Family First Credit Union
Lending Policy
Foreclosure Policy

Statement

Foreclosure is the process by which Family First Credit Union terminates a member's right to possession of mortgaged real property due to default; obtaining legal and physical possession of the property so that it can be sold to satisfy the debt.

Other real estate owned by the Credit Union will be approved by the Board on an annual basis. The Credit Union will request approval from the Department of Banking and Finance to hold any other real estate owned for longer than five years.

The Board of Directors has set out the following foreclosure process:

1. Generally, all real estate loans are recommended for foreclosure at month-end after the loan is three (3) payments past due.
2. The process will be initiated at the recommendation of the member solutions representative working on the account.
3. The recommendation and file will be forwarded to the Vice President of Member Solutions for review.
4. The review will verify that:
    a. Collection efforts were adequate and were documented accurately.
    b. All efforts to successfully resolve the default failed.
    c. The member has not filed for bankruptcy.
    d. There are no legal restrictions to prevent foreclosure (for example, Soldiers' and Sailors' Civil Relief Act).
    e. The accounting for payments by the member is accurate and has no unresolved disputes.
    f. A drive-by appraisal of the property by an approved appraiser has been requested.
5. The Member Solutions Department Manager, finding the foreclosure recommendation warrants, will present the case to the President.
6. The President will review the recommendation and approve the commencement of foreclosure or refer the file back to the Member Solutions Department Manager for additional work.
7. If foreclosure is approved, the President will take over the file and begin the foreclosure process. The President will work closely with the Member Solutions Department Manager during the process in the event an acceptable remedy to foreclosure is found before the sale of the property. While the President will handle most foreclosures, in the event an outside attorney is retained, file documentation will be delivered to that attorney.

8. The attorney will handle the legal process in the county in which the property is located. The attorney will:
    a. Notify the member that the foreclosure process has begun.
    b. Review the title to the property and notify subsequent lienholders of the impending sale.
    c. Select the date and time of the sale.
    d. Advertise the property for sale in the local newspaper for three to four consecutive weeks.
    e. Represent the Credit Union at the sale proceedings.
    f. Complete the necessary paperwork to give clear title to the Credit Union.
9. At the foreclosure sale, the foreclosing attorney will place the first bid on the property. That bid will include the:
    a. Principal balance of the loan.
    b. Interest and late charges due to date of sale.
    c. Expense for maintenance, insurance, taxes, and other costs incurred in preserving the property value.
    d. Expenses of the foreclosure sale.
    e. Unpaid escrow items.
    f. The President can determine a lower bid on the property than the principal balance if it is in the best interest of the Credit Union.
10. The sale will be held in accordance with state law. The lender often submits the only bid at a foreclosure sale and the property becomes real estate owned by the lender. If there is a higher bidder, the Credit Union must receive proceeds from the bidder within twenty-four hours. If not received within this time, the Credit Union will record the foreclosure deed for the amount of its bid.
11. The Member Solutions Department Manager will set up an account with the accounting department to record costs associated with the foreclosed property. If the Credit union is the successful bidder, the member’s loan account will be credited for the amount of the principal balance and the general ledger other real estate owned account will be debited with a corresponding entry.
12. The Member Solutions Department Manager will oversee maintenance of the property and make every effort to sell it for a fair, equitable price that will result in no loss to the Credit Union.

Post-foreclosure Process

Once the attorney has recorded the foreclosure deed, a notice to vacate the property must be sent to the mortgagors. If the mortgagors do not vacate the premises within the ten-day period, the account will be referred back to the attorney to initiate an eviction action.

Once the property has been vacated, the Member Solutions Department Manager should physically inspect the property for an initial assessment. As soon as possible, a locksmith should be hired to change the locks and take other appropriate action to secure the premises. If furniture or other personal belongings of the former mortgagors remains on the premises, the Member Solutions Department Manager should take steps to have the items removed. If necessary, arrangements should be made for the upkeep of the lawn as well as the interior. Repairs needed to bring the property into a sellable condition must be approved by the President. The Member Solutions Department Manager should have a post-foreclosure appraisal performed by a licensed appraiser to determine the value of the property. Once the appraisal has been received, the account should be reviewed to determine if a write-down is necessary as detailed by NCUA accounting guidelines. The carrying value of the property should not exceed the appraisal value less estimated commission fees.

Alternative to Foreclosure

In some cases, Family First Credit Union may choose to accept a deed from the member instead of foreclosing. The most important aspect of accepting a deed in lieu of foreclosure is that it has to be a voluntary conveyance. Credit union staff should never propose this solution to the member. Every case should be judged individually, and a title attorney should be consulted for help with the evaluation. Any offer to accept a deed in lieu of foreclosure must be approved by the President. The basic process is:

1. Perform a physical inspection of the property and record obvious deficiencies. A "full" appraisal may also be required.
2. Order an updated title search in order to find possible superior, secondary, and tax liens. Determine the position of the Credit Union's lien.
3. Perform a financial analysis of total costs required to obtain clear title, and probable losses or gains.
4. If analysis of the case indicates a deed in lieu of foreclosure is an acceptable remedy, the Credit Union's attorney will prepare the necessary documents for the member to sign over the property.
5. Complete the foreclosure maintenance checklist.

Disposal of Foreclosed Properties

Disposals of foreclosed properties financed by Family First Credit Union are processed much the same as its regular properties with the exception of a survey and termite bond. These items may be waived at management discretion. The accounting and disposition of these properties follow the guidelines set forth in NCUA Manual for Federal Credit Unions Rule 5110.

All foreclosed property should be placed for sale at the earliest possible opportunity. Family First Credit Union will attempt to market the property without the assistance of a real estate agent where possible. The Member Solutions Department will use appropriate means to advertise the property to the membership and the general public. If the property cannot be sold within a reasonable time, a knowledgeable real estate agent should be engaged to market the property. Sale of all foreclosed property must be approved by the President. Potential purchasers should submit a bid in writing on a standard real estate sales contract. The bid should include the purchase price and any conditions requested by the purchaser. The bid should be accompanied by earnest money in an amount that equals $1,000 per $100,000 sales price. Once a bid is accepted, a written sales contract must be executed by the buyer and signed by the President. The sales contract will contain the sale price, the conditions and contingencies of the sale, a tentative closing date, and an agreement on allocation of closing costs.