

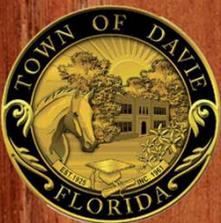


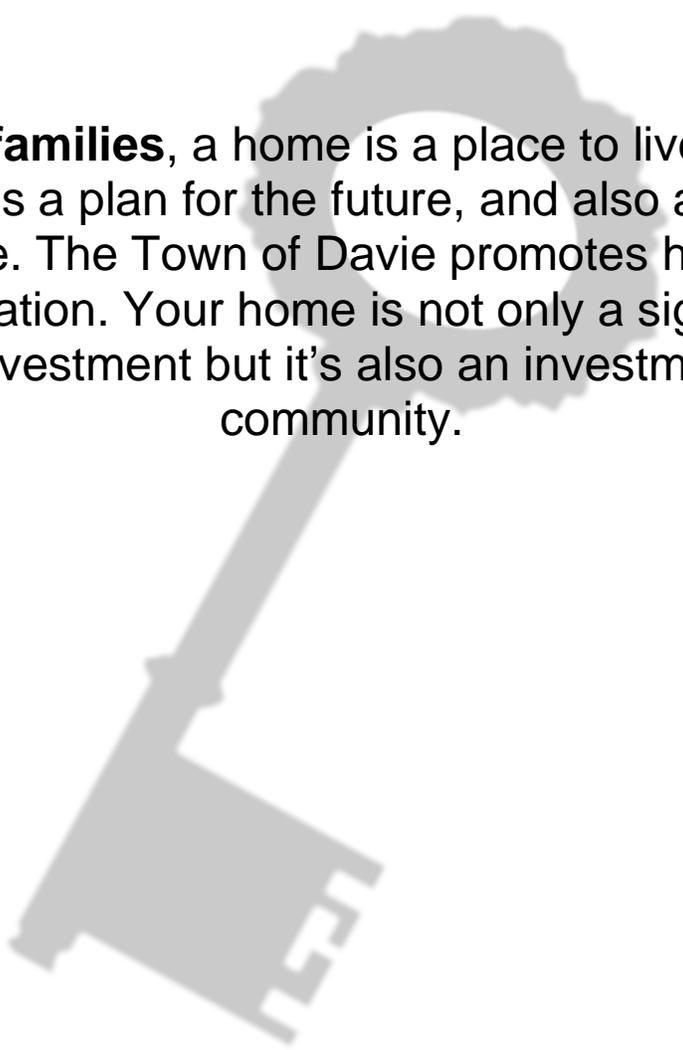
KEYS TO
AVOIDING
FORECLOSURE

Understanding Foreclosure
General Knowledge

Facing Foreclosure
What are My Alternatives?

Informative Resources:
Web Sites and Phone Numbers
Tips to Avoid Foreclosure
Top Foreclosure Scams
Florida Foreclosure Law





For most families, a home is a place to live and raise children; it's a plan for the future, and also a source of pride. The Town of Davie promotes home preservation. Your home is not only a significant financial investment but it's also an investment in your community.



Understanding Foreclosure – General Knowledge

(From the U.S. Department of Housing and Urban Development)
<http://www.hud.gov/foreclosure/>

Foreclosure is a legal process in which mortgaged property is sold to pay the loan of the defaulting borrower. Few people think they will lose their home, they think they have more time. Here's how it happens. Note: Timeline and foreclosure laws and are based on the statutes of each state.

- **First month missed payment** – your lender will contact you by letter or phone. A housing counselor can help.
- **Second month missed payment** – your lender is likely to begin calling you to discuss why you have not made your payments. It is important that you take their phone calls. Talk to your lender and explain your situation and what you are trying to do to resolve it. At this time, you still may be able to make one payment to prevent yourself from falling three months behind. A housing counselor can help.
- **Third month missed payment** – after the third payment is missed, you will receive a letter from you lender stating the amount you are delinquent, and that you have 30 days to bring your mortgage current. This is called a "Demand Letter" or "Notice to Accelerate". If you do not pay the specified amount or make some type of arrangements by the given date, the lender may begin foreclosure proceedings. They are unlikely to accept less than the total due without arrangements being made if you receive this letter. You still have time to work something out with your lender. A housing counselor can still help.

