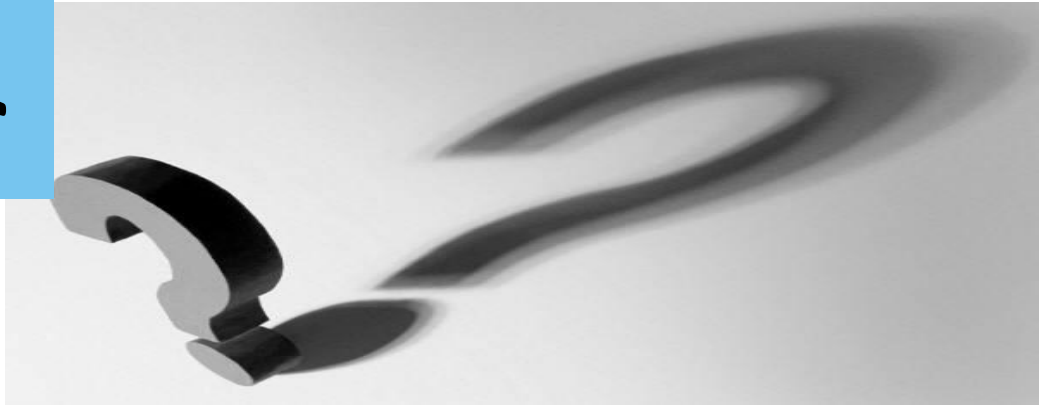


FAQ

FREQUENTLY ASKED QUESTIONS ABOUT FORECLOSURE



You probably have many questions about being in foreclosure. This guide will give you basic answers, but your housing counselor and attorney will be valuable resources throughout this process because they can provide you with information specific to your case.

Q1: How long does the foreclosure process take?

A1: The average foreclosure in NY takes about 2 years. NY is a judicial foreclosure state, which means that the bank has to go through a court process before they can get a judgment of foreclosure.

Q2: Do I have to move out of my house now?

A2: No. The foreclosure process in NY is very long, and you do not need to move unless the property is sold at auction, which is the last step in the foreclosure process. You can, and in most cases, should, continue to live in your home throughout the process.

Q3: I am behind on my mortgage, but have not yet been served with foreclosure papers- what should I do?

A3: You should start working with the bank to see if you qualify for a loan modification or other workout options. HUD certified housing counselors are available to assist you with assembling and submitting your application.

Q4: The bank stopped accepting my payments-why?

A4: After you have missed a number of payments, the bank will accelerate your loan and only accept the entire amount that you are behind. Once the loan is accelerated, the lender is no longer required to accept payments.

Q5: Why do I have to submit my financial paperwork to the bank again? I have already submitted it several times before.

A5: Once you start working with your housing counselor or attorney, it is often best to start with a fresh, new submission. The bank will not review documents that are more than 60-90 days old, and you will likely have to provide updates, depending on how long the review process takes. Submitting documents also shows the court that you are willing to negotiate in good faith.

Q6: What is a loan modification? Will I have to put any money down?

A6: There are many kinds of loan modifications. Most will create a new term (30 or 40 years), reduce your interest rate and start you with a new payment. Your housing counselor and attorney will go over possible options that you may qualify for. Some, not all, loan modifications will ask that you make a down payment. We recommend that you set money aside each month if possible so that you are prepared in the event that you have to make a down payment.

Q7: If I did not answer the summons and complaint, will I still have a chance to save my home?

A7: Yes. Even if you did not file an answer, you will be eligible for a settlement conference if you are living in your home as your primary residence. The settlement conference will allow your attorney and the bank to negotiate within the court system to see if an agreement can be reached.

Q8: What is a settlement conference?

A8: A settlement conference is generally scheduled about 60 days after the bank files proof that all parties have been served with the foreclosure papers. The conferences take place in court, and a court attorney referee presides over them. They are intended to be a venue for you to negotiate with the bank to see if any options are available to keep you in your home. While your case is in the settlement conference part, the foreclosure is on hold.

Q9: How many settlement conferences will I have? Should I attend all of the settlement conferences?

A9: The number of settlement conferences that will be held will vary depending on your circumstances, but there is no set limit for the number that can be held. The process can take many months. It is very important that you and/or your attorney attend the settlement conferences. Your attorney will tell you whether you need to be at the first and future conferences.

THE FORECLOSURE PROCESS IN NEW YORK STATE

NOTE:
This process is for residential homes where a defendant is living in the home.

Borrower Misses Payments

When you owe a payment or a part of a payment, you can be considered "delinquent" on the mortgage.

90 Day Pre-foreclosure Notice

Lender must mail you information on getting help at least 90 days before starting a court case. You can avoid a foreclosure case by paying missed payments plus all interest and fees, or by signing an agreement with Lender.

Foreclosure Case Started

Lender files notice of pendency (lis pendens), summons and complaint with the court. Lender then serves you the summons and complaint in person or by mail.

Answer the Complaint

You must submit an answer if you want to tell the judge your defenses. Your answer deadline is 20 days from when you are served if you are served in person. It is 30 days if you are not served in person.

