Legal Aid Society
OF THE DISTRICT OF COLUMBIA

Ways to Keep Your Home

You might be able to keep your home even if you're behind on the mortgage payments or have a foreclosure court case.

If you're behind on your mortgage and want to keep your home, your options mostly depend on your current financial situation.

If you can't afford to make payments right now, as a first step, you can ask your mortgage company for a forbearance. **A forbearance is a short-term option** that can reduce or suspend your regular monthly mortgage payments for just a while. You will still need to repay the missed payments, but the goal is to give you some breathing room, with the possibility of qualifying for a long-term solution for keeping your home at the end of the forbearance.

The rest of this document focuses on long-term options for keeping your home, if you can afford to make regular monthly payments. You may have other, additional options too. Talk with a housing counselor or lawyer for information about your specific situation.

Questions? Contact Legal Aid at (202) 628-1161 or at https://www.legalaiddc.org/online-intake/.

Long-term Options for Keeping Your Home

Option	Who is this option for?	What does this option do?
A. Loan Modification (pages 3-5)	You're behind on payments but have some income; **or** You can afford something, just not the full amount.	It changes the terms of your mortgage to make it easier to pay.
B. Bankruptcy Repayment Plan (page 6)	You're behind on payments and can now afford the mortgage monthly payments *plus* some extra.	You get more time to pay by declaring bankruptcy and agreeing to a longer-term repayment plan.
C. Reinstatement (page 6-7)	You're behind on payments and can now afford to pay everything you owe all at once.	You pay off all your overdue payments at once.
D. Refinance (pages 7-8)	Your name is on the deed, and your credit is good enough to qualify for a new loan.	You take out a new loan to pay off the entire amount of the old one.

If you can't pay anything and you don't expect your financial situation to improve, it might be hard to keep your home. You might want to read Legal Aid's flyer for Ways to Let Go of Your Property.

For more information and help understanding your options, please contact Legal Aid at (202) 628-1161 or at https://www.legalaiddc.org/online-intake/.

Option A: Loan Modification

What is a Loan Modification?

A loan modification changes the terms of your mortgage. If you're behind on your loan, completing a loan modification gives you a fresh start and brings you current – usually by taking the past due amount and adding it to your loan as part of a new principal balance.

Loan modifications typically lower your monthly payments by:

- giving you more time to repay the loan (for example 40 years instead of 30 years), and/or
- lowering your interest rate, and/or
- moving a portion of your loan balance to the "back end" of your mortgage, due as a zero interest balloon payment, so that interest is charged only on a part of your principal balance instead of the whole thing.

Should I consider a loan modification?

Loan modification is a common way to keep your home after missing mortgage payments. A loan modification can be a good option if:

- You are behind on your mortgage but now you can afford to make payments; or
- You can't afford the monthly payments you have now, but you could afford lower monthly payments.

Completing a loan modification will make you current on the loan. If there is a related foreclosure court case, that case will be dismissed after you have completed a loan modification.

If you're named on the deed but aren't the person who borrowed the money (so you aren't named on the mortgage loan), you may still be able to apply for a loan modification – for example if you are the owner of the home after a divorce or if you inherited the home after someone's death. If you are approved for modification in one of these situations, you will probably have to take over the loan ("assume the loan"). These cases can be complicated, and you should talk to a lawyer about your options.

How can I get a loan modification?

1. **Contact your mortgage company.**

   Tell your mortgage company you want to be reviewed for a loan modification. Some mortgages may be eligible for a "streamlined" loan modification, meaning you do not have to fill out an application and provide documents to be reviewed. Ask your mortgage company or their lawyer if they can offer a "streamlined" loan modification. A housing counselor or Legal Aid lawyer may also be able to help you figure out if you should qualify for any special or streamlined options.

   Depending on the type of loan you have, you may need to complete a "loss mitigation" application to be considered for a loan modification. If one is required, the mortgage company or their lawyer can provide one to you.

   Fill out the application and send it to your mortgage company and its lawyer. The mortgage company usually asks for financial documents as part of this application. Give the mortgage company all the documents they ask for (even if you've already given the same documents before).

   If you have a foreclosure court case, send a copy of the completed application and all documents to the mortgage company's lawyer too.

   The process of completing the application *to the mortgage company's satisfaction* can take time and effort. Don't give up.

   If you need help filling out an application, contact a housing counselor by calling the DC Foreclosure Prevention Hotline at (202) 265-2255.

2. **The mortgage company will review your application.**

   After the mortgage company has informed you that your application is complete, they have 30 days to let you know if you're approved for a loan modification, denied, or if they need more information or documents. They might ask more questions about your income or hardship or for more financial documents before making their decision. The mortgage company could also review your application for other options besides a loan modification.

