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MASSACHUSETTS ASSOCIATION OF REALTORS®

Protecting Your Investment

Understanding Home Financing and Avoiding Foreclosure

Staying Out Of Trouble

"An Ounce of Prevention"

Buying a home is a major part of the American Dream; it can also be the biggest financial decision you will ever make. It is important to take the time to fully understand the financial implications of your mortgage before you sign it. Your mortgage documents are a legally binding contract between you and your lender and failure to understand all of the terms of those documents could bring unwanted consequences down the road.

There is a wide selection of mortgage products available today, including traditional fixed rate loans, as well as a dizzying array of adjustable rate loan options. In recent years, an increased percentage of borrowers in Massachusetts, as well as across the country, have opted for adjustable rate mortgages (ARMs) which allowed them to "stretch" their income in order to qualify for a home. Many others rolled over student loans, credit cards or other debt into mortgages in the hopes of easing their financial burdens. Unfortunately, many Massachusetts residents are discovering that these decisions are fast becoming a financial nightmare.

If you are considering buying a home, or refinancing your current mortgage, consider the following:

- **Review your financial ability to afford a house.** Do you have sufficient savings in an emergency fund to help supplement your family income in the event of a job loss or illness? Do you have the resources to handle a major home repair if needed? Will you be able to afford monthly payments after an introductory rate expires? Should you consider a less expensive home or should you defer buying a home until you can save a little more money?

- **Ask questions when considering which type of mortgage may be right for you.** Questions such as:
  - What will my monthly payment be, including insurance and taxes?
  - Is my monthly payment expected to increase? When? To what amount?
  - Are there other circumstances which could cause my payment to increase, such as late payments?
  - Will I have to pay a penalty if I sell or re-finance my house? How much would that be?
  - Is it possible that another lender would be able to offer me a lower rate?

- **Do not sign any contract until you have thoroughly read and understood all of its provisions, notices and terms.** Have a trusted advisor, such as an attorney, review your loan documents and explain any language that may be confusing or unclear.

- **Keep copies of all loan documents given to you and store them in a safe, secure place.**

Foreclosures in Massachusetts

If you are currently having trouble paying your mortgage or expect problems in the future, it's crucial that you **get help now.** If you fall behind and don't take action, your lender will take steps to foreclose on your home. If that happens, you may lose your home and all of the money you have already invested in it.

GET HELP NOW

1. **Don't ignore the problem.** Open the letters from your lender and answer their phone calls. Be honest about your situation as early as you can. If you communicate early enough with your lender, you have a much greater hope to work together to find a solution.

2. **Assemble the necessary documents before you call the lender.** Find your original loan documents, and records of your debts and income. You will need to understand the terms of your loan agreement, and your ability to make monthly payments in the future, so that you and the lender can better evaluate your options.

3. **Speak to qualified advisors.** It may be difficult for you to handle this alone. Many state and federal entities offer free guidance on this issue. These advisors can help you examine your budget, sort out your options and prepare you to speak with your lender. In the event your lender is not willing to help, they may be able to help you find another source of financing. Please refer to the list of advisors and resources on page 7 of this brochure for more information about how to begin.

4. **Understand your options.** Once you understand the terms of your loan and have spoken with trusted advisors you will be in a position to seek a solution. Your lender may be willing to offer loan modification options.

5. **Avoid scams.** Be wary of responding to advertisements such as "We Buy Houses for Cash" or "Avoid Foreclosure." Those who place such ads in search for homes to buy far below market value, or to convince sellers to sign over ownership as part of a complex refinancing arrangement, are known as "rescuers." They often attempt to make a quick profit or commit fraud by preying on a homeowner's financial and emotional distress. Be suspicious of anyone who approaches you.

6. **Don't pay an advance fee.** It is illegal in Massachusetts for someone to demand an advance fee for services designed to help you avoid foreclosure, such as advocating on your behalf for the lender to modify your loan to an affordable payment. This was prohibited as part of emergency regulations the Attorney General issued in 2007, under the Consumer Protection Act (Chapter 93A), banning foreclosure rescue schemes and predatory for-profit foreclosure rescue transactions where the homeowner transfers title to the rescuer while keeping a future interest, such as a lease interest or right to reacquire the home. The only exception is in the case of an attorney who is filling a bankruptcy petition on your behalf, or representing you in court in a foreclosure proceeding.

