FORECLOSURE
You can avoid it

Steps you can take to protect your home and your credit

DEPARTMENT OF
CONSUMER
BUSINESS & SERVICES
Division of Finance and Corporate Securities
Oregon Division of Finance and Corporate Securities

Our mission

To encourage a wide range of financial services, products, and information for Oregonians, delivered in a safe, sound, equitable, and fraud-free manner.

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The information contained in this guide is intended for informational purposes only and does not constitute legal or professional advice. Seek the services of an attorney for your particular circumstances.

This agency does not endorse or recommend a particular counselor or mortgage lender. We recommend you contact the agencies listed in the resource section at the end of this guide to verify whether companies and organizations are licensed or registered.

Terms used in this guide in **bold italics** are in the Glossary on Page 20.

*A step-by-step guide to apply for a loan modification can be found at www.foreclosurehelp.oregon.gov.*
You can avoid foreclosure

Becoming a homeowner is a great accomplishment, but retaining that homeownership is just as important. Most everyone experiences financial difficulties at some time, but if you’re not careful, those difficulties could lead to foreclosure. Foreclosure is the legal means your lender can use to take your house if you are in default. Foreclosures can be initiated by anyone who has a lien on your house, including your lender or the county (if you don’t pay your property taxes).

Foreclosure not only means losing your home, it can cause damage to your credit, making it difficult to buy a home or obtain other types of loans in the near future.

However, you can avoid foreclosure. There are many things you can do after you sign your mortgage papers and move into your new home that will help if you experience financial difficulties down the road. Here are some suggestions:

Review your loan documents

After you move into your new house, review your loan documents as soon as possible to make sure you know how your payments are credited and what rights or obligations you have if you start missing mortgage payments.

For example, your Truth-in-Lending disclosure and your Note contain information about when your payments are due and how to ensure your payments are posted on time. If your loan is going to be transferred or sold to another company, which is a common practice, the lender or the servicer of your loan must notify you in writing of these changes so you know when and to whom you should send your payments. You were notified of the possibility for your loan to change hands in the Servicing Disclosure provided when you applied for your mortgage loan.

If you have problems with your payments being credited properly and cannot resolve them with the servicer of your loan, contact the National Servicing Center if you have a loan insured by the Federal Housing Administration (FHA). For other types of loans, send a separate letter to the servicer of your loan a Qualified Written Request under the Real Estate Settlement Procedures Act (RESPA). See the resources section of this brochure for the websites containing this information.

Create a budget

You probably have heard the expression “too much month at the end of the money.” If this happens to you, you could miss mortgage payments and face foreclosure. It’s important to carefully re-evaluate your financial situation and create a budget. Find out where your money goes and how you are spending it. Encourage the whole family to participate as you make the necessary cuts in your spending habits and prioritize your expenses. As soon as you can, create an emergency fund that would cover your living expenses for a foreseeable future. Remember, even if you have a fixed interest rate loan, your property taxes and your homeowners’ insurance are likely to have adjustments every year and you should carefully budget for these. Some people use their income tax returns to open an account specifically for emergencies. If you are beginning to lose control over your finances, seek the help of a reputable nonprofit organization. The resources section includes a website link where you will find a listing of government-approved nonprofit housing counseling organizations in different areas of the state.

Make sure you are paying your property taxes

If you do not pay your property taxes, your house may be subject to foreclosure.

In Oregon, property taxes are due Nov. 15 of each year, but they can be paid in three installments: Nov. 15, Feb. 15, and May 15. Your property taxes are delinquent if you do not pay in full by May 15. Your property likely will be subject to foreclosure after three years of unpaid property taxes. After you miss your first year of unpaid taxes, you will
be notified in your tax statements when your house will be subject to foreclosure.

You need to know if your mortgage payments include your property taxes and homeowners’ insurance. If required, lenders will deposit a portion of your monthly payments into an escrow account to pay for your property taxes and homeowners’ insurance. You can also contact the county where your house is located to find out how to tell on your property tax statement whether you are responsible for paying your property taxes.

