



michigan municipal league

Better Communities. Better Michigan.



Empty Houses

Online Resources/Forms

HUD's How to Avoid Foreclosure

www.hud.gov/foreclosure/index.cfm

HUD's Predatory Lending

www.hud.gov/offices/ftheo/lending/predatory.cfm

Freddie Mac on Avoiding Foreclosure

www.freddiemac.com/corporate/buyown/english/owning/avoid_foreclosure.html

Federal Housing Administration—US Department of Housing and Urban Development

www.fha.gov/foreclosure/

Neighbor Work's Foreclosure Resources for Homeowners

www.nw.org/network/neighborworksprogs/foreclosureresolutions/resources.asp#consumer

Hope for Homeowners

www.995hope.org/

Home Lending and Foreclosure Rescue Scams (Michigan Attorney General website)

www.michigan.gov/ag/0,1607,7-164--134533

Americans for Fairness in Lending—"File a Complaint"

www.affil.org/get_active/complaint.php

Federal Citizen Information Center—Consumer Action Website

www.consumeraction.gov/

Michigan Poverty Law Program

www.mplp.org/

Legal Services of South Central Michigan

www.lsscm.org/

GreenPath Debt Solutions—non-profit consumer credit counselors (800-630-7410)

www.greenpath.com/

Lighthouse of Oakland County provides foreclosure intervention counseling, as well as educational programs

www.lighthouseoakland.org/overview.php

Washtenaw County Treasurer's Office

www.ewashtenaw.org/government/treasurer/MFP

Washtenaw County MSU Extension—Foreclosure Prevention

www.ewashtenaw.org/government/departments/extension/ex_extcomm.html/CommDevelopment/Foreclosure%20Prevention

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Introduction

Top 5 in the Nation

Michigan is one of five states in the nation with the highest number of home mortgage foreclosures. Lately, it is all over the news. RealtyTrac, the research firm conducting foreclosure surveys, says that 43 states experienced increases in mortgage foreclosure but just five states—California, Florida, Michigan, Ohio and Georgia—accounted for more than half the nation’s foreclosures. The number of foreclosures in Michigan jumped 147% in one year, from January 2006 to January 2007. Oakland County saw a 338% increase, and Macomb County experienced an increase of 108%.

Causes of Foreclosure

What are the causes of the triple digit increase in mortgage foreclosures? The two main reasons are the loss of a job and a serious illness. Thrown into the mix are mortgage companies with predatory lending practices. Or, an adjustable rate mortgage that did what an adjustable rate mortgage is set up to do—adjust—upwards. But the income of the homeowner did not adjust accordingly, and now the homeowner is unable to make the monthly mortgage payments which may be double what was previously paid.

Unseen Neighborhoods

Foreclosure is not just a problem of low economic status. In some areas, homes valued at \$300,000 and up are being abandoned, swimming pools and all. It’s not hard to spot the empty houses in our communities. The first noticeable sign is the uncut grass. Extend that out three months or six months or a year, and it could be garage roofs caving in and boarded up windows and doors. These properties are causing unsightly, ugly, even blighted pockets in our neighborhoods. The effect is felt at the local level—on the streets in our neighborhoods that make up our communities.

Unpaid Mortgages

Empty houses occur generally for one of two reasons: unpaid mortgages or unpaid property taxes. When mortgage payments are not made, the lender begins the foreclosure process either through a judicial process or by advertisement (resulting in a sale conducted by the county sheriff). In either case, the “aggrieved” party is the lender, i.e. the mortgage company. The

mortgage company essentially wants the money owed—and if necessary, will take ownership of the property for resale.

Unpaid Property Taxes

When property taxes are not paid to the local taxing unit, the local unit treasurer (city/village/ township) returns the notice of unpaid taxes to the county treasurer. The county, as the foreclosing governmental unit, begins the tax reversion process. The tax reversion process also includes a foreclosure process which utilizes the circuit court. The “aggrieved” parties are the local government units. Under certain circumstances, a mortgage foreclosure can be completed in a time span of just 10 months from the first missed payment. The tax reversion process normally takes several years unless accelerated.

“You’re elected, aren’t you supposed to help?”

While the effect is felt at the local level, local government has little control over a mortgage foreclosure. But what does this mean to a resident at a loss for what to do when a demand for payment letter arrives from the mortgage company? The resident may ask local elected officials for help. Isn’t local government the level of government closest to the people? How can a municipality help its residents who are facing the threat of a mortgage foreclosure when it’s in the hands of the lender, not the municipality? And, once a foreclosure occurs, what can a municipality do to diminish its effects?

