# Comprehensive 51-Jurisdiction Analysis of Mortgage Foreclosure Statutes of Limitations for Mortgage-Backed Security Investors

## I. Executive Summary & Strategic Overview

### A. Introduction and Purpose

This report provides a comprehensive legal and analytical framework for understanding mortgage foreclosure statutes of limitations (SOL) across all 50 states and the District of Columbia. It is designed for Mortgage-Backed Securities (MBS) investors to assess and mitigate risks associated with the enforceability of mortgage liens over time, particularly within portfolios of non-performing and re-performing loans. The enforceability of a mortgage is not perpetual; it is governed by a complex web of state-specific statutes and interpretive case law that dictates the maximum time a lender has to initiate a foreclosure action. Failure to comply with these time limits can, in many jurisdictions, result in the complete extinguishment of the security interest, rendering the collateral worthless and leading to a total loss on the investment. This analysis provides the detailed, jurisdiction-specific intelligence necessary for prudent risk management, asset valuation, and investment strategy in the MBS market.

### B. Key Findings at a Glance

A nationwide survey reveals extreme variance in foreclosure SOL regimes, posing a significant challenge for investors with geographically diverse portfolios. Key findings include:

- **Divergent Time Periods:** The time allowed to initiate foreclosure varies dramatically, from as short as four years in Texas and five years in Florida to 15 years in Michigan and as long as 60 years in specific circumstances in California.[1] This disparity directly impacts the risk profile of aged delinquent loans.
- **Critical Triggering Events:** The event that starts the SOL clock is a pivotal and often litigated issue. The three primary triggers are (1) the date of each missed installment

payment, giving rise to a rolling SOL for each payment; (2) the lender's affirmative acceleration of the entire loan balance, which typically starts a single, final SOL period for the whole debt; and (3) the loan's contractual maturity date.[5] The legal interpretation of what constitutes a valid acceleration or a subsequent "deceleration" is a major source of legal risk.

- **The Lien's Fate:** A crucial distinction exists between states where an expired SOL extinguishes the underlying mortgage lien itself, rendering the debt unsecured (e.g., Texas [6]), and states where it merely bars the *remedy* of foreclosure, potentially leaving a "zombie mortgage" that still clouds title and may be satisfied upon a future sale of the property (e.g., Ohio [7]).
- **Legislative Volatility:** The legal landscape is not static. Recent legislative actions, most notably New York's Foreclosure Abuse Prevention Act (FAPA), have radically altered the risk calculus for lenders. FAPA prevents lenders from unilaterally revoking a prior acceleration to reset the SOL, a practice that was previously a key risk mitigant.[8] This trend toward borrower-protective legislation underscores the need for continuous monitoring.

## C. Jurisdictional Risk "Heat Map" for MBS Investors

For the purposes of portfolio risk assessment, jurisdictions can be categorized into conceptual risk tiers based on the confluence of SOL period, trigger mechanisms, and the consequence of expiration.

- **High-Risk Jurisdictions:** These states present the greatest risk of collateral loss due to strict and unforgiving SOL regimes. They are typically characterized by short SOL periods (4-6 years), triggers based on acceleration that can be inadvertently but irrevocably activated by routine servicing communications, and statutes that extinguish the lien upon expiration. **New York (post-FAPA)** and **Texas** are prime examples. In these states, a single procedural misstep or delay in a foreclosure action can lead to a complete write-off of the asset.
- **Medium-Risk Jurisdictions:** This category includes states with moderate SOL periods (e.g., 10-15 years) or where the legal framework is ambiguous or in flux. **Ohio** and **Illinois** fit this profile. Ohio, for instance, has conflicting lines of case law regarding whether the expiration of the SOL on the promissory note bars an action on the mortgage, creating significant legal uncertainty.[10] Illinois has a 10-year SOL but case law suggests that if the action on the note is barred, the mortgage lien may also be unenforceable.[12] These states require careful, case-by-case analysis and present moderate risk.
- **Low-Risk Jurisdictions:** These states offer a more stable and predictable environment for lien enforcement. They are characterized by very long SOL periods or triggers tied to the loan's final maturity date, which provides a clear and extended window for enforcement. **California**, with its 60-year SOL for deeds of trust lacking a recorded maturity date, and **South Carolina**, with its 20-year SOL from maturity, are examples of lower-risk jurisdictions from a purely temporal perspective.[4]

## D. Overarching Strategic Implications

This analysis yields several critical strategic imperatives for MBS investors:

1. **Servicing is Paramount:** The complexity and variance of SOL triggers mean that loan servicing cannot be a passive, automated process. The language used in default notices and acceleration letters has profound legal consequences and can inadvertently start an SOL clock that the servicer is not prepared to manage.[1]
2. **Due Diligence is Non-Negotiable:** The value of a non-performing loan is directly tied to the enforceability of its underlying lien. Investors must incorporate a loan-level SOL analysis into the due diligence and pricing of any MBS acquisition. A loan's date of origination is far less important than its default and acceleration history.[8]
3. **Bankruptcy is a Universal Constant:** Across all jurisdictions, the automatic stay imposed by a borrower's bankruptcy filing is the most common and reliable tolling event, pausing the SOL clock pursuant to federal law.[15] Understanding the interplay between the federal bankruptcy stay and state-specific SOL rules is essential for managing timelines on distressed assets.

# II. Master Summary Table: 51-Jurisdiction Foreclosure Statutes of Limitations

The following table provides a consolidated overview of the key statutory limitation parameters for all 50 states and the District of Columbia. This table is intended as a high-level reference; the detailed jurisdictional analyses in Section III provide essential context and interpretation.

| State | Primary Foreclosure Type(s) | Statute of Limitations Period (Years) | Statute of Limitations Trigger(s) | Key Legal Authority/Citation |
|---|---|---|---|---|
| **Alabama** | Non-Judicial | 20 (Lien); 6 (Note) | Maturity Date (Lien); Default/Acceleration (Note) | Common Law; Ala. Code § 6-2-34 |
| **Alaska** | Non-Judicial | 10 (Deed of Trust); 6 (Note) | Maturity Date; Default/Acceleration | Alaska Stat. § 34.20.150; § 09.10.050 |
| **Arizona** | Non-Judicial | 6 | Accrual of cause of action (each missed payment or acceleration) | A.R.S. § 12-548 |
| **Arkansas** | Both | 5 | Maturity date of the underlying debt; last payment noted on record | Ark. Code Ann. § 18-49-101 |
| **California** | Non-Judicial; Judicial | 10 (if maturity ascertainable); 60 (if not); 4 (Judicial) | Maturity Date/Recordation (Non-Judicial); Default (Judicial) | Cal. Civ. Code § 2911; Cal. Code Civ. Proc. § 337 |
| **Colorado** | Non-Judicial (Public Trustee) | 6 | Each missed payment; Acceleration; Maturity Date | C.R.S. § 13-80-103.5 |

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|---|---|---|---|---|
| **Connecticut** | Judicial | 10 (or 40) | Earliest of: 10 yrs from maturity, 10 yrs from uncured default, or 40 yrs from recording | Conn. Gen. Stat. Ann. § 52-576; § 49-13a (as amended) |
| **Delaware** | Judicial | 10 (if maturity ascertainable); 40 (if not) | Maturity Date; Recordation Date | 10 Del. C. § 8106; 25 Del. C. § 2123 |
| **District of Columbia** | Both | 12 | Accrual of cause of action (default) | D.C. Code § 12-301(6) |
| **Florida** | Judicial | 5 (Foreclosure); 1 (Deficiency) | Each missed payment; Acceleration; Maturity Date | Fla. Stat. § 95.11(2)(c) |
| **Georgia** | Non-Judicial | 7 | Maturity Date; Date of conveyance if no maturity date | Ga. Code Ann. § 44-14-80 |
| **Hawaii** | Both | 6 | Accrual of cause of action (default/acceleration) | Haw. Rev. Stat. § 657-1 |
| **Idaho** | Non-Judicial | 5 | Maturity Date; Accrual of cause of action if no maturity date | Idaho Code § 5-214A |
| **Illinois** | Judicial | 10 | Accrual of right of action (default) | 735 ILCS 5/13-115 |
| **Indiana** | Judicial | 10 (for mortgages post-6/30/2012) | Maturity Date; Execution Date; Recording Date | Ind. Code § 32-28-4-1; § 32-28-4-2 |
| **Iowa** | Both | 10 | Accrual of cause of action (default) | Iowa Code § 614.1(5) |
| **Kansas** | Judicial | 5 | Accrual of cause of action (default) | Kan. Stat. Ann. § 60-511 |
| **Kentucky** | Judicial | 15 (Lien); 6 (Note) | Accrual of cause of action (default/acceleration) | KRS § 413.090; KRS § 355.3-118 |
| **Louisiana** | Judicial | 5 | When payment is due | La. Civ. Code art. 3498 |
| **Maine** | Judicial | 20 | Breach of condition (default) | 14 M.R.S.A. § 6101 et seq. |
| **Maryland** | Non-Judicial | 12 (for instruments under seal) | Maturity Date; Last Payment Date; Recordation Date | Md. Code Ann., Cts. & Jud. Proc. § 5-102; Real Prop. § 7-106(c) |
| **Massachusetts** | Non-Judicial | 5 (from maturity); 35 (from recording if no term) | Maturity Date; Recording Date | Mass. Gen. Laws ch. 260, § 33 |
| **Michigan** | Non-Judicial | 15 | Mortgage becomes due; Last payment was made | Mich. Comp. Laws § 600.5803 |
| **Minnesota** | Non-Judicial | 15 | Maturity Date | Minn. Stat. § 541.03 |

