

# Legal Briefs

COOLEY SHRAIR

Counselors at Law

UNPARALLELED RESPONSE, UNPARALLELED SOLUTIONS

## Our firm:

- David A. Shrair, Esq.
- Peter W. Shrair, Esq.
- Robert L. Dambrov, Esq.
- Mark D. Mason, Esq.
- Thomas A. Miranda, Esq.
- John W. Davis, Esq.
- Dawn D. McDonald, Esq.
- Maureen C. Tobin, Esq.
- Diana Sorrentini-Velez, Esq.
- Susan A. Mielnikowski, Esq.
- Rona S. Fingold, Of Counsel
- Judge Sidney M. Cooley, Of Counsel

1380 Main Street  
Springfield, MA 01103  
(413) 781-0750  
Fax: (413) 733-3042  
www.cooleyshrair.com

## Home Foreclosures: Know Your Rights

Foreclosures are big news these days—sub-prime mortgages are falling apart and the housing market has stalled. If you are one of the unfortunate homeowners teetering on the edge of foreclosure, or against whom foreclosure proceedings have already begun, you should be aware of some important rights and responsibilities.

A foreclosure is a legal action in which a lender takes ownership of the property used to secure a loan because the owner failed to make required payments. Although traditional foreclosures involve court supervision, not all foreclosures require court orders. Depending on your state and the original terms of your loan agreement, a foreclosure can be completed in 45 days or less. Still, if you are currently going through foreclosure, don't panic. Although this is a very stressful and serious situation, you do have options, and if the foreclosure is still in its early stages, most lenders prefer to work things out with you and not foreclose.

### Be Informed

When you first receive notice of a foreclosure action, there are some important steps to take. First, identify the parties involved. Today, most mortgages are sold and repackaged many times after the loan is first given. Knowing the parties should help prevent confusion and move the process along faster. It will also help protect against fraud. Once proceedings start, your name and address are public record, providing valuable information to individuals and corporations looking to prey on the vulnerable. Don't assume that just because a letter arrives in your mailbox that it is from a reputable, reliable source.

You should familiarize yourself with relevant state and federal laws and the policies of your specific lender. The Federal Trade Com-



mission's website ([www.ftc.gov](http://www.ftc.gov)—search "Foreclosures") provides valuable information on how to find your state's regulations and on avoiding foreclosure. Because states vary greatly with regard to timing and notice requirements, knowing the specific laws governing your state and lender can save time and headaches.

### Assess Your Options

If you are about to miss a payment or if you have received a foreclosure notice, you aren't out of options yet. You should contact the "loss management" department of your lender immediately. Depending on your situation and lender, you may be able to refinance or determine a "work-out" plan. Although you still owe money, this will prevent a foreclosure from appearing on your credit record and could save your home.

### Get Help

If foreclosure is a realistic possibility for you, don't run from the problem — confront it head on and get help. Help can come in various forms: credit and debt management advice from credit counselors, legal guidance from your attorneys, and sometimes even government action from state consumer protection agencies (if you think fraud or predatory lending has been involved).

There are many steps involved in the home lending process; if you are interested in learning more about your options, be sure to contact your lender or work with your attorney.