How To Prevent Or End Foreclosure In Canada And Keep Your Home

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Few people who buy a home expect to go into foreclosure. That's something that happens to "other people". Until it happens to you.

Hopefully you're reading this before actually ending up in foreclosure or power of sale. But even if you're already in foreclosure, as long as you're still in the house there may be a way for you to continue to stay in it, long-term.

What is foreclosure?

Foreclosure is the legal means that enables your lender (who holds your mortgage) to repossess or take back your house in order to get their mortgage money back and settle any outstanding fees.

Real estate investors sometimes get properties at below market value, meaning that some of the equity that has been built up will be wiped out. This can happen if you let things get to the point where you've lost control over the sale. By acting as early as possible, you retain control.

Reasons For Pending Foreclosure

Apart from wilful mortgage fraud (someone who has no intention of making payments) most homeowners face foreclosure due to a sudden event that eventually makes them unable to make their mortgage payments on time. Reasons include:

- Sudden unemployment
- Illness or injury
- Death in the family
- Divorce or family problems
- Loss of second income
- Excessive debt obligations that "just piled up"
- Inability to pay adjusted (higher) interest rate
- Unexpected major home maintenance expense

Ways to Avoid Foreclosure

The best way to avoid foreclosure is to be proactive. No matter what avenue(s) you take, it benefits you to do so with your eyes wide open, rather than in a last minute panic.

Lenders do not want to foreclose but they will file a Notice of Default to protect themselves if it comes to that. If you know you are unlikely to meet your mortgage obligation, the first thing you should do is call your lender. It's painful, but you should do it.

Communicate With Your Lender - Don't Ignore Them

Don't be embarrassed or ignore mail from your lender; that will make the situation worse. Yes, it can be awkward on the phone when they're hounding you and you can't promise them any specific amount of money at any specific time. But they do need to talk to you once in a while, and they keep notes about your conversations.

Depending on your situation, here are some options you or your lender might suggest:

Ask for extra time to make up your payments

Lenders might agree to wait before taking legal action against you and let you work out a repayment plan that is affordable for you (known as “forbearance”). Every lender is different.

Ask for loan (mortgage) modification

If your mortgage has an adjustable loan, you can ask the lender to change the interest rate to a more manageable level. A lender might also extend the amortization period which will lower monthly payments. Some lenders may offer to spread out missed payments over a longer term.

Re-calculate and refinance the mortgage

If you have enough equity and meet the lender’s requirements, the lender may increase your loan balance to include the back payments and re-amortize (re-calculate) the loan.

You may also refinance by wrapping other debts into your mortgage (“consolidation”). By putting your 20% - 30% interest debts like credit cards into your mortgage (paying them off, and increasing the mortgage amount), you will decrease your overall monthly debt load. As long as you’re pretty sure you can keep up with payments, it’s not a bad option.

Mortgage Default Insurance:

If you made a low percent down-payment on your home then you may get some temporary protection from foreclosure since Canada’s 3 default mortgage insurers carry programs that help struggling homeowners to temporarily pay interest only, or to forgive some of your payments. Check to see if you are paying any of these 3 companies as part of your mortgage:

Those insurers are:
- Guaranty Mortgage Insurance Company
- Genworth Financial Canada
- Canada Mortgage and Housing Corporation

Debt Settlement

Where refinancing is not an option owners can attempt debt settlement. There may be a way for you to settle your debts to the same extent that you would in a consumer proposal, but without actually using a consumer proposal, so that the marks on your credit record are less severe. You can ask DLYH about this option. Consumer proposal is a good way to negotiate your debts down; be sure you understand the pros and cons.

Lenders don’t enjoy foreclosing on people. It costs them a lot of overhead, legal fees and ongoing costs. They’re looking for a way out of the current mess, just like you are.

BRIEF OVERVIEW OF “POWER OF SALE”

Power Of Sale allows the lender to sell your house without involving the courts. This speeds up the process. They are required to give you 35 days prior notice to pay all arrears and P.O.S. charges.

If the mortgage is not brought back into good standing, the lender serves a Statement Of Claim For Debt And Possession, in which case you have 20 days to file a Statement Of Defense. If you don’t do so, a court will give the lender a Writ Of Possession. The Writ is filed with the Sheriff and the eviction process can start.

