



# Early Delinquency Intervention: Saving Your Home From Foreclosure

There are many reasons homeowners face difficulty in making mortgage payments: unexpected expenses, loss of overtime, unemployment, overspending, illness/injury, disability, death, marriage, childrearing, divorce, education, and relocation.

Whatever the reason, it is important to be informed of all available options and to act quickly.

Early Delinquency Intervention (EDI) involves addressing the financial crisis in the earliest possible stages in order to maximize relief available from the lender. For EDI to be effective, it must include a clear Statement of the Problem, a thorough Personal Financial Assessment, and a realistic Plan of Action, spelling out for the lender the relief you are seeking and how you plan to meet your current and future financial obligations.

You may have the misconception that the lender wants to take your home back through foreclosure. This is not true. The vast majority of lenders are only interested in seeing that payments are made each month as agreed in the mortgage terms. As a general rule, lenders only begin foreclosure when all else fails. They look for ways to assist you when you are having financial difficulty, but their ability to help declines with each missed payment. Therefore, it is extremely important to address the crisis as soon as it occurs and to keep the lender informed at all times.

Before you contact the lender, however, you need to be prepared to provide accurate, up-to-date, and documented information. Remember you are not in this alone. Our counselors are here to assist you with your efforts to resolve the delinquency. Contact us with any questions or to make an appointment to meet with a counselor. Complete the following three steps to aid in your preparations.

**Housing Education Program**

**A Division of Consumer Credit Counseling Service of San Francisco**

**595 Market Street, 15th Floor, San Francisco, CA 94105**

**800.777.7526 415.788.0288 [www.housingeducation.org](http://www.housingeducation.org)**

## Step #1: Statement of the Problem

The first step is to develop a Statement of the Problem. This should be very clear so the lender understands exactly why you are now, or will be, delinquent.

**A. Identify the problem:** Briefly summarize the overall situation and be specific as to how it happened. In other words, clearly explain what caused you to fall behind on your mortgage payments. Provide any and all documentation you can to back up your statement.

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**B. Prioritize:** Using the table below, list your specific financial problems starting with the most serious need first. For example, if you are late on your mortgage, list this first. Then list other needs, i.e., car, phone, credit cards, etc.

Creditor	Months Delinquent	Amount

**Your statement of the problem is one of the most important factors in obtaining the help you need from your lender and other creditors. Always be honest and realistic, and provide documentation.**

## Step #2: Personal Financial Assessment

Completing a personal financial assessment will help you determine exactly what your financial circumstances are and enable you to make a realistic determination of what payment arrangements are feasible for you. The following worksheet will help you make this assessment.

<b>HOUSING EXPENSES</b>	
Rent/Mortgage	\$
2nd Mortgage	\$
Property Taxes <i>(if not included in mortgage payment)</i>	\$
Rent/Homeowners Insurance	\$
Utilities: Phone/Water/Gas/Electric	\$
Association Dues	\$
Subtotal <i>(add the amounts for section 1)</i>	\$ (a)
<b>LIVING EXPENSES</b>	
Food	\$
Clothing <i>(including laundry/cleaning)</i>	\$
Transportation <i>(gas, maintenance, bus)</i>	\$
Insurance <i>(auto, life &amp; medical not deducted from pay)</i>	\$
Daycare	\$
Medical Expenses	\$
Subtotal <i>(add the amounts for section 2)</i>	\$ (b)
<b>MONTHLY INSTALLMENT DEBT</b>	
Car Loan	\$
Child Support/Alimony	\$
Credit Card Debt <i>(list all cards)</i>	\$
Credit Card Debt	\$
Credit Card Debt	\$
Other	\$
Subtotal <i>(add the amounts for section 3)</i>	\$ (c)
<b>MONTHLY EXPENSES</b>	
Expenses Total <i>(add the subtotals for a, b, &amp; c)</i>	\$ (d)
<b>MONTHLY INCOME</b>	
Wage Earner #1 <i>(take home pay)</i>	\$
Wage Earner #2 <i>(take home pay)</i>	\$
Other Income	\$
Income Total <i>(add the amounts for section 5)</i>	\$ (e)
<b>WHAT'S LEFT</b>	
Income Total <i>(total from line e)</i>	\$
Monthly Expenses Total <i>(total from line d)</i>	\$
Cash Flow Total <i>(subtract monthly expenses total from the income total)</i>	\$

## Step #3: Equity Calculation

In addition to your Statement of the Problem and your Personal Financial Assessment, you need to determine how much equity you have in your home. This may help you decide whether you intend to keep your home at all costs. It is essential to understand the concept of equity and how it might affect your decision.

