

Certified Distressed Property Expert

*If we all did the things we are capable of doing
we would literally astound ourselves.*

-Thomas Edison



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National Delinquency Numbers

Mortgage Bankers Association



National Numbers

3rd Quarter 2011

4.38% in Foreclosure

8.15% in Default (30+ days late)

12.52% Total

Mortgage Bankers Association

Based on 43.6 million mortgages



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National Numbers – Prime Loans

3rd Quarter 2011

2.52% in Foreclosure

4.47% in Default (30+ days late)

6.99% Total

Mortgage Bankers Association

Based on 31.9 million mortgages



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National Numbers – Subprime Loans

3rd Quarter 2011

21.17% in Foreclosure

23.72% in Default (30+ days late)

45.89% Total

Mortgage Bankers Association
Based on 4.2 million mortgages



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National Numbers – FHA Loans

3rd Quarter 2011

3.54% in Foreclosure

13.22% in Default (30+ days late)

16.76% Total

Mortgage Bankers Association
Based on 6.1 million mortgages



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National Numbers – VA Loans

3rd Quarter 2011

2.37% in Foreclosure

7.14% in Default (30+ days late)

9.51% Total

Mortgage Bankers Association
Based on 1.3 million mortgages



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More than 7 out of 10
homeowners go into
foreclosure without **VISIBLE**
intervention.
(You are the exception)



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Foreclosure Explained



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*Solving the foreclosure crisis
one homeowner at a time.*

Foreclosure is a Process

- *Default*
 - Must miss a payment, default on payment is the only way a property can enter the foreclosure process.
 - Can also be a missed payment to local taxing authority, a condo association or homeowners association.
- *Legal Notice*
 - The lender or foreclosing party must notify the owner that they are entering into the foreclosure process.
 - Personal service of a document or if the owner cannot be located through publication in a legal journal.
 - Florida = Notice of *Lis Pendens* (or notice of a lawsuit)
 - California = Notice of Default or NOD
 - Complaint, Notice of Sale or a Petition



Foreclosure is a Process

- *Bank Sale or Auction Date*
 - Homeowner informed of bank sale or auction date
 - Foreclosing entity will gain control of the property
- *Redemption Period*
 - Not all states have a redemption period
 - Period of time in which the homeowner may present payment and regain possession of his property



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Possible Consequences



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Reasons to Avoid Foreclosure

- ✓ You will always have to disclose on any mortgage application and many job applications
 - Foreclosure is the only credit item that will affect your rates even when it is off your report
- ✓ Credit scores can be lowered by 300+ points
 - most devastating credit issue you can have in relation to future credit availability
- ✓ You will be ineligible for a government insured loan for 5 to 7 years (only 2 years in a short sale)



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Reasons to Avoid Foreclosure

- ✓ You may end up with Deficiency Judgment*
- ✓ Many employers run credit checks
- ✓ Many current employers run credit checks and a foreclosure can put a current position in jeopardy
- ✓ Security clearances, government positions
 - Military and law enforcement and more

*Not applicable in some states. In a short sale, deficiency judgments may be waived during negotiations.



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Reasons to Avoid Foreclosure

- ✓ As your CDPE agent I will explore every option with you and work towards a resolution.
- ✓ While it may not seem like it now, there will come a time when you look back on this situation and will want to know you did everything you could.



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Solutions



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Reinstatement

- If reason for distress was temporary and resolved
- Can be done up to day of bank sale
- You must be able to pay all the payments and late fees due and your mortgage will remain the same



Reinstatement Example

- Homeowner misses 4 payments on a \$1,500 a month loan and the foreclosure process has been initiated.

Reinstatement Amount:

4 Month' s Payments @ \$1,500/month	\$6,000
Late Fees	\$300
Legal Fees	\$1,200
Processing Fee	\$250
Total Reinstatement	\$7,750



Forbearance or Re-Payment Plan

- If reason for distress was temporary and resolved
- Requires lender approval
- You may be allowed to make your back payments over time
- Normally does not fully reinstate mortgage until plan is completed

Forbearance Example

- 4 payments missed @ \$1,500 a month loan and the foreclosure initiated

Reinstatement Amount:

4 Month's Payments @ \$1,500/month	\$6,000
Late Fees	\$300
Legal Fees	\$1,200
Processing Fee	\$250
Total Reinstatement	\$7,750

Bank Allows payments to be broken up over the next 12 months:

Total Reinstatement	\$7,750
Reinstatement Payment 12 months	\$646
Current Payment	\$1,500
Monthly Repayment	\$646
12 Month's Payments Each	\$2,146

(!) Insider Tip

Forbearance Plan (there is a catch)

Typically your mortgage is not fully reinstated through a forbearance plan until all the payments are made in full. If a homeowners misses just one payment they can end up in the same stage of the foreclosure process they were in previously.