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|---|---|---|---|---|
| **Mississippi** | Non-Judicial | 6 (Note); 1 (Deficiency) | Maturity Date; Acceleration | Miss. Code Ann. § 75-3-118; § 15-1-23 |
| **Missouri** | Non-Judicial | 10 | Maturity Date | Mo. Rev. Stat. § 516.150 |
| **Montana** | Non-Judicial | 8 | Maturity Date (can be extended) | Mont. Code Ann. § 71-1-210 |
| **Nebraska** | Non-Judicial | 5 | Accrual of cause of action (default) | Neb. Rev. Stat. § 25-205 |
| **Nevada** | Non-Judicial | 6 | Accrual of cause of action (default/acceleration) | Nev. Rev. Stat. § 11.190 |
| **New Hampshire** | Non-Judicial | 20 | Accrual of right to recover real estate | N.H. Rev. Stat. Ann. § 508:2 |
| **New Jersey** | Judicial | 6 (or 36) | Earliest of: 6 yrs from maturity, 36 yrs from recording, or 6 yrs from default | N.J.S.A. 2A:50-56.1 |
| **New Mexico** | Judicial | 6 | Accrual of cause of action (default) | N.M. Stat. Ann. § 37-1-3 |
| **New York** | Judicial | 6 | Acceleration of the debt | N.Y. C.P.L.R. § 213(4) |
| **North Carolina** | Quasi-Judicial | 10 | Forfeiture of mortgage; Power of sale becomes absolute | N.C. Gen. Stat. § 1-47(3) |
| **North Dakota** | Judicial | 10 | Accrual of cause of action (default) | N.D. Cent. Code § 28-01-15 |
| **Ohio** | Judicial | 6 (Note); 8 (Mortgage, pre-2021); 21 (Lien expiration) | Acceleration (Note); Breach (Mortgage); Recording/Maturity (Lien) | Ohio Rev. Code § 1303.16; § 2305.06; § 5301.30 |
| **Oklahoma** | Both | 5 (Note); 10 (Lien) | Accrual of cause of action (Note); Maturity Date (Lien) | 12A O.S. § 2-725; 46 O.S. § 301 |
| **Oregon** | Non-Judicial | 10 | Maturity Date of the mortgage debt | Or. Rev. Stat. § 88.110 |
| **Pennsylvania** | Judicial | 4 (Contract); 20 (Sealed Instrument) | Breach of contract (default) | 42 Pa. C.S.A. § 5525; § 5529 |
| **Rhode Island** | Non-Judicial | 10 | Accrual of cause of action (default) | R.I. Gen. Laws § 9-1-13 |
| **South Carolina** | Judicial | 20 | Maturity Date | S.C. Code Ann. § 29-1-10 |
| **South Dakota** | Non-Judicial | 15 | Accrual of cause of action (default) | SDCL § 15-2-7 |
| **Tennessee** | Non-Judicial | 6 | Due date; Acceleration | Tenn. Code Ann. § 47-3-118 |

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|---|---|---|---|---|
| **Texas** | Non-Judicial | 4 | Maturity Date; Acceleration | Tex. Civ. Prac. & Rem. Code § 16.035 |
| **Utah** | Non-Judicial | 6 | Due date; Acceleration | Utah Code Ann. § 70A-3-118 |
| **Vermont** | Judicial | 15 | Accrual of right of entry | 12 V.S.A. § 502 |
| **Virginia** | Non-Judicial | 5 | Breach of contract (default) | Va. Code Ann. § 8.01-246 |
| **Washington** | Non-Judicial | 6 | Each missed installment; Acceleration | Wash. Rev. Code § 4.16.040 |
| **West Virginia** | Both | 10 (Contract); 5/35 (Lien) | Breach (Contract); Maturity/Recording (Lien) | W. Va. Code § 55-2-6; § 55-2-5 |
| **Wisconsin** | Judicial | 6 (Note); 20 (Judgment) | Accrual of cause of action (default) | Wis. Stat. § 893.43 |
| **Wyoming** | Non-Judicial | 10 | Maturing of mortgage/debt; Recording Date | Wyo. Stat. Ann. § 34-4-102 |

# III. Detailed Jurisdictional Analysis

This section provides an in-depth analysis of the foreclosure statute of limitations for each of the 51 jurisdictions. Each entry details the applicable time periods, trigger events, the impact of foreclosure method, rules for tolling, and the ultimate effect of an expired statute on the mortgage lien.

## Alabama

- **Period & Foreclosure Method:** Alabama is primarily a **non-judicial foreclosure** state, where lenders utilize a "power of sale" clause contained within the mortgage or deed of trust to sell the property at auction without extensive court oversight.[17] While a judicial foreclosure process exists, it is less common.[18] The statutory framework for limitations is multifaceted. An action on a written contract (the promissory note) is subject to a **6-year** SOL.[19] For contracts executed "under seal," this period extends to **10 years**.[19] However, the most critical period for lien enforceability is the common law "rule of prescription" or doctrine of laches, which establishes a presumptive **20-year** period after which a mortgage lien is considered extinguished if there has been no recognition of the debt.
- **Triggering Events:** The 20-year prescriptive period for the mortgage lien is generally understood to run from the **final maturity date** of the loan. In contrast, the shorter 6-year SOL on the promissory note begins to run from the date of the borrower's default or the lender's subsequent acceleration of the debt.[17]

- **Tolling:** General principles of tolling apply. A borrower's bankruptcy filing imposes an automatic stay on collection activities, which will toll the running of the SOL for the duration of the stay, consistent with federal law under 11 U.S.C. § 108(c).[20]
- **Effect of Expiration:** The expiration of the 6-year SOL on the promissory note bars the lender from obtaining a personal deficiency judgment against the borrower after a foreclosure sale. However, it does not extinguish the mortgage lien itself or the power to foreclose within the longer prescriptive period.[19] If the 20-year prescriptive period lapses without any action by the lender or acknowledgment by the borrower, the mortgage lien is considered extinguished and unenforceable, barring foreclosure entirely. Alabama law also provides a statutory post-sale right of redemption, typically for one year, which allows the foreclosed homeowner to reclaim the property by paying the full purchase price plus costs and interest.[21]

## Alaska

- **Period & Foreclosure Method:** Alaska permits both **judicial** and **non-judicial** foreclosures, with the non-judicial "power of sale" method being the most common for residential properties.[22] The SOL to foreclose a deed of trust is
**10 years** from the maturity date of the obligation.[22] The SOL to bring an action on the underlying promissory note is
**6 years** from the accrual of the cause of action (e.g., default or acceleration).[22] For other contracts, the SOL is
**3 years**.[24]
- **Triggering Events:** The 10-year period for foreclosing the deed of trust is explicitly tied to the **maturity date** of the loan. The 6-year period for an action on the note is triggered by **default** or **acceleration** of the debt.
- **Tolling:** The SOL is tolled during a bankruptcy stay pursuant to federal law.[25] Alaska statutes do not provide for extensive state-specific tolling provisions for mortgage foreclosure outside of general principles.
- **Effect of Expiration:** Expiration of the 6-year SOL on the note would bar a deficiency judgment. Expiration of the 10-year SOL on the deed of trust extinguishes the power of sale, rendering the lien unenforceable through non-judicial foreclosure. The underlying debt, if not time-barred, would become unsecured.

## Arizona

- **Period & Foreclosure Method:** Arizona is predominantly a **non-judicial foreclosure** state, utilizing deeds of trust with a power of sale.[26] A judicial foreclosure process is also available but is less common.[27] The SOL for an action on a debt evidenced by a written contract, which includes both the promissory note and the deed of trust, is
**6 years**.[28]
- **Triggering Events:** The 6-year SOL accrues when the cause of action arises. For an installment contract like a mortgage, a separate cause of action accrues for **each missed payment**. Therefore, a lender can foreclose on any payments that have defaulted within

the preceding 6 years. If the lender formally **accelerates** the loan, the 6-year SOL begins to run on the entire outstanding balance from the date of acceleration.[28]

- **Tolling:** A bankruptcy filing by the borrower will toll the SOL for the duration of the automatic stay under 11 U.S.C. § 108(c). Arizona case law confirms that the enforcement period is tolled while a creditor is precluded from collection attempts.[15]
- **Effect of Expiration:** If the 6-year SOL expires on the entire accelerated debt, the lender is barred from foreclosing or suing on the note. This effectively extinguishes the lender's ability to recover the debt through the collateral. However, a recent appellate decision concerning a land sale contract (where the seller retains title) suggests a critical nuance: while the SOL may bar enforcement of the *debt*, it does not extinguish the lender's *title* to the property, creating a complex legal situation where the lender cannot foreclose but still holds legal title.[28] For typical deeds of trust where title passes to the borrower at closing, expiration of the SOL on the debt is generally understood to render the lien unenforceable.

