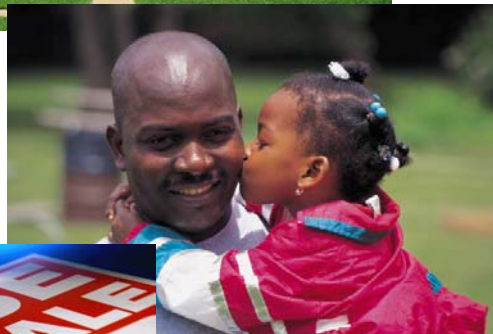




Consumer Guide to Foreclosure Assistance



**Presented by:
Michigan Mortgage Lenders Association**

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1. WHAT IS A FORECLOSURE?

- A FORECLOSURE is the legal process where a lender uses legal remedies to take back property to satisfy a debt
- A FORECLOSURE only takes place after efforts taken by the Collections Dept and/or Loss Mitigation Dept have not led to a positive result
- A FORECLOSURE generally results from non-payment of housing debt (first mortgage, second mortgage, home equity lines of credit) or non-payment of property taxes
- A FORECLOSURE is a detour in the road, not the end of the road
- FORECLOSURES in 2008 will increase by at least 1.4 million households, representing a market value of \$316 billion (US Conference of Mayors)
- The State of Michigan faces an estimated loss of \$125 million in property, sales and transfer tax revenues in 2008 because of increasing FORECLOSURES

2. WHERE CAN I GET MORE INFO ON THE FORECLOSURE PROCESS?

- Contact your mortgage lender
- Contact a local counseling agency
- Contact friends, family and neighbors
- Contact an attorney/legal counsel
- Access the Internet
- Visit your local library

3. WHY DOES A FORECLOSURE TAKE PLACE?

- Loss of job
- Loss of income
- Loss of spouse/significant other (death, divorce, separation)
- Loss of tenant (rental income) on investment property
- Adjustment to your interest rate
- Adjustment to your property taxes
- Adjustment to your homeowners insurance premium
- Health issues
- Predatory lending/abusive lending practices
- Declining/depressed market issues
- Major damage/vandalism to the property
- Overextended homeowners (too much debt/too many properties)

4. WHO IS INVOLVED IN THE FORECLOSURE PROCESS?

- Homeowner
- Mortgage lender
 - Collections Dept
 - Loss Mitigation Dept
- Law firm representing your mortgage lender
- Law firm representing you (not mandatory)
- Local county Sheriff's Dept
- Counseling agency (not mandatory)

5. WHEN DOES A FORECLOSURE TAKE PLACE?

- Mortgage payments are technically due on the first of the month; you are officially delinquent on the second of the month
- The first notice of delinquency is mailed out on the 16th of the month and you are assessed a late fee
- If you do not pay by the 30th of the month, the loan is in default and you are sent a second notice
- When a loan is 60 days past due, your mortgage lender speeds up the loan and warns you that FORECLOSURE is the next step
- After the loan is 90 days past due, the FORECLOSURE process begins
- The law firm representing the mortgage lender advertises the property for sale in a newspaper for 4 weeks in a row
- A sheriff's sale is then held on the published date. A deputy conducts an auction and the highest bidder wins, which is typically the mortgage lender. If the sale is adjourned or delayed, a notice is posted at the sale location
- After the sale, the highest bidder gets a sheriff's deed, which lists the last date that you can redeem or take back the property, which is usually within 6 – 12 months
- During the redemption period, you have the right to raise the necessary money to get the property back by getting a new mortgage or you can sell the property or you can live in the property and leave by the end date
 - In order to get the property back, you must pay off the mortgage, interest, late fees, court costs, attorney fees, title and appraisal fees, property taxes and homeowners insurance
 - In order to sell the property, you must pay everything listed above unless you get permission and waiver of deficiency from the lender
 - In order to live in the home until the end of the redemption period, you must pay the utilities and do the general upkeep

6. HOW CAN YOU AVOID A FORECLOSURE?

- **Short term options**
 - Keep the house
 - Sell the house
 - Refinance the house with a reverse mortgage (if you qualify)