If you are disabled or a senior citizen, you may qualify for a property tax deferral. Qualifications for this program include a calculation of your annual household income, whether you live in the property, and the value of your home, which is based on the county where your house is located. If you qualify for this loan and decide this program works for you, the state will pay the county for your property taxes. It is an interest-bearing loan that does not have to be paid back until you no longer live in the house.

For information about this process, additional requirements, and property tax information, contact the Department of Revenue or the county where your property is located. Contact information is in the resources section.

Avoid unnecessary liens on your house

You are responsible for all liens on your house. There cannot be any liens when you sell your house. Remember, a lien holder may start the foreclosure process on your property.

Voluntary and involuntary liens can be placed on your property. An example of a voluntary lien is your mortgage loan or any junior liens, such as equity loans or equity lines of credit, when you use your house as collateral. Usually, the lien recorded first would have priority to be paid over subsequent liens.

An example of an involuntary lien would be one placed by the county where your house is located or the IRS if you have unpaid taxes. Contractors and subcontractors also can place a lien, commonly known as a mechanic’s lien, on your house if they have not been paid for work they did on your property. While contractors must give you a disclosure “Notice of Right to a Lien,” it is important that you try to resolve any discrepancies with the contractor to avoid a lien on your house.

Another example of an involuntary lien is a judgment against a property as a result of a lawsuit where money is awarded to the person who filed the lawsuit.

What you can do if you face foreclosure

If you do get behind on your mortgage payments, you may be able to keep your home and reduce the effect on your credit rating if you confront the problem early. The most common mistake people make when they get behind on their mortgage payments is to ignore the problem or delay an action until it’s too late. Some people don’t even open the foreclosure warnings their lender mails them.

If your goal is to save your house and your credit rating, immediately contact your lender and try to negotiate a solution. Explain your willingness to commit to a payment plan until you are in a better position to resume your regular payments.

If you foresee temporary problems for reasons beyond your control, such as the loss of a job, medical emergency, or divorce, ask to speak with a staff person about a loss mitigation plan. Prepare a letter explaining your situation, the reason you are facing financial problems, and why you think it could improve.

If your lender allows for partial payments during this time, do so and maintain the records; this may help your chances of reaching a permanent agreement with your lender. Most lenders have various options before pursuing foreclosure. In most cases, these options have been established
with the investors who are the owners of your loan. Following are examples of those options:

**Forbearance or repayment plan**

Ask your lender if you can reduce or suspend your monthly payments for a short period of time. This option may be available if, for example, you are expecting funds that would help bring your loan current or if there is a firm possibility your income will increase and your financial situation will improve. You will be asked to document these possibilities.

**Mortgage loan modification**

With this option, you could request the lender change some of the original terms of the loan. This may include the extension of the payments for a longer period of time, or the interest can be changed to a lower rate or converted into a fixed rate to make your mortgage payments lower or more stable. If approved, carefully review the documents before you sign them, so you understand the conditions. You may want to have an attorney or housing counselor review them with you to make sure you understand what they contain.

Be sure to find out if you qualify for a loan modification under the “Making Home Affordable Program.” For information about this program, see Page 13.

**Partial claim**

If you are paying mortgage insurance, the insurer of your loan may consider helping by lending you money to pay for the late payments and late fees. Contact your lender or insurer to ask if you qualify, and how the assistance is to be repaid. FHA and VA loans have their own guidelines for assistance under this option.

**Pre-foreclosure or short sale**

If you owe more than what your house is worth, the lender may allow you to sell the house and accept a lower amount than what you owe, before the house is foreclosed upon. Ask the lender if there will be a deficiency judgment – the amount uncovered after the sale of the house – filed against you for the difference. Ask for a written agreement clarifying the status of a deficiency, if any.

**A word of caution about companies or individuals offering short-sales services** — Oregon law requires that an individual or company offering you assistance for this and other possible solutions to avoid foreclosure must be registered as a debt management services provider or as a licensed loan originator. While licensed real estate brokers are exempted to help homeowners with short sale transactions, Oregon law imposes some restrictions about fees or commissions when listing the house for sale. Others offering to negotiate with lenders about possible solutions are limited in how much they can charge and other requirements they must meet. The Division of Finance and Corporate Securities has a publication “Need help with your debt?” with more detailed information. Contact this agency to request a copy or visit its website listed in the resources section.

