

# Facing A Foreclosure? Beware of the “Ostrich Syndrome!”

Prepared By [Start Fresh LLC](#)

*Disclaimer: This information does not constitute legal advice. Please consult a real estate attorney and/or a CPA to determine if this information is applicable to your particular circumstances.*

Are you facing a foreclosure? You're not alone. On April 16, 2009 RealtyTrac, an online service that lists foreclosure properties throughout the U.S., reported a record 803,489 foreclosure filings in the first quarter of 2009.

The rising unemployment rate in the current economic downturn is fueling the foreclosure firestorm. The surge is expected to continue despite President Obama's Foreclosure Plan designed to help borrowers avoid foreclosure by providing incentives to lenders to ease restrictions on refinancing for people who owe more on their mortgages than their homes are worth.

If you are among the hundreds of thousands in foreclosure or facing foreclosure, you may feel desperate, frustrated, angry, depressed, helpless and confused about your options. If you're like most people, your natural inclination in the face of a crisis is to do nothing - hoping it will go away. It won't go away! Emulating an ostrich by sticking your head in the sand and doing nothing won't improve your circumstances. You can avoid the “Ostrich Syndrome” and recover from a financial disaster by taking bold, swift action now. Here's what you need to do.

## Talk to Your Lender

Call your lender (banker) and explain that you are experiencing financial hardship and are unable to make your current monthly mortgage payments. Ask your lender for advice and assistance. The lender will be motivated to help you because the alternative is to foreclose and try to sell the house. In this recessionary housing market, the lender is unlikely to recoup its loss.

The lender may be willing to renegotiate your mortgage or agree to some kind of **loan modification**. The lender may change the interest rate or change the amortization table (the amount of time you take to pay off the loan) in order to reduce your monthly payments. Other options available to stop foreclosure proceedings include:

- **Pay the Delinquency and Reinstate the Loan** - Under most circumstances, lenders are required to accept payment of the full delinquency and reinstate the loan. Of course, that assumes you are able to secure the funds to repay the debt. For example, some people may be able to refinance their property. Others may cash in 401K's or sell assets (such as jewelry, stocks, or bonds) to get the funds to pay off the debt. Others may borrow money from relatives. At the time of repayment, the delinquency may include certain legal costs if you are already in foreclosure. Many lenders require certified funds for reinstatement.

- **Forbearance** – This is a fancy word for temporarily delaying your loan payment for a short period of time and then instituting a loan repayment plan. The most common way of resolving a loan default is to work out a plan, which will let you repay part of the delinquency balance each month, along with your regular monthly installment. If you are temporarily unable to meet your monthly mortgage obligation, your holder may extend forbearance by agreeing to suspend payments for a limited period of time until you are able to begin a repayment schedule. In some cases, the lender may simply add the payments that you missed to the principal of your newly modified loan balance.
- **Private Sale** - If you do not believe you will be able to reinstate your loan and cure the default, a private sale of the property will enable you to meet your obligations and receive any equity you may have built up. Although there are exceptions, most private sales result in the seller receiving more than the amount owing on the loan.
- **Deed in Lieu of Foreclosure** - If you will be unable to cure the default, and a private sale does not appear realistic, your lender may consider accepting a deed in lieu of foreclosure. If there are no liens on the property, and your lender agrees to accept a deed, you will have to sign legal documents transferring full ownership of the property to your lender. Be careful! Some credit reporting agencies may still consider this a foreclosure transaction and show it as such on your credit report!

If these options are unavailable to you, then you may be faced with a decision to go through a **foreclosure or short sale**. In a foreclosure, the homeowner loses title to and possession of their home because they stopped making timely payments on the mortgage. A short sale occurs when the lender agrees to the sale of a property and will accept less than the amount due on the mortgage – in other words, the sales price *falls short* of the balance owed on principal and interest. Both of these methods impact your credit rating. Before making a decision, speak with someone knowledgeable like a real estate attorney or a CPA. In the meantime, here are some questions and answers that may ease your anxiety and help you implement a plan of action.

### **Which is better for me - a foreclosure or a short sale?**

The main thing to consider in deciding whether to do a short sale or a foreclosure is the effect it will have on your FICO credit score.