After eviction, a real estate agent is used to auction or list the house, and if there is any home equity left after real estate commissions, P.O.S. charges, arrears, interest, penalties, legal fees etc., that money goes to you. If the bank comes out behind in the sale, they can sue you for the difference. How wonderful!!! If that happens, we pray that you had mortgage default insurance.

Power Of Sale is normal in **Ontario**, NB, NFLD, and PEI.

(Judicial) Foreclosure takes longer and involves the courts at every step, and is normally used in BC, AB, QC, MB, SK, and NS.

WHAT IF YOU ARE ALREADY IN FORECLOSURE?

Unfortunately, in many (maybe most) cases, the above methods of financing yourself out of trouble are only temporary fixes, and you'll find yourself in trouble again within a few months.

From there you end up in foreclosure / power of sale.

If you are already in power of sale or foreclosure, your lender will give you a certain time period to bring the payments current, pay the costs of filing the foreclosure (basically you're paying your bank's lawyers at a very steep hourly rate) and stop the foreclosure. This is called reinstatement of your mortgage. If you cannot make up the missed payments and the lender is out of patience, here are a few other options to avoid actually being kicked out against your will:

Sell Your Home

This is the obvious choice. It's the "take your lumps" option. When you consider the complication of selling, and moving, and possibly changing neighbours and schools, etc., it's not necessarily the simplest option, though that's how it may seem at first.

Deed-in-Lieu of Foreclosure

The homeowner gives the lender a deed, the lender forgives the mortgage, and the foreclosure action stops. Deeds-in-lieu of foreclosure affect credit scores about the same as a foreclosure does, so there's no benefit in that aspect. This method prevents or ends the power of sale or foreclosure process but means **you have to leave the home.**

The lender might also work an arrangement where a home owner can sell the home but remain in it (paying a monthly rent) until finding a place to move into. Don't put this off until the last minute, because it may not be an option with your lender, and will probably take a fair amount of negotiation. It all depends on how flexible your lender is.

You need to set realistic goals, and make realistic judgements of the probability of each scenario.

IMPORTANT: Once you've entered the "Statement Of Claim" phase, you may start to receive:

- unexpected visits or phone calls from people asking to buy your house (at a discount)
- calls and postcards from realtors looking to list the property
- calls from "hard luck" mortgage brokers offering financing

Be very careful about these offers, and consult with professionals. Do not let them make you feel panicky, and don't believe them if they say you can no longer get full value for your house, or that you'll lose everything if you don't "Act today", and so on. <u>Some</u> of these people will be honest, and you may end up working with them, but be clear on the facts first.

GETTING CREATIVE

Have you arrived at the point where you require a non-traditional solution that will solve your financial problems and keep you in your home? Here are some creative options that some professional advisors may not suggest:

Equity sharing

Equity sharing requires a partner, and it can keep you in your home if that is your primary intention. The partner pays to stop the foreclosure and may even start helping you with part of your monthly payment. In exchange for this, your partner will now own a certain percentage of your home, or of your home equity.

Private financing

You can look for private financing from other people especially retired people who are looking for ways to get better returns on their investment.

Renting out your house

You could rent your house out for more than your monthly mortgage and property tax costs. Of course, you may have to move, which is not only a pain in the butt, it’s also another cost. You would also have to be approved to rent somewhere else, which may be tricky if your credit is bad. A hybrid option would be to rent out only part of the house, and hope that the added income helps you to once again meet your monthly obligations.

The “Rent Back” Option

One option (which is just starting to grow in popularity in Canada) is to sell the home to an investor who will rent it back to you. If you do this prior to actual foreclosure, you avoid having your home equity being taken by your bank’s lawyers, court costs, property maintenance fees, penalties, etc. You get the maximum amount of home equity that you can, while you’re still in a position to use it effectively to help your situation.

In our business we suggest that if you use this option, you offer the investor a year’s worth of prepaid rent, if you have enough home equity to pull it off. This lump sum payment makes a very tantalizing offer to the investor to buy your home for full, or almost full, market value, and rent it back to you. It also gives you a year where you have no house payments to make (other than utilities), which gives you a huge amount of breathing room to get your financial life back on track.

