

Foreclosure: Understanding the Process, Your Rights, and How to Avoid It

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- Foreclosure is when a mortgage lender repossesses your home because you defaulted on your loan.
- The exact details of a foreclosure process will vary based on your state and the lender.
- There are options to avoid foreclosure if you act quickly and stay in communication with the lender.

The thought of losing your home is scary. But if you are no longer able to keep up with your monthly mortgage payments, the [mortgage lender](#) will likely pursue foreclosure.

Although foreclosure is a financial situation that no one wants to face, it's useful to understand the details of this legal process.

What is foreclosure?

Foreclosure involves a mortgage lender taking possession of your home because you have defaulted on your loan. Usually, this is caused by missing several monthly payments.

From the lender's perspective, foreclosure is necessary to recoup its financial losses. After taking possession of the home, most lenders will sell it to recoup the borrower's unpaid balance.

Legal process

Foreclosure is a legal process, so the exact details of how it works can vary from state to state. Generally speaking, though, it's the process by which a lender takes possession of a property due to missed mortgage payments.

Types of foreclosure

Foreclosures fall into a few different categories. Here's a closer look at each:

- **Judicial foreclosure:** A judicial foreclosure involves the lender filing a lawsuit in a local court. If your lender is pursuing judicial foreclosure, you'll receive a letter in the mail requesting past-due payments. After that, you'll have 30 days to submit the money or the home will be sold at an auction conducted by the local court or sheriff.
- **Power of sale foreclosure:** If the mortgage has a power of sale clause, the lender can pursue a power of sale foreclosure. After a default on the loan, the lender will send a letter demanding payment. If you don't catch up within a defined period of time, the mortgage company can auction off the property without going through the local court system.

If you're not sure what sort of foreclosure you could face, talk to a local attorney. You can also contact a [HUD-approved housing counselor](#) in your state for personalized guidance.

Stages of foreclosure

A borrower is technically in default 30 days after missing a payment. Typically, lenders start the foreclosure process between three and six months after the first missed payment.

Once the borrower is in default, the lender indicates its intention to foreclose on the loan by issuing a notice of default. At that point, you'll enter the pre-foreclosure stage.

If you're unable to petition for more time, you'll get notice that the lender will be auctioning off or selling your home. How long this sale takes will depend on your state — and whether it needs to go through court proceedings first.

Once the home is sold, you'll be evicted from the property. In some states, you may still have a "right of redemption," which would allow you to settle your debt and reclaim the property within a certain period of time.

Why foreclosure happens

Foreclosures happen when you fall behind on mortgage payments. This could occur because of:

Financial hardship

Financial hardship is one of the most common reasons for foreclosure. This could be caused by things like job loss, unexpected medical expenses, or divorce, all of which strain your finances and make it hard to pay your mortgage.

Adjustable-rate mortgages (ARMs)

If you have an [adjustable-rate mortgage](#), your rate and payment can increase very quickly and with little notice. This could make it hard to budget for or even push it out of reach if you're tight on funds.

Predatory lending

If your lender fails to properly qualify you and ensure you have the funds to make your payments, it can also lead to foreclosure. This is called predatory lending and is not very common following the last housing crash.

The foreclosure process

Facing foreclosure can be scary. Here's the foreclosure process explained, so you can be more prepared. Keep in mind that this may vary slightly depending on what state you're located in.

1. Missed payments

Missing payments is the first step. You're usually in default after missing just one payment, and you'll begin incurring late fees at that point, too. This can put you even more behind on your mortgage.

2. Default notice

Within a few months, you'll receive a notice of default from your servicer, informing you that you're officially in default on your mortgage loan. This is the first sign that a foreclosure is in the works.

3. Pre-foreclosure/loss mitigation

As your servicer prepares to foreclose on the home, you may still be able to work out a deal and avoid losing your home. Ask about loss mitigation options, like modifying your loan or setting up a payment plan. The servicer may also offer to do a [short sale](#), or settle your debt in exchange for you handing over the house. You'll still lose your home, but it won't be reported as a foreclosure on your credit — which can have significant impacts for years to come.

4. Foreclosure sale

Finally, the home will be sold at auction. This may be done directly by the servicer, or it may have to go through the local court system first, depending on what state you're located in.

Your rights as a homeowner facing foreclosure

Just because you're behind on payments doesn't mean you don't have rights. When you're facing foreclosure, you still have the:

Right to Notice

This ensures you receive proper notification that the foreclosure process has been initiated.

Right to Reinstatement

Within a certain period after receiving your default notice, you have a right to reinstatement, which allows you to stop foreclosure by catching up on your missed payments (and late fees). In this case, the servicer would reinstate your loan, and you'd carry on as before.

Right to Redemption

In some states, if your home is sold at auction, you may still have a chance to get it back. This is called the Right to Redemption and requires settling your entire loan balance — plus late fees.

How to avoid foreclosure

If you are facing foreclosure, it's a stressful and uncomfortable situation. But there are actions you can take to [avoid foreclosure](#).

Communicate your lender

Lenders typically won't offer a helping hand unless you ask for it. Staying open with your lender about your financial situation is the key to foreclosure prevention and could lead to a better solution.

Explore loss mitigation options

There are lots of loss mitigation options you should explore before letting a servicer foreclose on your house. These include:

- **Mortgage forbearance**: This is a temporary pause or reduction in your monthly payments. Some lenders are willing to provide this temporary reprieve to avoid foreclosure.
- **Loan modification**: If your monthly payment is simply too high, ask your lender about a loan modification, which is a permanent change to your loan terms. A longer repayment period or lower interest rate could result in a more manageable monthly payment.
- **Short sale**: A short sale involves selling your home for less than you owe. This option involves securing lender approval before signing on the dotted line.

You may also consider [refinancing](#) to get a lower, more affordable monthly payment. You will likely need to get current on your payments before qualifying for a refinance.

Sell your home

If you can sell the home for more than you owe, you can use the proceeds from the sale to pay off your debt.

Deed in lieu of foreclosure

If you can't sell your home, then handing over the deed to the lender — known as [deed in lieu of foreclosure](#) — may release you from your debt.

Foreclosure FAQs

Can I stop foreclosure after it has started?

Yes, it may be possible to stop foreclosure even after it has started, but your options become more limited as the process progresses. Talk to an attorney about what options you may have in your state.

How does foreclosure affect my credit?

Foreclosure has a significant negative impact on your credit score, making it harder to obtain loans or credit in the future. It stays on your credit report for seven years. According to FICO, if

you have a credit score of 680, a foreclosure would drop your score between 85 and 105 points. The drop is bigger for higher credit scores.

What happens to my belongings in foreclosure?

After the foreclosure sale, the lender typically takes possession of the property and its contents. You may have a limited time to remove personal belongings, so be sure to move out fast if you get an eviction notice.

What happens after foreclosure?

After foreclosure, you'll be evicted from the property. In some states, you may still have a right to redemption. If that's the case, you can repay the loan in full and reclaim your property.

How do I stop foreclosure?

If you're wondering how to stop foreclosure, it depends on what stage in the process you're currently in. If you haven't yet received a notice of default, getting current on your payments is your best bet. If your servicer has already started the foreclosure process, you should as

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