

The Homeownership Preservation Program is Intended to provide extended direct services that will allow a homeowner to successfully avoid foreclosure or mitigate housing losses.

Tierra Del Sol Housing Corporation will provide the level of housing counseling services appropriate to the homeowners needs.



**DON'T GIVE UP...**

**HELP IS AVAILABLE!**

**THE OFFICE OF THE NEW MEXICO  
ATTORNEY GENERAL**

**ALBUQUERQUE OFFICE**

111 LOMAS NW, STE 300  
ALBUQUERQUE, NM 87102  
PHONE: (505) 222-9100  
www.nmag.gov

**NEW MEXICO LEGAL AID**

**LAS CRUCES OFFICE**

**Tierra Del Sol Housing Corporation**

**is a non-profit organization**

**Assisting New Mexico Residents with**

**Foreclosure Counseling.**

**Our Services Include:**

- Counsel homeowners on available loss mitigation options and identify options most suited to the homeowners needs and capacity to maximize home retention.
- Refer homeowners who are sued for foreclosure to the NM Legal Aid defense.
- Assistance through HOPE Loan Portal, in preparing and submitting applications for loss mitigation.

Tierra Del Sol Housing Corporation

Foreclosure Counseling Assistance Program

Is FREE of charge. Check with the office of  
The Attorney General

if you are being asked for  
money to save your home!

**For more information on foreclosure  
please visit one of the following**

**websites:**

**[www.keepyourhomenewmexico.org](http://www.keepyourhomenewmexico.org)**

**[www.makinghomeaffordable.gov](http://www.makinghomeaffordable.gov)**



**WHAT ARE  
YOUR  
OPTIONS?**

- LOAN MODIFICATION
- SHORT SALE
- DEED IN LIEU
- FORBEARANCE
- LEGAL SERVICES



Tierra Del Sol Housing Corporation

210 E. Idaho  
Las Cruces, NM 88005  
575-541-0477  
880 Anthony Drive  
Anthony, NM 88021  
575-882-3554

Please contact one of our foreclosure  
counselors for an appointment .

TDSHC is a HUD certified housing counseling agency.

## What is foreclosure?

A foreclosure is a legal action that allows a lender to take a property when the borrower has not made payments. New Mexico is a judicial foreclosure state. Our laws require that the lender file a Complaint in a district court and prove that it is entitled to take the property. A foreclosure case will take several months before the court makes a final decision.

A foreclosure is a complicated kind of legal case. If you can, you should hire a lawyer or see if you qualify for free legal help. Don't wait! You must act within 30 days of getting notice of a foreclosure lawsuit. Even if you are negotiating with your lender, you still must file papers with the court.

**If you are behind on your mortgage payments or fear that you may get behind— DO NOT WAIT.**

## Filing with the Courts

There are thirteen district courts in New Mexico. The summons and complaint will say at the very top what county and which court the complaint was filed. Call the district court listed on the summons to find out if you can get help through the court with your case. Some of the courts have special offices to help people who cannot afford a lawyer.

Information about the courts can be found at [www.nmcourts.com](http://www.nmcourts.com). This website also has information about what is happening in your case through Case Lookup.

When you file papers with the court, take the papers to the clerks office. Take two extra copies. The court will keep the original. You will mail one copy to the lawyer of the other side of the case. You keep one copy for your records.

## Court Process

The Complaint is the first paper filed with the court by the plaintiff. In a foreclosure action, the plaintiff is the lender or servicer of the mortgage. The Complaint asks the court for help in getting someone to pay a debt or forfeit their property. The court gives the plaintiff a Summons. The Summons is an order by the court that gives the defendant 30 days to respond to the Complaint. In a foreclosure action, the defendant is the homeowner.

The first thing you should do if you have been served with a Summons and Complaint is file a response at the courthouse. Your written response can be a motion or an Answer. If you are representing yourself, you should probably file an answer. In the answer, the defendant responds to the complaint by agreeing or disagreeing with each paragraph of the complaint. The answer should be filed with the court within 30 days from the day that the defendant gets the summons and complaint. When the plaintiff or defendant want the court to take action, they ask the court by filing a Motion.

### Motion for default judgment

When the defendant does not file an answer or other response with the court, the plaintiff can ask the court to automatically let them win the case. If the defendant has not filed answer, the plaintiff can file a motion for default judgment. The plaintiff can win the case very quickly through a default.

### Motion for summary judgment

When the plaintiff (lender, bank or servicer) thinks that the defendant (homeowner or borrower) really hasn't disagreed with the complaint, the plaintiff can file this motion. If the plaintiff wins this motion, the plaintiff has basically won the entire case.

When the plaintiff or defendant files a Motion the party that gets the Motion has 15 days to file a Response saying why they disagree with what the motion is asking for.

The party that files a motion, also files a Request for Hearing. The Court will schedule a hearing where both sides get to explain what they want. The judge decision will be set out in an Order. When the court decides that the plaintiff is entitled to the property, an Order of Sale will be signed by the judge. The plaintiff schedules the sale and must file a Notice of Sale. The sale is an auction on the courthouse steps. Usually the bank buys the house for less than what is owed and the defendant will still owe money to the bank. through a private sale or paying off the loan. This is the right to Redemption. The homeowner usually has 30 days after the sale during which the property can still be redeemed

After the property is sold, if the homeowner does not move out, the Plaintiff can ask the court for a Writ of Assistance. The sheriff can then make the defendant move out. The losing party can file a notice of appeal with the court of appeals if s/he disagrees with the decision of the district Court.

## Refinance

Refinancing your loan means finding another lender who will lend you the money to pay off your existing mortgage and enter into a new loan with you. Generally this option is only available if you have good credit.

## Repayment Plan

A repayment plan is an agreement between you and the lender to catch up on the amount you owe. This usually means that your payments will increase for several months until the arrearage is paid and then you go back to your regular payment.

## Forbearance

A forbearance agreement will allow you to temporarily suspend or reduce your monthly payments for a period of time. If you are currently receiving unemployment compensation, you may qualify for a six or twelve –month reduced payment under a Special Forbearance plan and you can apply for a loan modification if you become employed during that time. If there is a foreclosure lawsuit, it will be placed on hold during the forbearance.

## HAMP Modification

The Home Affordable Modification Program (HAMP) is designed to help homeowners with non-GSE loans. If you have an FHA, Freddie Mac, Fannie Mae, VA or USDA loan, you do not qualify for HAMP. FHA, Freddie Mac, Fannie Mae, VA and USDA have their own modification programs such as FHA –HAMP.

A HAMP modification can reduce your monthly housing payments (mortgage, taxes and insurance ) to 31% of your gross monthly income. The interest rate can be reduced to as low as 2% for the first 5 years and your payments stretched out over 30 to 40 years. For the first five years, if you make your monthly modified payment on time, you will receive \$5,000 from HAMP toward your principal loan balance.

A HAMP requires a 3 month trial period during which you begin making a modified payment. Although this trial period is supposed to last 3 months before permanent modification is determined, it sometimes takes longer. We recommend that you continue making the trial payment for as long as the lender will accept it.

## Loan Modification

If you don't qualify for HAMP, the lender can evaluate your eligibility for an "in-house" loan modification. An in-house loan modification will sometimes reduced your payment and interest rate. An in-house loan modification can also keep your payments about the same but move your arrears t the end of the loan.