**Deed-in-lieu of foreclosure**

If you have unsuccessfully exhausted all the above options, you may be able to “give back” your house to the lender by surrendering the title of your house and avoid foreclosure.

Also, some servicers may offer you money to move out of the house, commonly known as “cash-for-keys.”

Usually, the lender will expect you to leave the house in good condition. If you choose to accept this money, ask for a document about any present or future conditions for accepting the money.

**Important:** A loan modification or any of the other solutions above may also have a negative effect on your credit score.

**Fannie Mae and Freddie Mac rental programs**

These agencies have rental programs available for homeowners whose loans are owned or insured by either agency and were not able to keep their houses as a result of foreclosure. Under certain conditions, these options would allow homeowners...
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to remain in the house for an agreed upon period of time. For more information about these programs, visit the links in the resources section of this guide.

Foreclosure: What and when it happens

There are two types of foreclosure processes in Oregon that lenders can use when a mortgage loan is in default — judicial and nonjudicial.

In a judicial foreclosure, the lender or a representative acting on its behalf takes you to court to recover the money you owe by selling the house used to guarantee the repayment of the loan. In a real estate judicial foreclosure, there are some restrictions about the amount of money you can be sued for. If you receive a Notice of Hearing or a notice to appear in court regarding the sale of your property, immediately contact an attorney. There is contact information for the Lawyer Referral Services from the Oregon State Bar Association in this brochure’s resources section. Before you receive this Notice of Hearing, your lender may send you a notification informing you of its intention to start the foreclosure process. Remember, once you are in default on your loan agreement, the lender can start the foreclosure process at any time.

The judicial process starts when the lender or its representative requests the circuit court authorize the sheriff to conduct the sale of the house. To allow the sale, the court must first give the homeowner the opportunity to be present at the hearing. After the request to the court, the homeowner will be served with a new notification at least 10 days before the hearing with a "NOTICE OF HEARING ON SHERIFF'S SALE OF YOUR PROPERTY." The notice, or summons, will also be sent by first class mail to the property address. The notice will include the name of the lender asking for the property’s sale, the property address, the reason for the request, and the time and location of the hearing. The homeowner does not have to attend the hearing. The judge will decide if the lender is entitled to have the house sold. If the judge rules for the lender, the judge will issue an order called writ of execution.

One important difference in a judicial foreclosure, after the sale of the property, is the right of the former homeowner to recover the house within 180 days, known as the redemption period. To redeem the house within this period, the former homeowner, following a formal notification process, must notify the new owner of that intention. The former homeowner must pay the new owner, whether a person or the financial institution, the amount paid at the sheriff’s sale to purchase the house, including applicable interest. The total amount to redeem the property may also include payments made by the purchaser for property taxes, insurance, and other expenses to maintain the house in good condition.

In the nonjudicial process, where the document securing the loan is a Deed of Trust, with a power of sale given to the trustee, the parties involved in this model are the “beneficiary,” which is the financial institution or investor you owe the money to; the “trustee,” which is the neutral third party to whom you conveyed or “transferred” temporarily the title of your house to be held in trust until your loan is paid off; and you as a borrower or “grantor.” This process applies to owner occupied, one-to-four unit, single-family dwellings.

A nonjudicial process of foreclosure by “advertisement and sale” commonly starts if you, the homeowner, are in default by not making your mortgage payments as agreed and they have been continuously late. After trying to contact you to bring your mortgage payments current, the financial institution collecting your payments will give instructions to the trustee to start the foreclosure process or, in lending jargon, “accelerate” the loan. First, the trustee will file a Notice of Default in the county records where the house is located. When the notice of default is recorded, the foreclosure process becomes public information and it will take approximately 120 to 180 days until the house is sold or transferred. Immediately after the filing of the notice of default, the trustee will send to you and all parties with an interest in the property, a Notice of Trustee’s Sale or Trustee’s Notice of Sale. You will also receive a notification about
your right to request a face-to-face mediation meeting with the lender or its representative.