- **Keep the house**
 - Work with the mortgage lender (Loss Mitigation Dept)
 - Ask the mortgage lender to modify the interest rate
 - Ask the mortgage lender to modify the loan term
 - Ask the mortgage lender to have the loan re-amortized
 - Combination of any of the above options
 - Look for a tenant to rent the house

- **Sell the house**
 - Sell your house with a real estate professional
 - Sell your house by owner (FSBO)
 - Find someone to assume your mortgage (applies to FHA loans)
 - Offer Deed-in lieu of-FORECLOSURE to the mortgage lender

- **Refinance the house with a reverse mortgage**
 - Homeowner must be at least 62 years of age
 - Homeowner must have equity in the property
 - Home must be a primary residence
 - Credit, income and assets are not used in the credit decision making process

- **Long term options**
 - Review and adjust your monthly budget
 - Make an effort to pay all debts in a timely manner
 - Sell your house before a major milestone/event in your life (e.g. wedding, divorce, separation or retirement)

- **Review and adjust your monthly budget**
 - Monitor fixed expenses (housing, auto, personal loans)
 - Cut back on variable expenses (groceries, utilities, gas)
 - Cut back on luxury expenses (eating out, cable, gifts)
 - Look at potential second job/income

7. UNDERSTANDING YOUR OPTIONS

- **Sell the home**
Depending on market conditions, you may be able to sell your home, pay off your current mortgage debt in full and enjoy some of the equity
- **Short sale**
When the mortgage lender allows you to sell the home for less than what is owed. If you can't sell the property for the full amount owed, you may be able to convince your mortgage lender to accept less than what is owed on the mortgage. However, you may face a tax liability on the amount of debt forgiven
- **Assumption**
Your mortgage lender may allow a qualified buyer to take over or assume your mortgage
- **Repayment plan**
Your mortgage lender may give you a fixed amount of time to repay the amount you are behind, plus any late fees, by adding a portion to your regular monthly payment
- **Forbearance**
When the mortgage lender agrees to suspend your payments for a period of time. At the end of this time, you will resume your regular monthly payments and may be required to either make one lump sum payment or additional partial payments
- **Loan modification**
Your mortgage lender may agree to modify your loan agreement by reducing your interest rate, extending the term of your loan or adding missed payments to the loan balance
- **Offer a deed-in-lieu of foreclosure**
When the mortgage lender allows you to give back the deed to the home in exchange for the forgiveness of the debt, but you will lose any equity in the home and may have to pay taxes on the forgiven debt
- **Chapter 13 bankruptcy**
This option could buy you some time and should be considered only as a last resort because the results are long lasting. Your credit will be negatively impacted up to 10 years

8. FORECLOSURE TIMELINE

- Day 1 = Payment due date
- Day 16 = Late fee assessed on delinquent payment
- Day 31 = Late payment notification sent to 3 credit repositories (i.e. Equifax, Experian and Trans Union)
- Day 91 = Mortgage lender sends a "demand" or "breach" letter indicating that the terms of the mortgage have been violated and the borrower is in default
- Day 121 = Mortgage lender refers loan to the FORECLOSURE Dept, which hires a local attorney or law firm to initiate proceedings. The notice of FORECLOSURE is published over 4 successive weeks in the local legal newspaper
- Day 151 = House is sold at a county sheriff sale. An outside third party may bid on the property, starting with at least \$1 over the amount owed. If no bids are received, the house goes back to the lender or bidder, paying the amount owed plus interest and fees. Any money bid over the amount owed goes to the homeowner (and second lien holder, if applicable)
- Day 329 = If the homeowner has not redeemed the property, paid off the mortgage or sold the home, ownership is transferred to the lender or bidder. If the homeowner has not left the property, eviction proceedings begin
- Day 343 = An eviction hearing is held within 2 weeks, followed by a 10 day grace period for the former homeowner to vacate the premises
- Day 354 = When the grace period ends, the eviction is certified. Court bailiffs are notified and empty the premises sometime thereafter