### **What is a FICO score and how will a short sale or foreclosure affect it?**

A FICO score, created by the Fair Isaac Corporation (FICO), is the most trusted credit scoring system in the U.S. It's used to determine your credit worthiness and the risk that you'll default on a loan.

Your FICO score is calculated using information in your credit report and a formula that looks at the amount and type of debt you owe compared to your available credit. It factors in whether or not you make payments on time along with other criteria in order to assign you a credit score ranging from 300 to 850 points. The higher your FICO credit score, the better credit risk you are. That means you'll get lower interest rates and better terms on your loan including lower monthly payments!

Obviously, you want the highest FICO score you can get. A short sale or a foreclosure will lower your FICO score – however, there is a significant difference in the amount of damage each will do.

Here's an analogy that may prove helpful: Imagine getting a ding on your car's bumper from a minor parking lot accident versus getting into a major T-bone collision as you drive through an intersection. Neither is good, but the former is definitely better than the latter. Similarly, a short sale is a much better option than a foreclosure. Here's why:

### **Foreclosures**

A foreclosure has a staggering negative effect on your credit rating. It will cause your FICO score to plummet by 200-300 points. A foreclosure stays on your credit record for 7 years.

It will hinder future efforts to procure a home loan and cost you more for the loan because you are seen as a credit risk. That's true of car loans as well. It will also have a negative impact on your ability to get other kinds of consumer credit. You will pay a higher annual percentage rate for gas cards and store credit cards.

Your car and other insurance premiums may rise because the insurance company considers you a higher risk. Your job opportunities (especially jobs requiring security clearance) may be limited, as a prospective employer will view foreclosure as a sign of irresponsibility. Landlords may refuse to rent to you based solely on your low credit rating. Foreclosures are bad news because they ruin your credit.

### **Short Sales**

A short sale will lower your FICO score by roughly 80-100 points. It will take 18-24 months of wise and cautious financial management after a short sale to boost your FICO score and restore your credit rating. Then, you can get a competitive interest rate on a loan again.

When a lender agrees to accept a short sale, it means your house will be sold with the understanding that the sale proceeds will be used to pay off the mortgage **even though the proceeds may be less than the balance due on the mortgage**. The lender agrees to accept the proceeds from the sale and forgive the rest of the debt. The lender is willing to do that because it will save the lender from time-consuming and expensive foreclosure procedures.

Usually, lenders only agree to short sales if the owner is already behind in their mortgage payments with no relief in sight.

As you can see, when faced with either option, a foreclosure is the worst alternative because of the long-term negative impact it has on your credit rating. A short sale is a better method for mortgage debt relief because it has less negative impact on your credit rating over a shorter period of time.

**Note:** For more information on FICO scores visit the [Free Credit Education Center](#).

### **What about filing for bankruptcy – will that stop foreclosure?**

A bankruptcy (BK) delays but doesn't stop foreclosure proceedings. Once the BK is finalized, the lender proceeds with foreclosure – beginning where they left off in the process before you filed the BK. The timeline of a foreclosure (once the Notice of Default or NOD is recorded) is as follows:

- Day 1- 90 = Redemption Period
- Day 91-110 = Publication Period
- Day 111= Trustee's Sale

If the lender started the foreclosure proceedings prior to your bankruptcy, they simply resume where they left off in the process. Not only will you have a bankruptcy on your credit report – but a foreclosure as well! That's what [Start Fresh LLC](#) calls a “**double whammy credit slammy!**” Your FICO score will plunge and the bankruptcy will stay on your credit history for ten years! Not only that, the protection of a BK has been diluted over the past few years and it's simply not worth the risk. The best advice is to avoid a BK and settle your financial obligations. It may be tempting to walk away from your debt, but it will result in more hassles and aggravation in the long run. It will deter your attempts to recover financially at every turn. Again, a short sale will have less impact on your credit rating than a foreclosure or a bankruptcy.

### **Can I do a short sale by myself?**

Yes, you can manage a short sale by yourself. It just depends on how comfortable you are and how much time you have for research, negotiations, documentation, property inspections, and follow up.

Plan on spending a good deal of time on the phone with a loss mitigator at the lending institution who will have to locate and review your file. Sometimes the files get lost or misplaced and the process can be quite lengthy and frustrating.