Current Market Value of Property	\$	(a)
Outstanding Loan Balance	\$	
Second Loan Balance	\$	
Delinquent Payments	\$	
Unpaid Taxes	\$	
Other	\$	
Total Indebtedness	\$	(b)
Total Equity Position (a minus b)	\$	

The equity calculation is necessary to help you analyze all of your options. It will also be important to the lender depending upon the type of relief you seek. You are now in a position to examine the various types of assistance that might be available to you from the lender.

## Primary Options for Consideration

Depending on the results of Steps 1, 2, & 3, there are many things the lenders can do to help you resolve the delinquency. The most common methods used to bring loans current are as follows:

**Reinstatement (Cure):** The easiest way to cure a delinquency is to pay the lender everything is owed. This includes missed payments, any late fees associated with these payments, and any other fees which the lender charges as a result of your delinquency. The reinstatement period varies from state to state. In California you have the legal right to reinstate your loan up until 5 business days prior to the trustee's sale.

**Repayment Plan:** This is a written agreement between you and the lender to help you make up missed payments. Generally these agreements require higher payments than the regular monthly mortgage amount for a short period of time, until the loan is brought up-to-date. You must not agree to a payment plan you cannot honor; but you must be willing to pay what you can realistically afford. If you fail to meet the terms of

this agreement, you will probably receive no additional help from the lender.

**Modification:** A loan modification involves changing one or more terms of a mortgage. Modifications can be considered to reduce the interest rate of the mortgage, change the mortgage product (from an adjustable rate to a fixed rate, for example), extend the term of the mortgage or capitalize delinquent payments (add delinquent payments to the mortgage balance — only available in extreme hardship situations). Modifications are not easily granted and there must be strong, justifiable reasons for the request.

**Forbearance Agreement:** The lender will allow you a period of time (3 to 6 months generally) during which to make either lower payments or no payments at all. Unless the loan term is extended, later payments generally will have to be higher than the original monthly mortgage payments until the loan is up-to-date again.

**Special Forbearance:** (Applicable to FHA-insured loans only) The lender may allow partial payments for up to 18 months to allow the borrower to get back on

track. The lender may also offer “partial claim”, or advance funds, to help you become current.

**Refinance:** This will usually not be an option if you are seriously delinquent on the current mortgage (more than 3 payments late). If you are current, however, and there is equity in the property, this might be an option.

**Second Mortgage (Equity Loan):** Possible even if you are seriously delinquent if there is enough equity in your home. Not generally feasible when you are having trouble making first mortgage payments - a higher interest rate and another payment would only be compounding the problem. May be used to eliminate consumer debt.

**Bankruptcy:** While this may seem to be the most unpleasant option, it may allow you to save the property. A Chapter 13 bankruptcy may help you save your home from foreclosure if all other options have failed. You will need to consult a bankruptcy attorney. Legal advice is always recommended prior to filing.

## Secondary Options for Consideration

It is important and realistic to consider other options if you cannot afford to or don't really want to keep your home. This could occur when your situation changes so much that you cannot make the payments that you have been making. It can also occur when there is no equity in the property. Suppose you bought your home in 1990 for \$158,000 and today your mortgage balance is \$148,000. A realtor informs you that the value of your home has declined to \$140,000, you might decide not to keep it.

**Foreclosure:** You may decide not to, or may not be able to, make any more payments. When this happens, the lender will foreclose and take your home. The amount of time this takes varies from state to state. In California, this process takes approximately 4 months from the recording of the Notice of Default (see Foreclosure Timeline for California on page 7).

NOTE: Some states allow the lender a deficiency judgment for the difference in value between the mortgage balance and any loss the lender might

suffer where property values have declined. In California there is no deficiency judgment allowed on foreclosure of purchase money mortgages (the one you use to buy your home) but there may be deficiency judgments on refinanced home loans, VA loans, or junior lien loans (2nd mortgages). Deficiency judgments are very rare.

