

Behind on Your Mortgage?



HOMESELLERSUSA GUIDES



HOMESELLERSUSA SELLER GUIDES

Behind on your mortgage: options before foreclosure

If you have missed a mortgage payment, or think you are about to, you usually have more options and more time than it feels like. This guide walks through the free help available first, then each option from catching up to selling, with links to the official sources.

Inside this guide

- 01 Start with free help
- 02 How much time the federal rules give you
- 03 Ways to keep your home
- 04 Selling before foreclosure, and why equity matters
- 05 If you owe more than the home is worth
- 06 Foreclosure rescue scams
- 07 Judicial and non-judicial foreclosure
- 08 Your next step

Before you read

This guide is general information, not legal, tax or financial advice. Contracts, local rules and costs vary, so check the details for your home with your agent, title company or attorney.

HomeSellersUSA connects homeowners with licensed local agents and cash buyers. We are not a real estate broker and don't value homes.

Falling behind on a mortgage is stressful, and the letters from your servicer can make it feel like everything is about to happen at once. In most cases it is not. Federal rules build in time, and there are several ways to catch up, change the loan or leave on your own terms. The most useful thing you can do is act early and get free, independent help before you sign anything.

This is general information, not legal, tax or financial advice. Foreclosure rules differ by state and by loan type, so check your own situation with a housing counselor or an attorney.

1 Start with free help

A HUD-approved housing counselor. These counselors work for agencies approved by the U.S. Department of Housing and Urban Development. They can look at your budget, explain your servicer's options, help you put together an application and talk to the servicer with you. The CFPB says this help is provided at **no cost to you** (CFPB).

- **Call HUD's line at 800-569-4287** (TTY 202-708-1455) to find a housing counseling agency near you (HUD).
- **Search by ZIP code** with the counselor finder on the CFPB site (find a housing counselor).

Your servicer, early. The servicer is the company you send your payments to. Call as soon as you know you will have trouble, explain what happened (job loss, illness, divorce, a big repair) and ask what assistance they offer and what they need from you. Write down the date, the name of the person you spoke to and what they said, and keep copies of everything you send. Keep opening your mail: the CFPB advises reading notices carefully and acting promptly on them (CFPB).

2 How much time the federal rules give you

The Consumer Financial Protection Bureau's mortgage servicing rules set some important timelines for most home loans.

- **The 120-day rule.** Except in rare cases, a servicer cannot start the foreclosure process until you are **more than 120 days** behind on your loan (CFPB). That is roughly four missed payments. Late fees and credit reporting can still start much sooner, so the clock is a reason to act, not a reason to wait.
- **A complete application protects you.** Servicers call their help programs "loss mitigation." If your servicer receives your **complete** application **more than 37 days before a scheduled foreclosure sale**, it generally must evaluate you for the options it offers and respond in writing within 30 days, either offering an option, denying with reasons or asking for more documents (CFPB).

- **Appeal rights.** If your complete application arrived at least 90 days before a scheduled sale and you were denied a loan modification, you may have a right to appeal (CFPB).

The key word is **complete**. Ask the servicer for a written list of what it needs, send everything it asks for, and keep proof of when you sent it. A housing counselor can help you get the package right the first time.

3 Ways to keep your home

Which of these you are offered depends on your servicer, the owner of your loan (for example an FHA, VA, USDA, Fannie Mae or Freddie Mac loan) and your finances.

- **Forbearance.** Your payments are paused or reduced for a limited time while you get back on your feet. The payments are not forgiven; you will need to agree how to pay them back later, over time or when you refinance or sell (CFPB).
- **Repayment plan.** You agree with your servicer to make up the missed payments by adding part of the past-due amount to your regular payment for a set period (CFPB). It works best when the hardship is over and you can afford the higher payment. The CFPB cautions that your servicer may still report the delinquency while you catch up.
- **Loan modification.** A modification changes the terms of your loan. All or some of the missed payments are added to what you owe, and the monthly payment may go down, sometimes by stretching the loan over a longer term (CFPB).

Before you accept any plan, make sure you understand the new payment and can keep it up. The CFPB's advice is simple: don't sign anything until you're sure you understand what you are agreeing to (CFPB).

4 Selling before foreclosure, and why equity matters

If keeping the home is not realistic, selling it yourself before a foreclosure sale is often the option that protects you most, **if you have equity**. Equity is roughly what the home would sell for, minus your mortgage payoff (including missed payments, interest and fees) and the costs of selling.

The CFPB suggests considering a sale when the home is worth more than you owe: you keep what is left after the loan and the sale costs are paid (CFPB). In a foreclosure you have much less control over the price and the timing.

Example, an estimate only: if a home might sell for about \$300,000, the payoff with arrears is about \$220,000 and selling costs are about \$20,000, the owner could walk away with roughly \$60,000 before any taxes. Your numbers will differ; try our net proceeds calculator with your own payoff figure.

There are two common ways to sell:

- **Listing with an agent** usually reaches the most buyers, but it takes time for showings, an offer and the buyer's financing. Tell your servicer you are selling and keep it updated; a signed contract is worth showing them.
- **A cash sale** usually trades some of the price for speed and fewer steps, which can matter when a sale date is close. Compare it against a market estimate so you know what you may be giving up. Our guide to cash offer vs listing lays out the trade-offs.

Either way, ask your servicer for a written payoff statement early, and make sure any sale closes through a title company or closing attorney who pays the lender directly.

5 If you owe more than the home is worth

- **Short sale.** You sell for less than the loan balance, and the servicer agrees to accept the sale price. You will need to apply through your servicer's loss mitigation process and get approval from the servicer and the owner of your loan (CFPB). Ask in writing whether the lender will forgive the rest of the balance, sometimes called the deficiency.
- **Deed in lieu of foreclosure.** You hand ownership of the home to the servicer and move out, and you do not have to sell it yourself. It may release you from the remaining balance, but get that in writing (CFPB).