If your arrangement with the new owner is of the “rent to own” style, you will also be using a chunk of your equity to make a down payment to buy back the home after usually 2 - 5 years, and part of every month’s rent will also be credited towards a down payment.

Repossession can be both a financially and emotionally devastating event for a family. However, it can be prevented even at the last minute with a sell and rent back program.

With sell rent back (SRB), homeowners may be able to sell much faster than on the open market. Instead of a real estate agent showing your house for possibly months, a list of investors sees your proposal immediately, and you accept the best offer from interested parties.

Our program has the flexibility to create, modify and agree to a proposal that suits everyone involved. Since the program is designed for hardship cases, **your personal debts and/or bad credit scores will not hinder our ability to help you**. The buyer will be privy to your actual human story, not just facts and figures. This person must reasonably trust your claim that your income will recover and you will be able to make your rent payments. If we don't think you'll have an excellent chance of being able to buy back your home, you may not qualify for our program (unless you just want to rent, and don't want to buy the house back, which you'd need to tell us up front).

Once we've helped you find a buyer to go ahead with, the rest is mostly paperwork.

The bottom line is that the rent-back strategy saves you money in many respects. You are using your home equity to save as much of your home equity as you can before it is forcibly taken from you. You are saving yourself the cost of: moving expenses, court costs, lawyers (you are held liable for the bank's legal fees), creditors who may have placed liens in the near future, the costs of added relationship stress (it can save marriages, which is a monumental cost savings), and debts growing at 25% per year (because you will now have some cash to at least partially deal with those debts).

How much does our service cost you?

Our initial consultation, as well as our complete services, are free to the client. We are not paid by you; we are paid for our marketing services by the business owners and partners we work with.

Are you bound to a contract?

You are never bound to any contract with Don't Lose Your Home. You will be fully educated on the process before you enter into anything constituting an "agreement", which would only come after you've completely negotiated a deal through our partners. At the very earliest, this would not happen until we are at least a week into the process of working with you, and you have had plenty of time to talk things over with your lawyer and other advisors.

The application you fill out to start the process is not a loan, mortgage or any kind of financing application. Instead, it is the beginning of a fact-finding mission to deliver you a solution.

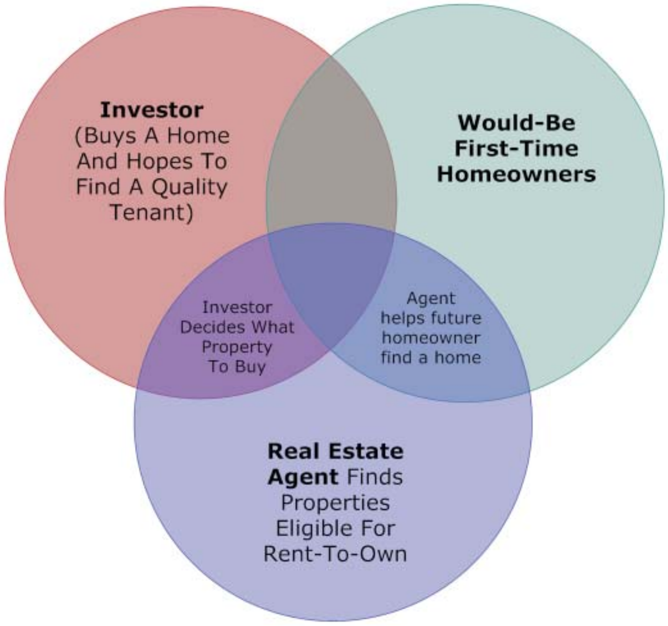
How much is the monthly rent?

Almost every Rent-To-Own (RTO) company we've found uses a .075% - .085% of home value, as a way to calculate monthly rent. This will put your rental costs significantly higher than they will be in our program. For example, your rent on a $300,000 home would be about $2,250 to $2,550, with usually about $300 to $500 of that amount counting as down payment credit.