## Arkansas

- **Period & Foreclosure Method:** Arkansas law permits both **judicial** and **non-judicial** foreclosures.[29] The SOL for foreclosure is directly tied to the limitation period for a suit on the underlying debt.[30] For written contracts, this period is **5 years**.[30]
- **Triggering Events:** The 5-year SOL begins to run from the **maturity date** of the indebtedness. A crucial feature of Arkansas law is that for any partial payments to extend the SOL as to third parties (like junior lienholders or subsequent purchasers), the payment must be **noted on the margin of the mortgage record** in the county land records. If payments are not so noted, the lien becomes unenforceable as to third parties 5 years after the original maturity date or 5 years from the last payment that *was* noted on the record.[30]
- **Tolling:** A bankruptcy filing will toll the SOL.[32] Arkansas law also provides for tolling under specific circumstances, such as for certain medical malpractice claims, but does not have a broad, generally applicable tolling statute for foreclosures outside of bankruptcy and common law principles.[33]
- **Effect of Expiration:** The statute explicitly states that if a foreclosure suit is not brought within the limitation period for the underlying debt, it is a "sufficient defense".[30] This effectively bars the foreclosure action and renders the lien unenforceable. The debt becomes unsecured.

## California

- **Period & Foreclosure Method:** California allows both **judicial** and **non-judicial** foreclosures, though the non-judicial power of sale process is overwhelmingly favored due to its efficiency and cost-effectiveness.[34] The SOL framework is distinctly different for each method.

    - **Judicial Foreclosure:** This court-supervised process is subject to a **4-year** SOL, which aligns with the statute for actions on written contracts. The action must be commenced within four years of the default on the underlying promissory note.[4]
    - **Non-Judicial Foreclosure:** The power of sale under a deed of trust has a much longer and more complex limitation period. Under Cal. Civ. Code § 2911, the lien expires and the power of sale becomes unenforceable at the later of two dates:
        1. **10 years after the final maturity date** of the loan, if that date is "ascertainable from the record."
        2. **60 years from the date the deed of trust was recorded**, if the final maturity date is *not* ascertainable from the public record.[4]
- **Triggering Events:** For a judicial foreclosure, the 4-year clock is triggered by the **borrower's default** on the promissory note.[4] For a non-judicial foreclosure, the trigger is not the default but rather the
**maturity date** or the **recording date** of the instrument, as described above. A lender's acceleration of the note does not start the 10/60 year clock for exercising the power of sale, a point of immense strategic importance for lenders.
- **Tolling:** The SOL is tolled during a borrower's bankruptcy proceeding due to the automatic stay, as provided by 11 U.S.C. § 108(c).[15]
- **Effect of Expiration:** Expiration of the 4-year SOL on the note bars the remedy of a **judicial foreclosure** and extinguishes the lien for that purpose.[36] Critically, it does
*not* affect the lender's ability to use the non-judicial power of sale, provided the 10/60 year period has not expired. When the 10/60 year period under Cal. Civ. Code § 2911 expires, the lien is extinguished for all purposes, and the power of sale becomes void and unenforceable.[4]
- **Analysis of the "Ascertainable from the Record" Provision:** The bifurcated 10/60 year rule for non-judicial foreclosures creates a significant analytical challenge for investors. Lenders frequently omit the maturity date from the original recorded deed of trust specifically to benefit from the longer 60-year period.[4] However, the life of a loan can involve subsequent recorded documents. For instance, if a borrower defaults and then enters into a loan modification, that modification agreement is often recorded. If the recorded modification contains a new, specific maturity date, that date is now "ascertainable from the record." This act can inadvertently and irrevocably switch the applicable SOL from the 60-year period (from the original recording) to the much shorter 10-year period running from the new maturity date. For an MBS investor acquiring a pool of re-performing or modified loans, this means due diligence cannot stop at the original deed of trust. A full review of the entire chain of recorded title documents is necessary to accurately determine the operative SOL and assess the risk of lien expiration.

## Colorado

- **Period & Foreclosure Method:** Colorado primarily utilizes a **non-judicial foreclosure** process overseen by a public trustee in each county.[38] A judicial foreclosure process is also available but is less common. The SOL for an action on the promissory note is
**6 years**.[38]
- **Triggering Events:** The trigger for the 6-year SOL is nuanced. A cause of action accrues for **each missed installment payment**, starting a separate 6-year clock for that specific payment. If a lender chooses to **accelerate** the debt, the 6-year SOL begins to run on the

entire outstanding balance from the date of acceleration. However, if the lender does *not* accelerate the debt despite a default, the SOL on the entire principal balance does not begin to run until the loan's contractual **maturity date**.[38] This gives lenders significant flexibility and can extend the enforcement window for many years past the initial default.

- **Tolling:** Standard tolling principles, including for bankruptcy, apply.
- **Effect of Expiration:** If the 6-year SOL runs on the entire accelerated debt, the lender is barred from obtaining a judgment on the note. This also bars the ability to foreclose. Because Colorado law allows a lender to wait until the maturity date to sue for the full amount if it never accelerated, a loan could be in default for many years, yet the SOL for foreclosure on the principal balance may not have even started to run.[38] This makes a careful review of the servicing history and any acceleration notices critical to determining enforceability.

## Connecticut

- **Period & Foreclosure Method:** Connecticut is a **judicial foreclosure** state.[41] The process can result in a "strict foreclosure" (where the court transfers title directly to the lender if there is no equity) or a "foreclosure by sale" (a public auction).[41] Recent legislation has substantially clarified the SOL. A foreclosure action on a residential mortgage must be commenced by the earliest of:
    1. **10 years** from the final payment or maturity date stated in the loan documents (or as extended in writing).
    2. **10 years** from the date of an uncured default.
    3. **40 years** from the date the mortgage was recorded (or executed, if unrecorded), provided the repayment period is not longer than 40 years.[43]
- **Triggering Events:** The statute provides three alternative triggers, with the one resulting in the earliest expiration date controlling: the **maturity date**, the **date of uncured default**, or the **date of recording/execution**. A payment on account after a default can reset the 10-year clock from the date of that payment.[44]
- **Tolling:** The SOL is tolled during a bankruptcy stay.[46] The statute also explicitly provides that if a law or order prohibits foreclosure during the final 2 years of the limitation period, the period is extended by the duration of the prohibition.[43]
- **Effect of Expiration:** Expiration of the SOL bars the commencement of a foreclosure action. Furthermore, a related statute provides that an unreleased mortgage becomes invalid as a lien **10 years** after the time for full performance has expired (previously 20 years), provided the owner has been in undisturbed possession.[44] This effectively extinguishes the lien.

## Delaware

- **Period & Foreclosure Method:** Delaware is a **judicial foreclosure** state, often utilizing a specialized procedure known as *scire facias sur-mortgage*.[48] The SOL framework is based on lien expiration rather than a typical contract limitations period. A mortgage lien expires:

1. **10 years after the maturity date**, if the maturity date is ascertainable from the recorded mortgage.
2. **40 years from the date of recording**, if the maturity date is not ascertainable from the record.[51]

- **Triggering Events:** The trigger is either the **maturity date** or the **date of recording**, depending on the contents of the recorded mortgage instrument. Default or acceleration are not the primary triggers for the lien expiration statute.
- **Tolling:** General tolling principles apply, including for bankruptcy stays.[52] Delaware law also allows parties to a written contract over $100,000 to contractually extend the limitations period up to 20 years.[52]
- **Effect of Expiration:** The statute provides that upon expiration of the applicable 10 or 40-year period, the mortgage lien is extinguished. An attorney can then follow a statutory procedure to have the mortgage formally satisfied of record.[51] The expiration of the lien bars any foreclosure action.

## District of Columbia

- **Period & Foreclosure Method:** The District of Columbia permits both **judicial** and **non-judicial** foreclosures.[54] While non-judicial was historically more common, the introduction of a mandatory mediation program for non-judicial cases led many lenders to shift to the judicial process to bypass that requirement.[54] The applicable SOL is
**12 years** for an action on an instrument under seal, which includes a deed of trust.[55]
- **Triggering Events:** The 12-year period begins to run when the **cause of action accrues**, which is generally the date of the borrower's default. If the debt is accelerated, the cause of action for the entire balance accrues at that time.
- **Tolling:** The SOL is tolled during a bankruptcy stay. General common law tolling principles would also apply.
- **Effect of Expiration:** Expiration of the 12-year SOL bars the lender from bringing a foreclosure action, either judicially or non-judicially. The lien becomes unenforceable.