Foreclosure Education

The approach is two-pronged. The first is to equip residents with information to head off a mortgage foreclosure before it happens, and the second is to adopt policies mitigating the appearance problems that foreclosed properties create. This paper covers the first step, and “Restoring Michigan Communities—Building by Building” is the source for the second.



Municipal Tool Kit

A local unit of government obviously has more control with respect to foreclosures resulting from unpaid taxes. In cases where poverty is the underlying problem (as opposed to a catastrophic event such as a job loss), there are instances where local governments can alleviate the tax burden. The General Property Tax Act allows for a reduction of the real property assessment for individuals who meet federal poverty guidelines or more generous standards set by the local unit governing body. MCL 211.7u. These are applied for through the Board of Review.

The Act also allows for the foreclosing governmental unit (the county) to withhold properties from the petition for foreclosure for persons undergoing substantial financial hardship. MCL 211.78h. Finally, the Act also provides that the increase in assessment of home repairs and maintenance shall not occur until a home is sold. MCL 211.27.

MCL 211.7u General Property Tax Act

Principal residence of persons in poverty; exemption from taxation

The residence of persons who meet federal poverty guidelines may be exempt in part or in whole from taxation. The owner must be a resident of the property and file a claim provided by the local assessing unit. A municipality's Board of Review can grant or deny an exemption by following the policy and guidelines of the local assessing unit.

MCL 211.78h General Property Tax Act

The foreclosing governmental unit may withhold the following property from the petition for foreclosure:

- a) Property of minor heirs or persons who are incompetent, without means of support, or unable to manage their affairs due to age or infirmity, until a guardian is appointed to protect that person's rights and interests.
- b) Property of a person undergoing substantial financial hardship, as determined by a written policy adopted by the foreclosing governmental unit and made available to the public.

MCL 211.27 General Property Tax Act

The assessor shall not consider the increase in true cash value that is a result of expenditures for normal repairs, replacement, and maintenance in determining the true cash value of property for assessment purposes until the property is sold. This subsection applies only to residential property.

The following repairs are considered normal maintenance if they are not part of a structural addition or completion:

- a) Outside painting.
- b) Repairing or replacing siding, roof, porches, steps, sidewalks, or drives.
- c) Repainting, repairing, or replacing existing masonry.
- d) Replacing awnings.
- e) Adding or replacing gutters and downspouts.
- f) Replacing storm windows or doors.
- g) Insulating or weatherstripping.
- h) Complete rewiring.
- i) Replacing plumbing and light fixtures.
- j) Replacing a furnace with a new furnace of the same type or replacing an oil or gas burner.
- k) Repairing plaster, inside painting, or other redecorating.
- l) New ceiling, wall, or floor surfacing.
- m) Removing partitions to enlarge rooms.
- n) Replacing an automatic hot water heater.
- o) Replacing dated interior woodwork.

The increase in value attributable to the items included in subdivisions (a) to (o) that is known to the assessor and excluded from true cash value shall be indicated on the assessment roll.

Municipalities are addressing mortgage foreclosure and tax reversions with outreach, education, and referrals for service, too. Detroit has adopted an ordinance on property tax education and foreclosure avoidance. Grand Rapids offers information on financial crises leading to mortgage foreclosure. Due to the enormity of the mortgage foreclosure problem, some counties are providing strong responses by developing educational materials.

Detroit Available at www.municode.org

The city passed a Property Tax Education and Foreclosure Avoidance Program ordinance. Before reverting the taxes to the county, the city may mail an informational brochure with the property tax bill stating the tax deadlines and consequences for failure to meet the payment deadline, a summary of current tax foreclosure law in plain English, and provide a list of resources available to qualified taxpayers which includes principal residence credit, hardship exemption, and payment options and deferments. Also included is a list of organizations providing housing services.

The city may also initiate a telephone campaign and/or make personal visits. They will also engage in community outreach and educational programs utilizing local cable stations and advertisements, and distribute its information brochure to neighborhood city halls, police precincts and mini-stations, barber shops, beauty salons, etc.

Grand Rapids (www.ci.grand-rapids.mi.us)

The city offers contact information for the following three organizations on its website under “Help! I have a financial crisis and can’t make my mortgage payment.”