The purpose of the mediation meeting is so the parties involved - the lender, you, and a mediator - can attempt to come to agreement to avoid foreclosure. The foreclosure can be avoided by applying various options available from the financial institution, such as a forbearance, loan modification, pre-foreclosure sale or “short sale,” or voluntarily giving up the title of the house, commonly known as deed-in-lieu of foreclosure. We gave a brief explanation about these options earlier in this publication.

A word about the mediation process

If a mediation service provider sends you a notification about your right to have a meeting with your lender’s representative, act immediately. The first step: Meet with a certified Housing and Urban Development (HUD) non-profit counselor within 30 days after receiving the mediation notification form. The resources section has a link to find an approved housing counselor. The notification of your right to a mediation meeting will include information for the Lawyer Referral Services of the Oregon State Bar and providers of low-cost legal services. The form will include a list of options to avoid foreclosure. Even if you are not currently in the foreclosure process, you can also request a mediation meeting with your lender, if you were 30 days late on your loan payment at least one-time and your financial situation will likely not improve. You can request a mediation meeting by using a form available from a mediation service provider approved by the Oregon Attorney General. See the resources section for a link to that agency.

You will also be notified about the documents you need to bring with you to the meeting. Consult an approved housing counselor because the counselor will be able to better prepare you for the mediation meeting, including the paperwork you need to bring with you and other conditions you will have to meet. One condition is to pay a fee (not to exceed $200) to the mediator at least 10 days before the meeting.

If you are not able to meet with an approved housing counselor within 30 days, you can still request a mediation meeting, but you must submit an affidavit to the mediator stating the reason why you could not consult an approved housing counselor. The resources section of this brochure has a link to the Attorney General’s office with information about how to obtain the affidavit and other important instructions.

You do not have to agree to attend the mediation meeting if you choose not to. You can notify the mediator at the address or contact information provided in the mediator’s notice about your decision. Visit the Attorney General’s office website provided in this publication.

You have the right to reinstate your loan by bringing your loan current, in addition to paying the late fees and the expenses to foreclose, but you should do this no later than five days before the sale (auction date) of the house.

If, after exhausting all your options, you were not able to reach an agreement with the lender to save your house and unless the lender decides to postpone the sale, the trustee will conduct a trustee’s sale at the place and time noted on the Trustee’s Notice of Sale. Oregon law allows a postponement of the sale for up to 180 days. The postponement will be announced at the time and place of the scheduled sale date and a written notification will be also be sent to the homeowner at least 15 days before the new sale date, unless the first postponement is for less than two days from the sale date.

Oregon law requires trustees to provide homeowners additional notifications. One is the “NOTICE: YOU ARE IN DANGER OF LOSING YOUR PROPERTY IF YOU DO NOT TAKE ACTION IMMEDIATELY.” Trustees must provide this notification to the homeowner at the same time or before the required notification that the house is in pre-foreclosure.
The purpose of the “notice of home loss danger” is to promptly and clearly notify homeowners who occupy the property as their primary residence about the risk of losing their homes and, if possible, what the homeowners could do to try to save their homes. The notification also must include a toll-free number where homeowners can call to get information about approved nonprofit providers of foreclosure prevention counseling programs in different areas of the state. The notice also includes contact information for the Oregon State Bar’s Lawyer Referral Service if you decide to hire a lawyer. Low-income homeowners can also ask for legal assistance.

If you receive such notification, we strongly recommend calling the toll-free number provided and seek help from an approved counselor or legal assistance in your area. Approved nonprofit counselors are trained to facilitate the interaction with lenders and, in many cases, increase the possibility in obtaining the best possible solution. Their services are often free of charge or have a small nominal fee for credit reports.

Potential tax consequences

If you have exhausted all of these options and your lender agrees to settle the debt before foreclosure or if the house is foreclosed upon, it is important to talk to a tax adviser. The Internal Revenue Service has a publication (Publication 4681) with details about how these situations may affect your income taxes.

