

Douglin

The Foreclosure Workbook: The Complete Guide to Understanding Foreclosure and Saving Your Home

The Foreclosure Workbook:

The Homeowner's Guide to Understanding Foreclosure and Saving Your Home



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Printed in the United States.

ISBN 978-1-60266-968-0

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The information contained within this publication has been condensed from the well known delinquency and foreclosure practices of the FNMA, HUD, the Veterans Administration and other providers of real estate mortgages both public and private. The practice and procedures outlined here apply universally to loan administration policies through out the mortgage industry. Certain policies and practice attributed here to Fannie Mae do not reflect the current policy of all lenders, or the manner in which any such policy may be applied, or effect, the outcome of a borrower's particular situation.

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Sample Chapter: Seller Beware!

Foreclosure is a matter of public record. When a foreclosure is announced, a homeowner will receive countless letters containing offers from investors, mortgage brokers, bankruptcy attorneys, and additional service agents. Carefully investigate all offers presented to you. Solutions that sound too simple or too good to be true usually are.

If you're selling your home without professional guidance, beware of buyers who try to rush you through the process. Unfortunately, there are people who may try to take advantage of your financial situation. Financially or emotionally distressed homeowners often become the unwitting victims of unethical practitioners who seek to exploit the misfortune of others.

There are several precautions you can take to avoid being taken advantage of:

- Don't sign any papers you don't fully understand.
- Make sure you get all "promises" in writing.
- Beware of any loan assumption where you are not formally released from liability for your mortgage debt.
- Check with a lawyer or your mortgage company before entering into any deal involving your home.
- If you are selling the house yourself to avoid foreclosure, check to see if there are any complaints against the prospective buyer. You can contact your state's Attorney General, the State Real Estate Commission, or the local District Attorney's Consumer Fraud Unit for this type of information.

Here are the states (as of the date of publication) that have been enacted to protect homeowners from foreclosure scams:

- Michigan
- Illinois
- Georgia
- Rhode Island
- Minnesota
- Colorado
- Missouri
- Washington
- Maryland
- California
- New York
- Florida

Other states (such as the District of Columbia) have introduced bills similar to the ones above. If your state has not yet considered a bill such as these, call your legislator. This is a VERY public issue... they will listen!



Common Foreclosure Scams

FACT: Foreclosure is a matter of public record, and CANDY to investors, attorneys, mortgage brokers, and foreclosure consultants. The homeowner often thinks, “Can’t we keep this private? I don’t want my neighbors/family/coworkers/church members/babysitter/significant other/dog walker’s sister’s cousin to know about my financial situation”!

Once your bank goes public with your foreclosure situation, however, it is no longer a private matter. You will be inundated with phone calls, letters, and various forms of solicitation offering to save your home. Some are legitimate offers – some are strictly misinformation from individuals whose goal is to take your equity and get your home. **THESE ARE THE VULTURES.** You've probably already been approached by a few of them, telling you that your only chance to stop foreclosure is to sell the house (usually to them, quick-fast-and-in-a-hurry, and for a lot less than it's worth – right?). Or worse: while pretending to help you they try to con you into a far worse scam.

(Just a note, here... NOT ALL BANKERS, INVESTORS, CONSULTANTS, OR LENDERS ARE VULTURES! However, there is a bad element in the real estate business that is out to take advantage of you and profit from your current situation.)

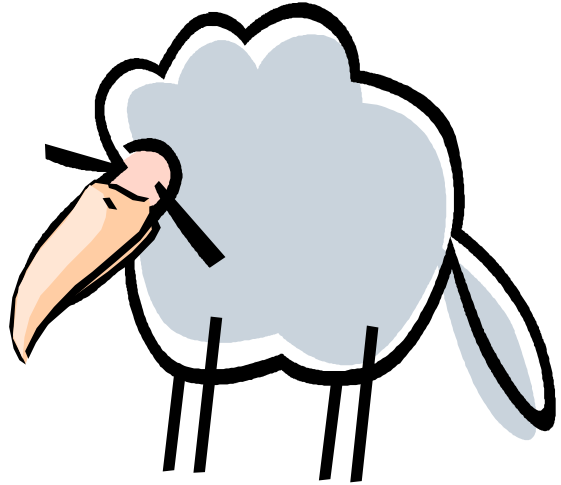
This is usually how it starts:

As soon as news of your foreclosure is made public, the flood of letters and phone calls begin, and the vultures are on the hunt. Some of them are less polished with their approach: you may receive a sloppy letter offering to help out by buying your home. Others may call you on the phone (ignoring the “Do Not Call List” rules and regulations) or even knock on the door and offer their services. These are the amateurs – probably fresh out of a beginning real estate investor class. They can be safely disregarded. The dangerous ones are the **Vultures in Sheep’s Clothing.**

A Vulture in Sheep's Clothing...