## Florida

- **Period & Foreclosure Method:** Florida is exclusively a **judicial foreclosure** state, requiring a lawsuit to foreclose.[56] The SOL to foreclose a mortgage is
**5 years**.[2] A separate, much shorter
**1-year** SOL applies to actions for a deficiency judgment, running from the day after the clerk issues the certificate of title following the foreclosure sale.[14]
- **Triggering Events:** Florida law recognizes multiple trigger points, offering lenders significant flexibility.
    1. **Each Missed Installment:** A distinct 5-year SOL begins to run on each individual monthly payment that is missed. A lender can initiate foreclosure based on any default that occurred within the last 5 years.[58]
    2. **Acceleration:** When the lender accelerates the loan, a single 5-year SOL commences for the *entire* outstanding debt from the date of acceleration.

3. **Maturity Date:** If the loan is never accelerated, the right to foreclose on the final principal balance accrues at the loan's maturity date, starting a 5-year SOL from that point.[14]

- **Tolling & Resetting:** A bankruptcy filing tolls the SOL.[59] The most significant aspect of Florida law is the "deceleration" rule established by the Florida Supreme Court in *Bartram v. U.S. Bank*. The court held that when a foreclosure action is dismissed (voluntarily or involuntarily, with or without prejudice), it has the legal effect of decelerating the loan and returning the parties to their prior contractual relationship.[14] This means that a subsequent missed payment by the borrower constitutes a *new* default, which starts a *new* 5-year SOL. This rule provides a powerful safety valve for lenders, preventing a single failed foreclosure attempt from becoming fatal due to an expired SOL.
- **Effect of Expiration:** If the 5-year SOL runs on the entire accelerated balance and the action is not saved by the *Bartram* rule, the foreclosure is barred. However, the lien itself is not automatically extinguished by the SOL on the foreclosure *remedy*. A separate "statute of repose," Fla. Stat. § 95.281, provides an ultimate end date for the lien's validity: **5 years after the maturity date** (if ascertainable from the record) or **20 years from the mortgage date** (if not ascertainable).[61] After this period, the lien terminates.
- **Analysis of the *Bartram* "Reset" Rule:** The *Bartram* decision makes Florida a comparatively lower-risk state for MBS investors regarding SOLs. Unlike jurisdictions like New York post-FAPA, where a dismissed foreclosure after the SOL has run can be catastrophic, Florida provides a clear judicial mechanism to "reset" the clock. For an investor, this means that a portfolio of non-performing Florida loans has a higher probability of ultimate recovery, even if prior foreclosure attempts have failed. A servicer's procedural error leading to dismissal does not necessarily result in a total loss of collateral. The lender can simply wait for the borrower to miss the next post-dismissal payment, which creates a fresh cause of action and a new 5-year window to foreclose. This predictability is a significant positive factor in asset valuation.

## Georgia

- **Period & Foreclosure Method:** Georgia is a **non-judicial foreclosure** state, relying on a power of sale in the security deed.[62] The SOL is not a fixed period for "foreclosure" but is framed as a "reversion" of title. Title conveyed by a security deed automatically reverts to the borrower:
  1. **7 years after the maturity of the last installment** stated or fixed in the recorded document.
  2. If no maturity date is stated, **7 years from the date of the conveyance**.[62]
- **Triggering Events:** The trigger is the **maturity date** or, if none is stated in the record, the **date of the security deed** itself. A foreclosure action commenced *before* the reversion date prevents the reversion from occurring, provided the foreclosure is completed without undue delay.[62]
- **Tolling:** A bankruptcy filing and the resulting automatic stay will toll the running of the reversionary period.[65] Georgia law also allows the lender to extend the reversion period by filing a renewal affidavit on the public record before the initial period expires.[62]

- **Effect of Expiration:** Once the 7-year period runs, title to the property automatically reverts to the borrower by operation of law. The security deed becomes void, and the lender loses its lien and the power to foreclose.[62] The debt becomes unsecured.

## Hawaii

- **Period & Foreclosure Method:** Hawaii permits both **judicial** and **non-judicial** foreclosures, though recent legislative changes have pushed most residential foreclosures into the judicial process.[66] The SOL for an action on a promissory note or mortgage is
**6 years**.[67]
- **Triggering Events:** The 6-year SOL begins to run from the **accrual of the cause of action**, which is typically the date of default or, if applicable, the date of acceleration.
- **Tolling:** General tolling principles apply, including for bankruptcy.
- **Effect of Expiration:** Expiration of the 6-year SOL bars the foreclosure action. For registered (Land Court) property, Hawaii law provides a powerful finality rule: once a new certificate of title is issued to the purchaser after a foreclosure, the foreclosure proceeding cannot be impeached or challenged, even if there were defects, including a potential SOL violation.[68] This provides significant protection to the finality of the foreclosure sale for third-party purchasers and lenders who take title.

## Idaho

- **Period & Foreclosure Method:** Idaho is primarily a **non-judicial foreclosure** state.[69] The SOL for foreclosing a mortgage on real property is
**5 years**.[70]
- **Triggering Events:** The 5-year period runs from the **maturity date** of the obligation. If the loan documents do not state a maturity date, the SOL runs from the **date of the accrual of the cause of action**, which would be the date of default.[70]
- **Tolling:** Standard tolling provisions, such as for a bankruptcy stay, apply.
- **Effect of Expiration:** Failure to commence a foreclosure action within the 5-year period bars the remedy and renders the lien unenforceable.[71]

## Illinois

- **Period & Foreclosure Method:** Illinois is a **judicial foreclosure** state, requiring a lawsuit to foreclose.[72] The SOL for commencing a mortgage foreclosure action is
**10 years**.[74] The SOL for an action on a written contract (the promissory note) is also 10 years.[75]

- **Triggering Events:** The 10-year period begins to run after the **right of action accrues**, which is typically the date of default or acceleration.[72]
- **Tolling:** Illinois has a specific tolling statute, 735 ILCS 5/13-216, which states that when the commencement of an action is stayed by a "statutory prohibition," the time of the prohibition is not part of the limitation period. The automatic stay in bankruptcy is considered such a statutory prohibition, meaning the SOL is tolled for the entire duration of the bankruptcy case.[77]
- **Effect of Expiration:** If the 10-year SOL on the note expires, Illinois case law suggests that the mortgage lien, being merely an incident to the debt, is also extinguished and can no longer be foreclosed.[12] The reasoning is that the "existence of the debt...is essential to the life of the mortgage," and when the debt is barred, the mortgage is gone.[12] This makes the expiration of the SOL fatal to the lien.

## Indiana

- **Period & Foreclosure Method:** Indiana is a **judicial foreclosure** state.[81] The SOL for foreclosures is complex and depends on the mortgage's date and contents. For mortgages executed
  **after June 30, 2012**:
  1. If the maturity date is ascertainable from the record, the lien expires **10 years** after the maturity date.
  2. If the maturity date is not ascertainable but the execution date is, the lien expires **10 years** after the execution date.
  3. If neither date is ascertainable, the lien expires **10 years** after the recording date.[83]

     For mortgages executed before July 1, 2012, the periods are 20 years instead of 10.84
- **Triggering Events:** The trigger is determined by the contents of the recorded mortgage, based on the **maturity date**, **execution date**, or **recording date** as outlined above. Indiana courts have also recognized that for installment loans, a cause of action accrues on each missed payment, and a lender can sue for the entire amount within six years of the final maturity date if it chooses not to accelerate.[85]
- **Tolling:** Indiana law provides for tolling of the SOL in specific circumstances, such as for persons under a legal disability or for nonresident defendants.[87] A bankruptcy filing will also toll the SOL.[88]
- **Effect of Expiration:** The statute is clear that upon the expiration of the applicable 10 or 20-year period, the mortgage lien "expires".[83] The lien is extinguished, and the foreclosure remedy is barred. The property owner can request that the county recorder certify on the record that the lien is satisfied by lapse of time.[84]

## Iowa

- **Period & Foreclosure Method:** Iowa permits both **judicial** and **non-judicial** foreclosures, though judicial is common. The SOL for an action on a written contract is **10**

**years** [Iowa Code § 614.1(5)]. A special statute provides that a mortgage foreclosure is barred after 20 years from the date of the mortgage if the record does not show a maturity date, or 10 years from the maturity date if one is stated [Iowa Code § 614.21].

- **Triggering Events:** The SOL is triggered by the **accrual of the cause of action** (default) for the 10-year contract period, or by the **mortgage date/maturity date** for the 20/10 year lien expiration statute.
- **Tolling:** Standard tolling provisions apply, including for bankruptcy stays.
- **Effect of Expiration:** Expiration of the SOL bars the foreclosure action and extinguishes the lien.

## Kansas

- **Period & Foreclosure Method:** Kansas is a **judicial foreclosure** state. The SOL for an action on a written agreement is **5 years**. The SOL for foreclosure is tied to the enforceability of the underlying note.
- **Triggering Events:** The 5-year period begins to run when the **cause of action accrues**, which is the date of default or acceleration.
- **Tolling:** Standard tolling provisions apply, including for bankruptcy stays.
- **Effect of Expiration:** If the SOL on the note expires, the right to foreclose the mortgage is also barred.

