lender the right to foreclose and repossess the property after you have defaulted on payments for a certain length of time.

Q: What is refinancing and how can it help me out of foreclosure?
A: By refinancing, you are essentially taking another loan. The new loan is based off a new appraisal of your property. One benefit of refinancing is that you can sometimes get a lower interest rate, in turn, decreasing your monthly mortgage rate. However, refinancing is not for everyone. It can also put you at higher risk for foreclosure depending on a number of factors. Really do some research and talk to someone.
who can advise you well on this option.

**Q: If I lose my house in foreclosure are my chances of buying again lessened?**

A: If you apply for a loan on another house, your past foreclosure will show in your credit history. This does not mean you will not qualify for a loan; however you are less likely to receive, for instance, a low down payment loan. It is very important to stay informed and knowledgeable in how to stop the foreclosure before it happens. There are people who are willing to take the time and help. By calling the Homeowner’s HOPE Hotline at 888-995-HOPE, they’ll help you work with your mortgage company to pay back your loan and stay out of foreclosure.

**Q. I’m behind on my house payments, and just received a notice saying the bank is going to foreclose on the mortgage. How can I stop it?**

A. It takes money and action to stop a foreclosure. That may be uncomfortably obvious, since foreclosures usually occur when you don’t have enough money. But the longer you wait the more money it will take to undo the foreclosure. A foreclosure is the lender’s remedy when a buyer with a mortgage breaches the terms of their Note, their promise to repay. Some real estate installment contracts—“contracts for deed”—must also be foreclosed in the event of a default. The Illinois Mortgage Foreclosure Act sets out the procedures that must be followed. A foreclosure takes about 13 months, more or less, from start to finish.

Buyers in foreclosure cases have three basic rights: to contest the foreclosure, to catch up the payments, or to pay off the mortgage. The legal name for catching up the missed payments is “reinstatement.” Generally speaking, the foreclosure law gives you about three months from when the foreclosure case is filed to catch up all the missed payments. Unfortunately, in addition to just the missed payments, you’ll also have to pay court costs and reasonable attorney fees.

Paying off the entire mortgage is called “redemption.” You’ve got about seven months to redeem. But as hard as it is to catch up, it’s even harder to pay off. Refinancing with another lender is sometimes a possibility. That’s fine with a conventional mortgage lender, but probably counterproductive with a high-rate finance company.

At any point in the foreclosure process, the lender may allow you to enter into a workout plan to bring the loan current. Talk to the lender or the lenders attorney... it never hurts to ask!

If you can’t reinstate or redeem, your house gets sold at a foreclosure sale. You’ve got to be out 30 days after the sale, unless the lender buys at the sale. In that case you’ve got another 30 days to redeem, or get out.

Losing your house in a foreclosure is injury enough, but added to that can be the insult of still owing a big debt to the lender. That’s called a “deficiency,” and may occur if the foreclosure sale doesn’t pay off what’s owed on the loan. Deficiencies are common, since foreclosure sales generally don’t result in sufficient proceeds to pay what is owed.

An alternative to foreclosure is selling the house on your own. That avoids the low price of a foreclosure sale, and is something the lender is usually happy to do if it will pay off the loan. A lender may agree to take less than is owed if it’s all the house will sell for. This is called a short sale. Another possibility is a “deed in lieu” of foreclosure, which means you deed the house to the lender and get out now. You lose the house, but avoid owing a deficiency.

If you expect your income to increase, a Chapter 13 bankruptcy could give you more time to catch up (at least 36 months), and eliminate other debt. That will take an experienced bankruptcy lawyer.

**Q. My mortgage company got a foreclosure judgment against me, but nothing else has happened. I plan to move, but want to know how long I have. Will the mortgage company tell me when I have to be out? What if I’m not out in time?**

A. In residential foreclosures, you can stay in your house until 30 days after a judge “confirms” the foreclosure sale. After that, you must move out or the mortgage company can have the sheriff evict you.