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• **Fourth month missed payment** – now you are nearing the end of time allowed in your Demand or Notice to Accelerate Letter. When the 30 days ends, if you have not paid the full amount or worked our arrangements you will be referred to your lender's attorneys. You will incur all attorney fees as part of your delinquency. A housing counselor can still help you.

• **Sheriff's or Public Trustee's Sale** – the attorney will schedule a Sale. This is the actual day of foreclosure. You may be notified of the date by mail, a notice is taped to your door, and the sale may be advertised in a local paper. The time between the Demand or Notice to Accelerate Letter and the actual Sale varies by state. In some states it can be as quick as 2-3 months. This is not the move-out date, but the end is near. You have until the date of sale to make arrangements with your lender, or pay the total amount owed, including attorney fees.

• **Redemption Period** – after the sale date, you may enter a redemption period. You will be notified of your time frame on the same notice that your state uses for your Sheriff's or Public Trustee's Sale.

In general, mortgage companies start foreclosure processes about **3-6 months after the first missed mortgage payment**. Late fees are charged after 10-15 days, however most mortgage companies recognize that homeowners may be facing short-term financial hardships. It is extremely important you stay in contact with your lender within the first month after missing a payment.

After 30 days, the borrower is in default, and the foreclosure processes begin to accelerate. **If you do not call the bank and ignore the calls of your lender, then the foreclosure process will begin much earlier.** At any time during the process, talk to your lender or a housing counselor about the different alternatives and solutions that may exist.

Three types of foreclosures may be initiated at this time: judicial, power of sale, and strict foreclosure. All types of foreclosure require public notices to be issued and all parties to be notified regarding the proceedings. Once properties are sold through an auction, families have a small amount of time to find a new place to live and move out before the sheriff issues an eviction.

Judicial Foreclosure. All states allow this type of foreclosure, and some require it. The lender files suit with the judicial system, and the borrower will receive a note in the mail demanding payment. The borrower then has only 30 days to respond with a payment in order to avoid foreclosure. If a payment is not made after a certain time period, the mortgaged property then is sold through an auction to the highest bidder, carried out by a local court or sheriff's office.

Power of Sale. This type of foreclosure, also known as statutory foreclosure, is allowed by many states if the mortgage includes a power of sale clause. After a homeowner has defaulted on mortgage payments, the lender sends out notices demanding payments. Once an established waiting period has passed, the mortgage company rather than local courts or sheriff's office carries out a public auction. Non-judicial foreclosure auctions are often more expedient, though they may be subject to judicial review to ensure the legality of the proceedings.

Strict Foreclosure. A small number of states allow this type of foreclosure. In strict foreclosure proceedings, the lender files a lawsuit on homeowner that has defaulted. If the borrower cannot pay the mortgage within a specific timeline ordered by the court, the property goes directly back to the mortgage holder. Generally, strict foreclosures take place only when the debt amount is greater than the value of the property.

Important: Stay in contact with your lender and get assistance as early as possible. All dates are estimated, and vary according to your state and your mortgage company.





Facing Foreclosure – What are my alternatives?

(From the U.S. Department of Housing and Urban Development)
<http://www.hud.gov/foreclosure/>

Your lender – also known as a servicer – has a number of options to help you stay in or sell your home. These options include forbearance, repayment plans and loan modifications – as well as relief under the new Federal housing plan. You can find their contact information on your mortgage statement or coupon book. Your lender will determine if you qualify for any of the alternatives. A housing counseling agency can also help you determine which, if any, of these options may meet your needs and also assist you in interacting with your lender. You may be considered for the following:

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 your payments. You may qualify for this if you have recently experienced a reduction in income or an increase in living expenses. You must furnish information to your lender to show that you would be able to meet the requirements of the new payment plan.

Mortgage Modification.

