Tips for Homeowners: Getting Help When You Are in Default on your Mortgage or Facing Foreclosure

Prepared by the Home Defense Program, Atlanta Legal Aid Society, Inc., April 2008

- It is a good idea to seek legal advice before signing any kind of agreement or modification of your loan.
- You can also seek legal advice on whether you may have any existing legal claims against your lender or servicer.
- Atlanta Legal Aid Society serves low-income people in Fulton, DeKalb, Cobb, Gwinnett, and Clayton Counties. We have limited resources, and cannot represent every homeowner in need.

If you go to your lender about a workout, here are some things to keep in mind:

- Watch out for a waiver or release of potential legal claims that might be in the document you are signing.
- Ask if this is your "one chance" at loss mitigation--if it is, make sure this is a workout that will actually help you, or result in a payment that you can truly afford.
- If your lender offers you a workout agreement that you do not feel will help you, you do not have to accept it. However, if you send in the payment set out in the rejected agreement, the lender could assume that you have accepted it, and they might refuse to give you any other modification.
- If you have an FHA or VA loan, you may have additional loss mitigation options.
- If you have received a foreclosure letter, take that letter seriously, even if you are negotiating with your lender about a loan modification. If the lender offers to cancel or postpone the foreclosure, make sure you get written confirmation. If you do not have written confirmation, have a back-up plan in place, such as filing a bankruptcy prior to the schedule foreclosure.
- Your lender or servicer may have the ability to offer you a variety of workout options, some more helpful than others. Here are some of those options:

Preferred Options

*Reducing the balance (or principal) owed on your loan

*Lowering your interest rate

*Lowering your monthly payment

*Making all of these changes permanent, for the remaining term of your loan

*Forgiving the arrearage (or back payments) that you owe

*For seniors, a reverse mortgage to pay off current loan, even with a short pay-off

Options to Avoid

*A short-term repayment plan that requires you to double up on payments

*A temporary change in your loan terms, for example a 6-month to five-year freeze and then a return to your original terms

*Requiring you to pay foreclosure-related fees

*Capitalizing the arrearage (adding it to your principal) or adding missed payments onto the end of the loan term

Where can you go for legal help?

Home Defense Program, Atlanta Legal Aid (404) 377-0705, ext. 236
Seniors (age 60 or over), Senior Legal Hotline, (404) 657-9915 or 1-888-257-9519
Atlanta Bar Lawyer Referral Service, (404) 521-0777