**Deed in Lieu of Foreclosure:** This option, which must be done with the lender's permission, means you deed your home back to the lender. This saves the lender money and time and you avoid having a foreclosure on your credit report.

**Short Sale (Pre-Foreclosure Sale for FHA-insured loans):** In this case you will petition the lender to allow you to sell the house at its current market value which is less than the loan balance. If the lender agrees, you can enlist the aid of a realtor and try to sell your home even though the purchase price will be less than the outstanding balance. A lender may agree to a short sale because if the property is foreclosed upon, the lender will have to sell the house anyway. With a short sale, you save the lender time and foreclosure expenses by finding someone who wants to buy your house.

Your choice of how to handle your delinquency may affect your credit report. A foreclosure will remain on your credit report for 7 years. If you choose to let your home go back to the lender through foreclosure, you should keep accurate records of your attempts to resolve the problem. Assuming the rest of your credit is good, you should be able to buy another home in 2 years. If you choose deed-in-lieu or short sale, negotiate with the lender to re-age your credit report to remove the derogatory information and bring your account current.

NOTE: Be sure to consult a tax specialist to discuss the tax implications of whatever option you pursue. In foreclosure, there are usually no tax implications other than possible capital gains if you have owned a home before and have rolled your gain into the property being foreclosed. When you use a deed-in-lieu or short sale and there is negative equity, you may be responsible for ordinary income taxes on the amount of the debt that the lender forgives (difference between your mortgage balance and the value of your home). Please check with your tax specialist.

## Delinquent Mortgage: Plan of Action

You probably have talked by telephone to the lender or servicer and now you are in a position to make a formal request for assistance in writing. To submit your Plan of Action you should:

- Gather all of the documentation you need to provide the lender explaining why you are seeking relief.
- Write a letter to the lender asking for specific relief. If you have made your request verbally, always be sure to follow it up with a written request (see the sample lender letter on page 8).
- Keep a telephone log of all calls made to and received from the lender. Indicate time called, the person you spoke with and results of the conversation.
- Be sure to meet any deadline given to you by the lender. Failure to provide information on time can jeopardize your request.

### Stage 1: Contact the lender.

Remember it is always best to contact the lender at the earliest date (hopefully while you are still current) or as soon as you have missed your first payment. You can contact the lender by calling the 800 number on your most recent statement. Your call should always be followed by a written summary of what you discussed.

### Stage 2: Draft a written summary.

(See the sample lender letter on page 8.) Include your loan number, which you will find at the top of any correspondence sent by you to the lender, as well as the property address. Include the following items in your letter:

Paragraph 1 – Statement of the Problem. Refer to your Statement of the Problem Worksheet and restate very clearly why you are delinquent (or will be delinquent). Be very honest and be prepared to furnish documentation to support your statement.

Paragraph 2 – Summarize your efforts to resolve the problem. Again, remember to be specific and be ready to furnish documentation to back up your efforts. Tell the lender that you will do whatever it takes to save your home from foreclosure.

### Stage 3: Include any documentation that will support your claim.

For instance, if you were laid off, send a copy of official notice or unemployment benefits notice, which will verify the layoff. If under a doctor's supervision, send a letter from the doctor specifying what happened and when you might return to work. Also be sure to include a copy of your Personal Financial Assessment worksheet.

### Stage 4: Send this request Certified Mail, Return Receipt Requested

Be sure to keep copies of everything you send to the lender. It is very important that you keep accurate documentation of this entire process.

While the above process should effectively relay your request for assistance to the lender, you should also utilize the same technique for your other creditors (see the sample creditor letter on page 8). Notification to everyone is the surest way to receive the assistance you need.

Never make promises you can't keep. By following a reasonable and realistic Plan of Action there is a good chance your lender will offer some assistance. It is essential that you follow through with your part of the bargain.

Never agree to something that you know will be impossible for you to complete. Most lenders will only give you one chance to resolve your delinquency. If you fail to keep the terms of your loan workout agreement, you probably won't get a second chance.

If your financial situation does change, however, due to circumstances beyond your control and you can't meet the terms of your loan workout, let the lender know right away. There is a good chance they will work with you.

## Foreclosure

If you miss mortgage payments, the lender can decide to begin the foreclosure process. In California, this occurs between the 60th and 90th day of delinquency. First a document called a Notice of Default will be recorded with the County Recorder's Office and a copy of the notice will be sent to you. This notice actually starts the foreclosure process, which generally takes several months.

