Foreclosure

Homeowners and Foreclosure

Advancing Human Rights and Justice for All in Maryland since 1911

Maryland Legal Aid

Maryland Legal Aid: Who We Are

Maryland Legal Aid is a private, non-profit law firm that provides free civil legal services to Maryland's most vulnerable residents and communities and is dedicated to protecting and advancing human rights for all.

Know your rights!

This brochure is intended to provide general information rather than specific legal advice. While every effort is made to keep this information current, the law sometimes changes. If you have particular legal questions or a pending legal matter, you are strongly encouraged to contact an attorney for legal advice. You may be eligible for free service from Maryland Legal Aid or a volunteer attorney program.

For assistance with a foreclosure, contact the Maryland Legal Aid office serving your county. A list of those offices and the counties they serve is provided on the back of this brochure.

Forbearance and Modification

If you have fallen behind on your mortgage or your mortgage payments are unaffordable, but you want to keep your home, you may be able to get a temporary lower payment, called a "forbearance," until your financial situation stabilizes.

You may also apply for a modification of your loan which may lower your monthly payments permanently.

You do not have to pay anyone to negotiate with your lender.

Contact a free HUD-approved counseling agency to help you communicate with your bank and to apply for a forbearance or loan modification.

LSC America's Partner For Equal Justice

United Way

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HOPE Hotline

To get a list of approved, free counseling agencies call the HOPE Hotline at (1-877-462-7555) or go to www.mdhope.org and click on "Counseling". The agencies listed have been funded to do this work and have expertise in communicating with banks to get loan modifications or other solutions for homeowners.

Depending on your situation, your bank may refuse to modify your loan or refuse to give you a forbearance and proceed to foreclosure.

How the Foreclosure Process Works in Maryland

After a missed mortgage payment:

Forty-five days after a missed mortgage payment, a bank can send you a Notice of Intent to Foreclose.

When your mortgage is 120 days overdue, the bank may file a foreclosure action in court. The papers will be served in person or sent by mail and certified mail and left at your house.

If you receive a **Preliminary Loss Mitigation Affidavit**, it means the bank is trying to communicate with you to determine if you are eligible for assistance on your loan. You should contact the bank, either directly or through a housing counselor, to apply for a loan modification or for guidance on selling the house.

If your attempts to reach an agreement are not successful, the lender will file and send you a copy of a **Final Loss Mitigation Affidavit**, which tells the court that the lender is moving forward with foreclosure. You have

25 days from receipt of the Final Loss Mitigation Affidavit to request a mediation session with your lender.

Foreclosure Mediation

Under Maryland law, homeowners with foreclosure actions filed in court have the right to a mediation session with their lender.

Foreclosure mediation is a homeowner's meeting with a representative of the bank and the bank's attorney with a State of Maryland mediator. Mediation is an attempt to help the parties reach an agreement that will avoid foreclosure either through keeping the home, or releasing it in a short sale or deed in lieu of foreclosure, or a regular sale of the property by the homeowner.

Requesting Mediation

The Final Loss Mitigation Affidavit comes with a request for mediation form and two envelopes. You have 25 days from receipt of the Final Loss Mitigation Affidavit to request mediation.

You need to complete the request form, include a check for $50, and send them to the court and to the foreclosure attorneys with copies of the request form. If you cannot afford the fee, you can ask for the $50 to be waived. The waiver form is available on the Maryland Judiciary website at http://www.courts.state.md.us/courtforms/index.html.

You will receive in the mail a notice of your mediation date, time and place, and instructions requiring you to send financial information to the bank's attorneys and to the Office of Administrative Hearings. The bank's attorneys will send you a package of documents, including a record of your communication with the bank.

At the Mediation

You can have more than one person assist you—a lawyer, a housing counselor and/or someone else. The mediation takes place around a table and is intended to be a discussion with the bank. A mediator and a lawyer for the bank will be there. The bank's lawyer will call the bank on the phone and someone will talk with you on speaker phone about your situation. Maryland Legal Aid can represent you at the mediation, if you qualify for our services.

If the mediation results in an agreement, the foreclosure case will be dismissed. If no agreement is reached, you still might be given time to submit documents for the bank to consider you for a modification or short sale.

You may ask the mediator to set another date so you can submit documents and meet with the bank again at mediation to hear the decision on your loan modification application.

If no agreement is reached a foreclosure sale can take place in as little as three weeks.

Foreclosure Sale

The law requires that a notice of foreclosure sale be sent no more than 30 days and no fewer than 10 days before a foreclosure sale. The notice will tell you the date and time of the sale. The sale will take place as an auction outside the courthouse. It will not happen at your house and no sign will be posted on your property.

Title to your house does not transfer until the court ratifies, or approves, the sale. The sale cannot be ratified until at least 30 days after the auction.

Before the sale is ratified you have the right to file "exceptions" to the sale and ask the court not to ratify the sale. This is usually only successful if the sale itself did not follow proper procedures.

If a private purchaser bought your house at the auction, someone might

contact you soon after the sale and ask you to leave. The purchaser, however, does not have the right to possession until the sale is ratified and the court recognizes the purchaser's right to possess the property.

After ratification, an audit of the sale is conducted, all expenses are claimed and a determination of how proceeds will be distributed is made. You may still owe money even after the sale, you may be entitled to money left over (a surplus) after payment of the principal, interest, costs, fees and any other liens on the property. In order to claim your right to any surplus, you must file a request with the court.