## Kentucky

- **Period & Foreclosure Method:** Kentucky is a **judicial foreclosure** state; non-judicial foreclosure is not permitted.[89] The SOL framework has multiple layers. An action to enforce a promissory note must be commenced within
**6 years** after the due date or acceleration.[90] However, the SOL for an action on a written contract is
**15 years**. Courts generally apply the longer 15-year period to the enforcement of the mortgage lien itself.
- **Triggering Events:** The SOL begins to run upon the **accrual of the cause of action**, which is typically the date of default or acceleration.
- **Tolling:** A bankruptcy filing will toll the SOL.
- **Effect of Expiration:** Expiration of the 6-year SOL on the note may bar a personal deficiency judgment against the borrower. However, the lender may still be able to enforce the mortgage lien via foreclosure within the longer 15-year period. Expiration of the 15-year period bars the foreclosure action entirely.

## Louisiana

- **Period & Foreclosure Method:** Louisiana is a **judicial foreclosure** state, but it offers two distinct procedures: "ordinary process" (a standard lawsuit) and "executory process".[91] Executory process is a faster, more streamlined judicial proceeding available when the mortgage is in "authentic form" and contains a "confession of judgment" clause, which is common.[93] The time limit for enforcing a promissory note is known as a "prescriptive period," which is
**5 years** [La. Civ. Code art. 3498].
- **Triggering Events:** The 5-year prescriptive period begins to run from the time **payment is due**. For an installment note, this can mean a separate period runs for each missed installment. If the note is accelerated, the period runs on the entire debt from the date of acceleration.
- **Tolling:** The prescriptive period can be "interrupted" by the filing of a suit or by the debtor's acknowledgment of the debt. It can be "suspended" for various reasons, including a bankruptcy filing.[95]
- **Effect of Expiration:** If the 5-year prescriptive period on the note runs without interruption or suspension, the obligation is extinguished. Because the mortgage is an accessory to the primary obligation (the note), the mortgage also becomes unenforceable, and foreclosure is barred.[96]

## Maine

- **Period & Foreclosure Method:** Maine is a **judicial foreclosure** state.[97] The SOL for a mortgage foreclosure action is
**20 years**.
- **Triggering Events:** The 20-year period begins to run from the **breach of a condition** in the mortgage, which is typically the date of default.
- **Tolling:** Maine law recognizes tolling of the SOL, including for bankruptcy stays.[98]
- **Effect of Expiration:** Expiration of the 20-year SOL bars the foreclosure action and renders the mortgage lien unenforceable.[99]

## Maryland

- **Period & Foreclosure Method:** Maryland is primarily a **non-judicial foreclosure** state. A judicial process is also available. The law is unusual in that there is **no specific statute of limitations** for a non-judicial foreclosure sale.[100] However, other statutes create effective time limits:
    - An action on an instrument "under seal," such as a deed of trust, has a **12-year** SOL. This would apply to a judicial foreclosure.[100]
    - More definitively, a statute of repose provides that a mortgage or deed of trust is not enforceable if an action has not been brought within **12 years from the last payment date or maturity date** set forth in the instrument, or **40 years from the date of recordation** if no such date is included.[100]
- **Triggering Events:** The triggers are the **last payment date/maturity date** or the **recordation date**, as specified in the statute of repose.

- **Tolling:** General tolling principles apply, including for bankruptcy.
- **Effect of Expiration:** Expiration of the applicable period under the statute of repose renders the mortgage lien unenforceable, barring foreclosure.

## Massachusetts

- **Period & Foreclosure Method:** Massachusetts is primarily a **non-judicial foreclosure** state, though it has a unique requirement for a judicial hearing under the Servicemembers Civil Relief Act (SCRA) for all residential foreclosures.[101] The SOL is complex and governed by the state's "obsolete mortgage" statute:
  1. For mortgages with a stated term or maturity date, the power of sale expires **5 years after the maturity date**.
  2. For mortgages with *no* stated term or maturity date, the power of sale expires **35 years from the date of recording**.[102]
- **Triggering Events:** The trigger is either the **maturity date** or the **recording date**, depending on the mortgage's terms. The SOL can be extended by recording an extension agreement or an affidavit of non-satisfaction before the original period expires.[102]
- **Tolling:** The statute explicitly states that the period is *not* extended by non-residence, disability, or partial payment.[102] A bankruptcy stay, however, would toll the statute under federal law.[15]
- **Effect of Expiration:** Upon expiration of the applicable 5 or 35-year period, the statute declares that the mortgage "shall be considered discharged for all purposes" without any further action needed.[102] This extinguishes the lien completely.

## Michigan

- **Period & Foreclosure Method:** Michigan permits both **judicial** and **non-judicial** foreclosures, with the non-judicial "foreclosure by advertisement" being the most common method.[105] The SOL for foreclosing a mortgage, by either method, is **15 years**.[3] The SOL for suing on the promissory note is shorter, at **6 years**.[108]
- **Triggering Events:** The 15-year SOL for foreclosure begins to run from the later of two dates: (1) when the **mortgage becomes due** (i.e., the maturity date), or (2) when the **last payment was made** on the mortgage.[3]
- **Tolling:** The SOL can be tolled by the filing of a complaint or by other events acquiring jurisdiction over the defendant.[110] A bankruptcy filing will also toll the statute. A partial payment can restart the SOL clock.[111]
- **Effect of Expiration:** Expiration of the 15-year SOL bars any action or proceeding to foreclose the mortgage.[3] The lien becomes unenforceable. Expiration of the 6-year SOL on the note bars a deficiency judgment but does not prevent a timely foreclosure within the 15-year window.[112]

## Minnesota

- **Period & Foreclosure Method:** Minnesota is primarily a **non-judicial foreclosure** state. The SOL for foreclosure is **15 years** from the maturity date of the mortgage.
- **Triggering Events:** The 15-year period is triggered by the **maturity date** of the mortgage debt.
- **Tolling:** Standard tolling provisions apply, including for bankruptcy.
- **Effect of Expiration:** Once the 15-year period has run from the maturity date, the mortgage lien ceases to be valid, and any action to foreclose is barred.

## Mississippi

- **Period & Foreclosure Method:** Mississippi allows both **judicial** and **non-judicial** foreclosures, with the non-judicial power of sale process being dominant.[113] The SOL to enforce a negotiable promissory note is **6 years**.[115] The general SOL for other actions is 3 years.[115] The SOL for foreclosure is tied to the enforceability of the underlying debt. There is a separate **1-year** SOL to bring an action for a deficiency judgment after the foreclosure sale.[115]
- **Triggering Events:** The 6-year SOL on the note is triggered by the **stated maturity date** or, if applicable, the **accelerated due date**.[116]
- **Tolling:** Mississippi law provides for tolling if a notice of claim is filed with a governmental entity, but general foreclosure tolling relies on common law principles and the federal bankruptcy stay.[117]
- **Effect of Expiration:** If the SOL on the underlying debt expires, the remedy on the mortgage is also barred. The lien becomes unenforceable. The statute explicitly states that the expiration of a limitations period does not prevent property from being considered "abandoned" under the state's unclaimed property act, but this is distinct from lien enforceability.[118]

## Missouri

- **Period & Foreclosure Method:** Missouri is a **non-judicial foreclosure** state. The SOL for an action on a written promise to pay money is **10 years**. The mortgage lien itself expires 20 years after the maturity date stated in the mortgage.
- **Triggering Events:** The 10-year SOL on the note is triggered by the **accrual of the cause of action** (default). The 20-year lien expiration is triggered by the **maturity date**.
- **Tolling:** Standard tolling provisions apply.
- **Effect of Expiration:** Expiration of the 10-year SOL on the note bars a deficiency judgment. The lien itself remains enforceable until the 20-year period from maturity expires, at which point it is extinguished.

## Montana

- **Period & Foreclosure Method:** Montana permits both **judicial** and **non-judicial** foreclosures, with non-judicial being common for properties under 40 acres via the Small Tract Financing Act (STFA).[119] The SOL for enforcing a mortgage is **8 years** after the maturity of the debt.[120]
- **Triggering Events:** The 8-year period runs from the **maturity date** of the entire obligation. The period can be renewed for an additional 8 years by recording an affidavit before the original period expires.[120]
- **Tolling:** Standard tolling provisions apply, including for bankruptcy.
- **Effect of Expiration:** After the 8-year period (or any valid extension) expires, the mortgage is no longer a valid lien against the property, and foreclosure is barred.

## Nebraska

- **Period & Foreclosure Method:** Nebraska is a **non-judicial foreclosure** state. The SOL for an action upon a written contract is **5 years**. The SOL for foreclosure is tied to this period.
- **Triggering Events:** The 5-year period begins when the **cause of action accrues**, which is the date of default or acceleration.
- **Tolling:** Standard tolling provisions apply.
- **Effect of Expiration:** Expiration of the 5-year SOL bars the foreclosure action and renders the lien unenforceable.