You may bring your loan current by making all the missed payments, late fees, and any other charges accrued. Bringing the loan payments current will cure the default and the loan will continue as if the

payments had never been late. The loan may be brought current at any time up to five business days before the actual sale date. If the default is not cured by paying all back payments plus costs, or by making some other agreement with the lender, your home will be sold at auction to the highest bidder, usually the lender.

After foreclosure occurs, you will have no further options and will have lost all rights of possession and ownership to the new owner. The lender (new owner) can then proceed to evict you following normal eviction procedures just as if you were a tenant who had not paid rent. This process can be completed in just a few weeks.

## Foreclosure Timeline For California

(The foreclosure timeline and process varies from state to state. In California it is generally non-judicial and done outside of the courts but some states have judicial foreclosure. Be sure you understand the correct process and timeline in your state. Our counselors may be able to provide you with information on your state.)

<b>Day 1</b>	You are in default on the 2nd day after your payment is due.
<b>Day 32</b>	You have now missed two monthly payments.
<b>Day 32 - 90</b>	Sometime during this period you will receive a letter stating that the Notice of Default(NOD) has been recorded. The speed with which lenders record the NOD depends on the policy of each individual lender.
<b>NOD Recorded</b>	From this day, the next 90 days is a silent period in which you can pay lender all back payments, fees, and other charges and your default will be cured.
<b>Trustee Sale Date</b>	At the end of the 90 day silent period you will receive another letter specifying the date that the Trustee's Sale will take place. This is usually 3 weeks from the date you receive this second letter.
<b>Right to Cure</b>	You have until 5 business days before the Trustee's Sale to reinstate your loan (cure) by paying all payments, fees, and other costs associated with the foreclosure.
<b>Eviction:</b>	After the Trustee's Sale you may have up to 30 days to remain prior to being evicted.

## Sample Lender Letter

February 18, 2003

Friendly Mortgage Company  
123 Main Street  
San Francisco, CA 94108

RE: Loan Number 14365-3324  
345 Anywhere Street  
San Francisco, CA 94115

Dear Lender:

I am writing to ask for your assistance. On November 15th of last year, while at work on my job with Heavy Construction Company, I fell and broke my leg. Since that date I have been unable to work and have incurred additional medical bills not covered by insurance. It is for this reason that I have not made my December and January payments. I have enclosed an accident report from my company verifying the date of my injury. I've also attached a letter from my doctor indicating that I will be able to return to work on May 1st.

I need your help in order to keep my home from foreclosure. I would like to make 1/2 payments for the next 4 months. Beginning with June, I would like to make a full payment and 1/4 of the missed payments until such time as I am completely current. This should take me about 8 months to get back on track. I do not anticipate having any difficulty returning to work in May. I have been with this company for 11 years and anticipate retiring with them in the future.

I am working with a financial counselor from the CCCS Housing Education Program. I have prepared a budget, which I've enclosed for your review. You can see that with your assistance, I will be able to make it financially until I return to work full-time.

My telephone number is (415) 788-9123 and the best time of the day to reach me is between 2pm and 5pm each afternoon. If there is any additional information that I might provide, please let me know immediately.

Thank you very much for your consideration and assistance in helping me save my home from foreclosure.

Respectfully,  
John Q. Public

Enclosures

## Sample Creditor Letter

February 18, 2003

XYZ Credit Corporation  
Central City, CA 94123

Dear Creditor:

Due to a lay-off, I am temporarily out of work and as a result, am experiencing financial difficulty. I have analyzed my current situation with the help of a CCCS counselor.

After making a strict budget for my expenses (budget enclosed) I find it necessary to ask each creditor to accept a reduced payment for the next three months. By then, I anticipate being back to work and earning as usual.

I would appreciate your cooperation in making the payment plan work. In place of the regular payment of \$50, I request that you accept payments of \$30 per month during this emergency. I will pay before the 30th of the month.

You can be sure that I will resume normal payments as soon as possible. I feel very bad about having to ask for the consideration and hope you understand. If there are any changes in my situation, I will notify you of them as soon as possible.

Sincerely,

John Q. Public  
345 Anywhere Street, San Francisco, CA 94115  
Account Number 1234 5679 1011 1213

