

WHAT ELSE CAN YOU DO?

Even if you are in foreclosure, you can try to save your house. Get help to negotiate with your lender from housing counseling services. Call the Hotline or visit the Website to apply for help.

You can also negotiate with your lender yourself. Call or email your lender or servicer and ask for a loss mitigation application. Return the application with all of the documents they ask for.

Go to makinghomeaffordable.gov for more information about programs available for lowering your payments.

Read our brochure **Foreclosure Alternatives** (available on the Website) for more information.

BEWARE OF FORECLOSURE RESCUE SCAMS



Be wary of anyone who:

- Wants an up-front payment to help you modify your loan
- Is an out-of-state law firm offering to obtain a loan modification for you
- Asks you to sign a deed giving them your home
- Claims that you have to move out of the home so they can sell it.

If you think you have been scammed, or have questions, call the New Mexico Attorney General's Office at **1-505-222-9038**.

KEEP YOUR HOME NEW MEXICO

United South Broadway Corporation partners with the New Mexico Attorney General and with non-profit organizations statewide to help homeowners at risk of losing their homes to foreclosure.

Working together, the partners provide housing counseling and legal services to New Mexico homeowners to help them avoid foreclosure or choose alternatives to foreclosure.

FOR HELP

Call the HOTLINE at
1-855-664-6630 for referral to
housing counseling and legal services.
Or visit the website:
www.keepyourhomenewmexico.org



Our partners:

CAFé ■ DNA People's Legal Services
Independent Living Resource Center ■ New Mexico
Legal Aid ■ N.M. Attorney General ■
Senior Citizens' Law Office ■ Springboard ■
Tierra del Sol Housing Corporation

FORECLOSURE



*What does it mean?
What can you do?
There is help!*



*1500 Walter SE, Suite 202
Albuquerque, NM 87102
505-764-8867*

*USBC offers HUD-Certified Housing
Counseling, and Legal Services through its Fair
Lending Center*

WHAT IS A FORECLOSURE?

A foreclosure is a legal action that allows a lender to take a property when the borrower has not made payments. New Mexico is a “judicial foreclosure” state. Our laws require that the lender file a Complaint in a District Court and prove that it is entitled to take the property. A foreclosure case will take several months before the Court makes a final decision.

A foreclosure is a complicated kind of legal case. If you can, you should hire a lawyer or see if you qualify for free legal help. **Don’t wait!** You must act within 30 days of getting notice of a foreclosure lawsuit. ***Even if you are negotiating with your lender, you still must file papers with the court.***

COURT PROCESS

The **Complaint** is the first paper filed with the court by the Plaintiff. In a foreclosure action, the **Plaintiff** is the lender or servicer of the mortgage. The Complaint asks the Court for help in getting someone to pay a debt or forfeit their property. The Court gives the Plaintiff a Summons. The **Summons** is an order by the Court that gives the Defendant 30 days to respond to the Complaint. In a foreclosure action, the **Defendant** is the homeowner.

The first thing you should do if you have been served with a Summons and Complaint is file a response at the courthouse. Your written response can be a motion or an **Answer**. If you are representing yourself, you should probably file an Answer. In the Answer, the Defendant responds to the Complaint by agreeing or disagreeing with each paragraph of the Complaint. The Answer should be filed with the Court within 30 days from the day that the Defendant got the Summons and Complaint.



When the Plaintiff or Defendant wants the Court to take action, they ask the Court by filing a **Motion**.

Motion for Default Judgment: When the Defendant does not file an Answer or other response with the Court, the Plaintiff can ask the Court to automatically let them win the case. If the Defendant has not filed an Answer, the Plaintiff can file a motion for default judgment. The Plaintiff can win the case very quickly through a Default.

Motion for Summary Judgment: When the Plaintiff (lender or bank or servicer) thinks that the Defendant (homeowner or borrower) really hasn't disagreed with the Complaint, the Plaintiff can file this motion. If the Plaintiff wins this motion, the Plaintiff has basically won the entire case.

When the Plaintiff or Defendant files a Motion, the party that gets the Motion has 15 days to file a **Response** saying why they disagree with what the Motion is asking for.

The party that files a Motion, also files a **Request for Hearing**. The Court will schedule a hearing where both sides get to explain what they want. The judge's decision will be set out in an **Order**. When the Court decides that the Plaintiff is entitled to the property, the **Judgment** allowing the sale will be signed by the Judge. The Plaintiff schedules the sale and must file a **Notice of Sale**. The Sale is an auction on the courthouse steps. Usually the bank buys the

house for much less than what is owed and the Defendant will still owe money to the bank.

The homeowner usually has 30 days after the sale during which the property can still be redeemed through a private sale or by paying off the loan. This is the right to **Redemption**.

After the property is sold, if the homeowner does not move out, the Plaintiff can ask the Court for a **Writ of Assistance**. The sheriff can then make the Defendant move out.

The losing party can file a **Notice of Appeal** with the Court of Appeals if s/he disagrees with the decision of the District Court.

FILING WITH THE COURTS

There are thirteen District Courts in New Mexico. The Summons and Complaint will say at the very top what County and which Court the Complaint was filed in. Call the District Court listed on the Summons to find out if you can get help through the Court with your case. Some of the Courts have special offices to help people who can't afford a lawyer.

Information about the Courts is also available at **www.nmcourts.com**. This website also has information about what is happening in your case through “Case Lookup.”

When you file papers with the Court, take the papers to the Clerk's Office. Take two extra copies. The Court will keep the original. **You have to mail one copy to the lawyer for the other side of the case.** You keep one copy for your records.

Find out about the Court Rules and New Mexico laws at your library or look at the Rules and laws on-line at:
www.nmcompcomm.us
Use the Public Access Law tab.