

## Homeowner's Checklist for Avoiding Foreclosure

### **Before Trouble Starts**

Start a file, in a safe place, for records relating to your home

- Purchase and sale agreement
- Mortgage application
- Closing documents
- Property tax bills
- Property insurance information
- Letters you receive from **and** copies of letters you mail to the bank

Use checks or money orders to pay bills

- Do not send cash
- Do not use credit cards
- Keep a record of all payments (date paid and check number)
- Correct errors quickly

Pay high priority bills first

- Food
- Mortgage
- Utilities (heat, hot water, electricity, gas)
- Do not pay credit cards or other unsecured debts **before** the mortgage

### **When Things Start to Feel Tight**

Where is the money going?

- Create a budget that shows your current income and expenses
- Review every item on your budget
- Prepare a revised, realistic budget that you can live with until your circumstances improve

Increase your income

- Collect federal and state benefits if you are eligible
- Claim the earned income tax credit if you are eligible
- Stop all voluntary deductions being taken out of your paycheck
- Consider selling unnecessary property to raise money

## Reduce your expenses

- Review every expense for potential savings--reduce or eliminate unnecessary expenses
- Pay only for the type of phone service you need
- Cancel cable television service temporarily
- Identify ways to conserve on energy and other utilities
- Participate in a home weatherization program
- Review your homeowner's and auto insurance policies and shop around
- Claim the owner-occupant property tax exemption and others for which you are eligible

## Other Considerations

- Contact your mortgage servicer at the first sign of trouble
- Ask your utility company for budget billing so you can pay the same amount each month
- If you are behind on your utility bills, start an affordable repayment plan

### **After Falling Behind**

#### Identify the problem

- What caused your current situation (job loss, illness, divorce, decreased income)
- How long do you expect your difficulty to last
- What specific type of help do you need
- How much can you afford to pay toward your mortgage

#### Communicate

- Speak with your bank's delinquent loan or loss mitigation specialist
- Explain your situation
- Ask for a mortgage workout package
- Keep a phone log that shows the date and time of your call, who you spoke to, the person's phone number, and what was said
- Follow up your phone call with a letter and keep a copy for yourself
- Send all letters by certified mail and keep the receipt

#### Pay what you can and save the rest

- Send to the bank as much of the mortgage payment as possible
- If the bank returns your payment, save the money and **do not spend it** on other bills

#### Know your options

There are many ways the bank can help you if you fall behind on your mortgage. Which one you choose/need and what the bank allows will depend on your individual situation.

*Reinstatement:* You give the bank all of the back payments you owe and start making your regular monthly payment. With a *partial reinstatement* you pay at least one-half of the back-payments first and agree to a repayment plan for the rest of what you owe.

*Repayment Plan:* You make the regular mortgage payment plus an additional amount toward the back-payments until you are caught up (usually no longer than 12 months). If the bank sets up a repayment plan for you, make sure it is reasonable. Do not agree to a plan that will not work for you.

*Forbearance:* The bank agrees that for a limited period of time it will accept a lower monthly payment or no monthly payment. At the end of the forbearance agreement you must bring the account current.

*Modification:* The bank agrees to change one or more terms of the mortgage. Possible changes include: reducing the interest rate; extending the term of the mortgage; and adding the arrears to the unpaid principal balance of your loan.

*Short Sale:* The bank may let you sell the home even if you owe more than the property is worth and agree to accept the lesser amount as payment in full. You must have a buyer and a signed purchase and sale agreement. Anyone else who has a lien on the property and the private mortgage insurer, if there is one, must also agree to the short sale.

*Refinance:* You take out a new mortgage to pay off the old mortgage. Sometimes it makes sense to refinance. You should contact a legitimate lender and proceed carefully. Beware of large fees and high interest rates. Lenders will verify income, credit, property value, etc.

*Deed in Lieu:* You cannot afford to keep the home and you give the house back to the bank. **Do not** ask for a deed in lieu when you have equity in the property or when a short sale is possible. The bank will not accept a deed in lieu if there are other mortgages or liens on the property.

Documentation for a workout (requirements may vary from bank to bank)

- Signed and dated letter that **briefly** explains what happened (called a hardship letter)
- Documentation of your hardship (doctor's letters, etc.)
- One month worth of pay stubs or other proof of income
- Two most recent signed federal tax returns and W2s (3 years if self-employed)
- An accurate budget showing all of your monthly income and expenses
- A list of your assets (cars, bank accounts, etc.)
- A list of your liabilities (mortgages, loans, liens, other outstanding debts)
- This package must be complete before the bank will review it
- Keep copies for your file

### **Other Things to Know**

Talk to a lawyer or counselor experienced in *default and delinquency counseling*

- If you cannot reach a solution with your bank
- If you disagree with the amount the bank says you owe
- If you wish to consider filing bankruptcy

Foreclosures move very quickly

- Keep track of deadlines
- Do not wait until the last minute to get help
- Your rights will be cut off once the foreclosure sale takes place

## Foreclosures are public

- Foreclosure notices appear in newspapers and court records
- Some people may try to take advantage of you by offering a “quick fix”
- Carefully review offers to refinance or consolidate your credit card debts with your mortgage as this may make matters worse
- Avoid “deals” with high interest rates and large fees
- Do not agree to sell your home to someone who claims they will lease it back to you
- Talk to a lawyer or counselor **before you sign anything**

## Steps to Foreclosure

Foreclosure procedures vary from state to state. New York is a Judicial State and below is a timeline of typical steps followed by a lender/servicer when a judicial foreclosure is initiated:

- Collection letter, phone calls and/or personal visits begin
- Account is assigned to the foreclosure department
- File is prepared for the attorney and referred out
- Title search is done to establish current ownership of the property
- Law suit is filed in a court near the property
- A “*lis pendens*” notice is recorded to alert any interested parties that a law suit is in progress that could affect the property
- Customer is served and will have a certain number of days (usually 30) to answer the summons.
- A court date is set
- A judgment is obtained
- A notice of sale is published
- The sale of the property is conducted
- Customer is served a notice to vacate the property

## Where to go for help

- Your local non-profit housing organization
  - The HomeOwnership Center  
1611 Genesee Street  
Utica, NY 13501  
315-724-4197
- Your mortgage company
- The U.S. Department of Housing and Urban Development (HUD)
  - To locate a HUD certified counseling agency near you, search **[www.hudhcc.org/agencies.html](http://www.hudhcc.org/agencies.html)**. Or try the main HUD site at **[www.hud.gov](http://www.hud.gov)**. Or call HUD at 1-800-569-4287)
- Additional Resources
  - The book *NCLC Guide to Surviving Debt* is available from National Consumer Law Center, 77 Summer Street, 10<sup>th</sup> Floor, Boston, MA 02110 or 617-542-9595 for the publications department, order on-line at [www.consumerlaw.org](http://www.consumerlaw.org), or ask at your local bookstore. This book covers practical strategies for managing debt problems, preventing foreclosures, and other consumer credit issues. Additional useful information may be found at [www.consumerlaw.org](http://www.consumerlaw.org).

# PATHS OF A FORECLOSURE IN NEW YORK STATE