## Nevada

- **Period & Foreclosure Method:** Nevada allows both **judicial** and **non-judicial** foreclosures, with the non-judicial process being the most common.[121] The SOL for an action on a written contract is **6 years**.
- **Triggering Events:** The 6-year SOL accrues from the date of the **breach of contract** (default) or acceleration.
- **Tolling:** Standard tolling provisions apply. Making a payment on a time-barred debt can restart the SOL.
- **Effect of Expiration:** If the SOL on the underlying note expires, the right to foreclose is also extinguished. The debt becomes time-barred, and while the debt collector can still attempt to collect, they cannot use the courts to enforce it.[123]

## New Hampshire

- **Period & Foreclosure Method:** New Hampshire is primarily a **non-judicial foreclosure** state, utilizing a power of sale.[124] The SOL for an action for the recovery of real estate is **20 years**.[125] The SOL for an action on the promissory note is **6 years** from the due date or acceleration.[126]
- **Triggering Events:** The 20-year SOL for foreclosure begins when the **right to recover first accrued** (i.e., upon default). The 6-year SOL on the note is triggered by the **due date** or **acceleration**.
- **Tolling:** A bankruptcy filing tolls the SOL pursuant to 11 U.S.C. § 108(c), which provides a minimum 30-day window after the stay is lifted, but does not create a day-for-day tolling independent of state law.[127]
- **Effect of Expiration:** Expiration of the 6-year SOL on the note bars a deficiency judgment. However, the foreclosure itself is governed by the longer 20-year period. If the 20-year period expires, the foreclosure is barred, and the lien is rendered unenforceable.

## New Jersey

- **Period & Foreclosure Method:** New Jersey is a **judicial foreclosure** state.[128] A 2019 law significantly changed the SOL for residential mortgages. The action must now be commenced by the **earliest** of the following dates:
    1. **6 years** from the maturity date.
    2. **36 years** from the date the mortgage was recorded.
    3. **6 years** from the date of the uncured default (this was changed from a 20-year period).[129]
- **Triggering Events:** The statute provides three distinct triggers—**maturity date**, **recording date**, and **date of default**—with the shortest resulting period being the controlling one.
- **Tolling:** A partial payment or written acknowledgment of the debt can reset the SOL clock.[132] A bankruptcy filing will also toll the statute.
- **Effect of Expiration:** Expiration of the applicable SOL period bars the commencement of a foreclosure action, rendering the lien unenforceable.

## New Mexico

- **Period & Foreclosure Method:** New Mexico is primarily a **judicial foreclosure** state, though a non-judicial process exists but is rarely used.[133] The SOL for an action founded upon a written contract or promissory note is **6 years**.[133]

- **Triggering Events:** The 6-year period commences when the **cause of action accrues**, which is the date of default or acceleration.
- **Tolling:** Standard tolling provisions apply, including for bankruptcy.
- **Effect of Expiration:** Expiration of the 6-year SOL bars the foreclosure action. The debt becomes time-barred, and the lien is unenforceable.[135]

## New York

- **Period & Foreclosure Method:** New York is a **judicial foreclosure** state.[136] The SOL for a mortgage foreclosure action is **6 years**.[8]
- **Triggering Events:** The 6-year SOL is triggered when the lender **accelerates** the mortgage debt. This is a singular event that starts the clock on the entire debt. An acceleration can occur through a clear and unequivocal demand letter or, most commonly, by the filing of a foreclosure complaint.[138] Without acceleration, a separate 6-year SOL runs on each missed installment.[139]
- **Tolling & Resetting:** A bankruptcy filing tolls the SOL for the duration of the automatic stay.[140] The most significant development is the 2022 **Foreclosure Abuse Prevention Act (FAPA)**.
  - **Pre-FAPA:** Under the *Engel* court decision, a lender could unilaterally revoke a prior acceleration simply by voluntarily discontinuing its foreclosure lawsuit. This action stopped the 6-year SOL from running and allowed the lender to re-accelerate and file a new foreclosure later.[8]
  - **Post-FAPA:** FAPA legislatively overruled *Engel*. Now, once a loan is accelerated, the 6-year SOL continues to run regardless of whether the lender discontinues the action. A lender **cannot unilaterally** de-accelerate the loan or reset the SOL clock. Any extension or waiver of the SOL must be in a written agreement with the borrower.[8]
- **Effect of Expiration:** If the 6-year SOL expires after acceleration, the foreclosure action is permanently barred. The homeowner can then bring a "quiet title" action under Real Property Actions and Proceedings Law (RPAPL) § 1501(4) to have the court declare the mortgage cancelled and discharged of record.[142] The expiration of the SOL effectively **extinguishes the lien**.
- **Analysis of FAPA's Impact:** FAPA has transformed New York into one of the highest-risk jurisdictions for MBS investors holding non-performing loans. The law removes the lender's ability to correct procedural errors by discontinuing and refiling. A single foreclosure action that is commenced and later dismissed for any reason after the 6-year SOL has run from the initial acceleration will likely result in a total loss of the collateral. This places an immense premium on flawless and expeditious prosecution of foreclosures in New York. Investors must re-evaluate any New York assets where a foreclosure was commenced more than six years ago, as they carry a heightened risk of being rendered unenforceable.

## North Carolina

- **Period & Foreclosure Method:** North Carolina uses a **quasi-judicial** foreclosure process. It is a non-judicial power of sale that requires a preliminary hearing before the clerk of court to obtain an order authorizing the sale.[144] The SOL for foreclosure of a mortgage where the mortgagor has been in possession is **10 years**.[146] The SOL for an action on a written contract is 3 years, or 10 years if under seal.[148]
- **Triggering Events:** The 10-year foreclosure SOL begins to run after the **forfeiture of the mortgage** or after the **power of sale becomes absolute** (i.e., upon default).[146]
- **Tolling:** A bankruptcy filing tolls the SOL under federal law.[15] A partial payment or a written acknowledgment of the debt can reset the SOL on the note.[148]
- **Effect of Expiration:** Expiration of the 10-year SOL bars the foreclosure proceeding. North Carolina case law suggests that if the underlying debt is barred, the mortgage securing it is also unenforceable.[147] A separate statute creates a presumption that a lien expires 15 years after the maturity date, but this presumption primarily benefits subsequent creditors and purchasers for value, not the original borrower.[149]

## North Dakota

- **Period & Foreclosure Method:** North Dakota is a **judicial foreclosure** state. The SOL for foreclosing a mortgage is **10 years** from the last payment due date.
- **Triggering Events:** The 10-year period is triggered by the **last payment due date** as stated in the mortgage.
- **Tolling:** Standard tolling provisions apply.
- **Effect of Expiration:** Expiration of the 10-year SOL bars the foreclosure action and renders the lien unenforceable.

## Ohio

- **Period & Foreclosure Method:** Ohio is a **judicial foreclosure** state.[150] Its SOL regime is one of the most complex and litigated in the country, with separate and distinct limitation periods for the note and the mortgage.
    - **Action on the Note:** The SOL for an action on a promissory note (a written contract) is **6 years** from the due date or acceleration. This period was changed from 8 years in 2021, which itself was changed from 15 years in 2012. The applicable period depends on when the cause of action accrued.[10]
    - **Action on the Mortgage (Foreclosure):** The SOL for an action on the mortgage itself is currently governed by the written contract statute (**6 years**, formerly 8). However, Ohio courts have held that an action in ejectment, another remedy available to a mortgagee, has a **21-year** SOL.[10]

- **Lien Expiration:** A separate statute of repose, R.C. 5301.30, provides that a mortgage lien expires **21 years** after the later of the mortgage date or the stated maturity date, as to subsequent bona fide purchasers.[156]

- **Triggering Events:** The SOL on the note is triggered by the **due date** of each installment or by **acceleration** of the entire debt.[10] The SOL on the mortgage action is triggered by the **breach** of the condition (default).
- **Tolling:** A bankruptcy filing tolls the SOL. The federal code provides an extension until 30 days after the stay terminates.[157] Ohio's general tolling statutes for absence from the state or legal disability also apply.[158]
- **Effect of Expiration:** This is the central point of conflict in Ohio law. The Ohio Supreme Court held in *Deutsche Bank v. Holden* that an action on the note is separate and distinct from an action on the mortgage.[155] Following this, some Ohio appellate courts have ruled that even if the 6-year SOL on the note expires (barring a personal deficiency judgment), a lender can still pursue an *in rem* foreclosure action on the mortgage within the longer limitation periods.[7] However, federal bankruptcy courts in Ohio, citing older Ohio Supreme Court precedent (*Hopkins v. Clyde*), have held the opposite: that the mortgage is merely an incident of the debt, and if the SOL bars action on the note, the foreclosure action is also barred.[11] This split in authority creates significant uncertainty for investors.
- **Analysis of Ohio's Legal Uncertainty:** The conflicting lines of authority between Ohio's state appellate courts and the federal bankruptcy courts within the state create a high-risk environment. An MBS investor cannot be certain which SOL will be applied. If the federal court view prevails, an Ohio loan is functionally similar to a New York loan, with a 6-year "death clock" on the lien. If the state appellate view prevails, the lien survives much longer, preserving collateral value even if a deficiency is uncollectible. This uncertainty must be priced into any Ohio-based MBS, and foreclosure actions in Ohio should be pursued with the more conservative 6-year SOL in mind to mitigate the risk of a total loss.

