

## CONVERSATION LOG

**Always try to get a direct line for your representative!**

Date	Comments

*A Product of*

Mortgage Resolution Services

MResolution.com

INSIDE YOU WILL

FIND A

DESCRIPTION OF

THE FORECLOSURE

PROCESS AND TIPS

OUTLINING HOW TO

COMMUNICATE

WITH YOUR

LENDER AND

REACH AN

AGREEMENT TO

KEEP YOUR HOME.

# Guide to Negotiating a Forbearance Agreement with Your Lender...And Keeping Your Home

---

*Presented by TheMortgageStorm.com*

*We Hope We Can Help!*

# HOMEOWNERS:

## How to Avoid Foreclosure and Keep Your Home

**KEEPING YOUR HOME** | JUST BECAUSE YOU HAVE FALLEN BEHIND ON YOUR MORTGAGE DOES NOT MEAN YOU NEED TO SELL YOUR HOME. MANY HOMEOWNERS WHO HAVE EXPERIENCED A TEMPORARY INCOME DISRUPTION HAVE BEEN ABLE TO KEEP THEIR HOMES BY WORKING WITH THEIR MORTGAGE COMPANY TO FIND A MUTUALLY ACCEPTABLE SOLUTION. PARTICULARLY IN THOSE SITUATIONS WHERE THE BORROWER CAN CONVINCED THE MORTGAGE HOLDER THAT THEY WILL BE ABLE TO STAY CURRENT ON THEIR MORTGAGE AFTER THEY GET THROUGH THE PROBLEM CAUSING THE DELINQUENCY, MORTGAGE HOLDERS WOULD PREFER TO WORK WITH THE BORROWER AND NOT GET THE PROPERTY BACK THROUGH FORECLOSURE. YOU MAY BE ABLE TO KEEP YOUR HOME.

### WHAT IS LOAN FORBEARANCE?

Loan Forebearance occurs when a mortgage holder allows a borrower to delay or adjust their monthly payment, typically for a short period of time, to allow the borrower time to recover from a temporary financial setback. The mortgage holder and borrower execute the Forebearance and the borrower keeps their home.

Because mortgage holders would rather work with a borrower to find a solution and avoid foreclosure, Forebearance Agreements are becoming more and more common. The mortgage holder wants to see that the loan delinquency was due to circumstances beyond the borrower's control, (injury, illness, job loss or unexpected living expense increase), and that the borrower has a reasonable plan to regain financial stability.

A Forebearance Agreement or Loan Modification Agreement is a formal written agreement that spells out the rights and obligations of the borrower. In the agreement the mortgage holder agrees to hold off on the Foreclosure action so long as the borrower fulfills their obligations under the agreement.

If you think a Forebearance Agreement might be the right solution for you, here are some things to keep in mind as you try to work out the details with your mortgage holder.

#### Understand What They Want

Understand what your mortgage company wants. Your mortgage company does not want to foreclose on you and take your home. They want to work with you, particularly if they believe you will remain current on your mortgage going forward. In order to get your mortgage holder feeling positive about your request for a Forebearance Agreement you need to convince them of two things:

**1** That the previous delinquency on your loan was a result of a situation or circumstance that was beyond your control. Examples would include serious illness or injury, temporary disability or a disruption in income that has been corrected. It is important that your mortgage holder knows that you only stopped making payments after exhausting all available options to you and that it is unlikely that you will be forced to miss payments in the future.

**TIP #1**

**2** That the situation or circumstance that led to the delinquency has been corrected - permanently. You want to outline how you are back on firm financial footing and can be trusted to remain current on the mortgage going forward.

#### Stay In Contact

It won't be long after you fall behind on your mortgage that you will hear from your mortgage company. The mortgage company will attempt to find out about your circumstances and determine if you will be able to resume making regular payments.

#### Listen Carefully

When you do speak with your mortgage company remain friendly and helpful always, but listen carefully. A Forebearance Agreement is a business arrangement, treat it accordingly. Answer the questions you are asked, but avoid the temptation to embellish...stick to the point!

