
MORTGAGE FORECLOSURES
TIMING & STEPS IN MORTGAGE FORECLOSURES

Owner Defaults

Does not pay mortgage (usually 2-3 months sometimes much more before suit filed)

Lender files Foreclosure Complaint (suit) & Summons

Names all owners of property, all other lien and mortgage holders, association and unknown owners as defendants

Summons requires actual delivery (service) to each defendant (must serve every defendant before foreclosure suit can proceed - at least 30 days for persons served, may take a long time to serve all)

Defendants that are served with Summons and Complaint (suit), are given 30 days to file their Appearance and Answer (Defendants can get delays on proceeding with suit, especially now. Court often gives Defendants 4-6 months to file Answer to suit.)

Lender publishes notice.

This is formal publication in the local newspaper for approximately a month after all defendants are served with Summons and Complaint

Must be done 4 weeks before proceeding to judgment

Lender files Motion (request) for Judgment

Takes 2-4 weeks to get before court (often delayed)

Asks for money judgment for the principal, interest, and other advances made by the lender

Asks for the attorneys' fees and costs incurred by the lender

Asks that the property be sold at an auction to satisfy the amounts owed to the lender

Foreclosure Judgment

Is entered by the Court if Complaint claims accepted (may not be accepted, can be continued)

May be disputed by owner or others

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(continued)

Owner Redemption & Redemption period

Owner is given the right to redeem or reinstate the mortgage in order to stop the foreclosure and avoid foreclosure auction

Redemption period lasts 3 months from the date of the judgment or 7 months from the date of service, whichever is longer (can delay conclusion)

If owner redeems, foreclosure suit ends and association does not lose any rights or monies.

Foreclosure sale/auction is conducted

Needs to be set up, published and publicized at least 3-5 weeks before sale

Lender will offer the first bid

The highest bidder will purchase the property

If the winning bid is more than is the total owed to the lender, the difference between the amount owed to the lender and the winning bid is called the surplus. Surplus belongs to the owner.

The association and secondary lienholders may be entitled to file a formal request (petition) asking the court for some or all of the surplus

Lender files Motion to Confirm Sale

Filed after sale, 2-4 week wait to get before judge, often delayed

After the court confirms the sale, the judicial sale deed will be issued and recorded

Purchaser at the foreclosure auction is new owner of the property and will be granted possession of the property 30 days after the order has been entered

Assessments after foreclosure Auction/Sale

Purchaser at the Foreclosure Auction becomes responsible for assessments beginning in the month after the foreclosure auction/sale was conducted