The “Mortgage Forgiveness Debt Relief Act” amends the Internal Revenue Code, providing more exclusions for some homeowners who lost their homes — if occupied as their primary residence — to foreclosure and the lender canceled or “forgave” a debt secured by the house. This temporary federal law can be applied for residential discharged debts for those homeowners who lost their homes to foreclosure or had an agreement with the lender about a forgiven amount from 2007 through 2012. See the resources section under “Cancellations of Debt.”

Making Home Affordable Program

The Making Home Affordable Program, an initiative that is part of the president’s economic stimulus plan, include programs for homeowners who occupy their houses and use them as their primary residence. The Home Affordable Modification Program (HAMP), the Home Affordable Refinance Program (HARP), the Home Affordable Foreclosure Alternative (HAFA), and other relief programs have other conditions homeowners must meet to qualify.

Under HAMP and HARP, and depending on your circumstances, you can request your lender refinance or modify your loan. Your lender is required to review your application for a loan modification or refinancing if your loan is insured or owned by Fannie Mae or Freddie Mac. These agencies have other programs you should ask for if you do not qualify for programs under HAMP. See the resources section for information about finding out if your loan is owned by one of these agencies. The Making Home Affordable Program website also offers an initial, basic questionnaire to help you determine if you qualify and a list of documents you should prepare and review, preferably in advance. We encourage you to seek the help of an approved nonprofit counseling agency if you do not feel comfortable in completing this application documentation. Beware of fake and deceptive websites and companies or individuals offering help. You should not have to pay for help or information to benefit from these and other legitimate programs.

Other options

For homeowners age 62 or older, another option may be a loan program called reverse mortgage. The most common is the Home Equity Conversion Mortgage (HECM), administered by the Federal Housing Administration. This type of loan, unlike a regular mortgage, does not have to be paid back unless the house is no longer occupied as the primary residence or is sold. It is very important that you seek counseling before obtaining this type of
loan, because it may not be the type of loan you are interested in. See the resources section of this guide about how to find a HUD-approved nonprofit organization near you that offers counseling on a reverse mortgage.

**Beware of foreclosure scams**

Homeowners should beware of foreclosure scams. Scammers can cause you to lose your home and the equity you have built and cause additional damage to your credit. As mentioned earlier, at a minimum, you should find out if these companies or individuals are either registered or licensed to offer their services in Oregon. This is true for in-state and out-of-state companies or individuals.

Many scammers contact homeowners offering to “save” their house. Information about your property is public record and accessible by anyone interested in obtaining it. In addition to the information recorded with the county when you bought your house, notifications of default filed by the lender or a lien holder, or if the house is subject to an auction or to be foreclosed, are all public record. Unscrupulous individuals can use this information to take advantage of homeowners in distress.

Some homeowners facing foreclosure may respond to ads offering to pay cash immediately for houses. Although this sounds like a quick solution, it may not be the right option if your ultimate goal is to keep your home. Be careful; many of these offers may also be scams.

The schemes vary depending on what the scammer is trying to obtain. For example:

- Scammers advertise their services to negotiate with the lender on behalf of the homeowner to save the house. They often collect high up-front fees, which is illegal in Oregon, and prohibit the homeowner from contacting the lender so the process will not be “disrupted.” Most scammers do very little or nothing to help consumers, and they often disappear with the money or no longer can be contacted. The most often abuse to homeowners is when they are seeking assistance to apply for loan modifications. The scammers claim they have “secret techniques” or “strategies” to convince the lender to modify a loan. The scammers may ask to be paid in cash or other form of payment, which would include access to your financial information and then they disappear or are no longer responding to phone calls.

- In other cases, scammers convince the homeowner to convey or give up the house’s title with the promise to return the house after it has been taken out of the foreclosure process. Scammers commonly pay the homeowner an amount significantly less than the home’s real value. In some cases, the deal includes a rental agreement where the homeowner pays rent, which can be more than the original mortgage payment. The homeowner is still responsible for the payment of taxes, insurance, and other obligations as if nothing has changed except for the ownership of the house. The scammer can evict the homeowner if he or she does not pay the rent.

