



# Is It Wrong To Walk Away From A Mortgage Deep Underwater?

Debate Grows As Housing Crisis Continues

By CLAIRE SHIPMAN and MARY PFLUM

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For years, owning a home was "the American dream" -- until the recent [housing crisis](#) turned owning a home into a nightmare for millions.

New numbers out just this morning paint a dark picture of the nation's [foreclosure crisis](#).

[Mortgage](#) defaults are up 15 percent since last year and an astonishing one in 409 homes received a foreclosure notice this January. That's 315,716 homes. And at least one in five homeowners owe more on their homes than their homes are worth.

In some states the figures are particularly staggering. In Nevada alone more than 40% of homes are "underwater," meaning homeowners owe more on their homes than what their homes are worth.

Many homeowners on the edge are wondering whether they should just walk away from their mortgages and get off the "hamster wheel" of making costly payments on a home deep underwater.

"There's a lot of justified fear about walking away from your mortgage. A lot of this fear is cultivated by banks...and the government," said Brent White, an associate professor of law at the University of Arizona, who recently published a paper, titled ["Underwater and Not Walking Away: Shame, Fear and the Social Management of the Housing Crisis."](#)

White emphasized he is not in the business of advising homeowners. Rather, his paper is about making the point that lenders and other businesses are not saddled with the same moral constraints as individual homeowners.

"Sure, you'll take a credit hit [if you walk away from your mortgage,]" White said, "but you can recover from that."

"The cost is a lot less than the hundreds of thousands [of dollars] people can save from walking away from their mortgage," he said.

White added only about 2 percent of Americans with homes underwater are currently walking away from their mortgages, but he said more people probably should, financially-speaking. "Heather B.," a

single mom who asked that her last name not be used, is among those currently taking steps to strategically default on their mortgage.

"I was working two jobs," she said. "I liquidated a 401K. I spent all my savings. ... I reached out for every source of income that I could possibly get my hands on to stay in this home. And I was hoping that my lender would work with me."

But when the bank refused to modify the loan on her home in the metropolitan D.C. area -- currently more than \$200,000 underwater -- she turned to [www.youwalkaway.com](http://www.youwalkaway.com), a Web site that claims to have helped thousands walk away from their mortgages.

"I just don't see myself being able to recover here. It's like throwing good money at bad money," Heather B. said.

Banks and corporations have been walking away from mortgages for years. If an investment in a property isn't working out, they routinely walk away.

Even the Mortgage Bankers Association, long a critic of individual homeowners walking away from their mortgages, announced last week it was defaulting on its headquarters, a Washington, D.C., building it opted to sell in a short sale when it fell underwater.

However, Dave Ramsey, host of a television show about living a debt-free life, advises against walking away. He suggests hanging on until the market turns and, if you just can't, selling your home for less than it's worth, rather than walking away to preserve your credit.

"If you can at all afford it, sit there. It will recover," he said. "Now, if you're in a situation where you can't afford it and you're going to be foreclosed on, then attempt to sell it on a short sale before the foreclosure. That will be a lot better than just walking away."

White emphasized that walking away from a mortgage is a serious step and should not be done without careful thought and without doing one's homework.

Among those things to consider, White says: how underwater a home is. If the home is only 2-3% underwater, a homeowner should probably not consider walking away. Walking away is ideally for those whose homes are 20% or more under water.

Homeowners should additionally research the laws in their states. Some states are "non-recourse" states -- meaning borrowers are not held personally liable for more than the home's value at the time that the loan is repaid, even if they walk away.

Those considering walking away need to find out what the laws are in their state first, White said.

According to [Helocbasics.com](http://Helocbasics.com), non-recourse states include Alaska, Arizona, California, Connecticut, Florida, Idaho, Minnesota, North Carolina, North Dakota, Texas, Utah and Washington.

[Your state not on the list? Click here to find out more about your state's laws at the U.S. Department of Housing and Urban Development Web site.](#)

If a person is serious about going forward with walking away from his or her mortgage, White says it's important to consult with an attorney or accountant who is familiar with state laws, and ideally has previous experience in assisting with strategic mortgage defaults.

White argues it's often fear and shame that keeps so many Americans in homes that are no longer good investments but are, instead, albatrosses.

"Banks understand contracts are a legal document, not a moral document," White said.

"But individuals don't understand this as a rule and believe they have a moral obligation to pay their mortgage," he added.

That may be why Heather B. feels conflicted about her decision to walk away.

"I'm feeling hurt. I'm feeling sad. I'm feeling regretful. I'm feeling like I wish I could do it all over," she said. "You know, foreclosure was just -- not anything that I ever thought that I would have to deal with.

"However, at the end of the day, I had to make a decision," she added. "And I looked at the pros and cons. And it tipped toward the pro of me leaving. So that's what I'm doing."

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