

Factors Driving Increases in Foreclosure

Over the last several years, Northern Ohio has seen steady job losses and reductions in work hours. If two people in a household have been making money sufficient to support mortgage payments and one or both lose a job or suffer a reduction in hours, it can send that household into a tailspin. Some people try to hang on, concentrating on the house by making payments on the mortgage while they defer other things. Eventually, they reach the limit on their credit cards and find they cannot further reduce their expenses. Often, clients come into our office with a complaint in hand from a creditor lawsuit. Others choose to keep up on day-to-day items in hopes that money will be available at the end of the month to pay the mortgage. Older individuals on fixed incomes suffer major medical events that drain their monthly checks. At the end of the month, they don't have sufficient funds with which to make their mortgage payment.

Many debtors find multiple factors can trigger or accelerate foreclosure. Any one problem may not cause an emergency but may join with other difficulties to tip debtors into a slow downward spiral. When people try to keep things on an even keel, they may be successful for a while. But eventually, they find themselves "robbing Peter to pay Paul." Other clients have been victims of predatory lending, and so they have houses that are worth a fraction of their loan amounts. They may want to stay in the home because it holds fond memories. But from an investment standpoint, it is a black hole. When asked if they would carry the same loan and buy the house at the same price all over again, they invariably say "of course not."

Nonetheless, most borrowers would like to find an accommodation with their lenders.

Responses to Financial Distress

What to do in financial distress depends first on whether there is sufficient time to negotiate with the mortgagee. If a foreclosure suit has not been filed, we suggest applying for a loan modification.

If There Is Time

To receive a loan modification and avoid a foreclosure, a debtor should immediately contact either the lender (or mortgage servicer) directly, or get help from a nonprofit housing counselor. We say immediately because there is currently significant delay in processing applications for loan modifications. At Benson Law Firm, we recommend using a housing counselor (e.g., Neighborhood Assistance Corporation of America at www.naca.com) if clients are not too far behind on their mortgages. In fact, major lenders and servicers provide funding to many of the counseling agencies in order to

reduce the number of foreclosures currently in the pipeline. Of course, it is important to remember that getting assistance from a housing counselor does not guarantee that a loan modification will be accomplished. Counselors and their counterparts in the lender's loss mitigation department are still limited by internal lending policies and agreements with investors.

If There Is No Time

If a foreclosure seems imminent or has already been initiated, there are four options:

1. Surrender the property
2. Answer and request mediation
3. Defend the foreclosure or
4. File bankruptcy.

FOR FURTHER INFORMATION, CALL BENSON LAW FIRM AT 216-241-2510

Beware of Scams

Occasionally, we come across a homeowner who has been the victim of a foreclosure scam. The latest, forensic mortgage loan audits, are peddled by companies claiming to review mortgage loan documents in order to find violations of state and federal mortgage lending laws. Their reports, they claim, can be used to avoid foreclosure, accelerate the loan modification process, reduce loan principal or even cancel the loan. But according to the Federal Trade Commission and its law enforcement partners, there is no evidence that forensic loan audits will help a debtor get a loan modification or any other foreclosure relief, even if they're conducted by a licensed, legitimate and trained auditor, mortgage professional or lawyer.

If you think you have been the victim of foreclosure fraud, the FTC urges you to contact them at www.ftc.gov, as well as contact the state attorney general at www.naag.org.

Conclusion

How we structure a solution to your foreclosure depends on whether you are trying to avoid foreclosure, were recently served with a complaint or have a sheriff sale date pending. The most common solutions include:

1. Loan modification application if there is sufficient time prior to the filing of a foreclosure complaint.
2. Workout in mediation after answering a foreclosure complaint.
3. Bankruptcy either to halt a pending sheriff sale or buy more time to get a response on a loan modification application.

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