- Some scammers claim to help homeowners save their house by refinancing the loan in default. They ask the homeowner to sign papers that appear to be refinancing or lease-to-buy agreements. But, in most cases, the documents give the scammer the title of the house.

- Other scammers ask for the mortgage payments to be sent to them instead of the lender, they do not send the payments to the lender and disappear with all the money collected.

Remember, if you are a victim of a scammer, you may not be only paying them high up-front fees, but you are also exposing your financial information, often including Social Security numbers, bank accounts, and other sensitive information, which can lead to identity theft.

After verifying Oregon licensing requirements, any and all documents should be carefully reviewed before they are signed.
Resources

General information / counties:
Oregon counties
http://bluebook.state.or.us/local/counties/counties.htm

Property tax deferral programs:
Department of Revenue
www.oregon.gov/DOR/SCD/index.shtml
503-378-4988

Real property foreclosure (unpaid property taxes):
http://www.oregon.gov/DOR/PTD/IC_310_671.shtml

Construction or “mechanic’s” liens:
Construction Contractors Board
https://ccbed.ccb.state.or.us/WebPDF/CCB/Publications/information%20notice%20liens.pdf
503-378-4621

Federal tax liens:
IRS
www.irs.gov/businesses/small/article/0,,id=108339,00.html#Notice
888-297-8685

Cancellations of Debt (COD):
Mortgage Forgiveness Debt Relief Act, IRS
www.irs.gov/newsroom/article/0,,id=174034,00.html
See also:

Mortgage servicing information:
Making sure your payments are properly credited
Federal Trade Commission
www.ftc.gov/bcp/edu/pubs/consumer/homes/rea10.shtml

For FHA loans
Department of Housing and Urban Development (HUD) National Servicing Center
www.hud.gov/offices/hsg/sfh/nsc/nschome.cfm
888-297-8685

Foreclosure Mediation Program:
Oregon Department of Justice
www.ForeclosureMediationOR.org

Nonprofit Foreclosure Prevention counseling agencies:
http://www.cbs.state.or.us/dfcs/ml/foreclosure/counselors.html
HUD approved housing counseling agencies
www.211info.org
800-SAFENET, 800-723-3638
National foreclosure hotline
888-995-HOPE, 888-995-4673
http://www.hopenow.com
HOPE Loan Portal
www.hopeloanportal.org

Other housing services:
Housing Connections
www.housingconnections.org

Lawyer Referral Services:
Oregon State Bar Association
http://www.osbar.org/public/ris/ris.html#referral
800-452-7636
Legal Aid Services of Oregon
http://www.lawhelp.org/program/694/index.cfm
Oregon Law Center
http://www.oregonlawcenter.org
Licensing and registration:
Registered Debt Management Service Providers
Oregon Division of Finance & Corporate Securities
http://www.dfcs.oregon.gov/debt_mgmt.html
Licensed mortgage companies and loan originators
www.NMLSconsumeraccess.org
Your rights when hiring for profit companies
Federal Trade Commission
Division of Finance & Corporate Securities Q & A

Filing complaints:
Debt management companies, Oregon-licensed
loan originators, and state-chartered financial
institutions
Oregon Division of Finance & Corporate Securities
http://www4.cbs.state.or.us/ex/dfcs/complaint/index.cfm?fuseaction=home.english
866-814-9710

Foreclosure scams:
State Attorney General Office
http://www.doj.state.or.us/finfraud/index.shtml
E-mail: consumer.hotline@doj.state.or.us
877-877-9392

National banks:
Office of the Comptroller of the Currency
www.helpwithmybank.gov
800-613-6743

Federal credit unions:
National Credit Union Administration

Consumer Financial Protection Bureau:
www.consumerfinance.gov
Federal Trade Commission:
https://www.ftccomplaintassistant.gov

Bank members of the Federal Reserve System:
Federal Reserve Board
http://www.federalreserveconsumerhelp.gov/
888-851-1920
Federally insured state banks not members of the
Federal Reserve System
https://www2.fdic.gov/starsmail/index.asp
877-275-3342