Settlement Conference/Second Chance to File Answer

A settlement conference should be scheduled by the court about three months after you are served with the court papers. Both sides come to court to see if they can settle the case. There may be several conferences over many months. If you can't settle the case in settlement conference, or you don't go, move on to the next step.

NOTE: If you go to your settlement conference, you get a second chance to file an answer. Your deadline to answer is **30 days after your first settlement conference**.

Case Settled in Settlement Conference

You went to settlement conferences and came to an agreement with Lender. There is no trial and case is over.

Case Not Settled and Borrower Answered Complaint

You DID answer the complaint.

Case Not Settled and Borrower Didn't Answer Complaint

You DID NOT answer or your answer was rejected.

Discovery

Both sides gather information from each other.

Motion for Order of Reference

Lender asks the court to appoint someone to decide the amount you owe.

Motion for Summary Judgment

Lender files a motion asking court for a judgment without trial.

Referee Appointed

Lender sends updated information to referee. Referee adds up the amount you owe in a report to Lender. Lender gives report to court.

Lender loses motion

Trial

If case is not settled, Lender must prove its case to the Judge. Both sides testify and show evidence. Judge decides case.

You win trial

Motion for Judgment of Foreclosure and Sale

Lender makes motion asking court for a judgment of foreclosure and sale. If Lender loses the motion, judge will not order sale of home at this time.

Judge Signs Foreclosure Judgment

Judge orders sale of your home at an auction at the courthouse.

Foreclosure Sale Scheduled

Lender and Referee choose auction date for sale. Sale is advertised for at least 21 days.

Foreclosure Dismissed

The case is over. Depending on trial, Lender may or may not be able to sue you again.

Auction Held

Public sale is held. Home sold to highest bidder. The sale price may be more (a surplus) or less (a deficiency) than you owe.

Last Review Date: July 2017

This document updates and modifies a document from NEDAP (New Economy Project). This document was created with funding support from the New York State Interest on Lawyer Account Fund (IOLA).

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Protect Yourself

Know with whom you are dealing. Before you hand over any money or provide any personal information, check out the company or person. You can check your local Better Business Bureau or state consumer protection office to see if the company or organization is legitimate and if any complaints have been filed.



Contact reputable non-profit housing or financial counselors, such as those you can find by contacting the:

- U.S. Department of Housing and Urban Development (HUD) at (800) 569-4287 or www.hud.gov/offices/hsg/sfh/hcc/hccprof14.cfm
- Homeownership Preservation Foundation at (888) 995-HOPE or www.995hope.org.

Know what you are signing. Read and understand every document you sign. If a document is too complex, seek advice from a lawyer or trusted financial counselor. Never sign documents with blank spaces that can be filled in later. Never sign a document that contains errors or false statements, even if someone promises to correct them later.

Get promises in writing. Oral promises and agreements relating to your home are usually not legally binding. Protect your rights with a written document or contract signed by the person making the promise. Keep copies of all documents you sign.

Make your mortgage payments directly to your lender or the mortgage servicer. Do not trust anyone else to make mortgage payments for you.

Never sign over your deed until you clearly understand what will happen to your rights to your home. Foreclosure scams often require you to “temporarily” sign over ownership of your home to another claiming it would be only as a means to help you. Consult with a HUD-approved homeowner counseling agency.

Report suspicious activity to the Federal Trade Commission, your State Attorney General’s Office or your state and local consumer protection agencies. Reporting con artists and suspicious schemes helps prevent others from becoming victims.

General Resources

FDIC Foreclosure Prevention Website
www.fdic.gov/foreclosureprevention
(877) ASKFDIC or (877) 275-3342

Mortgage Modification and Refinance Programs

- **Making Home Affordable**
www.makinghomeaffordable.gov/
- **Federal Housing Administration**
<http://portal.hud.gov/>
(800) CALL-FHA or (800) 225-5342

Foreclosure Mitigation Assistance and Counseling

- **U.S. Department of Housing and Urban Development**
www.gov/offices/hsg/sfh/hcc/fc/ or www.hud.gov
(800) 569-4287
- **Homeownership Preservation Foundation**
www.995hope.org
(888) 995-HOPE
- **NeighborWorks America**
www.neighborworks.org/Our-Network/Network-Directory

Report Foreclosure Scams

- **Federal Trade Commission**
www.ftccomplaintassistant.gov/
- **Consumer Financial Protection Bureau**
www.consumerfinance.gov/complaint.
- **State Attorney General Contact List**
www.naag.org/attorneys_general.php
- **State, County and City Consumer Protection Offices**
www.usa.gov/state-consumer



Federal Deposit Insurance Corporation
www.fdic.gov/foreclosureprevention
FDIC-021-2015 (3/2016, PDF)

Beware of Mortgage Rescue Scams

If It's Too Good to be True, It Probably Is

To protect yourself from opportunity hunters and frauds:

- Contact your lender or mortgage loan servicer and try to negotiate a payment plan.
- Work with reputable non-profit housing or financial counselors.
- Report suspicious activity or unsolicited offers.

Read more inside or go to the resources section on the back panel for whom to contact for immediate help.



