

Mortgage Foreclosure Prevention Tips



To find out what financial help there may be through federal and state resources, check www.consumerfinance.gov and www.phfa.org. PHFA also lists local housing counseling agencies that are a great source of current information.

What should I do if I am having trouble paying my mortgage?

- **Communicate with the bank or mortgage company.** Tell them why you are having financial problems and when you expect your financial situation to improve. Ask about your loss mitigation options – a temporary or permanent change to your mortgage terms. Whatever payments you agree to make, be sure that you are able to make them. Keep notes with the name of the person you have talked to and the terms you discussed.
- **Ask about a loan modification.** Sometimes you can get a lower interest rate or reduced payments by agreeing to modify the terms of your loan. You may qualify for refinancing if you arrange for it before you have missed many mortgage payments, so the sooner you look into it, the better. Watch out for high-rate lenders that promise consolidation loans to help you avoid foreclosure, however; they only make things worse. Be suspicious of any company that calls you, writes you, or puts advertisements in the newspaper promising to help save you money.
- **Go through your budget carefully.** Are there expenses you can eliminate? Are there ways you can increase your income? Many nonprofit credit counseling agencies have people who can help you work out a sensible household budget.
- **Give first priority to the bills necessary to keep your job, your home and food on the table.** Don't let bill collectors pressure you to make payments you can't afford on lower priority bills.
- **Ask yourself whether you can afford to keep your house in the long term.** If the answer is no, consider listing the house for sale with a real estate agent. You may be able to buy a less expensive home with the money you get. Also, selling the home is much better for your credit record than going into foreclosure. If your house is sold at sheriff's sale, you lose all the equity you had in the house.

- **If you feel the lender cheated you or took advantage of you, see a lawyer.** You should do this as soon as possible.
- **Open and read your mail.** The lender will be sending you important notices about your legal rights and sources of help. See a lawyer if you get any foreclosure papers from a court or a sheriff or process server.

Are there agencies that can help me catch up on my payments?

Yes. Pennsylvania's **Homeowners Emergency Mortgage Assistance Program (HEMAP)** helps people catch up on their mortgage payments. (There is a separate program for people who have an FHA purchase money mortgage. Rural Housing Services has a foreclosure prevention program, but RHS loans are also eligible for HEMAP.)

If you qualify, the program can pay the bank or mortgage company the amount necessary to catch up on your mortgage. The program can also help you make your mortgage payments going forward. The total amount of assistance (amount past due and monthly payments) cannot exceed 24 months (36 months in times of high unemployment).

The HEMAP money is a loan, and you will have to make payments on the loan of \$25 per month or more, depending on your income and housing expenses. When you sell your home or finish paying off your mortgage, the balance owed on your HEMAP loan will have to be paid.

To qualify for the program, you must be suffering financial hardship due to circumstances beyond your control, and you must have a reasonable chance of beginning full mortgage payments again before the 24 months of assistance runs out (36 months in times of high unemployment).

How can I apply for the HEMAP program?

If you fall behind 60 days or more on your mortgage payments, the bank or mortgage company is allowed to send you a letter telling you that you are in default and letting you know about the HEMAP program. As soon as you get this letter, you should call one of the housing counseling agencies listed in the notice and schedule a meeting to make an

application. You cannot apply for HEMAP (also called Act 91) unless that letter has been sent to you.

You must attend a meeting within 33 days after the date on the notice if you want to apply for HEMAP and put a hold on the foreclosure process while your application is pending. You can attend the meeting after the 33 days and still apply for HEMAP but that will not stop the foreclosure process.

At the meeting, be prepared to explain the circumstances beyond your control (illness, layoffs, etc.) that caused you to fall behind. The housing counselor will help you complete your application and will send it to the HEMAP program. If you apply for HEMAP on time, the bank or mortgage company cannot start a foreclosure case against you for up to 60 days while HEMAP reviews your application.

If your HEMAP application is denied, don't give up. You have the right to appeal, simply by sending a letter to the address listed on the denial letter. Send your letter right away, because there is a 15-day deadline to file an appeal. The foreclosure process can resume while your appeal is being considered.

If you appeal, a hearing will be scheduled. Most hearings are conducted by telephone. You will need to document why you qualify for the HEMAP program. Make sure you line up all the evidence and witnesses that will show that you qualify. It is a very good idea to have a lawyer for this hearing. If you lose the hearing, you have the right to appeal to a court, but the court will give a great deal of weight to the hearing officer's ruling.

If your mortgage is an FHA purchase money loan, you are not eligible for the HEMAP program, but you might qualify for FHA's Loss Mitigation Program. Also, if you delay the foreclosure by filing bankruptcy, you can still apply for HEMAP.

What if a foreclosure lawsuit is filed?

Read the court papers carefully to see what deadlines you have and if your county offers any mortgage assistance programs. Call a lawyer you know, your local bar association

or your local legal services program to find out what legal help is available.

Can I stop a foreclosure by catching up on the payments?

Yes. As a general rule, under Pennsylvania law, if you catch up on the mortgage payments before the foreclosure sale actually occurs, the foreclosure has to stop. To stop the sale,

you will also have to pay court costs and the lender's reasonable attorney's fees, however. The court costs and attorney's fees get much higher as the case goes on. Therefore, it is important to start trying to catch up on the missed payments as soon as you can afford to do so.

If you want to exercise your right to stop the sale by catching up on the payments plus court costs and attorney's fees, it is important to have your own lawyer so that you can make sure that you are paying the right amount.

What should I do if the bank or mortgage company won't accept my payments?

If you have fallen behind on your mortgage, some banks and mortgage companies won't accept any payments unless you catch up completely. If this happens, you should save your payments and consult an attorney about your options.

Can I save my home by filing bankruptcy?

Sometimes bankruptcy can help save a home. A Chapter 13 bankruptcy can allow you to catch up on your mortgage over a three- to five-year period, while you make your regular monthly mortgage payments. Either a Chapter 13 bankruptcy or a Chapter 7 bankruptcy can help you get rid of lower-priority debts so that you can focus on your mortgage and other essential bills.

REMEMBER: The law often changes. Each case is different. This is general information and does not provide specific legal advice. Please use the information found here carefully since the law is constantly changing and the information may not accurately reflect any changes in the law that occurred following the completion of this information.



This information was produced by Pennsylvania Legal Aid Network Inc., edited by Neighborhood Legal Services and printed and distributed by the Pennsylvania Bar Association.