9. FORECLOSURE TIPS

- Contact your mortgage lender (Loss Mitigation Dept) as soon as you have a problem. Most want to help you keep your home. Investigate the reasons for your late payment status (e.g. job loss, medical condition, divorce, family emergency, adjustable rate payment increase, etc)
- Do not ignore the situation. The situation is serious and requires immediate attention and proactive action
- Respond to all mail from your lender. Early letters often include options that let you avoid foreclosure; later ones are legal notices. "I did not open my mail" is not a valid excuse in foreclosure court
- Make a note of the telephone number to the Loss Mitigation Dept and the name of the person assigned to your case as referenced in the letter
- Know your rights. Thoroughly review your loan documents and find out about foreclosure laws in your state
- Evaluate your current budget situation to determine the amount of the mortgage payment you can afford. Prioritize your spending. After health care, keeping your home should be your top priority, even before paying off other debt
- Avoid foreclosure prevention companies and scams. You don't have to pay fees for foreclosure help. Don't discuss your mortgage situation with anyone advertising that they can rescue you from foreclosure. Don't sign a document from someone claiming to stop a foreclosure. In a scam called "equity skimming", a buyer offers to repay the mortgage if you sign over your deed and move out. You are left with the debt and no house
- Seek help. The Dept of Housing and Urban Development (HUD) offers free or low cost counselors and information on avoiding foreclosures at www.fha.gov. You can also contact Detroit HOPE at 888-995-HOPE

10. FORECLOSURE RELATED SCAMS

- **Phantom Help**

This is where the rescuer charges outrageous fees either for phone calls or paperwork the homeowner could easily perform or makes a promise of additional representation that never occurs. The rescuer essentially takes the fees and abandons the homeowner to a fate that may have been prevented with better intervention and assistance
- **False Bailout**

This scenario includes various schemes under which the homeowner surrenders title to the house with the belief that they are entering a deal where they will be able to remain as a renter and then repurchase the house over the next few years. This is also known as a lease/buyback scheme. Homeowners are told that surrendering title is necessary so that someone with a better credit rating can secure new financing to prevent the loss of the house. The terms of these deals are invariably onerous that the buyback becomes impossible, the homeowner permanently loses possession and the rescuers walk off with all or most of the home's equity
- **Bait and Switch**

This happens when the homeowner does not realize that they are surrendering ownership of the house in exchange for a rescue. Many homeowners later insist that they believed they were signing documents for a new loan to make the mortgage current. This scenario involves fraud and forgeries of deeds. In many instances, the home is transferred for a small fraction of the value.
- **Credit Repair Companies**

These companies often promise to erase bad credit or accurate information from a consumer credit report. They generally cannot deliver what they promise. A consumer can do the same or a better job of cleaning up a credit report at little or no cost
- **For Profit Bankruptcy Counseling or Preparation Companies**

For profit bankruptcy counseling is rarely a good idea. These operations are generally downright fraudulent, making promises which they cannot hope to keep and extracting fees which far exceed the value of the work performed. Consumers are sent to file bankruptcy petitions with papers that are inadequate or defective, leading to a quick dismissal. In worst case scenarios, the consumer is not aware that a bankruptcy has been filed and their signature is forged

11. WARNING SIGNS OF A MORTGAGE SCAM

- Someone who seeks you out to solve your financial problems
- Someone who pressures you to make a quick decision
- Someone who demands large upfront fees
- Someone who tells you not to contact your mortgage lender or a lawyer
- Someone who asks you to sign papers with blank spaces or without giving you a chance to read them over
- Someone who asks you to sign a deed
- Someone who offers to file bankruptcy for you
- Someone who encourages you to falsify your income, assets or credit history on your loan application