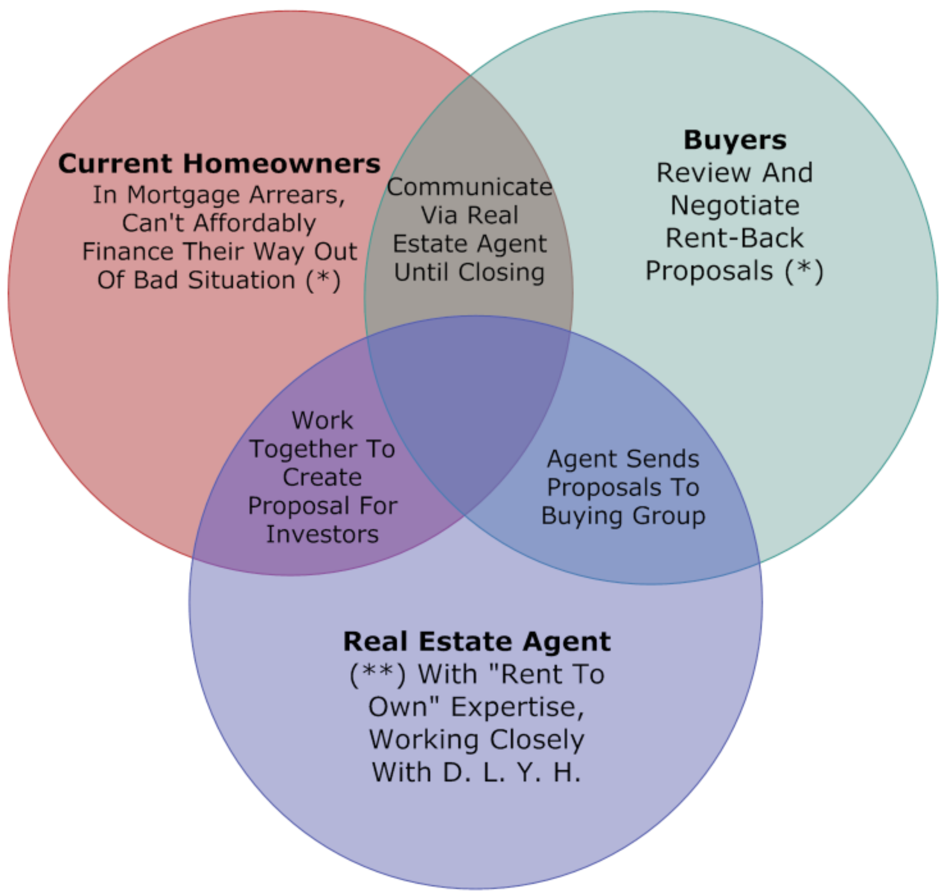
With our program, your monthly rent is about equal to what it would cost to rent a comparable house, plus $200 (if you want to pay more than $200 credit towards your down payment every month, you have that option). On a $300,000 home, your rent would be somewhere in the range of $1,500 to $1,600 **plus** $200 (down payment credit) a month. Costs may be higher if property tax and/or market rent is high in the area.

As you can see this is a significantly lower rent than other RTO companies. For this reason, our program is less exclusionary and more likely to be able to accept you as a client.

Normal Rent-To-Own Process



The "Don't Lose Your Home" (D. L. Y. H.) Process



(*) You (and other parties) retain your own lawyer (with real estate experience) to fully protect your interests, review contracts, share their expertise and opinions with you etc.
(**) Real estate agent is fully versed on the DLYH method and rationale, and abides by CREA ethics and guidelines.

About “Don’t Lose Your Home”

We continue to improve and expand in order to meet the needs of our clients, but we will always stay laser-focussed on helping home-owning families that are experiencing financial hardship.

Because we do business honestly and ethically, we insist that every potential arrangement we make with a client involve at least one licensed real estate agent and a lawyer acting on the client’s behalf. We define success by the number of families we help.

You will be protected by our code of ethics, by YOUR OWN lawyer, and by the government licensing and ethics requirements of the network of professionals we work with (mortgage brokers, real estate agents, credit counselors etc.).

We team up with credit counselors, bankruptcy trustees and other qualified professionals to help you solve any credit issue you may be having (including bankruptcy) so that you can prepare to qualify for a mortgage when it comes time to buy back your home.

We do our best to help struggling homeowners overcome a lot of obstacles that threaten to take away their home ... but the one obstacle that will do the most damage is PROCRASTINATION.

Visit http://dontloseyourhome.ca/applynow to apply now and get started.

Phone Chris at 416 613 8098 between 8 am and 8 pm Monday - Saturday.

Email help@dontloseyourhome.ca.