Loan programs:
Making Home Affordable Program
http://www.makinghomeaffordable.gov
Oregon Homeownership Stabilization Program
http://www.oregonhomeownerhelp.org/
Reverse mortgages
FHA Home Equity Conversion Mortgage (HECM)
http://www.hud.gov/offices/hsg/sf/hecm/hecmhome.cfm

To see if you have a Fannie Mae loan
http://loanlookup.fanniemae.com/loanlookup
1-800-7FANNIE

To see if you have a Freddie Mac loan:
http://www.freddiemac.com/corporate
1-800-FREDDIE
Fannie Mae, Deed for Lease program
Freddie Mac, REO Rental Initiative
http://www.freddiemac.com/avoidforeclosure/rental_initiative.html
Foreclosure: You can avoid it

Oregon Department of Consumer and Business Services

Oregon foreclosure laws and bills
Judgments: ORS Chapter 18
Mediation and Arbitration: ORS Chapter 36
Mortgages, trust deeds: ORS Chapter 86
Statutory liens: ORS Chapter 87
Foreclosure of mortgages and other liens: ORS Chapter 88
Foreclosure of property tax liens: ORS Chapter 312


Glossary

**Deed of trust**
In Oregon, a debt is often secured by a deed of trust rather than a mortgage, which means there is a neutral third party called a trustee. If the borrower does not make the mortgage payments, the lender will instruct the trustee to sell the property to pay off the debt. This document is also known as the security instrument. (ORS 86.705)

**Default**
In the foreclosure process, a default is defined as a failure to meet one or more of the terms of the mutually agreed upon contract when the mortgage loan was obtained.

**Deficiency judgment or deficiency claim**
If a home is sold through foreclosure or a short sale transaction for less than the amount the borrower owes, the balance is the deficiency. In some cases, lenders may pursue borrowers to collect the deficiency. Under certain circumstances affecting the lien or liens, Oregon law does not allow deficiency judgments if the house or dwelling was occupied as a primary residence by the borrower and a sale took place (ORS 86.770)

**Escrow account**
A type of account administered by the lender/servicer into which the borrower’s funds are deposited to pay for property taxes, insurance premiums, and, in some cases homeowners’ association dues. Oregon law allows lenders to collect enough funds for property tax reserves for two additional months over the actual amount needed. (ORS 86.240)

**Grantor vs. debtor**
In a nonjudicial foreclosure, a grantor is the individual or individuals who obtained a mortgage loan for the purchase or refinance of a home. In a real estate judicial foreclosure, this person or persons are identified as the debtor.

**Forbearance**
A forbearance is an agreement by which the lender will either temporarily suspend or reduce payments. Forbearances are generally used to address situations that are short-term in nature. Lenders may be willing to work with you on a payment plan, which can temporarily help you until you are in a better financial situation if you are expecting funds from other sources, such as settlements or tax returns, in the near future. You need to show documentation about the money you are anticipating.

**Judicial vs. non-judicial foreclosure**
A judicial foreclosure means the process of taking the house would go to a judge as a lawsuit against the homeowner (ORS 18.901). A non-judicial foreclosure does not go to court and is not heard by a judge. If your “deed of trust” document has a power-of-sale clause, the trustee representing the lender can initiate a non-judicial process in a foreclosure by advertisement and sale process. (ORS 86.735)

**Lien**
A hold or a claim placed on a property to secure the payment of a debt or other obligation. (ORS Chapter 87)

**Mediation meeting in a nonjudicial foreclosure**
Oregon law requires some lenders to enter into a fee-based mediation process by meeting face-to-face with a homeowner to seek alternatives to foreclosure. The meeting will include a neutral third party who will be conducting the meeting following a protocol established by the Attorney General.
Homeowners and lenders are required to bring specific relevant documents. A list of documents to be presented by both parties will be provided before the meeting (ORS 86.735(4)). Refer to the Attorney General’s website or the notifications you received for information about the fees to be paid for the mediation meeting.

