

# The Palm Beach Post

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## What you should know about home foreclosure

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After more than six months of wrangling with her bank to get a reduced mortgage payment through a federal loan modification program, Debra Jacobs has had enough.

The West Palm Beach resident is walking away from her home of 14 years.

"I'm just going to wait here until they put a padlock on the door," said Jacobs, 58. "I'm so over it, I have to let it go. It's too painful."

As homeowners grow increasingly frustrated by the nation's struggling foreclosure prevention programs, more may consider walking away as a viable alternative.

But there's more to it than just stopping your mortgage payments and handing over the keys.

Boca Raton real estate attorney Marlyn Wiener says there's no "right way" to walk away from a home.

Knowing the consequences, however, will at least help the borrower make an informed decision, she said.

"There is an analysis that each homeowner should do to find the best way for them to proceed," Wiener said. "There isn't a speed lane."

The biggest gamble in walking away is whether a lender will try to seize a borrower's assets to pay for its losses, Wiener said. Lenders have up to 20 years in Florida to collect a deficiency judgment.

But banks are more likely to go after borrowers who strategically default — a term meaning the homeowner can afford the mortgage but decides to stop paying because the home is no longer a good investment.

Moral dilemmas aside, Wiener said it can make financial sense in some situations to "pull the plug and regroup" if the mortgage is underwater.

Scott Haft, who oversees the mortgage modification and foreclosure defense division at the law firm LaBovick & LaBovick, said some lenders are willing to forgive a mortgage debt if a borrower voluntarily turns over the home without going through a lengthy court foreclosure.

"We say, 'We'll give you the keys on Monday, but you have to waive your right to pursue my client in the future for deficiencies,'" said Haft, whose company has offices in West Palm Beach, Boynton Beach and Palm Beach Gardens. "Many times, the lender is only interested in regaining the property."

Another concern is whether the homeowner will have to claim forgiveness of debt on tax returns for the amount of money owed the lender.

The Mortgage Debt Relief Act of 2007 temporarily exempts people who lose their primary residence from having to claim the canceled debt, but the act is scheduled to sunset Dec. 31, 2012, and can't be applied to investment properties.

"Everybody's relationship with their properties and their loans is different," Wiener said. "People need to take a look at where they are in life before they decide to walk away."

One thing Wiener asks clients is whether they will need good credit in the near future to secure a car or student loan. A foreclosure can knock up to 300 points off a credit score — damage that can take years to repair and will stay on your report for seven years.

Lenders have recently stepped up efforts to ease the foreclosure process and avoid the complications when a homeowner walks away.

Citigroup launched a program this month that allows some borrowers to stay in their homes for six months without paying. In return, the homeowner turns in the keys at the end of the time period and keeps the home in good shape.

The federal Home Affordable Foreclosure Alternatives Program, announced in November, gives lenders incentives for offering deed-in-lieu of foreclosure and for approving short sales.

But for Jacobs, the alternatives are "too little too late."

"Not only do I not know the options, I don't care anymore," she said. "It's really sad it's come to this."

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