Be prepared to assemble and review documentation that may contain confusing language. It's in your best interests to review every detail to thoroughly understand all that you sign.

You may be inconvenienced by property inspections that the lender requires to determine the physical condition of the house that might negatively affect the home's value.

You will also have to deal with potential buyers who want to purchase your home. Wholesalers who want to buy your home at a huge discount may contact you. They often use high-pressure sales techniques requiring an immediate decision adding undue stress to an already nerve-racking situation.

For these reasons, many people use professional services like [Start Fresh LLC](#) that specialize in foreclosure and short sale properties to handle the process for them. In general, banking institutions are more receptive and cooperative if you use professional services.

### **How can [Start Fresh LLC](#) help me?**

[Start Fresh LLC](#) is an investment firm that negotiates a settlement with the lender on your behalf to pay off your mortgage and protect your credit rating. We take care of all of the negotiations, documentation, and details to save you time and money, protect your credit rating, and ease your anxiety, frustration, and worry. Our goal is to help you resolve your mortgage crisis easily without damaging your credit rating.

[Start Fresh LLC](#) helps people who are really over their heads in mortgage debt, with no relief in sight. They may be in denial about just how critical their financial situation has become. They may be too paralyzed by fear or a sense of helplessness to take action. Even if they could find the wherewithal to be proactive, they don't know what to do or how to resolve the situation, and things keep getting worse. They passively hope their situation will get better, and may be resigned to just give up and accept the dire consequences to their credit rating (not to mention their dignity and self-esteem) of a bankruptcy and/or foreclosure.

If you are in this situation, or know someone who is, [Start Fresh LLC](#) can intervene on your behalf and arrange to purchase your property and stop foreclosure proceedings through the use of a short sale. Here's how it works...

1. [Start Fresh LLC](#) will enter a contract with you to purchase your property at a set price, within a specific timeframe, to avoid foreclosure that would ruin your credit. The agreement gives permission to [Start Fresh LLC](#) to negotiate a settlement with the lender on your behalf.
2. The lender (bank) will want to know that the property is indeed valued at less than what is owed on the mortgage. To do that, they will require that the property be put on the market for sale. [Start Fresh LLC](#) will hire a real estate company to aggressively market and sell your property to satisfy bank requirements. For example, let's say you owe \$700,000 on your home. The market value may only be \$500,000 now. The bank will want to see that you made a reasonable attempt

to market and sell the property for \$700,000 or more - an amount that would repay the mortgage in full. It is unlikely the house will sell for an inflated value in this recessionary market; however, the bank will want proof before they approve a short sale.

3. If your home does not sell through regular marketing, and [Start Fresh LLC](#) has negotiated a reduction in the loan with the lender – enough so that a **Start Fresh** investor can make a profit by reselling the property – [Start Fresh LLC](#) will exercise its option to buy your home. If, by some chance, your property were to sell at a price that would repay the mortgage, then [Start Fresh LLC](#) would not exercise its option to purchase the property.
4. The sale of your home to [Start Fresh LLC](#) will pay off your debt in full to the lender, and title to the property will be conveyed to [Start Fresh LLC](#). Through the use of a reputable title company, the transaction will be smoothly, legally, and expertly guided through the escrow process. You will be relieved of your debt with no foreclosure on your credit record, and the lender will be able to liquidate a toxic asset without the costly expense of foreclosure proceedings.
5. [Start Fresh LLC](#) becomes the new owner of the property, and you are free to start fresh unencumbered by mortgage debt.

#### **How much does [Start Fresh LLC](#) charge for this service?**

[Start Fresh LLC](#) doesn't charge you a dime for this service. Ideally, [Start Fresh LLC](#) makes money by selling the property to a new buyer at a higher price than they paid for it.

#### **Will I have to sign an unsecured loan if I have a short sale?**

You may be asked to sign an unsecured loan by a second lien holder who will be “wiped out” (not paid any money for their loan). It is a means to recoup some of their losses. For example, you may have a \$100,000 second mortgage on your home. Because it is unlikely the second lender will recover their loan in a short sale, they may require you to sign an unsecured loan for up to 10% of the value of that loan – or in this example, \$10,000. You would be required to make payments on the loan after the short sale is closed.