These are the slick, polished “professionals” who offer to assist you. They will hand you a savvy business card, listen intently and console you over a cup of coffee or glass of water at your kitchen table, all the while assuring you that they'll stop your foreclosure regardless of your situation. Heck, they'll even promise to let you stay in your home! All you have to do is sign on the dotted line...

Does that sound familiar? Unfortunately, this promise, in some instances, is too good to be true. **Don't ignore your inner sense of protection** – if it sounds too good to be true, it could be a scam designed to steal your equity.



While some of the solutions presented are valid options in certain instances, some investors have no intention of letting you stay in the property – at least, not for very long. Read the contracts they present – they are heavily weighed in their favor, and the slightest infraction on your part will let them evict you and walk away with your property and your equity (especially in landlord-friendly states!).

Again, read any contracts presented to you. An upstanding investor should not have a problem allowing you take a day or two to review the documentation with a professional. If they are pushing you to sign right now, it could be a scam.

Let's review the most common scams that vultures will use to steal your home:

The Leaseback

Unfortunately, the Leaseback is one of the most popular of the foreclosure scams, because it fills the most common need of the homeowner in distress – the desire to stay in the home they have built.

The Leaseback is also referred to as “selling your home and renting it back” or just “a rent-back option”. The scam works like this:

- You deed your home to an investor.
- You sign a rental agreement.
- The investor may offer you an option of buying the house back in the future (for a higher price than you sold it to them).
- The investor takes over the payments – they may even bring your loan current.
- The investor pockets the rent you pay.
- The investor waits for you to make a mistake.

The slightest mistake, and you are evicted IMMEDIATELY. If you fail to pay your rent on time, or are one penny off the agreed-upon payment amount, you are evicted. If the lease says you cannot hang pictures on the wall, and you hang a photo of your beloved pet, Skippy, you are evicted. If the rental agreement says you need to hand-deliver the rental payment, but you decide to mail it, you are evicted. Any diversion from the lease, you are out on the street. You are legally obligated to leave.

A leaseback, while not always advantageous to the homeowner, is not illegal. There are some states (Maryland, Colorado, Illinois, and Minnesota), however, who have strict regulations to how a leaseback must be structured and documented. Any violation of those regulations, and the vulture is caught!

The Escrow Loan

When you think of “escrow”, you think “safety” and “security”, correct?

Wikipedia.com defines escrow as a legal arrangement in which an asset (often money, but sometimes other property such as a deed of title) is delivered to a third party (called an escrow agent) to be held in trust pending a contingency or the fulfillment of a condition or conditions in a contract, such as payment of a purchase price. Upon that event occurring, the escrow agent will deliver the asset to the proper recipient, otherwise the escrow agent is bound by his or her fiduciary duty to maintain the escrow account.

In a foreclosure scam, however, a “deed in escrow loan” provides the exact opposite of safety and security.

Here's how the scam works:

- An investor offers to provide you with a loan to bring your loan current.
- You sign over the deed to your home.
- The deed is held in escrow (the investor will explain that this protects his investment and keeps their costs low).
- You begin to make payments on the loan.

If you're a day late with the payment, the investor will record the deed and evict you. You may not have documentation to prove that you were lent any money, but the investor CERTAINLY has a deed – signed by you – that proves you sold them your home.

If someone wants to lend you money to bring your loan current, sign a promissory note and give them weekly or monthly payments that you can afford. Any other lending scenario is probably presented by someone who does not have a license to lend money and is trying to get around state and/or federal lending practices. Are you willing to trust your most valuable asset – your home – to someone like this?

Trust Agreements

The Trust Agreement scam is similar in nature to the Escrow scenario.