12. WARNING SIGNS OF PREDATORY LENDING

- If you have a balloon loan (one in which after a series of low payments the entire loan balance is due in a large lump sum), will you need to obtain another loan to finance that final lump sum amount?
- Were you required to buy credit insurance (insurance that will repay the debt if you die or become disabled)? Credit insurance is optional and will not affect your loan decision if you decline to buy it. It can, however, add considerable cost to the loan transaction. You should decide whether you are going to purchase credit insurance carefully.
- Have you refinanced your loan several times, and in each instance, increased either your monthly payment and/or the total amount you owe on your home?
- After settlement, were you surprised to find that the monthly payments on your mortgage loan were higher than you anticipated based on the initial disclosures?
- Did you incur any unexpected costs at settlement that were not explained to you prior to the settlement?
- Were you asked to leave signature lines or any other important line item of any form blank? Did the lender or broker alter any information you entered on your loan application?
- Check your loan file. Are any of the following disclosures missing? Good Faith Estimate? Special Information Booklet? Truth in Lending? HUD-1 Settlement Statement?
- Do your documents reveal that your interest rate calculation will change to require you to pay daily interest in instances when your payments are late?
- Is your loan amount on the loan you obtained higher than the value of the home?
- Were you encouraged to include false information on your loan application?

13. UNDERSTANDING AN ORPHANED HOME

- **Abandonment**

The borrower leaves the house. Sometimes, this happens as soon as the lender sends a letter announcing that a mortgage has gone into default. Sometimes, it happens after the lender begins the foreclosure process

- **Neglect**

The foreclosure process, which gives the bank the legal right to seize the house as collateral, can take 12 months of more, depending on the state. If the property is left unprotected, it can become a magnet for vandalism and decay

- **Ownership limbo**

The lender decides that the value of the loan, plus the legal costs of foreclosure, back taxes and repairs, exceeds the potential sales price. So the lender stops their foreclosure efforts. The title remains in the name of the borrower

- **Public nuisance**

Housing inspectors finally crack down. Consulting property records, they cite the borrower for violations, which can lead to fines and even jail. But the borrower appears in court and says he thought the bank took the house

- **Resolution**

Officials are expanding the definition of who owns a house. In some communities, prosecutors are hauling banks that abandon foreclosure proceedings into court and seeking stiff fines. If the house is unsalable, lenders may have to pay for demolition

14. HOW TO SELECT A CREDIT COUNSELING AGENCY

- Ask friends, family and your employer for recommendations
- Check with the Better Business Bureau (248-644-9100)
- Make sure they discuss your spending habits, work with a budget and agree to help you better handle your personal finances
- Get any agreement in writing and carefully read it before you sign it. The plan should describe in detail the services to be performed, payment terms for services, how long it will take to achieve the results, any guarantees offered and the organization's complete name and address
- Make sure your creditors are willing to work with the agency you choose
- If the set up fee for a debt management plan is more than \$50 and the monthly fees are more than \$25, look for a better deal. If the agency is vague or reluctant to talk about specific fees, look elsewhere
- If the agency is reading from a script and aggressively pushing debt savings or the possibility of a future consolidation, look elsewhere
- If the agency offers you a debt management plan in less than 20 minutes, they haven't spent enough time looking at your finances. An effective counseling session generally takes 30 – 90 minutes whether it is over the phone or face to face
- If the agency doesn't offer any educational options, such as budget counseling or classes, look elsewhere
- Check out multiple agencies before making a final decision

15. RECENT LEGISLATIVE CHANGES

- **HOPE NOW**

The Bush administration recently announced that an agreement was made in to “freeze” interest rates for up to 5 years on certain sub-prime adjustable rate mortgages (ARM). The goal of the President’s plan is to convert as many sub-prime ARMs as possible into more sustainable loans, minimize losses to banks and securities investors and keep more homeowners out of defaults and bankruptcies. The freeze is a voluntary agreement on the part of the mortgage lender so no legislation is required for the plan. The preliminary details of the plan are as follows:

- Loans must have closed between January 2005 and July 2007 and whose rates are set to increase between January 2008 and July 2010
- Borrowers must have less than 3% equity in their homes
- Borrowers must be current on their payments or no more than 60 days behind
- Borrowers must be able to handle their current lower rate but will not be able to handle a higher payment
- Homes must be owner occupied; investment properties are not eligible
- Credit scores below 660 will have top priority