You may be able to refinance the debt and/or extend the term of your mortgage 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.

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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.

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. The Promissory Note is interest-free and is due when you pay off the first mortgage or when you sell the property.

Pre-foreclosure sale.

This will allow you to avoid foreclosure by selling your property for an amount less than the amount necessary to pay off your mortgage loan.

You may qualify if:

1. the loan is at least 2 months delinquent;
2. you are able to sell your house within 3 to 5 months; and
3. a new appraisal (that your lender will obtain) shows that the value of your home meets HUD program guidelines.

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.

You can qualify if:

1. you are in default and don't qualify for any of the other options;
2. your attempts at selling the house before foreclosure were unsuccessful; and
3. you don't have another FHA mortgage in default.





Quick Links

Websites &
Phone Numbers

- **Government Agencies & Programs**

The U.S. Department of Housing and Urban Development

www.hud.gov/florida

The U.S. Department of Housing and Urban Development

FHA Resource Center 1-800-225-5342

The Federal Making Home Affordable Program

www.MakingHomeAffordable.gov

Federal Housing Administration

http://portal.hud.gov/portal/page?_pageid=73,1&_dad=portal&_schema=PORTAL

HUD – HOPE for Homeowners

www.hud.gov/hopeforhomeowners/index.cfm

Foreclosure Avoidance Counseling - Florida

<http://www.hud.gov/offices/hsg/sfh/hcc/fc/index.cfm?webListAction=search&searchstate=FL&filterSvc=dfc>
(800) 569-4287 or (800) 877-8339

Broward County Property Appraisers

(954) 357-7542

***Florida Department of
Financial Services***

(954) 321-2900

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Quick Links

Websites &
Phone Numbers

• Housing Non-Profits

• ***Homeownership Preservation Foundation***

(888) 995-HOPE

www.995hope.org

• ***Coalition for Nonprofit Housing and Economic Development***

www.cnhed.org

• ***NeighborWorks America***

www.nw.org

• ***Asian Real Estate Association of America***

www.areaa.org

• Related Resources

• ***Freddie Mac – Avoiding Foreclosure***

<http://www.freddiemac.com/avoidforeclosure/>

• ***Mortgage Bankers Association's
Foreclosure Prevention Resource Center***

[http://www.homeloanlearningcenter.com/
YourFinances/ForeclosurePrevention
ResourceCenter.htm](http://www.homeloanlearningcenter.com/YourFinances/ForeclosurePreventionResourceCenter.htm)

• ***Legal Aid Service of Broward
County***

www.legalaid.org/broward/
(954) 765-8950

• ***National Black Church Initiative
(Foreclosure Prevention Guide)***

http://naltblackchurch.com/housing_initiative.html

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10 Tips to Avoid Foreclosure

(From the U.S. Department of Housing and Urban Development)

<http://www.hud.gov/foreclosure/foreclosuret看ps.cfm>

If you are unable to make your mortgage payment:

1. 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.

2. Contact your lender as soon as you realize that you have a problem.

Lenders do not want your house. They have options to help borrowers through difficult financial times.

3. Open and respond to all mail from your lender.

The first notices you receive will offer good information about foreclosure prevention options that can help you weather financial problems. Later mail may include important notice of pending legal action. Your failure to open the mail will not be an excuse in foreclosure court.

4. 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. Learn about the foreclosure laws and timeframes in your state (as every state is different) by contacting the State Government Housing Office.

5. Understand foreclosure prevention options.

Valuable information about foreclosure prevention (also called loss mitigation) options can be found on the internet at the Federal Housing Administration Web Site.

6. Contact a HUD-approved housing counselor.

The U.S. Department of Housing and Urban Development (HUD) funds free or very low cost housing counseling nationwide. Housing counselors can help you understand the law and your options, organize your finances and represent you in negotiations with your lender if you need this assistance.

7. Prioritize your 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. Look for optional expenses-cable TV, memberships, entertainment-that you can eliminate. Delay payments on credit cards and other "unsecured" debt until you have paid your mortgage.

