

A hard setting for resetting mortgages

For adjustable-rate loan holders trying to keep their homes, job one is to get help.

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The route to negotiating an adjustable-rate-mortgage reset is an obstacle course, according to nonprofit counseling groups trying to help homeowners. And half the people navigating it don't stop to ask for directions.

"The statistic is that 50% of the families experiencing foreclosure never ask for help," said Lori Gay, president and chief executive of Los Angeles Neighborhood Housing Services -- a part of NeighborWorks, a national network of nonprofits that deals with homeownership issues. "A lot of those people could keep their homes if they asked someone for help."

Ask early, ask often and keep asking -- because everyone who can help is swamped with people who also need a hand, while the programs and rules for assistance continue to change.

Asking for help doesn't guarantee smooth sailing, counselors cautioned. Some borrowers aren't going to be able to keep their homes. But many will, especially if the lenders come through with the programs they've promised for up-to-date borrowers.

Last month, the Bush administration won voluntary agreement from lenders on a five-year freeze on interest rate hikes for borrowers who are current with payments, live in the mortgage property, face loan increases between now and July 2010 and meet other criteria. The deal was widely recognized as a good start, but many caution that it helps just a narrow segment of borrowers and isn't enforceable.

Kevin Stein, associate director of the California Reinvestment Coalition, said an October survey of 33 nonprofit groups that counsel borrowers showed that they were having a tough time getting the responses and results from lenders they need for their clients.

"There's a lot of chaos," Stein said. "There's a lot of lost faxes, unreturned phone calls, service representatives changing in the middle." He said lenders' responses seem to be: We'll have someone get back to you.

A jungle out there?

Is any institution doing a fair job of working with customers? "From where we stand, it doesn't look like it," Stein said. "It's a morass: People face incredible hard times when they call, the lenders don't have enough people servicing loans and there's no public information that drives accountability -- who's in trouble, who's in default, what the lenders are actually doing, not just saying they'll do -- to keep homes out of default."

Lenders disagree with Stein's assessment.

For example, Washington Mutual has been working hard to reach its borrowers, according to spokeswoman Sara Gaugl. The lender has sent 5 million pieces of mail, including statements with refinancing information, to current borrowers and is implementing a \$2-billion program to get the best-qualified borrowers into better loans.

"As of November, we have refinanced or modified approximately \$720 million in loans and will increase that number in the coming months," she said.

For borrowers facing unaffordable resets in their loans, what is the best way to proceed?

L.A. attorney John Torjesen, who represents people in litigation over such loans and foreclosures, says to start by digging out escrow documents and actually reading them.

The most important terms of the loan -- the frequency and size of increases, possible prepayment penalties or balloon payments -- should be all within the note itself. If homeowners haven't kept the documents and the escrow company can't produce them, a copy of the note is usually filed with the county registrar of deeds as a deed of trust at the same time the deed to the home is filed.

"Most people are surprised by their adjustables," Torjeson said. "Between mobile notaries who brought them the documents at closing and the ease and speed of getting the loans, most people didn't entirely understand what they were getting into.

"I've seen loan documents that say no prepayment penalty on the first page and on page 8 it establishes a prepayment penalty. Most mortgages require that the property have insurance, but I've seen documents that ultimately force the borrower to pay for very expensive insurance selected by the lender," he said. "People didn't know what happened until it was too late."

Once borrowers have slogged through the note, the next step is to decide whether to seek professional help before contacting the lender.

Lawyers such as Torjeson and Dorothy Herrera, senior attorney with the Legal Aid Foundation of Los Angeles, can help some people -- those who can show they were misled by a broker or ended up with a loan containing a clear violation of the Truth in Lending Act, including the failure to disclose key information.

But many of the consumers contacting Legal Aid don't qualify for those protections, Herrera said, and are just in over their heads financially.

Working with a housing counselor can improve the odds of avoiding default and persuading a lender to help. Borrowers may be able to refinance -- with fees -- into lower- or fixed-rate loans, have prepayment penalties waived, freeze their current interest rates, set up repayment schedules or restructure loans.

At the East L.A. Community Corp., home-buying counselor Angelica Rubio works with people at risk of foreclosure. Many families don't understand their loans and need help facing their lender, she said.

"We sit down with them and look at their finances . . . and see if they can afford to keep their homes," Rubio said. "We've started doing foreclosure workshops because this is a big problem in our community that's going to get bigger."

Dialing direct

Some borrowers prefer dealing directly with the lender, usually through its toll-free number. Experts say they should be prepared to wait -- then wait some more. Hold times of more than an hour have been reported, as lenders suffer personnel cuts stemming from the collapse of so many loans.

Herrera, the Legal Aid Foundation attorney, said she's heard of people spending several hours a day, for days, either on hold or being bounced from one service representative to another.

"People can't get through to somebody who has the authorization to look at their adjusting loan," Herrera said. Neighborhood Housing Services received more than a thousand calls from people in mortgage distress on the day Countrywide announced it would work with borrowers to keep them in their homes, according to chief executive Gay. Countrywide has written about a quarter of the nation's adjustable-rate mortgages since 2005.

Countrywide and Washington Mutual are trying -- if you can reach them, Gay said.

Persistence pays

"Call early and often," Gay said. And if that doesn't work, find muscle, she said. "Call a neutral third party, a free housing counseling service, to help you work through this before the eviction notice is nailed to the door."

Once you find a lender's representative to work with, Gay said, make sure to get that person's name and telephone extension, and insist on letters to document calls and agreements.

"And then follow through. If you're going to negotiate, follow through. If you've set a payment

amount, pay it. Whatever you said you would do, make sure you do it, and if you can't, call the lender again."

Sometimes, after all the negotiations and counseling, borrowers conclude they won't be able to keep their homes and must consider drastic options.

"It's very sad, but there are still better ways out of the situation than letting the home slip into foreclosure," Gay said. One client, who had 40% equity in the home, declared bankruptcy so he could have time to sell it.

"It gave him time to work out his debts and sell the house," Gay said. "It was worth marring his credit to be able to recover part of the equity rather than lose it through foreclosure."

Other borrowers, who have little or no equity, may look at short sales, where the lender allows the borrower to sell the house for less than the debt, as a strategy to protect their credit rating so they can buy another home later.

"We call it a soft landing," Gay said. "Sometimes it's the best we can do."