Careful listening is critically important for two reasons:

**A** By listening you will know what the mortgage company wants from you. Give them what they require in terms of documents and information, but do not send things they don't ask for. Sending information beyond what is requested won't help, in fact, it could hurt.

**B** You may find that your mortgage company is so anxious to avoid foreclosure that they will offer very attractive terms in the Forebearance Agreement. Don't offer solutions until you learn what the mortgage company has in mind. Ask them for an outline of what might work - and STOP SPEAKING.

#### Request a Homeowner's Assistance Package

Never discuss your household finances in detail over

**TIP #2**

**TIP #3**

**TIP #4**

the phone with the collection department. You are being qualified and this is the easiest and fastest way to get a turnaround. Instead, ALWAYS request a Homeowner's Assistance Package so that you can submit the required information. If your mortgage company does not offer a Homeowner's Assistance Package, ask them to mail you a list of what they need to process your file.

#### Stay Upbeat

As you work through the process of providing your mortgage company with the documents and information they need, maintain a positive attitude. The mortgage company will be listening not only to what you say but also how you say it. In the end, someone at the mortgage company is going to have to recommend the approval of your application for a Forebearance Agreement. You want that person to believe in your file and to believe in you.

#### Take Careful Notes

Always take careful notes of all conversations you have with the mortgage company. Note the date and time of all conversations as well as the name of the person with whom you speak. If you can't keep up with the conversations when taking notes, don't be afraid to ask the representative to repeat information. Get the details. Your notes should include as many specific points as possible. The more detailed your notes, the more effective you will be in recreating the conversation later. Good notes from previous conversations could give you the leverage you need to get the mortgage company to honor an offer that was made previously.

#### Don't Abandon the Property

Do not abandon the property because you may not

**TIP #5**

**TIP #6**

**TIP #7**

qualify for assistance if you leave. Stay in your home speak with the lender and see what options they might have to resolve your situation. Remember...if the lender thinks you don't care about your home they may assume that you have no intention of paying them back. This is exactly what you don't want to happen.

### TIP #8

#### **Be Realistic**

Be realistic about your finances. Before you go through the process of pursuing a Forbearance Agreement with your mortgage holder, take an honest look at your financial situation. If you are not truly back on solid financial ground, a Forbearance Agreement may not be your best option. Getting a Forbearance Agreement approved will require time and effort on your part. You will be asked to provide the information needed to show that you can now meet your mortgage obligation in a timely fashion. Further, you will likely need to answer tough questions about the situation that led to your mortgage delinquency.

The Forbearance Agreement itself may contain provisions that limit your options if you fail to stay current on your mortgage in the future. A Forbearance Agreement is a fabulous tool to help those who have experienced a temporary problem leading to a mortgage delinquency. People and families benefit tremendously from the stability that home ownership provides and Forbearance Agreements help preserve home ownership for many who need assistance. Just keep in mind that Forbearance Agreements aren't the answer for everyone.

### TIP #9

#### **Be Nice**

Be nice! In most cases you will be negotiating your Forbearance Agreement with a representative of your mortgage holder who is handling a high volume of

loan files - all similar to yours. When things don't move along quickly, patience on the part of borrowers often runs short. Before you make a call out of frustration, stop and consider the position of the lender representative. He/she probably has more files to handle than they should. All the borrowers they speak with are thinking about only one file, their own. It makes for a difficult juggling act for the lender representative.

If you want to get your file moved to the top of the pile, you need to do one thing for sure - be nice. Listen to what your lender representative has to say throughout the process. Learn something about the lender representative and then ask about it in subsequent conversations. Whether it's a trip they mentioned to you, something about their kids or a new car they are thinking of buying, bring it up in conversation. The mortgage holder employees that handle delinquencies are not used to being treated nicely. You will find by doing so your file will move along much faster.

