

Protecting Your Home From Foreclosure

If faced with debt, protecting your home is a top priority! Your home may be your greatest financial asset. It is very important to know how to protect your home from debt collection as well as to understand your options if your home is in foreclosure. Foreclosure on your home can be especially traumatic and is probably the most feared of all debt collection practices.

What protections does my home have from debt collection?

Not only is your home your greatest asset, it may also be one of your most protected assets. Under Iowa law your homestead is generally protected from collection except for the home mortgage and other debt secured by your home. This means that if you make your mortgage payments and you keep up with your property taxes, your home is protected from debt collection. This is an important protection to your family home!

If I need extra money should I borrow against my home?

Borrowing money against your home is seldom the way to solve your debt problem and often leads to greater stress and pressures for repayment of the money.

Foreclosure is a big problem today. This is partly due to how easy it has been to get a new loan on your home. Some of the people making these loans may be taking advantage of older people by encouraging loans that are expensive and not in your best interest. Some of the loans have high interest rates or the interest rates may change in the future. This is called an adjustable interest rate or adjustable rate mortgage (ARM).

You should think twice before taking out a second mortgage, or increasing your debt by re-financing your current mortgage. Sometimes the debt on your home may be called something other than a mortgage. It may be called an equity line of credit or a refinance loan. These loans which are tied to your home can also be used to foreclose on your home. When you increase the amount of loan on your home, to pay off credit card debt or medical debt, you weaken the homestead protection and put your home at greater risk.

What can I do if I am having problems with making my mortgage payments?

If you are in danger of falling behind with your mortgage payments or you have already fallen behind on payments, you need to contact your lender right away. You may be able to work out a plan for payments or a loan modification to help get back on track. You may want to call the Iowa Mediation Services for help in

negotiating a reduction of your interest rate of payment amounts. They can be contacted by calling the Iowa Foreclosure Hotline at 1-877-622-4866.

What if my payment on other debts and bills is making it difficult for me to pay my mortgage?

Make a list of which bills need to be paid to protect your home and health. It is important to pay necessary living expenses and bills first. This means paying your mortgage and utilities as well as food and medicine before you pay other bills. Paying on a car loan to avoid repossession may be the next most important bill. Consumer credit card debt should never take precedence over making payments concerning home and health.

If debts other than your mortgage are making it difficult for you to make your house payments, you may want to consider filing bankruptcy. Bankruptcy may be able to discharge these other debts and help to protect your home. If a debt collector tells you that they are going to take your home, call the Legal Hotline for Older Iowans for more information about your rights in foreclosure, bankruptcy, and your rights against unfair debt collection.

What if I fall behind with my mortgage payments?

If you have been unable to resolve payment issues with your mortgage company, they may send you a notice that your loan is in default and you have 30 days to pay the amount of back payments owed. This is called a "right to cure" notice. In this case you need to act quickly to see if you can make this payment. If you are unable to make the payment within the 30 days, the lender can file a foreclosure petition with the court and start the process to take your home.

How much time do I have if foreclosure is started against me?

If the lender sues to foreclose, you will be served foreclosure papers. Once you have received this notice, you have 20 days to file an answer with the court.

Even if you do not have a defense against the foreclosure, you may be able to delay moving out of your home by several months. This can be done by filing a "demand for delay of sale" with the court. This demand for delay of sale can be done whether or not you file an answer with the court. This demand for delay of sale must be filed before the court has entered a judgment in the foreclosure! The extra time you get with filing for a delay may be needed to find other housing and help you deal with the trauma of moving from your home. The Legal Hotline for Older Iowans or your Iowa Legal Aid regional office may be able to assist you with filing an answer or request for a demand for delay of sale.

“An ounce of prevention is worth a pound of cure.” If you have any questions about debt problems or dealing with foreclosure, please contact the Legal Hotline for Older Iowans 1-800-992-8161. This information is from the Legal Hotline for Older Iowans. The Legal Hotline is a project of Iowa Legal Aid that is partially funded by the U.S. Administration on Aging. The Hotline is a free, confidential service for all Iowans 60 or older with questions on non-criminal legal matters.