

TOP HOME PRESERVATION/RETENTION STRATEGIES

If a homeowner *wants to stay in the house, whether there is a short term or long-term hardship*:

1. Call the national hotline at 888-995-HOPE (4673), sponsored by the Home Ownership Preservation Foundation and NeighborWorks: www.995HOPE.org or www.nwconsumer.org/foreclosure_help.html
2. Maryland's HOPE Hotline (Home Owners Preserving Equity) at 877-462-7555 offers free foreclosure prevention counseling through nonprofit organizations across the state. The program involves a personal meeting with a counselor to review loan documents, financial records and the household budget. Homeowners may prepare in advance for the appointment by completing the Consumer Information Kit available at www.mdhope.org.
3. Go to MakingHomeAffordable.gov to determine whether the mortgage loan is owned by Fannie Mae or Freddie Mac, and to participate in loan modification or refinancing through the U.S. Treasury and HUD.
4. If **refinancing** is an option, the Home Affordable Refinance Program (HARP) allows borrowers with mortgages owned or guaranteed by Fannie Mae and Freddie Mac to refinance those loans up to 125% LTV.
5. With FHA loans, a borrower may be eligible for loan refinancing under the **HOPE for Homeowners** program, effective until 9/30/2011, now offering up to 105% LTV for borrowers current on their mortgage. Call 800-CALL-FHA (800-225-5342) or go to: www.hud.gov/hopeforhomeowners/index.cfm
6. **Mortgage Modification:**
Under the Home Affordable Modification Program (HAMP) guidelines, lenders are encouraged to determine if the borrower has a hardship and what

payment would be affordable. If the borrower is eligible, the loan could be permanently changed in one or more of the following ways: (i) Add the missed payments to the existing loan balance; (ii) Change the interest rate; (iii) Convert an adjustable rate into a fixed rate; (iv) Extend the loan maturity; (v) Negotiate the prepayment penalty; and, (vi) Reduce the principal amount of the loan. Loan modification has two phases: Trial period (3-4 months), followed by a 'Permanent' period of 5 years, after which the interest rate will eventually rise. (Note: The rate cannot exceed the prevailing rate at the time that the modification was approved.)

7. With HAMP, the lender or servicer prepares a calculation, known as "**Net Present Value**" (NPV) to compare the cost of taking the property by foreclosure against the cost of a modification (or other loss mitigation). *If the borrower is denied a modification because of the NPV computerized formula, then the borrower may request the NPV report, verbally or in writing, within 30 days of the notice of denial. The servicer must answer the request within 10 days.* This gives the borrower the opportunity to provide or correct data in the lender's records which can then be re-evaluated for a modification.
8. **Talk to the Mortgage Insurer about a Partial Claim (available only for an FHA loan) or MI Claim Advance (conventional)** – Mortgage insurance (MI) companies will get involved to assist in temporary hardship situations. If the insurer determines that the loan can be saved, it might extend a low- or no-interest loan to bring the mortgage current with the lender or give the lender money to reduce the interest rate and monthly costs.

Lenders do not consider an "Upside Down" or "Underwater" Mortgage – the homeowner owes more than the home is worth – to be a hardship. Hardships include divorce, unexpected hospitalization and medical expenses, job loss, death of a family member or similar catastrophic situation. Additionally, a budget must show that the seller's expenses exceed income/assets, the seller is behind on payments and there is no way to repay the lender.

Helping Homeowners Stay In Their Homes

A Resource Guide

This overview of the comprehensive resource guide provides information for REALTORS® and their customers.

To view the resource guide, visit www.marylandhomeownership.com



ALTERNATIVES TO FORECLOSURE

If the hardship will permanently affect the borrower's ability to bring the account current and/or keeping the property is **NOT** an option, the owner should review alternatives with a housing counselor:

- The Lender/servicer must be able to produce the "Note." Without the mortgage loan documentation, especially if several lenders have previously held the note, a lender has limited standing in a judicial foreclosure process, such as in Maryland.

- **Pre-Foreclosure Sale or "Short Sale"** is considered if the property's sales value is not enough to pay the loan in full. The lender must agree to accept an offer for less than the total amount owed to pay off the home loan (including other transaction-related expenses such as closing costs, property taxes, transfer tax, and/or commission fees).

