

Project Sentinel

HUD Housing Counseling Programs
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What is “foreclosure”?

The foreclosure process actually consists of a series of steps, which ultimately can lead to a bank or new owner taking ownership of your home. The first step is “Delinquency”, which means the homeowner is one or more months behind in mortgage payments or other associated payments such as property taxes. At this stage, the formal foreclosure process has not begun. Before starting the formal process, the lender mails a Notice of Intent or Notice of Acceleration to the delinquent owners. Under a new state law, SB 1137, a lender cannot move to the formal foreclosure process until the lender has contacted the homeowner and spent at least 30 days attempting to negotiate a resolution of the delinquency issues.

After at least 30 days have passed, and after making an effort to negotiate, the lender files a “Notice of Default” at the office of the county recorder. This step begins the formal foreclosure process. The Notice of Default gives the homeowner 90 days to cure the delinquent amount due, which is listed in the Notice. Beginning as of September 1, 2008, the Notice must include a declaration describing the lender’s efforts to negotiate with the homeowner during the prior 30 days.

The final step is the “Trustee Sale” held at least 20 days after the 90-day grace period in the Notice of Default has expired. The property will be auctioned at the time and date noticed for the sale, and if there is no buyer, the lender will take ownership of the property at that time. Once the trustee sale has been completed, the homeowner can be evicted after being given a 3-day written notice to vacate the property. Tenants living in the property at the time of the trustee sale must be given a 60-day written notice to vacate. In practice, many banks are offering a “cash for keys” settlement to the owner or tenant in exchange for a voluntary departure.

What steps should be taken to avoid foreclosure?

A homeowner contacted about a delinquency or default should immediately respond. Do not avoid phone calls or ignore correspondence. In order to receive consideration for a modification or other type of “workout”, the homeowner will need to make full financial disclosure, produce financial records, and prepare a letter for the lender explaining the hardship that is causing the delinquency.

Homeowners can seek help from a HUD certified housing counseling agency or other non-profit with foreclosure prevention expertise. **These agencies provide free counseling help**, and when appropriate will contact the lender on behalf of the owner.

Homeowners should beware of foreclosure rescue scams!

Many “services” are advertising that they can help homeowners facing foreclosure. Usually these companies request substantial non-refundable fees in advance, often \$2000 or more, before they have obtained any results. In most cases, these companies never produce any results.

What kinds of options or workouts are available to homeowners to avoid foreclosure?

Depending on the specific lender and the financial stability of the homeowner, it may be possible to negotiate various arrangements such as a loan modification, forbearance agreement or reverse mortgage. There are other “last gasp” alternatives such as a short sale or deed-in-lieu. New government programs such as the Hope for Homeowners Program are frequently being announced and implemented. These provide additional options for modifications or new loans, but only if the homeowner meets the specific requirements of each program. Settlements with specific lenders such as Countrywide and Indymac are also being implemented, with work out options in some cases and foreclosures freezes in some cases.

The various counseling programs try to stay current with all the new programs, and with the change in ownership among the banks and lenders, but some programs are so new that the full details may not yet have been developed or disclosed.

What resources are available for more information?

Local HUD counseling agencies in Santa Clara County providing free counseling include:

- Project Sentinel, 408-720-9888, www.housing.org
- Neighborhood Housing Services of Silicon Valley, 408-279-2600, info@nhssv.org,
- Consumer Credit Counseling Service, 800-540-2227, www.gotdebt.org

Other resources include:

- US Dept of Housing & Urban Development -- 800-669-9777, www.hud.gov
- Fair Housing Law Project – 408-280-2435
- Santa Clara County District Attorney (Real Estate Fraud Unit) – 408-792-2639
- Don't Borrow Trouble Silicon Valley – 408-283-1284

General foreclosure information is available online at:

- Public Interest Clearinghouse website: <http://www.foreclosureinfoca.org>