

CASE CLOSED

THE OFFICE OF THE ATTORNEY GENERAL, through the Consumer Protection Division and the Licensing Enforcement and Homeowner Protection Unit (“LE&HPU”), is dedicated to investigating and litigating complaints against real estate licensees, including brokers, salespersons, and appraisers, before the Indiana Real Estate Commission and the Real Estate Appraiser Licensure and Certification Board. Administrative complaints are brought before the Commission or Board by the Office of the Attorney General on behalf of the State of Indiana. In addition to administrative complaints, civil complaints may be brought against non-licensees, such as mortgage brokers and foreclosure consultants. The Credit Services Organizations Act, Indiana Code § 24-5-15, Mortgage Rescue Protection Fraud Act, Indiana Code § 24-5.5, and Deceptive Consumer Sales Act, Indiana Code § 24-5-0.5, regulate the activities of non-licensees and give the Office of the Indiana Attorney General (“OAG”) authority to bring civil actions. Complaints against non-licensees are brought in civil court where an injunction, consumer restitution, civil penalties, and investigative costs may be imposed.

Consumers considering a short sale often want to know if that option is better for their credit than a foreclosure. Logically, the answer would seem to be yes, since the consumer is avoiding foreclosure. However, the true answer depends on the consumer’s individual circumstances and plans for the future. In some instances, the time and stress of the short sale process may outweigh any credit advantage (if one exists) for a consumer who does not plan to rely on their credit in the near future. Fair Isaac, the company behind the FICO score, provides some information on its Banking Analytics Blog regarding the credit effects of a short sale, deed in lieu of foreclosure, and foreclosure. Fair Isaac’s study considered three consumers with starting credit scores of 680, 720 and 780 and credit characteristics (use of credit, age of file, etc.) that would be typical of consumers with those scores.

The study found the credit score impact was the same for a short sale with deficiency, deed in lieu of foreclosure with deficiency, and a foreclosure in all three credit score situations. However, a short sale or deed in lieu of foreclosure with no deficiency resulted in an average score of about 35 points better than foreclosure. The study also found that the lower the consumer’s initial credit score, the shorter time it takes for the consumer’s score to fully recover regardless of the option chosen. While a starting credit score of 680 can fully recover from a foreclosure, short sale or deed in lieu of foreclosure in approximately three years, it can take about seven years for the credit scores of consumers with higher initial scores to fully recover.

A consumer’s individual circumstances are important to consider as well; employment concerns and future plans for use of credit can play a factor outside of the immedi-

ate score impact. Regardless of the length of time it takes for the consumer’s score to recover, the foreclosure, short sale or deed in lieu of foreclosure may be reported on the consumer’s credit report for seven years. The presence of a foreclosure on a consumer’s credit report may be a problem in certain industries, since some employers check credit as a condition of employment. Another issue for consumers to consider is their future housing plans. Consumers with a significant derogatory credit event on their credit report (such as any of the options discussed) often must wait several years before they can obtain a new mortgage loan. The waiting period imposed is often dependent on the type of mortgage loan the consumer tries to obtain. For example, a borrower that experiences a short sale or deed in lieu may be able to obtain a new mortgage loan with a 20 percent down payment in as little as two years (or a 10 percent down payment if extenuating circumstances exist), according to Fannie Mae lending guidelines. A consumer that experiences a foreclosure may have to wait seven years (three with extenuating circumstances).

Want to learn more? Fair Isaac’s Banking Analytics Blog has additional information. Visit bankinganalyticsblog.fico.com and search for “Research looks at how mortgage delinquencies affect scores.”

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