

When a person falls behind on their mortgage, there are options available to the borrower. Options include Loan Modifications, Reorganization of debt through Bankruptcy Protection, Short-Sales, Deed-in-Lieu of Foreclosure, or an outright sale of your property. Naturally more options are available to the person who seeks immediate legal advice. To review all of your options read more in our Notes Section on our Page.

Here are a few options available to the Borrower who is struggling to make mortgage payments:

1. **Loan Modifications:** If your interest rate is above six (6%) or if you are having difficulty paying your loan, you should immediately call your lender and ask them about their loan modification programs. There may be several loan modification programs available to you. For some programs you do not have to be behind in your mortgage, and the property does not have to be your primary residence. Many lenders are also modifying investment properties.

2. **Bankruptcy Protection.** You can reorganize all of your debt including your mortgage by filing for bankruptcy protection. Chapter 13 Protection allows a debtor to reorganize their debt by giving them three to five years to satisfy their mortgage arrears and other debt. Some debts may even be discharged altogether. The disadvantage is that during this "repayment period" the debtor is now not only paying the regular monthly mortgage payment, they are also making an additional payment each month towards the reduction of their arrears. The advantage however is that during this period the bank cannot continue to proceed with their foreclosure case. You can keep the house so long as you keep current with your mortgage payments and the payment for the arrears. You may also be able to avoid paying any second mortgage or line of credit completely depending upon the lack of equity in the property.

If you are current on your loan, you may file for Chapter 7 Bankruptcy Protection and still keep your house depending upon the amount of equity in the property. You can then seek to have your unsecured debt (i.e. credit cards, utility bills, etc.) discharged. You can also seek to have any second mortgages discharged again depending upon the property's equity.

3. **Short-Sales:** You can contact your lender to discuss a reduced balance to satisfy your mortgage to enable you to sell your house. This option is known as a "Short-Sale". In essence if you believe that the balance on your mortgage exceeds the value of your house, some banks will accept less than the actual balance to satisfy the mortgage. Usually banks require that you send them a copy of a recent appraisal report showing the value of the house and a fully executed Contract of Sale among other documents. (There may be serious tax consequences for short-sales for investment properties which we will discuss in the future.)

4. **Sell House at Market Value.** You can list your house with a realtor and sell the house at market value. If you realize that the payments are simply too high, you can sell your house thereby recouping any equity that you have in your house. The earlier you

make the decision to sell, the more control you have over the price, the time that you need to move, and the amount of equity that you recoup.

3. **All-Cash, As-Is Sales.** You can have an investor purchase your property. The advantage to selling to a REPUTABLE investor is that a closing of title could take place within a few weeks. Also usually the purchase is done on an “all-cash” basis. You also should not have to worry about making any repairs. You should demand that the investor purchases the house completely “as-is”. Some investors will even purchase properties with occupants. You, however, must negotiate a purchase price and any other terms that make you comfortable. The disadvantage is that usually the purchase price is slightly below market value due to time constraints and the nature of the sale.

4. **Deed-in-Lieu-of-Foreclosure.** When you fall behind on your mortgage, you can ask your lender to accept title to your house instead of going through the foreclosure process. Obviously you would only entertain this option when there is absolutely no equity in the property. An advantage in this option is that the lender may accept the transfer of ownership of the house in full satisfaction of the mortgage. A disadvantage is that most times the lender has several conditions to the transfer (i.e., the house must be vacant). Also there may be tax consequences resulting from this transfer which we will explore in the future.

You must understand that simply because you are behind on your mortgage payments or in foreclosure does not mean you cannot favorably resolve this situation. The key is to seek legal advice immediately after missing a few mortgage payments in order to explore your options. The earlier one seeks proper legal advice, the more options they have available to them. Remember, you do have options in foreclosure.