- 1) Home Repair Services of Kent County Foreclosure Intervention Program—This housing counseling program focuses on assisting homeowners who are threatened with the loss of their home through foreclosure and/or have been victims of predatory lending practices.
- 2) Legal Aid of Western Michigan—Legal Aid of Western Michigan provides free legal services in non-criminal cases to low income and elderly residents. Legal services may relate to home purchases, foreclosures, predatory lending issues, possible Chapter 13 bankruptcies and other housing matters.
- 3) Grand Rapids Urban League—The Grand Rapids Urban League provides general counseling, information and referral services to individuals and families experiencing a variety

of housing problems. The League is able to provide direct assistance to individuals who are being faced with immediate eviction.

Genesee County (www.thelandbank.org/aboutus.asp)

The Genesee County Land Bank was formed to return foreclosed property to the tax rolls and further develop property within Genesee County. Its mission is: “To manage land obtained through foreclosure, gift, or purchase in such a way as to return those properties to the tax roll, when appropriate, to a higher and better condition than when received.”

The county also has a Foreclosure Prevention Program, which is a collaborative effort between the Land Bank and the county treasurer’s office to prevent tax foreclosure on homes. The foreclosure law allows the county treasurer to postpone foreclosure for a home owner facing a ‘substantial financial hardship.’

Oakland County (www.oakgov.com/chi/housing_counsel/mortgage-tax_foreclose_2.html)

The Oakland County Community and Home Improvement Division’s Housing Counseling unit offers free housing counseling services to county residents. Funded by a Comprehensive Housing Counseling Grant and Community Develop Block Grant funds, the unit is approved by HUD to provide counseling. Services include: mortgage default resolution services, including delinquency, default or foreclosure problems; information on government subsidies for rent and/or purchase programs; and reverse mortgage counseling to allow seniors to stay in their homes and maintain a decent lifestyle.

Washtenaw County (www.ewashtenaw.org/government/treasurer/MFP)

The Washtenaw County Treasurer won a 2007 Achievement Award from the National Association of Counties for foreclosure prevention programming. The county has a Foreclosure Prevention Task Force created in conjunction with their MSU County Extension office and the Housing Bureau for Seniors. The Task Force sponsors a mobile information and education service offering credit and mortgage counseling; free credit reports and scores; a home buying seminar; referrals to local resources; and foreclosure prevention information. It also has easy-to-read information posted on its website under: “What To Do When You Can’t Make Your Mortgage Payment.”

Resident Tool Kit

The following information was assembled for municipalities that wish to provide their residents with information on foreclosure.

There are two types of foreclosure, mortgage foreclosure and tax reversion. A mortgage foreclosure starts with missed mortgage payments, and the lender is the foreclosing agent. The tax reversion process occurs when real property taxes are not paid, and the county is the foreclosing governmental unit. In a limited number of counties, the state is the foreclosing governmental unit.

The most important things to tell residents regarding mortgage foreclosure are:

- Call your lender as soon as you realize you have a problem.
- When you call your lender's 1-800 phone number, you will reach the collections department. Ask for the **loss mitigation department** (or whatever your lender names this department). Do not talk to the collections department. You may need to be assertive.
- Banks are more willing to work with you if you call them within the first 30 days after a payment is due.
- Banks do not want to end up owning your home.

The U.S. Department of Housing and Urban Development offers suggestions to homeowners to avoid foreclosure by listing alternatives that a lender may offer:

Special forbearance:

Your lender may be able to arrange a repayment plan based on your financial situation and may even provide for a temporary reduction or suspension of payments.

Mortgage modification

You may be able to refinance the debt or extend the term of the loan. This may help you catch up by reducing the monthly payments to a more affordable level. You may qualify if you have recovered from a financial problem and can afford the new payment amount.

Partial claim

Your lender may be able to work with you to obtain a one-time payment from the FHA-Insurance fund to bring your mortgage current. This strategy is used on FHA loans or those with PMI insurance only.

You may qualify if:

1. your loan is at least 4 months delinquent but no more than 12 months delinquent;
2. you are able to begin making full mortgage payments.

When your lender files a partial claim, the U.S. Department of Housing and Urban Development will pay your lender the amount necessary to bring your mortgage current. You must execute a promissory note, and a lien will be placed on your property until the promissory note is paid in full.

Pre-foreclosure sale (or "short sale")

A "short sale" will allow you to avoid foreclosure by selling the home for less than what is owed on the mortgage.

Deed-in-lieu of foreclosure

As a last resort, you may be able to voluntarily give back your property to the lender. This won't save your house, but it is not as damaging to your credit rating as a foreclosure. This must be done before the Sheriff's Sale.

