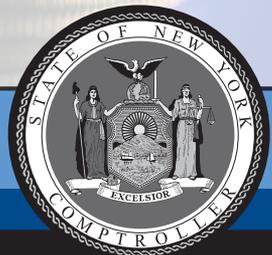


Your Money **New York**

Help for Homeowners Facing Foreclosure



Thomas P. DiNapoli • State Comptroller

Office of the New York State Comptroller

A Message From State Comptroller Thomas P. DiNapoli



Dear Friend:

Now more than ever, New Yorkers need to understand their finances and work to build a strong financial future.

Your Money New York is a financial education initiative developed by my office to help you and your family deal with the broad variety of money-related issues—whether it's getting out of debt, looking for a job, saving for college or retirement, or buying a car or home.

Your Money New York gives New Yorkers access to useful and reliable information, and serves as a centralized, coordinated access point for important government resources. It connects you to the tools you need to meet whatever financial challenges you may be facing.

Your Money New York can be your partner as your family pursues your economic goals. Working together, we can make a strong, bright economic future a reality for every New York family.

Thomas P. DiNapoli
State Comptroller

Your Money New York

Your Money **New York**



The foreclosure crisis is putting millions of individuals and families across the nation at risk of losing their homes. Moreover, foreclosures can affect entire neighborhoods by reducing property values, shrinking the local tax base, and increasing blight and crime. While the crisis has been less severe in New York, some areas in the State have been hurt worse than others.

In June 2010, Comptroller DiNapoli released a report that highlighted the effects of the housing market meltdown in New York State, particularly regarding declining home values and foreclosures. In March 2011, the Comptroller released a report on mortgage delinquencies and foreclosure trends in New York State and New York City. The report clearly demonstrated disparities in foreclosure filing rates among New York City neighborhoods.

Comptroller DiNapoli and New York City Comptroller John C. Liu have engaged lenders to identify best practices and find solutions to make the loan modification process more effective. They support the nationwide, coordinated investigation by state attorneys general into possible shortcomings in mortgage servicers' compliance with foreclosure laws, rules, and regulations.

If you find yourself having trouble making your mortgage payments, there are many local, State, and federal resources available at no cost to help you understand – and possibly avoid – foreclosure.

Make every dime count.

Help for Homeowners Facing Foreclosure

Resources to Help Homeowners Understand Foreclosure

- Am I at risk for foreclosure? What programs are available to help me keep my home? What should I do if my lender won't work with me? Answers to these questions and more, including foreclosure laws and processes in New York, are available through the U.S. Department of Housing and Urban Development (HUD) website, www.hud.gov, or by calling 1-800-569-4287.
- The Federal Trade Commission has created a guide called Mortgage Payments Sending You Reeling? Here's What to Do to help you understand your mortgage and what your options are if you are having trouble making your payments, which you can access by calling 1-877-FTC-HELP (1-877-382-4357), or online at www.ftc.gov/bcp/edu/pubs/consumer/homes/rea04.shtm.
- The Federal Deposit Insurance Corporation (FDIC) provides helpful information, available at www.fdic.gov/consumers/loans/prevention/consumer.html, on how to access available foreclosure-related programs and resources, including links to counseling services, loan modification programs, information on foreclosure-related scams, and guidance for avoiding foreclosure.
- You can get help from the New York State Division of Housing and Community Renewal (DHCR) finding an approved counselor in your area by calling 1-866-ASK-DHCR, or visit their website at www.dhcr.state.ny.us/programs/foreclosureprevention/counselling.htm to learn more.
- The New York State Banking Department offers information on the foreclosure process and related laws, and describes some of the different remedies that may be available to you at www.banking.state.ny.us/hetp.htm. You can also get more information by calling 1-877-BANK-NYS (1-877-226-5697), where staff can answer your questions about mortgages and the foreclosure process and can help you find assistance and resources in your area.

What is the Foreclosure Process in New York State?

