FORECLOSURE BASICS

There are 3 companies involved in most mortgages: the SERVICER, which sends out monthly statements, communicates with the borrower, and handles the loan from its beginning through foreclosure, the INVESTOR, which is the company that purchases the loan on the secondary market and establishes guidelines for how the loan is to be serviced, and the INSURER, which insures a percentage of the loan in case of a foreclosure.

After the FIRST missed loan payment, the servicer will contact the borrower via phone, repeatedly if necessary, until payment is made. If payment is not made and there is a SECOND missed payment, the phone calls will continue, and the borrower will also receive letters from the servicer. Payment for just the first month's missed payment may be accepted, but the servicer will want the borrower to pay both payments. An inspection of the exterior of the property will occur to determine its condition and occupancy. Inspections may be conducted monthly until the loan is current. The fee for these inspections is added onto the borrower's delinquency.

When a THIRD payment is missed, the servicer likely will not accept anything less than the total balance due and the loan will be reviewed for foreclosure. In most cases, a letter will be sent giving the borrower 30 days to bring the loan up-to-date. If this does not happen, foreclosure is often initiated.

Once the servicer's foreclosure attorney gets the case, attorney fees will be added to the borrower's delinquent balance. The average is $1200-$1500. The attorney will schedule a SHERIFF SALE to occur in 4 or 5 weeks. Once the Sheriff Sale occurs and the house is sold, a REDEMPTION PERIOD begins, during which the borrower is allowed to remain in the home. The redemption period is usually 6 months, although a one-year redemption period is given to mortgages for homes on 3 or more acres, or homes where the balance owed on the mortgage is less than 50% of the original debt.

During the redemption period, the borrower can buy back the home, but this is usually not feasible despite the homeowner being deluged with calls and letters from "foreclosure rescue scammers" offering financing.

FORECLOSURE INTERVENTION

The servicer has a department called LOSS MITIGATION, the function of which is to prevent foreclosures. Borrowers should make contact with this department as soon as possible after a delinquency occurs, if they are unable to bring the loan up-to-date in short order. The loss mitigation department can approve a variety of "loan workouts", some of which lead to retention of home ownership and some of which lead to loss of the home without foreclosure.

Primary options which allow for retention of home ownership include:

1. **A REPAYMENT PLAN, in which the amount of the delinquency is spread out for the next 3-18 months, which increases the monthly payment. In most cases, late charges will still be incurred each month.**

2. SPECIAL FORBEARANCE, which allows for a reduction or suspension of payments for a period of time, usually 3 months. Again, late charges are imposed and the borrower must make the loan current by the end of the forbearance.

3. LOAN MODIFICATION, in which the delinquent amount owed is added to the principal balance. This does not include attorney and other foreclosure fees if those have been incurred.

Some options which prevent foreclosure but still lead to loss of home ownership include:

1. PREFORECLOSURE SALE, where the borrower is allowed to attempt to sell the home before the sheriff sale, sometimes with a postponement of the sheriff sale.

2. SHORT SALE, where the investor accepts less than the total amount owned and releases the lien.

3. ASSUMPTION, where the investor allows a qualified applicant to assume the mortgage.

4. DEED-IN-LIEU, where the borrower is unable to sell the house and the investor accepts a return of the deed as satisfaction of the debt.

For consideration of any of these workouts, the borrower should request an application from the Loss Mitigation Dept. of their mortgage servicer. If the borrower's financial information shows they can make their monthly payments, then options to keep their home will be considered. If the financial information indicates the home is no longer affordable for the borrower, then loss-of-home options come into play. It is very important for the borrower to explain to the Loss Mitigation Dept. the reason for their delinquency and provide documentation of it.