Leaving the Home

After the ratification, you can be served with a **Motion for Order of Possession**, in which the purchaser asks the court to recognize that you no longer have the right to be in the house. You have 15 days to answer the motion if you have an argument that the purchaser does not have a legal right to possession of the home.

While there are very few reasons as to why a purchaser would not have a right to possession of the home, if you believe you have a legitimate argument, you should contact an attorney or file a response explaining your arguments and request a hearing.

Fifteen days after you have been served with the Motion for Order of Possession, if no hearing is to be held, the court can grant the order and the sheriff can start the eviction process. Do not wait until this point to leave the house. If you are served with an order of possession, you should have a plan to leave so that you are not evicted.

The buyer might give you some relocation money in return for you emptying the house and sweeping it clean. This is often referred to as "cash for keys."

Bankruptcy

In some circumstances, a house can be protected from foreclosure by filing a Chapter 13 bankruptcy before the home is sold. In a Chapter 13, you propose a plan to the bankruptcy court to pay off your overdue payments over a period of years, or to sell the home.

For a bankruptcy plan to work to save a home from foreclosure, you must have enough income to pay the mortgage and arrears, as well as your other living expenses over a period of three to five years.

If the amount of money you owe on the house is significantly less than the house is worth, you will want to avoid foreclosure and sell the house. You can do this before a foreclosure sale, or file a bankruptcy and propose a sale plan to the court.

A Chapter 7 bankruptcy could be useful to eliminate debt you may still owe to the bank after your home is sold in foreclosure.

Bankruptcies are complicated legal procedures. You should consult an experienced bankruptcy attorney before deciding to file.

Summary of Foreclosure Timeline

- 45 days after a late payment, lender may send a Notice of Intent to Foreclose to borrower.
- 120 days after a late payment, lender may file a foreclosure case in Circuit Court with either a Preliminary Loss Mitigation Affidavit or a Final Loss Mitigation Affidavit.
- Borrower has 25 days to request mediation after receiving the Final Loss Mitigation Affidavit.
- If no mediation is requested, the foreclosure sale can take place 45 days after the case is filed in court.
- Mediation takes place approximately 30–60 days after the request for mediation.

- If no agreement is reached at mediation, a sale can take place approximately 21 days after the mediation.
- 30 days after the auction, the court can ratify the sale and title transfers to the purchaser.
- Immediately after ratification, the purchaser can file a motion for order of possession and serve former homeowner.
- Former homeowner has 15 days to answer and ask for a hearing.
- If no answer is filed, the judge can grant an order and writ of eviction.
- Total time with mediation—from missed payment until possible eviction—270 days.

Maryland Legal Aid Offices

Anne Arundel County
229 Hanover Street
Annapolis, MD 21401
(410) 972-2700
(800) 666-8330

Baltimore City
500 E. Lexington Street
Baltimore, MD 21202

Telephone Intake Lines:
(410) 951-7750
(866) MD LAW 4U
(or 866-635-2948)

Business Line:
(410) 951-7777
(800) 999-8904

Baltimore County
29 W. Susquehanna Avenue
Suite 305
Towson, MD 21204
(410) 427-1800
(877) 878-5920

Lower Eastern Shore
Dorchester, Somerset,
Wicomico, Worcester
111 High Street
Salisbury, MD 21801
(410) 546-5511
(800) 444-4099

Metropolitan Maryland
Howard, Prince George's
8401 Corporate Drive
Suite 200
Landover, MD 20785
(301) 560-2100
(888) 215-5316

**District Court/
Multi-service Center**
3451 Court House Drive
2nd Floor
Ellicott City, MD 21043
(410) 480-1057

Midwestern Maryland
Carroll, Frederick, Washington
22 S. Market Street
Suite 11
Frederick, MD 21701
(301) 694-7414
(800) 679-8813

Montgomery County
600 Jefferson Plaza
Suite 430
Rockville, MD 20852
(240) 314-0373
(855) 880-9487

Northeastern Maryland
Cecil, Harford
103 S. Hickory Avenue
Bel Air, MD 21014
(410) 836-8202
(800) 444-9529

Southern Maryland
Calvert, Charles, St. Mary's
15364 Prince Frederick Road
P.O. Box 249
Hughesville, MD 20637
(301) 932-6661
(877) 310-1810

Upper Eastern Shore
Caroline, Kent,
Queen Anne's, Talbot
106 N. Washington Street
Suite 101
Easton, MD 21601
(410) 763-9676
(800) 477-2543

Western Maryland
Allegany, Garrett
110 Greene Street
Cumberland, MD 21502
(301) 777-7474
(866) 389-5243

**District Court Self-Help
Resource Centers**
(410) 260-1392

Annapolis (call center only)

Glen Burnie
7500 Gov. Ritchie Highway
Room 206
Glen Burnie, MD 21061

Salisbury
201 Baptist Street
Salisbury, MD 21801

Upper Marlboro
14735 Main Street
Upper Marlboro, MD 20772

Statewide

Farmworker Program
(800) 444-4099

**Foreclosure Legal
Assistance Project**
(888) 213-3320

**Long Term Care
Assistance Project**
(866) 635-2948

**Maryland Senior
Legal Helpline**
(866) 635-2948

Veterans' Hotline
(443) 863-4040

TTY Users: Call Maryland Relay, Dial 7-1-1

Visit **www.peoples-law.org** for self-help legal information and community resources.

For more information visit **www.mdlab.org.**

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