The main events in a foreclosure case are filing, judgment, sale and confirmation of sale, and possession. The
sale comes after the judgment, and will almost always be at least seven months after the case begins. The
lender can get a foreclosure judgment, but they have to wait to hold the foreclosure sale. The time between
judgment and sale varies in each case, but is usually about two to four months.

A foreclosure sale is an auction by the sheriff at the courthouse. Public notice must be given prior to the sale.
A judge will “confirm the sale” if the price is reasonable and there are no procedural flaws in the sale process.
The “confirmation of sale” may occur within a very short time after the sale. Once the foreclosure sale is con-
firmed, the 30 day clock starts ticking for you to get out. The confirmation of sale includes an order giving the
house to the mortgage company after 30 days.

If that time comes, and you have not left, the mortgage company can have the sheriff evict you and your
belongings. Although the sheriff probably won’t be there on the 31st. day, it usually takes a bit longer to get
around to enforcing the order for possession-an eviction could happen any time after the 30 days are up.

You might get a notice about the sale and about the court date to confirm the sale in the mail. The notice must
be published in a newspaper. They probably won’t say, though, that you can be evicted 30 days after the sale’s
confirmed.

Q. I got behind on my house payments, and am now in foreclosure. I get mail offering to
help me save my house. I want to save my house, but am not sure these places are legiti-
mate. Will they really help?

A. Whether they help is a matter of opinion, but they probably won’t save your house. At best, they’ll buy your
house for much less than it’s worth. At worst, you’ll pay heavily and still lose your house.

Foreclosure rescuers check court records and contact people like you whenever foreclosure cases get filed.
They also advertise on TV, radio, the internet, billboards, and yard signs that they will “buy houses.”

The ads make it sound like all they want to do is to help you. Some places even stress their strong religious
mission. They don’t say that they really want to make money. They’re looking for a house in foreclosure with
equity. So, if you owe $50,000, but your house is worth $100,000, they might buy your house for $75,000. You’d
get $25,000 after your mortgage was paid off, and they’d quickly re-sell the house for its full $100,000 value,
and pocket the $25,000 in equity you’d built up. Offering fire-sale prices is probably the best you can expect
from them. At least then you get something out of losing your home, even if it’s a lot less than what you’d get
by selling it yourself. A worse rip off is deeding your house to the rescuer, who promises to lease it back to you,
but sells it and disappears. Other types of rescue fraud are fees for help you never get, or paying for things you
could’ve done on your own. Almost every lender has a loss mitigation program that tries to help you avoid
foreclosure. You can apply for those programs on your own, or with the help of a certified mortgage counselor
or your attorney.

Q. How can I find out who my lender is and how to contact them?

A. The name of your lender (or servicer) and their address and phone number should be listed on your month-
ly mortgage statement or mortgage coupons.

Q. What is the difference between a servicer and lender?

A. When you first obtained your mortgage loan you worked with a lender. They provided the funds for your
loan. A servicer collects your monthly mortgage payments and if you have an escrow account they also pay the
taxes and homeowners insurance on your behalf. The servicer may be a different company than your original
lender. The term lender and servicer are often used interchangeably, but you should always contact the com-
pany that you are sending your payments to.

Q. What information should I have when I call my lender?

A. You should have your account number (from your mortgage statement or coupons), be able to briefly ex-
plain and document your situation, have a copy of your paycheck stub or other income information and a list
of regular household expenses.
Q. How many payments do I need to miss before I lose my home?
A. After one missed payment on your mortgage, you are in breach of your agreement with your mortgage lender. Although most lenders do not start foreclosure proceedings after only one missed mortgage payment, late charges apply and over time can add up. If you continue to miss your payments it will make it harder for you to catch up. Most lenders will start the foreclosure process after you are three payments behind.

Q. My lender has started foreclosure proceedings. What should I do?
A. Immediately contact an attorney and/or an approved housing foreclosure prevention counselor in your county. You may be able to enter into a workout plan, or take advantage of another option.

A FORECLOSURE WON’T GO AWAY BY IGNORING IT

Source: IL Housing Development Authority www.ihda.org