

HOW DO YOU SPELL FORECLOSURE RELIEF

Slowing the Pace of Taking Homes Away

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It is a sad reality for the author that many reading this article will not “get” the reference from a huge ad campaign in the ‘70s. The product was R O L A I D S - the stomach acid reduction agent. With the current foreclosure problem and general mortgage mess, many borrowers, lenders and anyone else concerned about the economy need something for an upset stomach.

Spell Foreclosure Relief “Chapter 206 of the Acts of 2007” In Massachusetts, effective May 1, 2008 this sweeping new law went into effect to stop the foreclosure insanity that has become the grist of daily news headlines. (Many other states have enacted similar legislation to help home owners who are in trouble the time to figure out a solution by working with the mortgage holder/servicer.)

Protections have been put into place, by legislative enactment, to slow the process and give borrowers, who are or might get into trouble, time to get help and stop their foreclosure and “cure” the default under their mortgage loan agreement

- * A mortgage lender, mortgage servicing company, or anyone with the right to foreclose on **A RESIDENTIAL MORTGAGE MUST GIVE THE MORTGAGOR (borrower) 90 DAYS TO CURE (PAY CURRENT) A MONETARY DEFAULT.**
- * **DURING THE 90 DAY PERIOD, THE LENDER, SERVICER, ETC. CAN TAKE NO ACTION**
- * **THE PROCESS MUST NOW START WITH A LETTER TO THE BORROWER DEMANDING THAT THE BORROWER BRING ALL PAYMENT UP TO DATE.** This means that the regular monthly payments missed by a borrower, which are the grounds for the default and attempt to foreclose, must be “caught-up”
- * The 90 day period starts after actual mailing of the notice, not the date on the letter demanding payment
- * The demand **MUST** include the **ACTUAL DATE BY WHICH PAYMENT MUST BE MADE, AND THE ACTUAL AMOUNT.**
- * During the 90 day period, the Lender **CANNOT CHARGE FOR LEGAL FEES OR ANY OTHER COSTS OF COLLECTIONS.** This has been a major problem because the fees from the time of a demand letter to the date of reinstatement (payment of amounts due) have often been vague due to on-going legal and other

charges

- * THE LETTER MUST CONTAIN **THE NAME OF A PERSON THE BORROWER CAN CALL FOR A DISPUTE OR CLARIFICATION. A TOLL-FREE NUMBER MUST ALSO BE GIVEN IN THE DEMAND LETTER.**
- * The lender must file an affidavit swearing to the fact that the borrower was notified in accordance with the law and a copy of the letter must also be filed with the Land Court (in Boston) or the Superior Court where the foreclosure is sought.
- * **BORROWERS ARE ENTITLED TO ONLY ONE 90 DAY CURE PERIOD EVERY 5 YEARS**
- * If a Borrower has received a 90-day Notice and cannot make the required payment the borrower he/she/they should call the Mass Fair Housing Center, which has a full-time office in Pittsfield, at 800-675-7309, or Neighborworks' HOPE hotline at 888-995-4673 or if there is no answer, the Division of Banks 800-495-2265 extension 1501

The purpose of the new law is to allow homeowners, who are in trouble with their mortgage payments, to have time to fix the problem - bring the payments up to date: Or, if there is a problem with the loan itself, such as high rates, undisclosed terms like balloon payments, or fast upward rate adjustments, or negative amortization (where the borrower owes more after a year of payments than the original loan amount), the new law gives the homeowner time to consult an attorney, or an agency equipped to evaluate the problem, and recommend a course of action. Actions can as simple as calling the person whose name is in the letter asking for help, or getting an attorney to assist, or having an agency such as Mass Fair Housing Center get in the middle for the homeowner.

- * There are also new regulations for first-time homebuyers when they go to get a mortgage. If the loan is an so-called ***Sub-Prime Adjustable Rate Mortgage*** (ARM), the borrowers **must obtain counseling** from one of the agencies approved by the State. Some of the agencies are the Mass Homeownership Collaborative, housing finance agencies of the Commonwealth, like Mass Housing Finance, or other such agencies. The counseling is to assure the Borrowers that they are fully aware of the potential for substantial payment increases over time, and that the Borrowers will be able to make the increased payments.

It must be noted that the law, while excellent in its effective 90 day moratorium on foreclosure to be started AFTER April 30, 2008, has many defects, loopholes, and language problems which will cause different lenders to have divergent opinions on some aspects. **HOWEVER, IT IS A LIFE LINE FOR THOSE HOMEOWNERS IN TROUBLE**