### TIP #10

#### **Don't Get Frustrated**

When faced with the stress and the pressure that a mortgage delinquency creates, it's easy to get impatient. No one wants to lose a home to foreclosure and until you get approval on a Forbearance Agreement the threat of foreclosure lingers. With that said, getting a Forbearance Agreement approved will likely require patience on your part. The mortgage company representative you work with will be processing many files simultaneously. There will be times that it seems your file is not getting the level of attention you believe it should. - *TAKE A DEEP BREATH* - This is the point at which many pending Forbearance Agreements fall apart. A frustrated borrower loses patience and makes a decision at an emotional moment that undermines the entire

Forbearance Agreement file. Don't let your frustrations get the best of you. Take a deep breath and maintain your composure. Some days you will make little or no progress towards the approval of your Forbearance Agreement. Hang in there, because other days the significant progress you make will surprise you.

### TIP #11

#### **Can I Get a Direct Number?**

It will at times be a struggle to get through the automated phone system your mortgage company almost certainly uses. Frequently it's possible to avoid this aggravation by getting a direct phone number for the representative with whom you are working. A second benefit of getting a direct phone number for the lender representative is that it may aid you in your effort to work with the same person throughout the process. It's no fun recounting your situation, time and again, because you start with a new lender representative on each call you make.

### TIP #12

#### **Don't Tell Them You Can't Manage Your Money**

Never tell your representative that the reason you fell behind is because you mismanage your money. How do you expect them to give you a workout plan when you still have the potential of falling behind?

### TIP #13

#### **Be Prepared**

Don't rely on your memory. Have everything written down clearly and all of your credit history records at hand. Never speak to any of your lender's representatives without having all of your facts assembled and your strategy planned.

### TIP #14

#### **Write a Hardship Letter**

A hardship letter is your opportunity to outline for your mortgage holder the situation or circumstance that led to your mortgage delinquency. As discussed in TIP #1,

you need to tell your mortgage holder about the difficulties you faced and convince them that your situation has been corrected and you can be counted on to make timely payments in the future. Lay out the facts effectively and you have a reasonable chance of getting your request for a Forbearance Agreement approved. Add a compelling personal element and your chances of getting the attention of the person reviewing your file increase. You can make the situation more real and personal by sharing some of the details of your situation.

### TIP #15

#### **Review the Agreement Carefully**

Review the Forbearance Agreement carefully. Once you have been fully approved by your mortgage holder, they will prepare the Forbearance Agreement.

#### **- REVIEW IT CAREFULLY -**

Pay particular attention to the following items in the agreement:

- 1** Interest rate and payment calculation
- 2** Provisions for the mortgage holder's recovery of delinquent interest and accrued fees. Review both the method of recovery/repayment and the calculation of the total amount to be recovered.
- 3** Penalties that take effect if the loan is not kept current. In some cases the lender will attempt to keep the foreclosure door open, thereby allowing for an accelerated foreclosure if the loan becomes delinquent again. When reviewing the agreement consult your notes taken throughout your negotiation on the Forbearance Agreement. If you do find something in the agreement that is not consistent with your understanding give the lender the benefit of the doubt when resolving the misunderstanding. It is likely the discrepancy is a result of a miscommunication and can be easily corrected. This is where your careful, detailed notes will come in handy.

### Get Legal Advice

#### TIP #16

Before signing the Forbearance Agreement it is a very good idea to have it reviewed by an attorney. Keep in mind that the Forbearance Agreement is more than just a document modifying the terms of your loan, it is also an attempt to collect a debt. The Forbearance Agreement may ask you to waive certain legal rights to which you are entitled and it may contain other provisions, the consequences of which you should understand. If you do consult with an attorney, show the attorney all of your notes taken throughout the process. It will help your attorney grasp the intended spirit of the Forbearance Agreement as he reviews the agreement document itself.

### Know the Terminology

#### TIP #17

Make a real effort to understand the legal terms relating to mortgages from the following Glossary of Terms.

## GLOSSARY OF TERMS

**ADVERTISING OR PUBLISHING** - A copy of the Notice of Trustee Sale must be published once a week for three weeks.

**BENEFICIARY** - The beneficiary in a foreclosure context is generally the mortgage lender. Frequently referred to as the "Benny".

**CREDIT COUNSELING** - Under the new bankruptcy law which took effect in October of 2005, those wishing to file bankruptcy must complete an approved credit counseling course within the six (6) months prior to filing.