The Obama Administration introduced a comprehensive Financial Stability Plan to address the key problems at the heart of the current economic crisis. A critical piece of that effort is Making Home Affordable, a plan to stabilize our housing market and help millions of Americans reduce their monthly mortgage payments to more affordable levels (http://makinghomeaffordable.gov).

REVIEW YOUR OPTIONS

1. **Loan modification.** A lender may be willing to rewrite the terms of the homeowner's loan in order to address a delinquency. Make sure you enter into a loan modification to make your monthly payment more affordable. A loan modification is intended to serve as a long-term solution when the monthly payments under the original loan terms are unsustainable for the borrower. It may require the homeowner to pay a processing fee, but already-distressed borrowers should strive to avoid or minimize fees.

2. **Refinancing.** Both the federal and the Massachusetts government have worked to develop programs that would allow certain borrowers at risk of default to refinance their homes via governmentally insured programs. The homeowner may be able to avail him or herself of such a program.

3. **Forbearance plan.** You may work with the lender to create a temporary repayment plan or "forbearance plan." It will enable you to bring the loan current over a period of time and either keep the property or allow time to market and sell the property without the pressure or cost of an impending foreclosure action. Some lenders will enter into forbearance plans that do not fully bring the loan current if they are aware the homeowner is marketing the property for sale. But if your monthly payment is beyond your means, you should pursue a "loan modification."

4. **Bankruptcy.** Bankruptcy might be an option for a homeowner to consider. The filing of a bankruptcy petition automatically stops a lender's foreclosure action until such time as the lender obtains the Bankruptcy Court's permission to proceed. Consult with an attorney about whether bankruptcy might be advisable for you.

THE LAW IN MASSACHUSETTS

Laws enacted in Massachusetts in recent years offer several important protections for homeowners. There is a 150-day "Right to Cure," which means that mortgage holders must file a 150-day notice of intent to foreclose with the homeowner and the Massachusetts Division of Banks, and the homeowner then has 150 days to bring mortgage payments up-to-date. The law also limits the use of subprime adjustable rate mortgage for first time homebuyers, and all reverse mortgages, unless the homeowner affirmatively opts into the product and receives in-person counseling about its appropriateness from a certified counselor.

THE ECONOMICS OF FORECLOSURE

Foreclosure is a devastating tragedy. For a family, it brings economic loss, displacement and emotional stress. Foreclosure presents an economic burden to the original lender (or subsequent investors in the loan) and it has been associated with decreased home values, increased crime and neighborhood blight. It is for all these reasons that every effort should be made to attempt to find a solution to the crisis.

Foreclosures cost lenders and investors more than loan modification. Loan modifications typically preserve the value of the property the lender took as collateral. In a foreclosure, the lender receives liquidation value rather than fair market value; faces long delays in the process; incurs expenses in fixing up the property; and needs to pay for legal and selling costs.

Preventing foreclosures will preserve home prices and assist the overall housing market. Foreclosures depress housing prices overall. Millions of families not facing foreclosure—those who have faithfully paid their mortgages on time—lose equity through property value declines every time there is a foreclosure in their neighborhood. Averting 600,000 foreclosures will save an additional $72.5 billion in wealth lost by American families not facing foreclosure. This in turn will save local government property tax revenues, as well as the significant costs of police and administrative support that foreclosures require.

Consider steps you might take to improve your cash-flow situation. Even if these efforts don't completely cover your budgetary shortfall, taking strong and decisive action demonstrates to your lender the level of commitment you are willing to make towards the goal of saving your home.

COUNSELING AND OTHER ADVOCACY RESOURCES

Neighborworks® and Homeownership Preservation Foundation Hotline
Available in English and Spanish
(888) 995-HOPE (4673)
www.995hope.org

Foreclosure Relief Pro Bono Attorney Hotline
Legal Advocacy and Resource Center
(800) 342-5297 or (617) 603-1700

The Division of Banks Mortgage Hotline
(800) 495-BANK (2265)
www.mass.gov/dob

U.S. Department of Housing and Urban Development (HUD)
Resources include HUD approved counseling organizations
(800) 569-4287 or (800) 877-8339 TTY
www.hud.gov/counseling

Making Home Affordable
http://makinghomeaffordable.gov