

Possible Alternatives or Options to Foreclosure

Since homeowners and lenders or their servicing agents have substantial incentives to avoid foreclosure, it is important they work together to develop alternative solutions.

Homeowners may pursue a number of possible alternatives to foreclosure and should take the initiative to do so. Because not all alternatives or options are appropriate for every homeowner, you need to decide which solution might be best for your particular circumstances. There are several possible alternatives or options.

- A. Modify or restructure the terms and payment schedule of your existing mortgage loan.
- B. Refinance and pay off your loan through a new loan with better terms.
- C. Sell your home and access the available equity.
- D. Pursue a short sale.
- E. Rent out your home.
- F. Share the cost with a boarder.
- G. Offer a deed-in-lieu to your lender or its servicing agent.

Visit www.hud.gov or call 1-800-569-4287 for information about free, HUD-approved housing counseling services.

Modify or Restructure the Terms and Payment Schedule of Your Existing Mortgage Loan

For most homeowners, modifying or restructuring their current mortgage loan is a better alternative to foreclosure. At the homeowner's request, the lender or its servicing agent may agree to modify the original mortgage loan and adjust its terms in many ways.

To effectively modify or restructure your monthly mortgage loan payments that are within your budget, negotiations with your lender or its servicing agent will be necessary. Your negotiating strength is that the lender will typically lose less money by working with you to modify or restructure your mortgage loan than will be lost by foreclosing on your home.

Steps to modify or restructure your current home loan include:

Contact Your Lender or its Servicing Agent.

Homeowners have had a difficult time contacting their lender or its servicing agent. Mortgage loans are often pooled together and sold to assignees that designate servicing agents to collect mortgage loan payments (some of which are located out of California). These servicing agents are often not the lenders or the assignees of the lenders, but may represent the only means of contacting a person authorized to act for your lender.

By calling the number of the servicing agent listed on your monthly mortgage loan statement, you should be able to make contact with the person assigned by the lender or its servicing agent to negotiate with you on the lender's behalf.

Regardless of when you obtained your mortgage loan, your lender or its servicing agent is required to contact you in person or by telephone (or show that a good faith effort has been made to do so). This contact is to occur at least 30 days before your lender or its servicing agent directs the trustee to record a NOD. However, you do not need to wait. You should contact your lender or its servicing agent even before you miss a single monthly mortgage loan payment.

The lender or its servicing agent is obligated to contact you to explore alternatives or options to avoid foreclosure (or must list the good faith efforts made to contact you) prior to recording the Notice of Default (NOD). A statement in the form of a declaration is to be included with the NOD that either contact was made with you or describing the good faith efforts to make contact with you.



Some homeowners prefer to take the initiative to begin negotiations with the lender or its servicing agent. The earlier you contact your lender or its servicing agent, the stronger your negotiating position will likely be.

Whether you contact the lender or its servicing agent, or they contact you, the purpose of this initial contact is to set up a telephone discussion or meeting where both parties can assess your financial condition with the goal of finding a monthly mortgage loan payment which you can afford and your lender or its servicing agent can accept.

When you contact your lender or its servicing agent, make sure to have the following information available:

- Your name;
- Address;
- Telephone number;
- Email address;
- Name and address of the servicing agent where you mail your monthly mortgage loan payment;
- The mortgage loan number;
- Your current income;
- A list of monthly expenses;
- Reason for the mortgage loan payment delinquency(ies);
- Whether you are in bankruptcy proceedings, you will need to know your case number and attorney to inform the lender or its servicing agent of these facts and with whom their future communication should occur; and
- Whether your home is currently owner-occupied.



Prepare Your Proposed Solution

To negotiate a modified or restructured mortgage loan arrangement, you will need to provide your lender or its servicing agent with enough financial information to verify the monthly mortgage loan payment you can reasonably afford. Your proposed solution needs to include a financial statement reflecting all sources of household income and your overall economic situation. Based on your income, your lender or its servicing agent will apply general guidelines to determine what you can afford.

Make sure to include documentation (a paycheck stub or bank statements showing electronic deposits) to verify your income.

Your Lender or its Servicing Agent Will Want to Support Their Decision to Modify

Most lenders and servicing agents understand if you cannot make your monthly mortgage loan payments, you likely will not make the modified payments. This gives your lender or its servicing agent an incentive to work with you to find a monthly mortgage loan payment which makes sense for both you and the lender. At the same time, the lender and its servicing agents want to avoid situations where homeowners take advantage of them. Finally, in some instances a loan modification is not possible. For example, a lender is not likely to agree to a loan modification if your income is not sufficient to support the modified loan terms. It is unfortunate, but in some cases foreclosure may be the only option.

Understand What Your Lender or its Servicing Agent Can Reasonably Offer

Lenders and their servicing agents generally have the knowledge and skill to create different mortgage loan solutions. Homeowners should ask questions and get understandable answers regarding the proposed modified or restructured mortgage loan terms. Counseling services are also a resource of mortgage loan information available to homeowners.



Lenders and their servicing agents can modify mortgage loan payments in several different ways. For example, your lender or its servicing agent may be able to:

- Extend the term (length in years) of your mortgage loan which can slightly lower the monthly mortgage loan payment;
- Reduce the interest rate of your mortgage loan or convert the adjustable rate into a fixed rate;
- Reduce the principal amount of your mortgage loan;
- Change your monthly mortgage loan payment, lowering it now and increasing it later when your economic status (income) expects to improve;
- Adjust your mortgage loan to a lower principal amount at a reasonable interest rate with lower monthly mortgage loan payments; or
- Modify or restructure the mortgage in any combination of the above to achieve the desired mortgage loan payments and mortgage loan terms.

A prepared homeowner might persuade a lender or its servicing agent to adjust the mortgage loan payments. The costs of foreclosure in a depressed market could produce a greater loss to the lender than modifying or restructuring the mortgage loan.

You should consult your attorney, CPA, or a professional tax advisor to determine whether a reduction in the principal loan amount owing on your mortgage loan remains exempt from being reported as taxable income. See, IRS Publication 525 and IRS Form 982 for more information.

The State of California has modified its tax code to coincide with the federal tax law; thus, debt forgiveness may or may not result in a taxable event under California law depending on the date of the foreclosure. You should contact the California Franchise Tax Board (www.ftb.ca.gov), an attorney, CPA, or a professional tax advisor for more information.