New York is a judicial foreclosure state, meaning your lender must go to court to take your house. The length of the foreclosure process in New York can vary significantly, but typically ranges from six to eighteen months. The following provides a broad overview of the foreclosure process in New York.

Once you begin missing mortgage payments, your lender may start assessing late fees and trying to contact you. HUD advises homeowners to talk with their lenders to try to work out a solution, because the further behind you get with your payments, the harder it will be to save your home.

- Your lender must send you a pre-foreclosure notice at least 90 days before starting the foreclosure process (this requirement is in effect from January 2010 through 2015, and then expires). This notice should advise you that you are at risk of losing your home, tell you the amount you owe, and provide contact information for at least five local counseling agencies. This is a good opportunity to speak with a counselor and work with your lender to try to avoid foreclosure.

New York is a
judicial foreclosure
state, meaning
your lender must
go to court to take
your house.

- Within the 90 day pre-foreclosure period, you may receive a demand or breach letter saying you have violated the terms of your mortgage. This letter will request that you make all back payments.
- After 90 days (or more), your lender may begin the foreclosure process. A formal notice of foreclosure, or *lis pendens*, will be filed with the court and you will be served with a summons and complaint. You must respond to the summons and complaint, or else the court can rule against you and schedule a foreclosure sale.

- The court will schedule a mandatory settlement conference within 60 days (this requirement is in effect from February 2010 through 2015, and then expires). This is another opportunity to get help from a government-approved counselor and try to work out a loan modification with your lender.
- After you respond to the summons and complaint and the settlement conference is held, the court will rule on whether a foreclosure can occur based on the evidence presented by your lender. If the court rules against you, the sale will be scheduled. A notice of sale, including location, date, and time of sale, must be published in a generally circulated newspaper once a week for at least four weeks prior to the sale.
- The foreclosure sale will likely take place at your county courthouse, with the house sold to the highest bidder, which very often is the lender, who often bids up to the amount owed on the mortgage. If the lender is the higher bidder, the house becomes real-estate owned (REO).

Are There Tax Consequences?

- Until 2007, if your lender forgave a portion of your debt, the amount forgiven was typically treated as taxable income. However, for debt forgiven from 2007 through 2012, the Mortgage Debt Relief Act of 2007 allows eligible 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 a foreclosure, qualifies. However, the IRS has specific rules regarding eligibility, so you may want to consult a tax professional to be sure you qualify.

What About Mortgage Relief Scams?

- Mortgage relief scams have been on the rise. The Federal Trade Commission (FTC) has a new rule in place to help protect homeowners. The Mortgage Assistance Relief Services Rule makes it illegal for companies to collect fees from you until you have received an offer of relief from your lender and have accepted it. Learn more about these scams by calling 1-877-FTC-HELP (1-877-382-4357) or by visiting www.ftc.gov/bcp/edu/pubs/consumer/credit/cre42.shtm.

Additional Resources

For more foreclosure prevention assistance, call the HOPE NOW alliance at 1-888-995-HOPE. This private sector alliance includes housing counselors and other mortgage market participants, and has the stated goal of maximizing outreach efforts to homeowners in distress to help as many as possible to stay in their homes.

If you live in New York City, call 311 to schedule free foreclosure counseling sessions at the Center for New York City Neighborhoods. If you believe you are a victim of foreclosure fraud, call the Consumer Helpline of the New York State Attorney General's Office at 1-800-771-7755.

For more money-related information and resources, please visit Comptroller DiNapoli's financial education and empowerment website:

www.yourmoneynewyork.com

To learn more about Your Money New York

Call the Comptroller's help desk
at 866-370-4672 (toll-free) or (518) 408-4672,
Monday through Friday between 8:00 a.m. and 6:00 p.m.,
or send an email any time to yourmoney@osc.state.ny.us



www.yourmoneynewyork.com

Office of the New York State Comptroller