

You can use the “cash for keys” money to move all your belongings plus walk away with out any additional financial stress or responsibility.

- You may wish to request a loan modification, which typically involves a reduction in the interest rate, an extension on the term (length) of the loan, a different type of loan or a combination of all three. A lender might be open to modifying a loan because the cost of doing so is less than the cost of you defaulting on the loan.

## About FloridaLawHelp.org

FloridaLawHelp.org is administered by Florida Legal Services, Inc. and is produced in cooperation with Pro Bono Net and the legal services organizations and government agencies throughout Florida and the United States.

This brochure is for general education only. It is not intended to be used to solve individual problems. If you have specific questions, see an attorney.



The Florida Bar Foundation, with Interest on Trust Accounts program funding, provides support for this service.



# FloridaLawHelp.org

To locate your local legal aid or legal services office, please visit us on the web at

[www.floridalawhelp.org](http://www.floridalawhelp.org)

Your local legal aid or legal services office can be located through either the “Find Local Help” or “Directory” links.

If you don't have access to the internet, consult your local Directory Assistance for the number of the legal aid or legal services office nearest to you.

Special thanks to Community Legal Services of Mid-Florida, Inc.

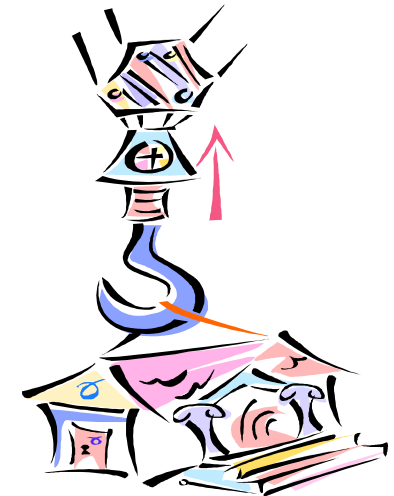
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**MY HOUSE IS  
BEING  
FORECLOSED !**

**I'm behind in my  
mortgage payments  
...Now what?**

**I've been served court  
papers for foreclosure  
...What do I do?**

**What are my options?**





### I'm behind in my mortgage payments... now what?

If you have a mortgage on your home and you are behind in your payments, pay close attention to any letters you receive. Your rights may depend on the type of mortgage you have. Be sure to keep copies of all letters and notices — do *not* throw them out! Do not ignore letters from the Mortgage company. Call them immediately to see if you can work out an agreement to save your property.

If you believe you have been the victim of consumer fraud, you may contact the Florida Attorney General at (866) 966-7226. If you have a:

- **Conventional Loan**  
Write a letter to the mortgage company requesting to pay the back payments over time. The mortgage company may accept your offer.
- **Veterans Administration Loan**  
Contact the V.A. as soon as you are behind in your mortgage. They may be able to help you with your mortgage payments.
- **Farmers Home Mortgage**  
You may get a letter saying you are behind in your payments. Call the Farmers Home office and ask for help with your mortgage. They may be able to give you interest credit, delay your payments, or provide some other help. If you are turned down, you can ask for an appeal hearing.

### I've been served court papers for foreclosure., now what?

If the bank or mortgage company has started a foreclosure suit against you, you will be served court papers by the sheriff or a process server. You will probably receive a summons, a complaint, and an order to show cause. These papers come with a deadline: You must respond within 20 days.

As soon as you receive court papers, read them. Talk with an attorney to get advice.

Contact your local legal aid program to see if you are eligible for free legal assistance. Find the number of the office nearest you on the back of this brochure.

If you respond to the papers yourself, this is

### what you should do:

On plain paper, type (or print clearly) the information at the top of the complaint, including the court name, names of the parties, and the case number, then print or type "Answer of Defendant."

Use numbered paragraphs to point out anything you believe is untrue or wrong in the court papers you received.

You should also write down the reasons why there should be no foreclosure. These reasons are called "affirmative defenses." For example:

The mortgage company may have accepted late payments from you for several months, did not send you a new written notice that payments are due on time, but then filed a foreclosure when you were late again.

Perhaps a home improvement company placed a mortgage on your house to pay for its services. A defense may be that the work was not done properly. The judge may still rule that you owe the mortgage, but it may be less than the mortgage company is asking.

Other defenses are possible. Any reason that would make it unfair for the mortgage company to take over your home should be written down as a defense.

Sign the answer. Write that you are mailing a copy to the lawyer for the bank or mortgage company, including the date you mail the copy. Then, mail a copy of the answer to the lawyer for the bank or mortgage company. Take the original answer to the Court Clerk and file it. There is no charge for this. Keep a copy of your answer for your records.

You may receive a Motion for Summary Judgment. This will tell the date and time that a judge will decide whether to foreclose on the house. The rules require that you present an affidavit stating the reasons why the foreclosure should be denied. You must serve the affidavit on the Mortgage company's attorney 5 days before the hearing. You can go to that Motion for Summary judgment hearing and tell the judge why there should be no foreclosure.

If the judge decides that the house should be for closed, he/she will set a day and time for the sale. That day will be at least 20 days after the hearing, but probably not more than 35 days later. If you need more time than that, tell the judge. It will be up to the judge to decide if you get more time.

At the sale, someone will purchase the house. The new owner cannot take possession of the house un-

til the Clerk of the Court issues the title, usually 10 days after the sale. If you have not moved, the new owner is entitled to move in, and you will be served a "Writ of Possession" by the sheriff. The Writ of Possession will give you 24 hours to move.

If you do not file an answer or if you do not show up at the "Motion for Summary Judgment" hearing, a default can be entered against you. This is like automatically losing your case. The next piece of paper you could receive would be the notice to leave your house.

Once the foreclosure action is filed, you will start to receive mailings from individuals who will offer you ways to "save" your home. Do not sign anything until you have the opportunity to have an attorney review the documents, since you may be signing your ownership rights and receive nothing for your home!

### Are there any other options?

- You may wish to sell your home. You have the right to do so until the foreclosure sale. This may be the best way for you to get back the equity you have in the home. If you want to do this, contact a realtor.
- You may want to consider bankruptcy. In some situations where the household has a steady source of income, bankruptcy can help you save your home. Talk to an attorney who handles bankruptcy matters for advice.
- You have the right to "redeem" your home until the sale of the house. To redeem your home, you must pay all amounts owed on the mortgage, plus attorney fees, and the court costs that went with the foreclosure. If you do this, you can stop the foreclosure sale.
- You may also want to consider deeding the house back to the bank or mortgage company. Contact the attorney representing the mortgage company to discuss this option.
- You may opt to participate in the "cash for keys" program also known as a "deed in lieu", which allows the bank to take property back from a delinquent homeowner who can no longer afford to make their house payment, in exchange for moving expenses.