

Options for Homeowners In Foreclosure

Reinstatement

If the reason that a homeowner missed payments was temporary and it has been resolved, then they have the option to reinstate their mortgage right up to the bank sale. In some states the owner actually has a redemption period that extends beyond the date of bank sale.

In order to reinstate a mortgage, the homeowner has to pay all missed payments, late fees, and legal fees that are due up to the date that the loan is reinstated. The owner requests this amount from his mortgage company in the form of a reinstatement letter, This letter will typically expire after thirty days since the amount owed is time sensitive. A simple reinstatement will require a one-time payment of all delinquent funds in full.

Once the owner makes the payment, the mortgage is reinstated and they are free to make payments as they had before.

Forbearance or Re -Payment Plan

If the issue that caused the homeowner to miss payments was temporary and the homeowner is not able to make a one-time reinstatement payment, they may be able to negotiate a forbearance or repayment plan. If the homeowner doesn't have the means to repay all of the missed payments and legal fees, then this is another option that also reinstates the mortgage. The lender allows the homeowner to pay the missed amount over a period of time or they will place the missed payments on the end of the scheduled loan amortization. It is much more likely that the homeowner will be given a period of time in which to pay delinquencies.

This usually requires income documentation from the homeowner showing that they will be able to comply with the terms of a repayment plan.

Forbearance (there is a catch).

Typically a mortgage is not fully reinstated through a forbearance plan until all the payments are made in full. If a homeowner misses just one payment, they can end up in the same stage of the foreclosure process they were previously in.

Sell the Property

If the homeowners have equity in their property, they can sell it and use the funds from their equity to cure the foreclosure.

Rent the Property

In some cases, a homeowner facing foreclosure will have payments low enough to allow him to rent his property and keep up the mortgage payments.

Refinance

If the homeowner has sufficient equity and income and their credit hasn't been badly damaged, they may be able to refinance. This is also typically a short term solution since the payments on the property typically go up considerably due to the refinance. Again, if the issue that made the homeowner late in the first place has been resolved then sometimes this will work.

Mortgage Modification

In some cases where homeowners do have the means to afford their mortgage payments or very close to their mortgage payments, their mortgage company may qualify them for a mortgage modification. There is even one major lender that even had a division called the "mod-squad" that focuses exclusively on modifying loans. A loan modification is very similar to a lower interest refinance where the lender lowers the interest rate on the existing loan in order to lower the payments. The homeowner will have to qualify for a modification by sending in proof of income, and expenses. If this option is available it is an excellent option for homeowners to keep their properties.

Short-Refi

This relatively new phenomenon shows just how far some mortgage companies and lenders are going to avoid foreclosing on properties. This process involves the refinance of a home with a reduction in the principal balance and often the interest rate as well. The borrower will have to qualify for this process both in showing a hardship as well as showing the ability to pay the new mortgage often through a fully documented qualification process.

Deed -in-Lieu of Foreclosure

A Deed-in-Lieu of Foreclosure is sometimes referred to as a friendly foreclosure since the homeowner essentially gives the deed back to the bank. This may prevent the banks from having to go through a lengthy foreclosure process and in exchange they will sometimes forego their rights to a deficiency judgement. The mortgage company agrees to take the deed back in exchange for the property and they typically have no further recourse. This solution only works in cases where there is one mortgage and no liens (or very small liens) on the property or in rare cases where a first mortgage holder will negotiate with the second mortgage holder. This happens infrequently and previously was unheard of. However, this market is changing daily.

If an owner has equity this is not a good option since they give up any right to the property and any equity when using Deed-in-Lieu as a solution.

Bankruptcy

A bankruptcy may stop a foreclosure and allow a homeowner to reorganize his debt and keep his property. The reality however is that most of the time this is not the case and the bankruptcy only stalls the foreclosure. If the homeowner is not able to make the payments after bankruptcy the house will foreclose anyway.

The other major drawback to bankruptcy is that it makes it very difficult for the homeowner to sell his property once he enters the process. It makes it near impossible to negotiate a short sale. The only possibility is if the trustee for the bankruptcy agrees to release the property from the proceedings and allow it to be sold. It is not recommended that you list properties where the homeowner is in bankruptcy unless there is equity and they are in the final stages and will be finished by the time you are ready to close or the trustee is very cooperative.

Servicemembers Civil Relief Act (SCRA)

The SCRA is a bill that was signed into law (Public Law 108-109) on December 19, 2003. This law provides certain protection to military personnel that are in foreclosure in specific situations. The law also provides Servicemembers other protections.

As it applies to mortgages the law reads: *MORTGAGES: The SCRA can also provide temporary relief from paying your mortgage. To obtain relief, a military member must show that their mortgage was entered into prior to beginning active duty, that the property was owned prior to entry into military service, that the property is still owned by the military member, and the military service materially affects the member's ability to pay the mortgage.*

http://www.uscg.mil/legal/la/topics/sscra/about_the_sscra.htm

It is important to note that this relief is only temporary and in many cases the most prudent course of action for a Servicemember, is to sell their property. This is a personal decision based on their specific financial situation.

Short Sale

When a homeowner owes more on a property than it is currently worth and one of the above situations do not apply to their situation, there is the option of pursuing a short sale.

If you, or someone you know, would like a private confidential meeting to discuss the options available, contact Matt Wolfe, Remax Associates Plus 612-868-8655. You don't have to go through this alone.