The lender accepts that shortfall as a loss. The IRS considers the forgiven amount as 'income' on which the borrower may have to pay taxes; however, that forgiven debt may be excluded in some cases. (See Mortgage Debt Forgiveness Act)

- **Deed-in-lieu:** The lender agrees to allow the borrower to voluntarily "give back" the property instead of foreclosure and then "forgives" the debt. Although this sounds like the easiest way out, usually the owner must attempt to sell the house for its fair market value for at least 90 days before the lender will consider this option. Also, this option may not be available if there are other liens such as judgments of other creditors, second mortgages, and IRS or state tax liens. If there are no other liens, the owner is not prohibited from asking the lender for an amount of time to find a place to live or even a small payment to help with relocating.

FORECLOSURE EFFECTS ON CREDIT AND REPURCHASE

- The effect of foreclosure or short sale on a seller's credit may vary based on the overall condition of the credit report at the time of foreclosure.
- Foreclosure and Deed-in-Lieu of Foreclosure have a similar effect on credit. Sellers typically take a loss of 200-300 points and will likely have to wait for 3 years before a conventional lender will offer reasonable loan terms and interest rates to purchase another home. FHA guidelines specify a waiting period of 2 years after a foreclosure.
- The negative effects of short sale on a credit score can range between 100 and 300 points; however, the seller will be able to obtain an institutional loan at favorable rates within 2 years.

THE HOMEOWNER'S DECISION: STAY OR SELL?

Encourage homeowners to clearly communicate their desire to stay to the lender or servicer.

Reasons to Stay

- Payment is affordable even if value has declined
- Hardship is temporary – Want to stay and now have the ability to pay the mortgage
- Excellent payment record and credit history with no prior history of late/missing payments
- Ability to save money and cut back on expenditures

Reasons to Leave

- A permanent setback/hardship that affects the ability to continue to pay the mortgage
- Salvaging the credit score by avoiding bankruptcy
- Payment has increased and is not affordable
- Job relocation
- Unprepared for homeownership responsibilities

MORTGAGE FORGIVENESS DEBT RELIEF ACT

www.irs.gov/individuals/article/0,,id=179414,00.html

Generally, under IRS rules, when a debt is owed to a creditor, it is a financial responsibility to the borrower; when it is reduced, the borrower has benefited from a windfall in the amount of the forgiveness, as if it had been income. The IRS considers this "windfall" to be taxable income.

The Mortgage Forgiveness Debt Relief Act of 2007 allows taxpayers to exclude the "income" from the discharge of debt on their principal residence. Debt reduced through mortgage restructuring, as well as mortgage debt forgiven in connection with a foreclosure, qualifies for the relief.

ALL ABOUT FORECLOSURE LAW, JUDICIAL TIMELINE AND RECENT CHANGES IN MARYLAND

(Effective 4/4/08, with changes in 2009 and 2010)

Best Sources:

www.msba.org/departments/commpubl/publications/brochures/foreclosure.htm

www.stopscammingus.com and http://publicjustice.org/publicjustice/uploads/File/Renters_and_Foreclosure_In_MD_09Dec21--PUBLIC.pdf



WHERE TO GO - TIPS TO FIND HOUSING

Places to get information on the location and availability of rental housing, so that the homeowner can re-establish an affordable living situation:

- www.mdhousingsearch.org or call 877-428-8844
- United Way's 211 / First Call for Help by calling 800-492-0618 or, in most regions, 211.

"A REALTOR® Checklist for Managing a Potential Short Sale Situation"

- Are you capable of handling short sales?
- Do you have the necessary experience in short sales or training?
www.realtor.org/prodser.nsf/RightTools/ShortSales?OpenDocument
- Consider your liability if you engage in activities beyond the scope of your real estate license. Know the applicable Maryland laws: www.dllr.md.gov/finance/industry/
- Remember the NAR Code of Ethics when making a decision to refer or not to refer a short sale: It is a REALTOR®'s duty to determine whether a type of property or service is outside his/her field of competence.
- Avoid any involvement in potential scams: www.oag.state.md.us/consumer/flipbrochure.pdf
www.oag.state.md.us/consumer/138.pdf
- Be the 'source' of the 'resource' – Know the programs available in Maryland.
- Work with a HUD-approved housing counseling agency: www.mdhope.org/Counselors.aspx
www.hud.gov/offices/hsg/sfh/hcc/fo/

The Maryland Housing Counselors Network ("The Network") 410-288-3904