Tips for Avoiding Mortgage Foreclosure Rescue Scams

Beware of Unethical Mortgage Foreclosure Rescue Operators

A fairly new and dangerous threat has arisen for homeowners who have fallen behind on their mortgage payments and may be at risk of foreclosure – opportunistic companies. They often refer to themselves as a “foreclosure consultant” or “mortgage consultant,” and market themselves as a “foreclosure service” or “foreclosure rescue agency.” They count on homeowners being vulnerable and desperate.

These companies claim they can assist homeowners facing foreclosure with options that allow them to keep their property, refinance or modify an existing mortgage, repair credit or help “buy more time.” In reality, these “options” are intended to convince you to take the wrong steps so they can take your money and possibly your home.

Remember the old saying, “If it’s too good to be true, it probably is.”

Be safe. It is important that you take action by contacting your mortgage lender – or any legitimate financial counselor – to find real options to avoid foreclosure. A number of agencies provide free counseling services to homeowners who are having trouble making ends meet (see the “Protect Yourself and Resources Sections”). These agencies can help you explore your options, which may range from modifying your loan to refinancing your loan to selling your home and using any equity to start over.

Watch Out for the Common Foreclosure Rescue Scams

Lease-Back or Repurchase Scams – In this scenario, a promise is made to pay off your delinquent mortgage, repair your credit and possibly pay off credit cards and other debt. However, in order to do this, you must “temporarily” sign your deed over to a “third party” investor. You are allowed to stay in the home as a renter with the option to purchase the home back after a certain amount of time has passed or your financial situation improves. The trouble is once you have signed away your rights in your property, you may not be able to repurchase the property later, even if you can and want to. After the new owner takes ownership of your property, the new owner can evict you. Furthermore, the scammer is under no obligation to sell the house back to you. Typically, after the deed is signed away,



the property changes hands numerous times. The scammer may have taken a new mortgage out on your home for hundreds of thousands of dollars more than your mortgage, making it impossible for you to buy back your home.

Partial Interest Bankruptcy Scams – The scam operator asks you to give a partial interest in your home to one or more persons. You then make mortgage payments to the scam operator in lieu of paying the delinquent mortgage. However, the scam operator does not pay the existing mortgage or seek new financing. Each holder of a partial interest then files bankruptcy, one after another, without your knowledge. The bankruptcy court will issue a “stay” order each time to stop foreclosure temporarily. However, the stay does not excuse you from making payments or from repaying the full amount of your loan. This complicates and delays foreclosure, while allowing the scam operator to maintain a stream of income by collecting payments from you, the victim. Bankruptcy laws provide important protections to consumers. This scam can only temporarily delay foreclosure, and may keep you from using bankruptcy laws legitimately to address your financial problems.

Refinance Scams – While there are legitimate refinancing programs available, look out for people posing as mortgage brokers or lenders offering to refinance your loan so you can afford the payments. The scammer presents you with “foreclosure rescue” loan documents to sign. You are told that the documents are for a refinance loan that will bring the mortgage current. What you don’t realize is that you are surrendering ownership of your home. The “loan” documents are actually deed transfer documents, and the scammer counts on your not actually reading the paperwork. Once the deed transfer is executed, you believe your home has been rescued from foreclosure for months or even years until you receive an eviction notice and discover you no longer own your home. At that point, it is often too late to do anything about the deed transfer.

Internet and Phone Scams - Some scam lenders convince you to apply for a low-interest mortgage loan on the phone or Internet. They then extract vital information, such as your social security and bank account numbers. In this scam, the loan is immediately accepted, after which you start faxing the documents and sending wire transfer payments to the phony company without even meeting the lender. Unfortunately, this scam will put you in twice

Warning Signs That You May Be Dealing With A Mortgage Foreclosure Scam Operator

If The Company:

- Demands a fee in advance. No legitimate organization that works with borrowers to avoid foreclosure will ever ask for money up front.
- Makes unsolicited offers or “lofty” advertisements, claiming they can help save your home.
- Recommends you break off contact with the lender and any counselor that you may have been working with.
- Advises you to stop making mortgage payments.
- Tells you to send your mortgage payment to anyone other than your loan servicer.
- Instructs you to transfer ownership of your property.
- Makes verbal promises that aren’t put in writing.
- Asks you to sign a document that has blank lines or spaces.

as much trouble--your personal details have been stolen or sold, putting you at risk of identity theft, and your home is still at risk of foreclosure.

Phantom Help Scams - The scam operator presents himself as someone who is able to counsel or help a homeowner out of foreclosure. In exchange for his or her “services,” outrageous fees are charged and grand promises are made for robust representation, which never occurs. The “services” performed entail light paperwork or occasional phone calls that you could easily have made yourself. In the end, you are worse off than before, because you have little or no time to save your home, or seek other assistance.

Caught in a Foreclosure Scam?

If you get caught in one of these scams, it is imperative that you contact a lawyer right away. An attorney can assist you as you navigate your way through the process. Lower income individuals may be able to find free legal services; see <http://www.findlegalhelp.org>.

If you believe that you are the victim of criminal activity, such as forged documents being presented for your signature, you should contact your local law enforcement agency.