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## Homeowners Need to Consider Possible Legal Issues Before Deciding to Walk Away from Mortgage Payment

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*Consumer Credit Counseling Service of Greater Atlanta Advises Clients That Mortgage Companies May Sue to Recoup Any Unpaid Amount*

ATLANTA GA, February 22, 2010 -- Homeowners who are considering "walking away" from their home to avoid making their mortgage payment need to know that their mortgage company may try to file a lawsuit to recover the amount owed on the home.

In addition, homeowners who sell their home for less than the amount they owe - a process called a "short sale" -- may be sued for the unpaid balance, even after the sale of the home. Finally, homeowners with unpaid home equity loans or second mortgages may also face legal action if they "walk away" from an unpaid mortgage or conclude a short sale.

"My advice is that no homeowner should ever simply "walk away" or "turn in the keys" without receiving a document that absolves them of all liability," said Frank Alexander, professor of law at Emory University School of Law and a member of the board of directors of Consumer Credit Counseling Service (CCCS) of Greater Atlanta.

"A borrower facing a foreclosure should assume that a post-foreclosure lawsuit is possible," said Alexander. "In addition, no homeowner should ever participate in a short sale without receiving a signed agreement clarifying that all outstanding debt has been forgiven. The same is true for all deed-in-lieu of foreclosure resolutions."

Before the current mortgage crisis, mortgage companies usually did not sue homeowners after foreclosure or short sales because many borrowers had little income and few remaining assets, according to Alexander.

But the increase in homeowners deciding to "walk away" from their homes means mortgage companies may file more lawsuits to try and recoup their losses. In addition, Alexander says that mortgage companies are often selling promissory notes for the amount owed on the mortgage, at steep discounts, to collection agencies. The collection agencies will likely pursue the former homeowner to collect the amount owed.

Because some borrowers who decide to "walk away" from their homes still have good incomes, Alexander predicts an increase in the number of lawsuits filed by mortgage companies to obtain garnishment of a homeowner's wages. "Garnishment actions are going to become quite common in late 2010 and throughout 2011 and 2012," he says.

If a homeowner involved in a foreclosure, a short sale or deed-in-lieu of foreclosure has any questions about this issue, Alexander recommends that they hire an attorney to determine if their mortgage company has any basis for legal action.

Consumer Credit Counseling Service of Greater Atlanta is one of the nation's largest nonprofit foreclosure prevention counseling agencies. In 2009, the agency provided foreclosure prevention counseling to more than 105,000 homeowners across the nation.

### **About CCCS of Greater Atlanta**

CCCS of Greater Atlanta serves clients in all 50 states and has 33 offices in four states. It is the headquarters for the CredAbility Network, a family of nonprofit agencies serving consumers in north Georgia, south and central Florida, middle Mississippi and east Tennessee as well as nationally via telephone and Internet.

CCCS is accredited by the Council on Accreditation and is a member of the Better Business Bureau and the National Foundation for Credit Counseling (NFCC). Governed by a community-based board of directors, CCCS is funded by creditors, clients, contributors and grants from foundations, businesses and government agencies. CCCS offers around the-clock help by phone at 1-800-251-CCCS or at its Web sites, [www.cccsinc.org](http://www.cccsinc.org) and [www.cccsenespanol.org](http://www.cccsenespanol.org).



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