

Legal Services of Greater Miami, Inc.

Main Office

3000 Biscayne Blvd., Suite 500
Miami, FL 33137
(305) 576-0080

Walk-In hours

Monday-Thursday
9:00 a.m. - 12:00 p.m.

Phone Intake

Monday-Thursday
1:30 p.m. - 4:00 p.m.
Friday
9am-12:00pm, 1:30pm-4:30pm

South Dade Law Center

11285 SW 211 Street, #302
Miami, FL 33189
(305) 576-0080

Walk-In hours

Monday-Thursday
9:15 a.m. - 11:30 a.m.
1:15 p.m. - 4:00 p.m.

Legal Services of the Florida Keys

Telephone (877) 715-7464
TDD (877) 715-7461

NOTE: This information cannot take the place of advice from a lawyer. Each case is different and needs individual legal advice. You should contact a lawyer if you need representation on a tax matter or if you have questions.

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**Legal Services
of Greater Miami, Inc.**

Vision Statement

We are passionately committed to Equal Justice. Through aggressive advocacy and innovative collaboration with our community partners, we strive to empower our clients and alleviate the hardships of poverty.



www.lsgmi.org

**Legal Services
of Greater Miami, Inc.**

**Haitian Outreach and
Education Project**



**MYTHS ABOUT
FORECLOSURE FOR
HOMEOWNERS AND
RENTERS IN THE HAITIAN
COMMUNITY**

This project was supported by a grant from the Dade Community Foundation, Greater Miami's permanent endowment made possible by generous donors since 1967.

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What is a myth?

A myth is a story or an idea that is not true and is not based on fact.

This brochure is written to clear up untruths about foreclosures for both homeowners and renters.

What is a foreclosure?

A foreclosure is a lawsuit filed by a mortgage company when the borrower has not made payments on the loan.

In the Haitian Community there are a lot of myths and mis-information about foreclosure. Here are some important facts to know.

MYTH: When a mortgage and loan is under a name different than the one on the deed, the mortgage company cannot foreclose.

FACT: Even if the mortgage and loan is under a name different than the one on the deed, the mortgage company can still file foreclosure. Both the borrower of the loan and the property owner on the deed will be named in the foreclosure lawsuit.

This situation happens when a person obtains a home loan for a friend or family member to help them buy a home. The friend or family member agrees to pay the mortgage and the deed is titled in his/her name. Unfortunately, the person on the home loan is legally responsible to pay that loan and will be named in the foreclosure along with the homeowner.

MYTH: The mortgage lender must give the deed holder a loan modification even though the mortgage and loan is under a different name.

FACT: The lender will only negotiate a loan modification for the borrowers named in the loan documents. The named borrowers on the loan must cooperate, agree and sign the terms under the loan modification agreement. The person named on the deed must obtain a loan under his/her name to remove the named borrowers on the loan. A person who wants to refinance must check with a licensed mortgage broker or representative at a bank to determine if his/her credit is good enough to finance the property. Loan cannot be more than the value of the property.

MYTH: If the amount owed on the loan is more than the value of the property then the lender must reduce the principal of the mortgage loan.

FACT: Even though the value of the property is less than the remaining balance of the loan, the lender will not reduce the principal of the loan unless the originating lender seriously violated consumer protection laws on a refinance. This does not apply to loans used to purchase the property. An experienced attorney can evaluate the closing documents to determine whether you may be eligible for a reduction in the principal and whether your claim is time-barred.

MYTH: Filing for bankruptcy will always stop a foreclosure.

FACT: Even if you file for bankruptcy, there must be a financial plan to pay back what you owe and it must be approved by a bankruptcy judge. If the bankruptcy is dismissed and you cannot afford the plan, then the foreclosure will proceed.

MYTH: A lender must give a loan modification if the borrower lost his/her job or has financial obligations that exceed their ability to pay the mortgage.

FACT: To obtain a loan modification you must have income sufficient to support a modification

plan. The loan modification is based on several factors including your income and outstanding balance owed. The income you report must be supported by documentary proof such as pay stubs and bank statements.

MYTH: Selling your home to a trust or third party, then renting it with an option to buy it back is a good way to avoid foreclosure.

FACT: Sometimes a homeowner falls behind on their mortgage and enters into an agreement to transfer title to another person and to buy it back later for less than what is currently owed. Such a sale contract with lease and option to buy it back may not prevent or stop a foreclosure. Also that homeowner may still be obligated to pay the original loan. The homeowner usually agrees to pay rent to the buyer and becomes a renter in their own home. To regain title, that homeowner may be required to "buy back" their own home but may never qualify to do so. If approached with this option, it is important to have your own attorney review the agreement and advise you of your rights.

Many people are currently renting homes that are in foreclosure. Here are some important facts to know.

MYTH: My landlord has not paid his mortgage and the house I rent is in foreclosure. I do not have to pay rent.

FACT: You must pay your rent under your verbal or written lease with your landlord. The landlord may still evict you if you do not pay rent.

MYTH: The house I rent was sold at a foreclosure auction. I no longer have to pay rent.

FACT: When title passes after the foreclosure auction, the new owner assumes your lease and is entitled to collect rent. The new owner must honor the rest of your lease or give you at least 3 months notice to vacate. Otherwise, the new owner may evict you.