Sell the Property

- If you have equity, can sell and cure foreclosure
- You may have more time than you think to sell the property after receiving foreclosure notice



Rent the Property

- Can your property rent for the mortgage amount or more?
- In many cases rent does not cover full expense of property ownership
- Also need to factor in insurance, taxes, and repairs



Refinance

- If you have sufficient equity and strong enough credit score
- Typically a short term solution since your payments almost always go up



Mortgage Modification

- Requires lender cooperation
- Modifies loan and often reduces payment
- You will have to qualify with financial information most of the time like a full doc loan
- MakingHomeAffordable.gov



Mortgage Modification

- You must have verifiable means of income.
- You should be certain you can afford the modified mortgage payment.
- You can pursue a mortgage modification and prepare for a short sale simultaneously.

Deed-In-Lieu of Foreclosure

- “Friendly” Foreclosure
- Sign deed over to bank rather than go through foreclosure process
- May still be reported as a foreclosure
- Typically only works with one mortgage



Bankruptcy

- Will stall a foreclosure and if payments are lowered to where property can be afforded may save property
- Very difficult to sell property once in the process, requires trustee cooperation
- Will only stall a foreclosure – will not eliminate mortgage

Servicemembers Civil Relief Act (SCRA)

- Provides temporary relief to military personnel
- Must show mortgage was entered into prior to beginning active duty
- Must still be owned by military member
- Must show that service materially affects ability to pay



Short Sale

- A short sale can be negotiated if the homeowner has:
 - Financial Hardship
 - Monthly Shortfall on Financial Worksheet (or pending shortfall)
 - Does not have significant assets to assist in paying down the mortgage



Definition

- A homeowner is ‘short’ when:

A borrower owes an amount on his property that, when combined with closing costs and commission, is higher than current market value.

- A short sale occurs when:

A negotiation is entered into with the homeowner’s mortgage company or companies to accept less than the full balance of the loan at closing. A buyer closes on the property and the property is ‘sold short’.



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What a Short Sale is Not

- If you do not have a financial hardship then you will most likely not qualify for a short sale
- A short sale is only for those who meet all requirements



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Two Major Consequences

- Cancellation of Debt Tax Liability
 - “Phantom Tax”
 - Mortgage Forgiveness Debt Relief Act of 2007
 - Special IRS Section
- Deficiency Judgment
 - Lender Collection Rights
- Other Issues



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Mortgage Forgiveness Debt Relief Act of 2007

- Originally HR3648
- Prior to passage any debt forgiven was “cancelled” and was required to be claimed as 1099 income
- Signed into law on December 20th 2007

MFDRA Details, Phantom Tax

- January 1st 2007 to December 31st 2012
 - Eliminates Phantom Tax.
 - Debt must have been incurred to acquire a principal residence.
 - Cancelled debt up to \$2,000,000 is eligible.
 - Sets forth rules for determining the allowable amount of the exclusion for taxpayers with non-qualifying indebtedness and taxpayers who are insolvent.
 - *Debt from a second (non-acquisition) mortgage or HELOC is not eligible (unless used to improve basis of property).*
 - *Debt from a cash-out refinance is not eligible (unless used to improve basis of property)*
 - *Cancelled debt from investment properties and second homes is not eligible.*



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Deficiency Judgment

- In 100% of Foreclosures the homeowner is exposed to a Deficiency Judgment
- In some Short Sales lender waives right to Deficiency
- In almost all cases a short sale will result in lower possible deficiency judgment



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THE SHORT SALE PROCESS

YOUR INVOLVEMENT



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SHORT SALE PROCESS

Owner Involvement

- Complete or provide all necessary documentation
 - Signature Authorization (FORM A)
 - Short Sale Disclosure (FORM P)
 - Hold Harmless (FORM C)
 - Homeowner Document Checklist, Provide all Documents (FORM E)
 - Homeowner Financial Worksheet (FORM F)
- Keep property presentable and ready to sell
 - Homeowner Property Checklist (FORM G)
- Be available to communicate with mortgage company if necessary



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Why Hire a CDPE?

- Over 28,000 agents nationwide
- Member of an organization where agents negotiate hundreds of short sales on a weekly basis
- Extensive training
- Expert support on an as-needed monthly basis
- Complete system to give you the best chance at successfully avoiding foreclosure



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