**DEED IN LIEU OF FORECLOSURE** - The voluntary surrender of property by an owner/borrower to a lien holder that eliminates the need to continue foreclosure action by the lien holder. The lien holder can refuse to accept the Deed in Lieu and file a Notice of Non Acceptance with the County Recorder.

**DISCOUNTED PAYOFF** - The payoff of a mortgage loan where the lender accepts an amount less than the actual amount owed to payoff the loan.

**EQUITY DEFICIENT** - A property is Equity Deficient when, if sold, sales proceeds would not fully pay off existing mortgage debt.

**FORBEARANCE AGREEMENT** - An agreement between a mortgage holder and a borrower that lays out a specific loan payment plan and puts a stop on the foreclosure action so long as the borrower meets the terms of the agreement. The payment plan includes provisions for repayment to the mortgage holder of all delinquent interest and fees and could include extending the life of the mortgage beyond the original terms. A Forbearance Agreement is a tool that allows the borrower to keep the property.

**JUDICIAL FORECLOSURE** - A foreclosure action conducted through the courts instead of through a foreclosure trustee. Judicial Foreclosures are very uncommon in California, particularly on residential properties. Should a lender elect to pursue a deficiency judgment, it would be through a Judicial Foreclosure.

**JUNIOR LIENS** - A lien, usually a mortgage loan, that is subordinate to a Senior Lien, usually a first mortgage. Lien priority is generally established by

recordation. NOTE: if you refinance a 1st mortgage on a property with a 2nd mortgage already in place the new 1st mortgage holder will require a subordination agreement from the Junior Lien holders to legally establish the new mortgage holder as 1st or Senior Lien holder.

**LIBOR (London Interbank Offered Rate)** - The interest rate charged among banks for short-term Eurodollars loans - LIBOR is a very common index for adjustable rate mortgages (ARM).

**LOSS MITIGATION** - Home mortgage lenders look to limit losses on delinquent mortgages by working out solutions with borrowers through their Loss Mitigation Department.

**MAILING** - A copy of the Notice of Trustee's Sale must be mailed (certified and first class) at least twenty (20) days before the foreclosure sale to the borrower and to anyone who was entitled to receive a copy of the Notice of Default and Secretary of State and IRS, if applicable.

**NOD** - Short for Notice of Default

**NOTICE OF TRUSTEE SALE** - an official notice that is posted, mailed, published/advertised and recorded by Trustee at the direction of lender indicating lender's intention to sell the property at public auction. The notice includes a specific date, time and location.

**POSTING** - A copy of the Notice of Trustee Sale must be posted in a conspicuous place on the property to be sold at least twenty (20) days before the date. Also, a copy of the notice must be posted at one public place in the city where the property is to be sold at least twenty (20) days before the sale.

**POSTPONEMENT** - Trustee Sales may be postponed by the Trustee at the direction of the lien holder. Notice may be given in advance or at the time and location specified for the intended sale.

**PRIVATE MORTGAGE INSURANCE (PMI)** - A policy of insurance paid for by the borrower to protect the lender in the event the borrower defaults on the mortgage. Typically PMI is required by the mortgage holder when the down payment is less than 20% of the purchase price.

**REO** - Short for Real Estate Owned. When a mortgage lender acquires a property, typically through foreclosure, it becomes real estate owned or REO.

**REINSTATEMENT** - To bring the loan current. Borrower may reinstate up to five (5) business days before the foreclosure sale.

**SHORT SALE** - The sale of a home which is completed through negotiation with the existing lender(s) in which the lender(s) agrees to accept less than the full amount owed to satisfy the debt allowing the debt to be "paid off" short.

**TRUSTEE (Foreclosure Trustee)** - A Foreclosure Trustee is appointed by the mortgage company when a mortgage reaches default status for the purpose of processing the foreclosure.

**TRUSTEES DEED** - The deed given to the highest bidder at auction or the foreclosing lender upon completion of the foreclosure.

**TRUSTEE SALE** - Conducted by the Trustee. The property is sold at auction to the highest bidder or taken back by a foreclosing lender.