- **MORTGAGE FORGIVENESS DEBT RELIEF ACT OF 2007**

According to the Mortgage Forgiveness Debt Relief Act of 2007, effective January 1, 2008, no taxes will be owed on any mortgage debt forgiven or written off as part of a short sale, foreclosure, renegotiation, bankruptcy or other such action on a principal residence. Before the law was passed, such forgiven debt was typically taxed as income. The Act’s debt forgiveness portion protects up to \$2 million of indebtedness from taxation if the debt is secured by a principal residence and if that debt stems from the acquisition, construction or substantial improvement of the principal residence. This special relief is available retroactively for eligible debt discharges from January 1, 2007 through December 31, 2009 for those who qualify. The IRS estimates the loss to the government would be about \$600 million, but that will be offset by increases in certain IRS filing fees, mostly for corporations, so the bill is a wash financially for the US Treasury. Check with a tax professional for more information.

16. COMPLETING A MONTHLY BUDGET

	BORROWER	CO-BORROWER	COMBINED
GROSS INCOME			
Alimony/child support			
Bonuses			
Commissions			
Overtime			
Pension/social security			
Salary			
Miscellaneous			
TOTAL GROSS INCOME			
(-) US/IRS deduction (30%)			
(=) NET INCOME			

GROSS EXPENSES			
Auto insurance			
Auto loan(s)			
Cable/internet			
Cell phone(s)			
Credit card(s)			
Family (alimony/child support)			
Gas			
Groceries			
Haircut/nails/spa			
Health insurance/medical			
Housing debt (PITI mortgage pmt)			
Personal loan(s)			
Savings (emergency fund)			
Savings (retirement/401K)			
Savings (special needs/event)			
Social/entertainment			
Student loan(s)			
Transportation			
Utilities			
Miscellaneous			
TOTAL GROSS EXPENSES			

NET INCOME			
(-) TOTAL GROSS EXPENSES			
(=) NET MONTHLY CASH FLOW (+/-)			

17. COMPONENTS OF A CREDIT SCORE

35%	Pay history
30%	Outstanding balance compared to credit limit (i.e. debt ratio)
15%	Length of credit history
10%	Inquiries for new credit
<u>10%</u>	Types of credit/mix (loans, lines of credit, credit cards, mortgages)
100%	

18. GENERAL COMMENTS ABOUT CREDIT SCORES

- Credit scores range from 300 to 850
- Delinquent credit can lead to any of the following results
 - Higher interest rates
 - Higher fees
 - Higher insurance premiums
 - Loss of employment opportunities
- Different ways to improve your credit scores
 - Dispute inaccurate items
 - Pay outstanding bills on time
 - Pay down balances on credit cards
 - Request copies of "paid in full" or "settlement" letters
 - Pay off debt rather than shift it around
 - Don't apply for new credit
 - Don't close unused credit cards
 - Consider financial management classes
 - Prepare and utilize an individual or family budget
 - Develop savings plan to settle outstanding debt
 - Contact creditors to make payment arrangements (if necessary)

19. CREDIT REPOSITORIES

- Equifax
 - 800-685-1111 (www.equifax.com)
- Experian
 - 888-397-3742 (www.experian.com)
- Trans Union
 - 800-888-4213 (www.transunion.com)

20. CREDIT REPORTING TIMELINE

- Chapter 7 bankruptcy (liquidation)
 - 10 years
- Chapter 11 bankruptcy (reorganization)
 - 10 years
- Chapter 13 bankruptcy (reorganization)
 - 7 years
- Charge-offs
 - 7 years from the date of original delinquency
- Collections
 - 7 years from the date of original delinquency
- Foreclosures
 - 7 years from the date filed
- Inquiries
 - 2 years
- Judgments
 - 7 years from the date filed
- Tax liens – paid
 - 7 years from the date reported
- Tax liens – unpaid
 - Indefinitely from the date reported
- Trade lines (non-derogatory or < 30 days)
 - 10 years from the date paid off or closed
- Trade lines (derogatory > 30 days)
 - 7 years from the date paid off or closed