## Oklahoma

- **Period & Foreclosure Method:** Oklahoma permits both **judicial** and **non-judicial** foreclosures, with judicial being more common.[161] The SOL for an action on a written contract (the note) is **5 years**. A separate statute provides that a mortgage lien ceases to be a lien **10 years** after the last maturing obligation becomes due.[163]
- **Triggering Events:** The 5-year SOL on the note is triggered by the **accrual of the cause of action** (default or acceleration). The 10-year lien expiration is triggered by the **final maturity date** of the loan.
- **Tolling:** Oklahoma law provides for tolling, and a bankruptcy stay will also toll the statute.[164]
- **Effect of Expiration:** If the 5-year SOL on the note expires, a deficiency judgment is barred. If the 10-year period from maturity expires, the mortgage lien itself ceases to exist, and foreclosure is barred.[163]

## Oregon

- **Period & Foreclosure Method:** Oregon allows both **judicial** and **non-judicial** foreclosures, with non-judicial being the standard method.[165] The SOL for foreclosure is **10 years**.[167] The SOL for an action on the note is 6 years.
- **Triggering Events:** The 10-year foreclosure SOL runs from the **later of**: the maturity date of the debt, the expiration of the term of the debt, or the date to which payment has been extended by a recorded agreement.[167]
- **Tolling:** Standard tolling provisions apply, including for bankruptcy.
- **Effect of Expiration:** After the 10-year period expires, the statute provides that the mortgage "shall not be a lien upon such property".[167] This extinguishes the lien and bars foreclosure.

## Pennsylvania

- **Period & Foreclosure Method:** Pennsylvania is a **judicial foreclosure** state.[168] The SOL is typically
  **4 years** for an action on a contract.[169] However, mortgages in Pennsylvania are often considered "instruments under seal," which are subject to a
  **20-year** SOL.
- **Triggering Events:** The SOL begins to run on the date the debt comes due, i.e., upon **default**.[169]
- **Tolling:** A partial payment or a new written promise to pay can reset the SOL clock.[169] A bankruptcy filing will also toll the statute.
- **Effect of Expiration:** Expiration of the applicable SOL (most conservatively, 4 years) bars the foreclosure action. A judgment lien in Pennsylvania is valid for 5 years but can be revived, potentially extending enforceability.[170]

## Rhode Island

- **Period & Foreclosure Method:** Rhode Island permits both **judicial** and **non-judicial** foreclosures, with non-judicial being the most common.[171] The general SOL for civil actions, including those on written contracts like mortgages, is
  **10 years**.[173]
- **Triggering Events:** The 10-year period begins when the **cause of action accrues**, which is the date of default or acceleration.
- **Tolling:** A partial payment or written acknowledgment of the debt can restart the SOL clock.[173] A bankruptcy filing will also toll the statute.
- **Effect of Expiration:** Expiration of the 10-year SOL bars the creditor from filing a lawsuit to foreclose.[173] The lien becomes unenforceable through legal action.

## South Carolina

- **Period & Foreclosure Method:** South Carolina is a **judicial foreclosure** state.[175] The SOL for a mortgage lien is
  **20 years**.[13]
- **Triggering Events:** The 20-year period runs from the **date for the maturity** of the lien. If no maturity date is stated, it runs from the date of the mortgage. The period can be extended by recording a note of payment or a written acknowledgment of the debt before the original period expires.[13]
- **Tolling:** The SOL is tolled during a bankruptcy stay.[177]
- **Effect of Expiration:** After the 20-year period lapses, the mortgage no longer constitutes a lien on the real estate, and foreclosure is barred.[13]

## South Dakota

- **Period & Foreclosure Method:** South Dakota is primarily a **non-judicial foreclosure** state. The SOL for foreclosing a mortgage is **15 years** after the cause of action has accrued.
- **Triggering Events:** The 15-year period is triggered by the **accrual of the cause of action**, which is the date of default.
- **Tolling:** Standard tolling provisions apply.
- **Effect of Expiration:** Expiration of the 15-year SOL bars the foreclosure action.

## Tennessee

- **Period & Foreclosure Method:** Tennessee allows both **judicial** and **non-judicial** foreclosures, with non-judicial being the standard.[179] The SOL for an action to enforce a promissory note is
  **6 years**.[180] The right to foreclose is generally tied to the enforceability of the note.
- **Triggering Events:** The 6-year SOL runs from the **due date** or, if accelerated, the **accelerated due date**.[180] For a demand note where no demand is made, the action is barred if no payments have been made for a continuous period of 10 years.[180]
- **Tolling:** Tennessee has a specific statute that tolls the limitations period for enforcing liens when a creditor is stayed by a bankruptcy filing.[181]
- **Effect of Expiration:** If the 6-year SOL on the note expires, the right to foreclose the mortgage is also barred, and the lien becomes unenforceable.[123]

## Texas

- **Period & Foreclosure Method:** Texas is a **non-judicial foreclosure** state, though a judicial process is also available.[182] The SOL for both judicial and non-judicial foreclosure is **4 years**.[1]
- **Triggering Events:** The 4-year SOL begins to run on the **accrual of the cause of action**. For an installment loan, this can be the **final maturity date** of the note. However, if the lender **accelerates** the debt, the 4-year period begins to run immediately from the date of acceleration. A valid acceleration requires both a clear notice of intent to accelerate and a notice of the acceleration itself.[1]
- **Tolling & Resetting:** A bankruptcy filing tolls the SOL for the duration of the automatic stay.[16] Prior to a 2019 law change, a partial payment could restart the SOL. Now, for debt buyers, a payment does *not* revive a time-barred debt.[185] A lender can rescind a prior acceleration by sending a clear notice, which would stop the 4-year clock and return the loan to an installment basis, but this must be done before the SOL expires.
- **Effect of Expiration:** Texas law is unequivocal. Upon the expiration of the 4-year limitations period, the "real property lien and a power of sale to enforce the real property lien become **void**".[6] This completely extinguishes the security interest, and the lender cannot foreclose. This makes Texas a high-risk jurisdiction for aged delinquent loans.

## Utah

- **Period & Foreclosure Method:** Utah is primarily a **non-judicial foreclosure** state.[186] The SOL to enforce a promissory note is **6 years**.[187] The right to foreclose is tied to the enforceability of the note.
- **Triggering Events:** The 6-year SOL runs from the **due date** or, if accelerated, the **accelerated due date**.[187]
- **Tolling:** Utah law does not appear to allow for "banking" of time tolled by a prior action to be applied to a future limitations period.[187] A bankruptcy stay would toll the statute under federal law.
- **Effect of Expiration:** If a lender fails to commence foreclosure (by filing a notice of default) or file a lawsuit within the 6-year period, it forfeits its right to enforce the trust deed, and the lien becomes unenforceable.[187]

## Vermont

- **Period & Foreclosure Method:** Vermont is a **judicial foreclosure** state, using either a "strict foreclosure" or a "foreclosure by judicial sale".[188] The SOL for an action to enforce a mortgage is based on the statute for recovery of lands, which is **15 years**.[190]
- **Triggering Events:** The 15-year period begins to run from the time the **right of entry accrues**, which is the date of the borrower's default.[191]
- **Tolling:** A bankruptcy filing will toll the SOL.[192]

- **Effect of Expiration:** The Vermont Supreme Court has held that the expiration of the SOL does not extinguish the underlying debt but only bars the *remedy* of foreclosure.[190] This creates a "zombie mortgage" situation where the lien remains on the property, clouding title, but cannot be actively enforced through foreclosure.

## Virginia

- **Period & Foreclosure Method:** Virginia allows both **judicial** and **non-judicial** foreclosures, with the non-judicial process being dominant.[193] The SOL for an action on a written contract is
  **5 years**.[195]
- **Triggering Events:** The 5-year SOL begins when the **breach of contract occurs** (i.e., upon default).[196]
- **Tolling:** Virginia has a complex tolling statute that addresses events like the death of a party or the filing of a nonsuit.[197] A bankruptcy stay will also toll the statute.
- **Effect of Expiration:** Expiration of the 5-year SOL bars the foreclosure action and renders the lien unenforceable.

## Washington

- **Period & Foreclosure Method:** Washington permits both **judicial** and **non-judicial** foreclosures, with non-judicial being the most common.[198] The SOL for an action on a written contract is
  **6 years**.[199]
- **Triggering Events:** The SOL is complex. A separate 6-year period runs for **each missed installment payment**. If the lender **accelerates** the loan, the 6-year SOL begins to run on the entire balance. If the borrower files for bankruptcy and receives a discharge, severing personal liability, the 6-year SOL on the *in rem* foreclosure action begins to run from the date of discharge.[199]
- **Tolling:** Standard tolling provisions apply. A written acknowledgment of the debt can restart the SOL.[200]
- **Effect of Expiration:** If the SOL expires, the foreclosure action is barred. A borrower may be able to bring a quiet title action to remove the expired lien.