What is a Trust? Wikipedia.com defines a trust as an arrangement whereby money or property is owned and managed by one person (or persons, or organizations) for the benefit of another. A trust is created by a Settlor, who entrusts some or all of his property to people of his choice (the Trustees). The trustees are the legal owners of the trust property, but they are obliged to hold the property for the benefit of one or more individuals or organizations (the Beneficiary), usually specified by the settlor.

Here's how the scam plays out:

- Investor offers to bring your loan current.
- Investor charges \$1000 (or a similar amount) to pay all legal fees for setting up a trust.
- The trust is set up as "66 Lincoln Street Jones Family Trust" (assuming your name is "Jones", and you live at 66 Lincoln Street).
- The deed names the investor's company (ABC Investments, Inc.) as the Trustee.
- The deal is structured so that once the loan is repaid (plus a management fee), the trust will then deed the house back to you.

Can you see the scam working? In this scenario, it is very easy for an investor to put you at ease and use "trust" to con you out of your home. You assume that because the trust is named for your home and family, you have a controlling interest. In truth, ABC Investments, Inc, controls the trust, and THE TRUST NOW OWNS THE HOME. You have just given your property away, but you are still obligated to pay for it. Miss a loan payment? You are evicted, and you have no legal ramification, because you no longer own the home.

Equity Stripping

Have you ever heard of Equity Stripping? It can be done in two ways – both very scary, both leaving you, the homeowner, with little to none of the equity you've worked so hard to build.

The first technique involves an investor and an unlawful appraiser:

- Unscrupulous appraiser creates a report stating that you house is worth more than its current value.
- Investor gets you to refinance.
- Cash is paid to the investor at closing.
- The process is repeated.

Initially, your payments may drop, but your loan balance increases due to high fees and repeated refinancing. The equity you had built up is being paid out in cash during each

closing. This scam is primarily for homeowners who have a large amount of equity in their homes.

The second technique works similar to a Leaseback:

- You deed your home to an investor.
- You sign a rental agreement.
- The investor may offer you an option of buying the house back in the future (for a higher price than you sold it to them).
- The investor pockets the rent you pay.
- THE INVESTOR NEVER MAKES A PAYMENT...

... and you have no idea until you receive another threatening letter from the mortgage company asking for their money. The investor has been cashing your rent checks, and has not made a payment on your mortgage loan.

At this point, I want to mention again that, even though we use the term “vultures” and are painting some very scary scenarios, not all investors, mortgage brokers, realtors, or foreclosure consultants are deceitful. Not everyone who comes to you offering assistance is unscrupulous. It IS important, however, to be informed of the scams that are out there so you can protect your home. Forewarned is forearmed!

Foreclosure Mediators

Because DFCS, Inc. is a Foreclosure Consulting service, this particular scam grates on our nerves more than most. This group of vultures gives the business a bad name, and the way they take advantage of the homeowner in distress is truly inexcusable.

Foreclosure Mediators make promises of negotiation and home salvage, but are really in it for the money you pay up front. The scam follows this trail:

- You contact a Foreclosure Mediation service and submit an application.
- They “review your file” (usually within 24-48 hours).
- They inform you that, for an upfront fee, they can assist you by structuring a forbearance agreement with your lender or negotiating a smaller payment, no matter what your foreclosure situation is.
- You submit paperwork and your NON-REFUNDABLE fee... and wait.

In this case, they have what they want from you – the upfront payment. If you attempt to follow up with them and actually get someone on the phone, they will tell you that the fee you paid was enough to get the ball rolling, but it's a hard process filled with lots of red tape. They may say that your bank refused their workout proposal, and that's the end of it. They MAY say that the process will take longer than expected, and more money is needed to finish the negotiations. Whether you pay more money or give up at this point, the money that you have paid to the company is gone.

Predatory Loans

Predatory lenders promise loans that are "too good to be true" and pressure borrowers to take them on the spot. However, did you know that it is illegal to loan money to someone that you suspect cannot afford to repay the funds? Illegal or not, the goal for predatory lenders is not to receive the excessive payments you make – it's the hope that you DON'T make the payment so they can take your home.