21. IMPORTANT PHONE NUMBERS

COUNSELING AGENCIES

	LOCATION(S)	PHONE #
Bethel Housing Counseling	Detroit	313-833-9912
Christian Credit Counselors	Southfield	800-557-1985
Green Path Debt Solutions	Detroit area	888-860-4167
Detroit Homeownership Preservation Enterprise (HOPE)	Detroit	888-995-4673
JVS	Southfield	248-559-5000
Lighthouse of Oakland County	Pontiac	248-920-6060
Lighthouse of Oakland County	Mt Clemens	586-649-2016
Michigan Neighborhood Partnership	Detroit	313-361-4530
Mission of Peace	Detroit	313-872-2900
Mission of Peace	Flint	810-232-0104
MSU Extension Services	Macomb/Oakland	586-469-6430
MSU Extension Services	Wayne/Washtenaw	734-997-1678
New Hope Community Development	Detroit	313-255-6275
Oakland County Housing Counseling	Pontiac	888-350-0900
Southwest Housing Solutions	Detroit	313-841-9641
U-SNAP-BAC	Detroit	

OTHER SERVICES/AGENCIES

Accounting Aid Society	Detroit	313-647-9620
ACORN	Detroit	313-963-1840
Arab Comm Center for Econ & Soc Services (ACCESS)	Dearborn	313-842-7010
ARISE Detroit	Detroit	313-921-1955
Better Business Bureau	Southfield	248-644-9100
City of Detroit Human Services	Detroit	313-852-5634
Detroit Alliance for Fair Banking	Detroit	313-871-9050
Federal Housing Administration (FHA)	Washington DC	800-225-5342
Federal Trade Commission (FTC)	Washington DC	877-382-4357
Latino Family Services	Detroit	313-841-7380
Lawyer Referral Service	Macomb County	586-468-8300
Lawyer Referral Service	Oakland County	248-338-2100
Legal Aid and Defender Association	Detroit	877-964-4700
Macomb County Community Services	Clinton Twp	486-469-6329
Michigan Attorney General	Lansing	877-765-8388
Michigan Interfaith Trust Fund	Detroit	313-964-7300
Michigan Legal Services	Detroit	313-964-4130
Michigan State Housing Development Authority (MSHDA)	Lansing	866-946-7432
Office of Financial and Insurance Regulation (OFIR)	Lansing	877-999-6442
Partnership to Homeownership	Farmington Hills	248-761-4519
Salvation Army	Oakland County	248-585-5600
Save the Dream	Lansing	866-946-7432
St Vincent de Paul	Detroit	248-975-6231
United Community Housing Coalition	Detroit	313-963-3310
US Dept of HUD	Detroit	800-569-4287
WARM Training Center	Detroit	313-894-1030

22. GLOSSARY OF TERMS

Collections: The efforts a lender takes to collect past due payments

Deed in Lieu: The transfer of title from a borrower to the lender to satisfy the mortgage debt and avoid foreclosure; also called a voluntary conveyance

Delinquency: Failure to make a payment when it is due. Generally used to refer to a loan for which payment is 30 or more days past due

Forbearance: The lender's postponement of legal action when a borrower is delinquent. Usually granted when a borrower makes satisfactory arrangements to bring the overdue mortgage payments up to date

Foreclosure: The legal process by which a property that is mortgaged as security for a loan may be sold and the proceeds of the sale applied to the mortgage debt

Foreclosure Prevention: Steps by which the servicer works with the borrower to find a permanent solution to resolve an existing or impending loan delinquency

Investor: The owner of the loan

Modification: Any change to the terms of a mortgage loan, including changes to the interest rate, loan balance or loan term

Mortgage: A legal document that pledges property to a lender as security for repayment of the loan. The term is also used to refer to the loan itself

Mortgage Insurance: Insurance that protects lenders against losses caused by a borrower's default on a mortgage loan

Pre-foreclosure: The process in which a servicer works with a delinquent borrower to sell the house prior to the foreclosure sale

Repayment Plan: An arrangement by which a borrower agrees to make additional payments to pay down past due amounts while still making regularly scheduled payments

Servicer: A firm that performs servicing functions including collecting mortgage payments, paying the borrower's property taxes and homeowners insurance and generally managing borrower escrow accounts