

Distressed Options

Did you know?

Governor Arnold Schwarzenegger has instituted a statewide, 90-day halt on foreclosure proceedings for each owner-occupied home subject to a first mortgage on which a Notice of Default has already been filed.



If you've found yourself drowning in mortgage obligations and debt recently, you're not alone. Declining home values, overall economic malaise, job losses, and other forces are driving homeowners like you to consider options that just a few years ago were unthinkable.

While a new state law known as SB 1137 took effect in September 2008, effectively blocking lenders from initiating foreclosure proceedings until 30 days after contacting the borrower or making "due diligence" efforts to do so, many California homeowners are still in need of financial relief.

In response, the U.S. Department of Housing and Urban Development has established a free hotline (877-HUD-1515), staffed with HUD-approved counselors to assist homeowners who are facing a reset on an adjustable mortgage, are three to six months from defaulting on their mortgage, or are experiencing health and/or employment issues.

The Options

Some homeowners are finding relief in an option known as loan "recasting," which involves a modification to the mortgage and typically results in reduced mortgage payments, with payments recalculated with the same interest rate and a new maturity date.

Pro: The upside to recasting is that you'll be

working with your existing lender, which means no closing costs. **Con:** The challenge is that not all lenders are willing to negotiate such deals.

Another option is a **short sale**, or the negotiation of a payoff amount lower than what was originally agreed upon with your lender. **Pro:** This option allows the homeowner to sell the property without suffering the stigma of foreclosure. In addition, H.R. 1424, the Emergency Economic Stabilization Act of 2008, extended the federal income tax exemption for mortgage debt forgiveness on home loans under the Mortgage Forgiveness Debt Relief Act of 2007 until Dec. 31, 2012. **Con:** California does not grant this exemption any longer. Short sales of primary residences—sold after Jan. 1, 2009—can trigger taxes (depending on your income) associated with debt forgiveness, which is considered taxable income.

Foreclosure is the final option and occurs when a homeowner loses the rights to his or her property, thus allowing the bank to sell the home to satisfy the debt. **Cons:** This route will negatively impact your credit rating—and ability to buy or even rent another home—and wipe out any equity that you had in the home. Finally, it can also result in a tax obligation on the debt forgiveness. To learn more about the tax consequences of a short sale versus a foreclosure, visit the IRS' Web site (www.irs.gov/). Before executing any of these options, consult with a certified public accountant or tax attorney. ♦

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[RESOURCES]

➤➤ **Mortgage Workout Programs for Homeowners:** To learn which lenders are recasting or offering workout arrangements, visit www.car.org/economics/.

➤➤ **Avoiding Foreclosure in California:** www.hud.gov/local/ca/homeownership/foreclosure.cfm

➤➤ **Consumer Home Mortgage Information:** www.yourhome.ca.gov/mortgage-help.shtml