Forgiven mortgage debt can count as taxable income, with exceptions such as insolvency and bankruptcy. The IRS exclusion for forgiven debt on a main home covered debt discharged before January 1, 2026 (IRS Topic 431). Talk to a tax professional before you agree to a short sale or deed in lieu.

Bankruptcy is a separate legal route. According to the federal courts, Chapter 13 can stop foreclosure proceedings and let you cure missed mortgage payments over time, as long as you keep making the regular payments that come due (U.S. Courts). It has serious long-term consequences, so talk to a bankruptcy attorney; many offer a free first consultation, and legal aid may be available if you qualify.

6 Foreclosure rescue scams

People behind on a mortgage are a favorite target for scammers. Foreclosure notices are public, so the letters, calls and door knocks often arrive quickly.

Warning signs of a foreclosure relief scam

The CFPB lists these red flags (CFPB). Walk away from anyone who:

- Tells you to stop making mortgage payments.
- Charges fees up front. Companies offering mortgage help are not allowed to collect fees until they work out a deal you want to accept from your lender.
- Asks you to pay someone other than your lender or servicer.
- Tries to get you to sign over the title to your home, sometimes pitched as "rent to buy."
- Pushes you to sign papers you don't understand, or to act immediately.
- Says they are doing a "forensic audit" of your loan.

The FTC adds that a company cannot tell you to stop talking to your lender, and warns that once you transfer your deed you are unlikely to get it back (FTC). Be wary of anything that looks like a government letter but asks for money: the CFPB notes that real government officials never ask for payment to help you. If in doubt, run it past a HUD-approved counselor, for free.

The same caution applies to any buyer. A legitimate cash buyer or agent will give you time to think, put everything in writing and close through a title company or attorney.

7 Judicial and non-judicial foreclosure

Foreclosure processes differ by state and are generally done in one of two ways (CFPB):

- **Judicial foreclosure** goes through a court, where the borrower can raise defenses.
- **Non-judicial foreclosure** happens without a court case, through a series of required written notices under a "power of sale" clause in the mortgage or deed of trust.

Which one applies, the notice periods, whether there is mediation and whether you can reclaim the home after a sale all depend on your state and your loan documents. Our state pages cover each state's selling rules, and a housing counselor or local attorney can tell you how foreclosure

works where you live.

8 Your next step

If you are behind, the order that tends to protect homeowners most is: call a HUD-approved counselor at 800-569-4287, call your servicer and ask for a loss mitigation application, then send it back complete and on time.

If selling is on the table, it helps to know two numbers: what the home might sell for and what you would walk away with. You can ask for a free market report from one licensed local agent, or a cash offer from one local buyer, or both, and compare them at your own pace. There is no obligation either way. See how it works.

Questions sellers ask

How soon can foreclosure start after I miss a payment?

Except in rare cases, federal rules say a servicer cannot start the foreclosure process until you are more than 120 days behind (CFPB). Late fees and credit reporting can start earlier, so contact your servicer and a housing counselor right away.

Is help from a housing counselor really free?

Yes. HUD-approved housing counseling agencies help homeowners explore options at no cost (CFPB). Call 800-569-4287 to find one near you (HUD). Anyone charging you up front for mortgage help is a warning sign.

Can I still sell my home if I'm behind on payments?

Usually, yes, until a foreclosure sale happens. If the home is worth more than you owe, selling lets you keep the remaining equity (CFPB). Tell your servicer, ask for a payoff statement, and close through a title company or attorney.

What is the difference between a short sale and a deed in lieu?

In a short sale you sell the home for less than you owe with the servicer's approval. In a deed in lieu you hand the home to the servicer and move out without selling it (CFPB). Either way, ask in writing whether any remaining balance is forgiven, and check the tax side (IRS Topic 431).

Does applying for help stop a foreclosure sale?

If your servicer receives a complete application more than 37 days before a scheduled sale, it generally must evaluate it and respond in writing within 30 days (CFPB). The earlier and more complete your application, the more protection you have. State rules also apply.

Sources

1. CFPB: <https://www.consumerfinance.gov/housing/housing-insecurity/help-for-homeowners/avoid-foreclosure/>
2. HUD: <https://www.hud.gov/stat/sfh/housing-counseling>
3. find a housing counselor: <https://www.consumerfinance.gov/find-a-housing-counselor/>
4. CFPB: <https://www.consumerfinance.gov/ask-cfpb/how-does-foreclosure-work-en-287/>
5. CFPB: <https://www.consumerfinance.gov/ask-cfpb/what-happens-to-my-mortgage-if-i-am-late-or-stop-making-payments-en-1851/>
6. CFPB: <https://www.consumerfinance.gov/ask-cfpb/what-is-a-repayment-plan-on-a-mortgage-en-280/>
7. IRS Topic 431: <https://www.irs.gov/taxtopics/tc431>
8. U.S. Courts: <https://www.uscourts.gov/court-programs/bankruptcy/bankruptcy-basics/chapter-13-bankruptcy-basics>
9. CFPB: <https://www.consumerfinance.gov/consumer-tools/mortgages/how-to-spot-and-avoid-foreclosure-relief-scams/>
0. FTC: <https://consumer.ftc.gov/articles/mortgage-relief-scams>

Last reviewed September 30, 2026. Rules and costs change; check the current figures before you rely on them.



Thinking of selling? Ask one licensed local agent for a free market report, or one local cash buyer for an offer. Free to ask, no obligation.

homesellersusa.com



More free guides and your state's seller rules at homesellersusa.com/guides