## West Virginia

- **Period & Foreclosure Method:** West Virginia allows both **judicial** and **non-judicial** foreclosures.[201] The SOL for a written contract is
  **10 years**.[202] A separate, complex lien expiration statute also applies:
  1. If maturity date is ascertainable, the lien expires **5 years** after that date.

2. If maturity date is not ascertainable, the lien expires **35 years** after the date of the lien instrument.[203]

- **Triggering Events:** The 10-year contract SOL is triggered by the **breach** (default). The lien expiration statute is triggered by the **maturity date** or the **instrument date**.
- **Tolling:** West Virginia has a specific statute tolling the SOL during a bankruptcy stay.[204]
- **Effect of Expiration:** Expiration of the applicable period under the lien expiration statute (W. Va. Code § 55-2-5) extinguishes the lien and bars foreclosure.[203]

### Wisconsin

- **Period & Foreclosure Method:** Wisconsin is a **judicial foreclosure** state. The SOL for an action on a promissory note is **6 years**. The SOL on a judgment is 20 years.
- **Triggering Events:** The 6-year period begins when the **cause of action accrues**, which is the date of default or acceleration.
- **Tolling:** Standard tolling provisions apply.
- **Effect of Expiration:** Expiration of the 6-year SOL on the note bars the foreclosure action.

### Wyoming

- **Period & Foreclosure Method:** Wyoming allows both **judicial** and **non-judicial** foreclosures, with non-judicial being more common.[205] The SOL for foreclosure by advertisement is
**10 years**.[206] The SOL for written contracts is also 10 years.[207]
- **Triggering Events:** The 10-year period runs from the **maturing of the mortgage or the debt secured thereby**. If the maturity date is not ascertainable from the mortgage, the SOL runs from the date the mortgage was recorded.[206]
- **Tolling:** Standard tolling provisions apply.
- **Effect of Expiration:** Expiration of the 10-year SOL bars a foreclosure by advertisement.[206] The lien becomes unenforceable.

# IV. Strategic Implications and Recommendations for MBS Investors

## A. Risk Mitigation and Servicing Protocols

The vast and complex landscape of state-specific SOLs necessitates a proactive and sophisticated approach to loan servicing and portfolio management. Relying on a one-size-fits-all approach is a recipe for significant financial loss.

- **Implement a Jurisdiction-Specific "SOL Alert System":** Servicing platforms must be enhanced to incorporate a dynamic SOL tracking module. For each loan, the system should log the jurisdiction, the applicable SOL period(s), and the potential trigger dates (e.g., date of first uncured default, date of acceleration, contractual maturity date). The system must generate automated alerts for assets approaching their SOL deadline, with escalating priority for those in high-risk states like Texas and New York. This is critical because the event that starts the clock—often an acceleration notice—can be a routine servicing action that, if not properly tracked, can lead to the inadvertent loss of the lien years later.[1]
- **Enforce Legally-Vetted Communication Protocols:** All borrower communications related to default must be standardized and legally vetted on a state-by-state basis. The distinction between a "notice of default," a "demand letter," and a "notice of acceleration" is not merely semantic; it is a legal distinction that can determine when a short and unforgiving SOL period begins.[1] Servicers must have clear, unambiguous protocols for when to accelerate a loan and, in states where it is permitted and advantageous (like Florida), how to validly decelerate a loan to reset the SOL clock following a dismissed foreclosure.[5]

## B. Due Diligence for Portfolio Acquisition

The risk of acquiring unenforceable liens is a primary threat to an MBS investor's returns. A rigorous due diligence process focused on SOLs is essential.

- **Mandate Loan-Level SOL Analysis:** For any acquisition of non-performing or re-performing loan pools, due diligence must extend beyond basic credit metrics to a loan-level legal analysis of SOL status. This requires a comprehensive review of the entire servicing history, including all default notices sent to the borrower, and a full litigation history for any prior foreclosure attempts. An investor cannot accurately value an asset based on its origination date alone. A loan originated in 2006 could have had its SOL triggered by an acceleration in 2018, making it a high-risk asset in a state with a 6-year SOL. The history of prior dismissed foreclosures is particularly critical; in Florida, it may reset the clock and make the loan safely enforceable, while in New York, it may mean the lien is already void under FAPA.[8]
- **Develop a "Lien Validity" Score:** A quantitative risk score should be assigned to each asset based on its SOL status. Factors should include the time remaining on the SOL, the legal clarity of the trigger event in that jurisdiction, and the consequence of expiration (lien extinguishment vs. remedy bar). Assets in high-risk states with SOLs nearing expiration must be priced at a significant discount to reflect the binary risk of total collateral loss.

## C. Jurisdictional Risk Management & The "Lien vs. Remedy" Dichotomy

Not all expired statutes of limitations are created equal. Investors must understand and price the critical difference between states where the SOL extinguishes the lien itself and those where it merely bars the foreclosure remedy.

- In a state like Texas, an expired 4-year SOL renders the lien "void," and the collateral is lost to the investor forever.[6] The asset's recovery value becomes zero.
- In a state like Ohio or Vermont, the legal situation is more ambiguous. The expiration of the SOL on the note may bar a deficiency judgment and potentially the remedy of foreclosure, but the lien may survive as a "zombie mortgage".[7] This dormant lien still clouds the property's title. The homeowner cannot sell or refinance the property without addressing it. This provides the investor with passive leverage; while they cannot force a sale, they can wait for the borrower to initiate a transaction that requires clear title and then negotiate a payoff. An asset with a zombie mortgage is not worthless, but its value is significantly impaired due to the loss of an active remedy and the uncertainty of the recovery timeline. This distinction must be incorporated into valuation models.

### D. Monitoring Evolving Law

The legal environment for foreclosures is dynamic, with a clear trend in some states toward greater borrower protection. New York's FAPA is a landmark piece of legislation that dramatically shifted risk from borrowers to lenders.[8] It is plausible that other states with large foreclosure inventories and influential consumer advocacy groups could enact similar laws. Investors must dedicate resources to monitoring state legislatures for proposals that could alter SOL rules, particularly those that would limit a lender's ability to reset the clock after a failed foreclosure attempt. Risk models must be flexible enough to adapt to these potential changes, as a single new law can fundamentally alter the value and risk profile of an entire state's portfolio.

## V. Appendix: Table of Key Cases and Legislative Acts

| Jurisdiction | Case/Act Name | Citation | Core Holding / Significance for MBS Investors |
|---|---|---|---|
| **California** | *Flack v. Boland* | 11 Cal. 2d 103 (1938) | Established that judicial foreclosure is subject to the 4-year SOL for written contracts, distinct from the longer period for non-judicial foreclosure. [4] |
| **California** | Cal. Civil Code § 2911 | Cal. Civ. Code § 2911 | Establishes the 10/60 year SOL for non-judicial foreclosure based on whether the maturity date is "ascertainable from the record." [4] |
| **Florida** | *Bartram v. U.S. Bank, N.A.* | 211 So. 3d 1009 (Fla. 2016) | Held that dismissal of a foreclosure action decelerates the loan, allowing a new foreclosure |

| | | | |
|---|---|---|---|
| | | | to be filed on a subsequent default with a new 5-year SOL. Highly lender-favorable. [14] |
| **Florida** | Fla. Stat. § 95.281 | Fla. Stat. § 95.281 | Provides an ultimate statute of repose, terminating a mortgage lien 5 years after maturity or 20 years from the mortgage date if maturity is not ascertainable. [61] |
| **Illinois** | 735 ILCS 5/13-216 | 735 ILCS 5/13-216 | Provides for tolling of the SOL during a statutory prohibition, which includes the automatic stay in bankruptcy. [77] |
| **New York** | Foreclosure Abuse Prevention Act (FAPA) | N.Y. C.P.L.R. § 203, 205, 213(4), etc. | Overruled *Engel* decision. Prevents lenders from unilaterally revoking a loan acceleration to stop or reset the 6-year SOL. A monumental shift in risk to lenders. [8] |
| **Ohio** | *Deutsche Bank v. Holden* | 147 Ohio St. 3d 85 (2016) | Held that an action on the note is separate and distinct from an action on the mortgage, opening the door for arguments that the lien survives the expiration of the SOL on the note. [155] |
| **Texas** | *Holy Cross Church v. Wolf* | 44 S.W.3d 562 (Tex. 2001) | Clarified that effective acceleration, which triggers the 4-year SOL, requires both a notice of intent to accelerate and a clear notice of the acceleration itself. [1] |
| **Texas** | Tex. Civ. Prac. & Rem. Code § 16.035(d) | Tex. Civ. Prac. & Rem. Code § 16.035(d) | Explicitly states that upon expiration of the 4-year SOL, the real property lien and power of sale become "void." [6] |
| **Federal** | U.S. Bankruptcy Code § 108(c) | 11 U.S.C. § 108(c) | Provides for the tolling of non-bankruptcy statutes of limitations, extending the period for a creditor to act until at least 30 days after the automatic stay is terminated. [15] |

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