

HOW TO STOP A HOME FORECLOSURE AUCTION

The key to stopping foreclosure starts with the timing of the initial debtor action. It may seem like a ridiculous thing to even mention, but the most common cause of losing your home results from waiting too long to respond to a foreclosure notice or not reacting at all. Contrary to popular belief, there are dozens of ways to save a house from foreclosure.

When starting from prior to missing a mortgage payment all methods in this article may potentially save the home. As the foreclosure auction date comes closer, options continually become unavailable until only a bankruptcy remains. Below you will find many of the most common methods to avoid foreclosure. Most ways to stop a foreclosure come up as subcategories of these main groups:

Foreclosure Workouts

Let's broadly define a foreclosure workout as any arrangement negotiated with a creditor outside of the original terms of the loan. This method allows all parties to make the most of a bad situation and therefore it's favored over the other options when possible. A foreclosure workout on property may take one of the following forms:

1. Short pay or Short refinance.

In most situations people accomplish this through a **refinance** of the property facing foreclosure. Example: The debtor owes \$100,000 on their mortgage with another \$15,000 in arrearage and legal fees. Someone negotiates for the loan to be settled for \$80,000 and arranges a **new loan** for \$85,000 to cover paying off the original bank and all associated transaction fees. The debtor has now avoided the foreclosure and eliminated \$30,000 of debt. Sometimes a friend, relative or investor buys or pays off the mortgage from the creditor. Another way to make this work may be to negotiate as outlined here but instead of finding a foreclosure loan to cover both the settlement and the legal fees find the best loan you can and have friends or family make up the difference. at a discount

2. Modify the existing mortgage.

In simple terms, the creditor, usually a bank, agrees to change the terms of the loan. Most often the changes are temporary. Reducing the interest rate, principal portions of payments, or extending the amortization in an effort to reduce overall payment obligations, remain the changes most acceptable to creditors. Unless the delinquency remains small with a loan at a local bank or the debtor has a nasty hardship under a government program this can be a tough plan to get through the creditor's guidelines. Often a **professional foreclosure negotiator** can get these plans approved even when the debtor cannot.

3. Repayment plan.

Easy to understand, easy for creditor acceptance. The debtor pays a portion of the arrearage and agrees to pay the rest in addition to the regular payment over a period of months. With proof of the income and the proper down payment, most lenders will accept this type of plan all day. Expect half of the arrearage plus its legal fees get paid up front with a promise to pay the rest of the arrearage in addition to the regular payment within six months. Plans with less down and paid over a longer period of time can be negotiated by **loss mitigation professionals**.

4. Deed in lieu of foreclosure.

Here the debtor gives the property back to the creditor usually in exchange for their forgiveness of potential deficiencies. Do not think this happens without some negotiation by you or a **foreclosure professional**. Even if you give the house back or the bank takes it at a foreclosure auction you may owe the deficiency. This amount will be the difference between what the house sold for at the foreclosure sale

and what you owe including the legal fees. While the deficiency can be settled without paying any of it, this must be agreed to and certainly does not happen automatically in most states.

5. Short Sale.

The property sells to a third party; the creditor accepts this price as full settlement of the debt if it is negotiated that way. Beware of the bank attempting to take a short sale and ask for a deficiency too. In cases where the owners being foreclosed on have many other assets there may be no way out of the foreclosure deficiency.

6. Friendly Foreclosure.

The creditor or a friendly third party that has bought the mortgage sells the property at foreclosure to clean the title of other lien holders. Later the property sells back to the debtor or another predetermined entity.

7. Repurchase after foreclosure.

Just as it says, buy back a foreclosed property after the auction.

8. Forbearance.

In exchange for money or the debtor taking some other action (perhaps listing the property with a realtor or making repairs) the creditor agrees to temporarily cease legal actions.

9. Baby-sitting.

I made up this term for a situation I sometimes see; it's really a form of forbearance. A property owner, most times with investment property, cannot pay the mortgage. The bank does not want to take title to the property, probably because of environmental, management or other liabilities. The property owner keeps title and "baby-sits" the property until one party or the other can execute another option.

Bankruptcy

Filing for Chapter 7 or Chapter 13 bankruptcy protection sometimes paves the best path for debtors to retain their houses and deal with their creditors. Advantages of bankruptcy include the debtor's ability to stop foreclosure without creditor acceptance and encompassing more than just the mortgage debt with a single action. If bankruptcy emerges as our first recommendation, your personal circumstances must be well suited for this option. In most cases bankruptcy comes as a last resort. While you may file bankruptcy on your own, you will almost always be better served to hire a qualified, experienced [bankruptcy attorney](#).

In Chapter 7 all nonexempt assets are turned over to the bankruptcy trustee and debts discharged. Exemptions vary by state. In most cases the debtors possess so few assets that they may keep everything and have all of their debts wiped out completely. If a chapter 7 will not yield this result it may not be the best option. In Chapter 13 a plan outlines how the debtor will pay creditors over a three to five year period. Only a Chapter 13 can stop a creditor from foreclosing on a delinquent debtor over a period of years. Under a chapter 13 the court retains the right to scrutinize finances of the debtor for the life of the reorganization plan. For a Chapter 13 to work payments under the plan must be kept up or the court protection will evaporate and the house will go to foreclosure. To learn more read the [chapter 13 bankruptcy FAQ](#).

Full Payoff Refinance

Borrow enough money on a **new mortgage** to pay off the balance on the old mortgage including arrearage and legal fees. This happens more often than one might guess. If the debtor has enough equity in the house, bad credit will not stop them from getting a **new loan**.

Full Re-instatement

It doesn't get easier than this, find out how much arrearage is owed and pay it in full. If a debtor could do this they probably wouldn't be reading this, but just in case, know it exists as an option. In fact, most state laws grant the home owner the absolute right to re-instate before the foreclosure and require that the bank accept the full re-instatement and stop the foreclosure. Unless a creditor gives a debtor a hard time, they should not need outside help on this option.

Give Up the Property

Too often people refuse to examine this as an option. The problem may be that the homeowner cannot afford to stay where they are. If the debtor will not be able to keep the house in the long run it may not be advisable to throw a lot of money into a futile effort to save it from foreclosure just for the short run. Any cash available may serve them better if put towards a new place to live. If you owe more than the house is worth, look at a deed in lieu of foreclosure as described above. If you a deed in lieu of foreclosure remains out of the question you may compare **allowing the foreclosure vs. bankruptcy**.

Terms can be negotiated with the creditor for debtors to stay in the house as long as possible before moving. Where debtors have equity in the house, try to arrange preserving it by selling it prior to foreclosure. In some cases other equity preservation strategies may be used when foreclosure cannot be avoided.

DISCLAIMER

Nothing contained herein should be construed to constitute advice for your personal circumstances. This is intended as a peripheral exposure to the various options available, but by no means is this a comprehensive or exhaustive analysis of the bankruptcy laws or their alternatives. Whether or not you should file a Chapter 7, Chapter 13 or any bankruptcy, will vary depending on your personal circumstances and should only be undertaken after careful consideration, analysis and after consultation with an attorney experienced with such matters. These pages may contain information and rules peculiar to the Commonwealth of Massachusetts.