**Mechanic’s or construction lien**
This type of lien can be placed by anyone who made an improvement or provided materials for your house. Subcontractors or laborers can place a lien on your house as well. Contact the Construction Contractors Board to learn about your rights. (ORS 87.001 to 87.060) and (87.075 to 87.093)

**Note or promissory note**
This document, which you should have received when you closed your loan, has the details and conditions under which you borrowed the money to buy your house. The note includes but is not limited to the amount of money you borrowed, the interest rate, the amount of your payments, when they are due, the grace period, late fees and whether the lender would accept partial payments, and how these would be credited against your account.

**Notice of Default**
A notification filed by the trustee in the county or counties where the house is located, following instructions from the lender/servicer after unsuccessfully tried to collect the monthly mortgage payments due. (ORS 86.735(3))

**Notice of Hearing**
Oregon law requires the lender or its representative to notify the homeowner with a notification about a hearing regarding the sale of the house to satisfy the debt. (ORS 18.908)

**Notice of Trustee Sale**
Also known as Trustee’s Notice of Sale, it is the official notification to the homeowner that the lender chose to initiate the foreclosure process. Oregon requires additional forms to be sent as warning of the risk of losing the home. (ORS 86.740)

**Qualified Written Request**
Section 6 of the Real Estate Procedures Act (RESPA) gives borrowers the right to file a complaint by sending to the servicer a written request to obtain specific information about the servicing of their loan which includes payment information. Servicers are required to acknowledge the request within 20 business days and must try to resolve the issue within 60 business days.

**Redemption and redemption period**
Homeowners whose house was sold by the sheriff under the court’s authorization have the right to get the house back within 180 days. Other parties with an interest in the property can also redeem the property in less number of days. (ORS 18.963, ORS 18.964)

**Servicer**
A lender, mortgage company, or similar financial institution in charge of collecting and recording mortgage payments, negotiate possible solutions to foreclosure, or supervise a foreclosure process in case the borrower default on the loan or loans secured by the property.

**Servicing disclosure**
This required notification provided by your lender or the servicer of your loan within three days after applying for a mortgage loan. It will notify you of your rights and other important information when your loan is sold or transferred. The notification will give you contact information, including a toll-free number, if you have questions when your loan has been sold or transferred to another institution. This disclosure also includes information about what you can expect if you file a complaint or dispute with the company holding your loan.

**Trustee’s sale**
The trustee, following instructions from the lender/servicer, will conduct the auction of the property as noted in the Trustee’s Notice of Sale. If the property is sold to a bidder or transferred back to the bank, the trustee will deliver the title to its new owner within 10 days after the sale date. The new owner is entitled to take possession of the property on the 10th day after the sale date. (ORS 86.755)
Truth-in-lending disclosure
A document you should also have received from your lender within three business days after you applied for a mortgage loan. In it you will find, among other clauses, when your payments are due, a grace period, if any, for late payment charges, if your loan is assumable or transferable to another borrower, and if your loan has a pre-payment penalty.

Writ of execution
A court order to authorize the sheriff to take possession of a house and sell it to recover the money owed to the creditor.

Do’s
- Establish an emergency fund.
- Make sure your payments are credited/posted properly. Review your statements when you receive them.
- Contact your lender as soon as you foresee difficulties in making your loan payments.
- Seek the assistance of an approved counselor or an attorney as soon as possible if you receive notifications your house is or will be in foreclosure.
- If you are seeking help from a for-profit company or individual, make sure they are registered or licensed in Oregon.
- Ask if your unpaid mortgage payments can be added to your mortgage principal.
- If you are unable to resume the regular monthly payments, ask the lender for time to sell your house to pay off the mortgage balance.
- If your lender forecloses on your house, talk to a tax adviser. The foreclosure may affect your tax filings if the house sells for less than the amount you owe on your mortgage.

Don’ts
- Don’t overuse your equity to consolidate other debt.
- Don’t ignore late payment notifications from your lender.
- Don’t respond to offers in the mail or media offering good deals to refinance.
- Don’t give direct access to your bank accounts or give your personal identification number.
- Don’t sign any documents you don’t understand and don’t pay money in advance.
- Don’t respond to offers to “save” your house.
- Don’t give away the title of your house without first consulting with an attorney.