Here's a few things you should know about spotting and avoid predatory loans. The Center for Responsible Lending in Durham, North Carolina, has outlined the seven signs of predatory lending:

- **Excessive Fees:** Points and fees are costs not directly reflected in interest rates. Because these costs can be financed, they are easy to disguise or downplay. On competitive loans, fees below 1% of the loan amount are typical. On predatory loans, fees totaling more than 5% of the loan amount are common.
- **Abusive Prepayment Penalties:** Borrowers with higher-interest sub-prime loans have a strong incentive to refinance as soon as their credit improves. However, up to 80% of all sub-prime mortgages carry a prepayment penalty – a fee for paying off a loan early. An abusive prepayment penalty typically is effective more than three years and/or costs more than six months' interest. In the prime market, only about 2% of home loans carry prepayment penalties of any length.
- **Kickbacks to Brokers (yield spread premiums):** When brokers deliver a loan with an inflated interest rate (i.e., higher than the rate acceptable to the lender), the lender often pays a "yield spread premium" – a kickback for making the loan more costly to the borrower.
- **Loan Flipping:** A lender "flips" a borrower by refinancing a loan to generate fee income without providing any net tangible benefit to the borrower. Flipping can quickly drain borrower equity and increase monthly payments – sometimes on homes that had previously been owned free of debt.
- **Unnecessary Products:** Sometimes borrowers may pay more than necessary because lenders sell and finance unnecessary insurance or other products along with the loan.
- **Mandatory Arbitration:** Some loan contracts require "mandatory arbitration," meaning that the borrowers are not allowed to seek legal remedies in a court if they find that their home is threatened by loans with illegal or abusive terms. Mandatory arbitration makes it much less likely that borrowers will receive fair and appropriate remedies in cases of wrongdoing.

- **Steering & Targeting:** Predatory lenders may steer borrowers into sub-prime mortgages, even when the borrowers could qualify for a mainstream loan. Vulnerable borrowers may be subjected to aggressive sales tactics and sometimes outright fraud. Fannie Mae has estimated that up to half of borrowers with sub-prime mortgages could have qualified for loans with better terms.

How can you protect yourself from predatory lending?

- Always shop around.
- Ask questions.
- If you don't understand the loan terms, talk to someone you trust to look at the documents for you.
- Don't trust ads promising "No Credit? No Problem!"
- Ignore high-pressure sales tactics.
- Don't take the first loan you are offered.
- Remember that a low monthly payment isn't always a 'deal.' Look at the TOTAL cost of the loan.
- Be wary of promises to refinance the loan to a better rate in the future.
- Never sign a blank document or anything the lender promised to fill in later.

Final Thoughts

We have discussed a variety of diabolical schemes. At this point, I have just two more words for you – **DON'T PANIC!**

Most vultures prey on your confusion, miseducation, and high stress level. They are waiting to take advantage of your lack of time, money, patience, and knowledge of the system – at your greatest point of confusion, they will present an offer that looks great on the surface, but had a hidden agenda underneath.

Thankfully, there's plenty of good news to consider.

First, to be fair to the GOOD apples in the bunch, not all Investors, Mortgage Bankers, Foreclosure Consultants, or Realtors are vultures. Secondly, not all scenarios offered to you are illegal or immoral. For example:

- An investor CAN rent your house back to you – ensure the terms are beneficial and you fully understand the lease violations.
- A company CAN provide you with a sub-prime loan to refinance your home - not all sub-prime loans are predatory. Ensure that you are not pressured into a loan you cannot afford.
- A company CAN lend you money to bring your loan current – ensure that you are not signing a document you do not understand and receive legal counsel if you are unsure of the agreement.
- A third party CAN take over the payments for your house – ensure the penalties for a missed payment do not solely fall upon your shoulders.

There are many viable solutions that will be offered to you. As long as you review all the documentation and the benefit to you COMPLETELY and THOROUGHLY, vultures do not stand a chance with you and your property.

About The Douglin Group, Inc.

Our primary focus is offering foreclosure education and products to the general public. The onset of new foreclosure real estate laws have allowed us to focus strictly on ensuring that the property owner's rights are clearly explained, that all avenues of rectification are fully exhausted, and that a financially satisfactory solution is reached.

For more information on services, seminars, and speaking engagements, please visit our website at www.thedoulingroup.com!



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