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What to expect - and do - when you're expecting foreclosure

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Despite your best efforts, business has fallen off and you're way behind in your mortgage payments. In an economy that's pulling no punches, this may be the first time that you - or a client - are a defendant in a foreclosure action. With the clock ticking, you will want to move fast to protect your business and your financial future.

If you hadn't done so previously, now is the time to explore your options with your attorney. They can help you approach your bank with options such as refinancing or a forbearance agreement, particularly if you can show the bank that better financial times are just around the corner. If these options are not viable, the bank might be willing to absorb some of the loss and accept the property in lieu of foreclosing the mortgage, or permit a sale for less than the amount owed, without later pursuing a deficiency, although both options may result in serious tax consequences.

Addressing the foreclosure complaint might become unavoidable, however, and you will want to work with your attorney to explore viable options such as challenging defects in the complaint or the manner in which you were served, or pleading certain defenses that challenge the making, validity, or enforcement of the note or mortgage. Or, perhaps you might decide the circumstances call for you to simply walk away.

The full version of this article, with an in-depth discussion of the issues raised herein, may be viewed at www.mrglaw.com. This article is for general interest and education only and does not constitute legal advice.

Michael Albano is with MacDermid, Reynolds & Glissman, P.C., Hartford, Conn.

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