[Start Fresh LLC's](#) philosophy is to not allow unsecured loans to satisfy a short sale, however, sometimes it is unavoidable. It is always the homeowner's final decision as to whether they sign an unsecured loan or not.

### **Will I have to pay income tax on the debt forgiven in a foreclosure or short sale?**

This is a great question for your CPA! In the past, those who participated in foreclosures and short sales were required to pay income tax on the difference between the actual balance on the loan and the amount of the sale – in other words, the amount of money that was “forgiven” on the loan by the lender. Here’s a very simplified example, provided by the Internal Revenue Service:

“You borrow \$10,000 and default on the loan after paying back \$2,000. If the lender is unable to collect the remaining debt from you, there is a cancellation of debt of \$8,000, which generally is taxable income to you.”

The Mortgage Debt Relief Act of 2007 allows taxpayers to “exclude income from the discharge of debt on their principal residence. Debt reduced through mortgage restructuring, as well as mortgage debt forgiven in connection with a foreclosure, qualifies for the relief. This provision applies to debt forgiven in calendar years 2007 through 2012.” Again, consult with your CPA to determine how this information applies to your own circumstances.

### **Will I have to move out of my home during a short sale?**

Yes, but not right away. During the time negotiations with the loss mitigator at the lending institution are being conducted by [Start Fresh LLC](#) you will have full possession of the property. Once an acceptable settlement price is reached with the lender, and you effectively sell the property to [Start Fresh LLC](#), you will be required to move out. Unfortunately, the lender may not provide a lot of lead time to vacate the premises, so it’s wise to prepare to move in advance.

### **Will I have to cooperate with Realtors during a short sale?**

Yes, you will. The lender is going to want to see that you have tried to market your home – so, broker caravans, open houses, and realtor showings can be expected. Your cooperation will be needed but scheduling will be flexible enough as to limit the disruption to your home and lifestyle.

### **Will strangers walk through my home during a short sale?**

Yes, there will be strangers touring your home. Realtors will preview your home, hold open houses, and accompany clients who want to inspect your home. You will not be asked to open your home to anyone without an appointment. Your house is still your home and will be respected as such.

## **What documentation do I need to begin the short sale process?**

**Start Fresh LLC** recommends you assemble the following documents to begin the short sale process:

- Copies of all bank statements (checking and savings) for the last three months
- W2s and/or Federal Income Tax returns for the last two years
- Paycheck stubs for the last three months
- Financial worksheet: showing all assets and debts
- Income from all sources
- All monthly expenses such as:
  - Utility bills, including water/garbage bills
  - Cable/Satellite bills
  - Gardener
  - Medical bills
  - Alimony
  - Child Support Orders
  - Credit Card bills
  - Private Loans
  - Student Loans
- Hardship Letter and all back-up documentation to support claims:
  - Divorce decree
  - Death certificate
  - Hospital bills
- Bank Information:
  - Monthly statements from the lender of the First, Second and any other loans on the property
  - Loss Mitigation Department phone number and the name of the supervisor/manager
- Property Information:
  - Proof of homeowner's insurance coverage
  - Property Tax bill statements
  - Repairs estimates
  - A recent BPO or appraisal
- Bankruptcy Documents (if applicable)
  - Case number
  - Attorney(s) contact information

**I'm interested in buying foreclosed property, where can I find them?**

Foreclosed house sales provide the opportunity for first-time buyers to purchase affordable homes. Many are available for up to 50% less than fair market value.

Investors appreciate the bargain prices and can sometimes make a quick profit by selling the foreclosed home immediately after purchasing it for more than they paid for it. Others purchase the homes, renovate them, and sell them at a considerable mark-up. These houses may also be used to generate rental income.

If you are in the market to purchase a foreclosed home, ask your local banker if s/he knows of any real estate firms that specialize in foreclosure properties.

Another helpful place to find current available listings of inventory is in newspapers and on the Internet. If you go online, look for foreclosure listing services. Some are free and some require paid subscriptions. Careful – you usually get what you pay for. Most free services have insufficient information. Paid subscription listing services typically provide lots of details about the homes including location, price, and photographs. If you spot a home you like, act quickly. There is a lot of competition for the best homes, and the inventory disappears fast.

For more information on how to purchase foreclosed homes visit the [Cheap Homes In San Mateo County](#) website.