Source: U.S. Department of Housing and Urban Development—www.hud.gov

In August 2007, President Bush responded to the national mortgage foreclosure crisis with a plan to make it easier to refinance costly mortgages and to encourage financial institutions to reduce foreclosures. The plan includes legislation proposed by Michigan Senator Debbie Stabenow that would reduce the income tax burden on homeowners who negotiate debt-forgiveness deals with their lenders.

Foreclosure Timelines

There are **two** distinct types of foreclosures, mortgage foreclosure and tax reversion (property tax foreclosure). Each has a typical timeline, as outlined here:

Mortgage Foreclosure

1st missed payment: Mortgage company/lender is likely to phone or mail notice of delinquent status.

2nd missed payment: Mortgage company/lender may continue contact; late charges accrue.

3rd missed payment: Mortgage company/lender may send “demand letter” stating the delinquent amount and due date. Lender refers borrower to its attorney if there is no payment or response.

4th missed payment: Mortgage company’s attorney may schedule a sale with the county sheriff (typically six weeks after receiving paperwork). Mortgage company/lender notifies borrower of the sale date by mail, and with a notice taped on the door.

Publication: Notice of scheduled sheriff’s auction published four consecutive weeks in a local newspaper.

Sheriff’s Sale: If borrower is still delinquent and no payment arrangement has been made, the home is sold at public auction. If no bids are received, it becomes the property of the lender.

Redemption Period: Starts from the date of the Sheriff’s Sale. State law requires that this period is not less than 30 days and no more than one year. Most mortgages allow the homeowner six months to redeem property, paying the amount owed plus interest and fees.

Eviction: If the borrower does not redeem, lender can start eviction proceedings.

Source: Washtenaw County Treasurer’s Office

Tax Reversion (Property Tax Foreclosure)

Property tax foreclosure, or tax reversion, is the process of disposing of property on which taxes have not been paid. The process now takes approximately two years from the date the taxes are returned as delinquent (sent from the city/village/township treasurer to the county treasurer). The process was expedited in 2001 for economic development purposes, to make it simpler to take a tax reverted property and put it to use.

The process starts when the local unit treasurer (city/village/township) mails a tax statement to the taxpayer.

July 1 and December 1: Taxes due and payable to local unit treasurer.

March 1: Unpaid taxes from the preceding year are sent from the local unit treasurer to the county treasurer (known as “return of delinquent taxes”).

June 1, September 1, February 1: County treasurer sends a statutory notice to taxpayer.

March 1 (one year after taxes returned delinquent to county treasurer): The property is now in “forfeiture,” which is the first step of the foreclosure process.

June 15: County treasurer petitions the court for foreclosure, listing all property forfeited and not redeemed, to be foreclosed for the total of the forfeited unpaid delinquent taxes, interest, penalties, and fees.

February: After the property has been in forfeiture for one year, it may be foreclosed under circuit court judicial order.

March 31 (two years after taxes returned delinquent to county treasurer): Last day to redeem foreclosed property in uncontested matter.

July–November: Foreclosed property is auctioned.

Tips for Avoiding Foreclosure

- Don't ignore the problem. The further behind you become, the harder it will be to reinstate your loan and the more likely that you will lose your house.
- Contact your lender as soon as you realize you have a problem. Lenders do not want your house. They have options to help borrowers through difficult financial times.
- Open and respond to all mail from your lender. The first notices you receive will offer information about foreclosure prevention. Later mail may include important notice of pending legal action. Failure to open mail will not be an excuse in foreclosure court.
- Know your mortgage rights. Find your loan documents and read them so you know what your lender may do if you can't make your payments.
- Understand foreclosure prevention options. Valuable information can be found at www.fha.gov/foreclosure/index.cfm.
- Contact a HUD-approved housing counselor. The U.S. Department of Housing and Urban Development funds free or low-cost counselors nationwide, who can help you understand the law and represent you in negotiations with your lender if

needed. For a list of Michigan counselors, go to www.hud.gov or call (800) 569-4287.

- Prioritize spending. After healthcare, keeping your house should be your first priority. Review your finances and see where you can cut spending in order to make your mortgage payment.
- Use assets to pay down mortgage debt. Sell assets such as a second car or jewelry for cash to help reinstate your mortgage. This demonstrates to your lender that you are willing to make sacrifices to keep your home.
- Avoid foreclosure prevention companies. Don't pay a fee to a for-profit company when you can receive services for free from your lender or a HUD approved housing counselor.
- Look out for foreclosure recovery scams.

If a firm claims they can stop your foreclosure immediately if you sign a document appointing them to represent you, beware--you may be signing over the title of your property.

*Source: U.S. Department of Housing & Urban Development
www.hud.gov/foreclosure/index.cfm*