10 Tips to Avoid Foreclosure (continued)

8. Use your assets.

Do you have assets—a second car, jewelry, a whole life insurance policy—that you can sell for cash to help reinstate your loan? Can anyone in your household get an extra job to bring in additional income? Even if these efforts don't significantly increase your available cash or your income, they demonstrate to your lender that you are willing to make sacrifices to keep your home.

9. Avoid foreclosure prevention companies.

You don't need to pay fees for foreclosure prevention help—use that money to pay the mortgage instead. Many for-profit companies will contact you promising to negotiate with your lender. While these may be legitimate businesses, they will charge you a hefty fee (often two or three months' mortgage payment) for information and services your lender or a HUD approved housing counselor will provide free if you contact them.

10. Don't lose your house to foreclosure recovery scams.

If any firm claims they can stop your foreclosure immediately if you sign a document appointing them to act on your behalf, you may well be signing over the title to your property and becoming a renter in your own home! Never sign a legal document without reading and understanding all the terms and getting professional advice from an attorney, a trusted real estate professional, or a HUD approved housing counselor.



Top 3 Foreclosure Scams

(From the U.S. Federal Trade Commission)

<http://www.ftc.gov/bcp/edu/pubs/consumer/homes/rea04.shtm>

Scam artists follow the headlines, and know there are homeowners falling behind in their mortgage payments or at risk for foreclosure. Their pitches may sound like a way for you to get out from under, but their intentions are as far from honorable as they can be. They mean to take your money. Among the predatory scams that have been reported are:

- **The foreclosure prevention specialist:** The “specialist” really is a phony counselor who charges high fees in exchange for making a few phone calls or completing some paperwork that a homeowner could easily do for himself. None of the actions results in saving the home. This scam gives homeowners a false sense of hope, delays them from seeking qualified help, and exposes their personal financial information to a fraudster.

Some of these companies even use names with the word HOPE or HOPE NOW in them to confuse borrowers who are looking for assistance from the free 888-995-HOPE hotline.

- **The lease/buy back:** Homeowners are deceived into signing over the deed to their home to a scam artist who tells them they will be able to remain in the house as a renter and eventually buy it back. Usually, the terms of this scheme are so demanding that the buy-back becomes impossible, the homeowner gets evicted, and the “rescuer” walks off with most or all of the equity.

- **The bait-and-switch:** Homeowners think they are signing documents to bring the mortgage current. Instead, they are signing over the deed to their home. Homeowners usually don’t know they’ve been scammed until they get an eviction notice.



Florida Foreclosure Law Summary:

The Florida Senate (Statutes & Constitution)

<http://www.flsenate.gov/statutes/index.cfm?Mode=ViewStatutes&Submenu=-1>

- **Judicial Foreclosure Available: Yes**
- **Non-Judicial Foreclosure Available: No**
- **Primary Security Instruments: Mortgage**
- **Timeline: Typically 180 days**
- **Right of Redemption: Yes**
- **Deficiency Judgments Allowed: Yes**

In Florida, all mortgages are foreclosed in equity. In a mortgage foreclosure action, the court severs, for separate trial, all counterclaims against the foreclosing lender. The foreclosure claim shall, if tried, be tried by the court without a jury.

The court order of foreclosure will specify how the foreclosure must take place, and the foreclosure must take place on those terms. Whenever a legal advertisement, publication, or notice relating to a foreclosure proceeding is required to be placed in a newspaper, it is the responsibility of the lender or their representative to place such advertisement, publication, or notice.

Equitable Right of Redemption ends at the foreclosure sale (or at another time specified by the courts, but this rarely happens). There is a period of time after the sale that "the court reviews the sale to ensure a fair price has been paid." Basically, this period of time allows parties to object to the sale on the basis that proper procedures were not followed or collusion existed between the bidders, for example. This period is usually 10 days, after which the Certificate of Sale is filed and title passes, if the sale is confirmed. If the sale is not confirmed, another sale is ordered. (Reference F.S. Chapter 702)

The lender may sue to obtain a deficiency judgment in Florida.