3. **Complete a trial plan.**

   If you're approved for a possible loan modification, the mortgage company might need you to complete a "trial plan." A trial plan is a test run of the modification payments that typically lasts 3 to 6 months.

   You must make a certain number of monthly payments during the trial plan before the mortgage company will modify your loan. The trial plan shows the mortgage company that you can make the monthly payments regularly. For some mortgages, you will need to sign an agreement to accept the trial plan.

4. **Sign the modification documents.**

   After you complete the trial plan (if one is required), the mortgage company will review the details of your loan for a final (or "permanent") modification. If you are approved for a modification, the mortgage company will mail you documents. You will need to sign the modification documents (and sometimes get them notarized) and mail them back to the mortgage company before the deadline they provide. Deadlines to return modification documents can be very short, so pay close attention to the instructions.

5. **Your loan is permanently modified.**

   After you send back the signed documents, the mortgage company will process the loan modification. That means:

   - The loan modification brings your loan up to date, so you are no longer behind on your mortgage.
   - Your monthly mortgage statement should show that you are current on your payments as of the date that you modified the loan.

   If there is a foreclosure court case, then the lawyer for the mortgage company should dismiss the court case and send you a copy of the dismissal.

Option B: Bankruptcy Repayment Plan

What is a bankruptcy repayment plan?

A bankruptcy repayment plan lets you keep your home by repaying your debts in installments over three to five years.

Should I consider a bankruptcy plan?

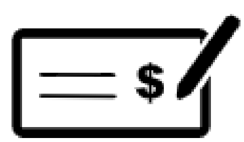
A bankruptcy repayment plan can be a good option if you fell on hard times in the past but now you can afford the mortgage payments ***plus*** installment payments.

Sometimes people worry that filing bankruptcy will hurt their credit. However homeowners who are behind on mortgage payments or are facing foreclosure usually already have suffered harm to their credit. Bankruptcy can offer a way to keep your home and create an opportunity to rebuild your credit in the future.

You may want to talk with a bankruptcy lawyer to help you decide if a bankruptcy repayment plan is a good option for you. You can call the Bar Association of DC's bankruptcy helpline at (202) 223-6600 to speak with an intake coordinator. They offer representation for a reduced-fee in bankruptcy repayment plan (Chapter 13) cases. More info is here: https://www.badc.org/bankruptcy-access-to-justice-project

Option C: Reinstatement

What is reinstatement?



Reinstatement is when you pay *all* the overdue amount of the mortgage and fees *at once*. For example, if you missed 6 months of payments, you need to pay in *one lump sum* 6 times your monthly payment – plus fees – to reinstate. After reinstating, you must keep making the monthly mortgage payments to stay current on the loan.

Should I consider reinstatement?

Reinstatement can be a good option if you have either saved up all the money that you owe on your mortgage, or the overdue amount is not very much.

How can I reinstate my loan?

Ask for a written reinstatement quote and payment instructions from the mortgage company. The reinstatement quote can expire quickly, and a different amount might be due after the expiration date (often called a "good through" date).

Option D: Refinance

What is refinancing?

Refinancing means taking out a new loan that pays off and replaces the old loan.

Should I consider refinancing?

Refinancing might be a good choice if:

- You're named on the deed; and
- You have the income and credit to qualify for a new loan.

Common situations in which refinancing might be an option are when you are the owner of the home but are not named on the mortgage – for example if you are the owner of a home after a divorce, and only your ex-spouse was named on the mortgage. Or if you inherited your home after someone's death, and the deceased person was the only one named on the mortgage. This is because your credit would not be harmed by missed mortgage payments on someone else's loan.

You might **not** be able to refinance if you don't have enough income to qualify for a new loan. You also might not be able to refinance if you are behind on your mortgage or have other debts that are negatively impacting your credit.

How can I refinance a loan?

- First ask the mortgage company or their lawyer for a letter stating the total payoff amount of the loan. This is called a "payoff quote." The payoff quote can expire quickly, and a different amount might be due after the expiration date (often called the "good through" date).

- Then apply for a refinance loan with different banks. Shop around to find the best loan. Make sure that you understand the proposed terms before agreeing to take out a mortgage loan. Get information about the mortgage process at www.consumerfinance.gov/mortgage.

For help understanding this document, please contact Legal Aid at (202) 628-1161 or at https://www.legalaiddc.org/online-intake/.

The information in this document was updated on 9/14/21. This information isn't legal advice. For legal help, please contact a lawyer. The lawyers at Legal Aid might be able to give you legal advice even if they don't represent you.

This information is from:

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MAKING JUSTICE REAL

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