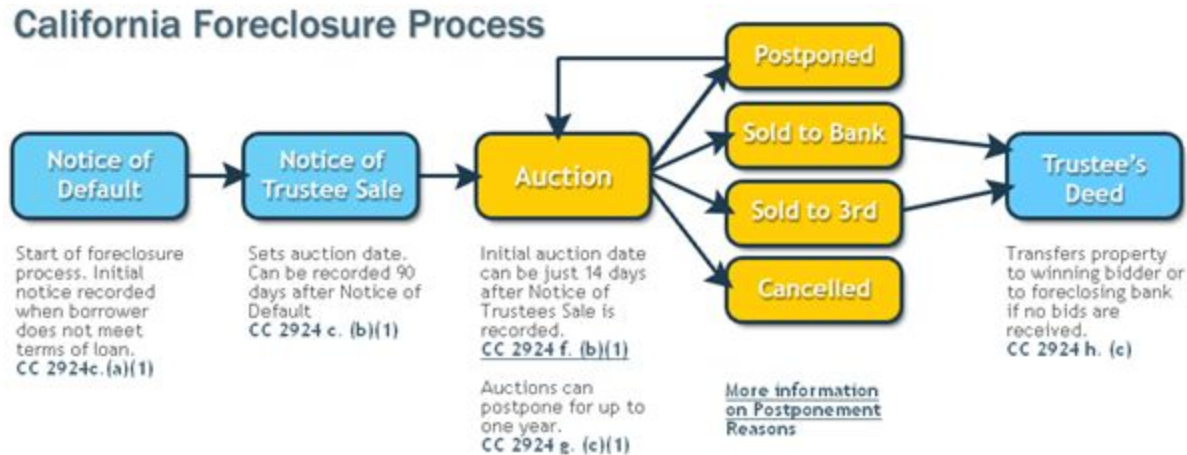


Note homework week 3
Vicki Xie

Homework: 整理自己所在州的Foreclosure 时间线及法律法规

加州 :



需要花费时间概括 :

It takes several months for a lender to foreclose on a California property. If everything goes according to schedule, the process typically takes approximately 120 days or about 4 months. Part of the reason that the process is so lengthy in California is that the borrower is given the right to pay the lender all of the outstanding money that is owed for 90 days after the Notice of Default was filed with the county.

时间线 :

Day 1: a payment is missed
Day 90: NOD--the loan is official in default
Day 180: borrower receive notice of Trustee Sale
Day 200: auction

Notice of Default:

When your home loan is officially in default, the bank must file a Notice of Default with the court. They have to let you know they've filed it within 10 days

Trustee Sale:

1. When a home will be sold at a public sale in accordance with a non-judicial foreclosure,

the lender must notify the borrower at least 20 days before the sale. The notification must be done via certified mail with a return receipt requested. A notice must also be posted on the property at least 20 days before the sale. Additionally, a notice of sale has to be posted in a public place in the county in which the property will be sold. At least 14 days before the sale, a notice of sale must be recorded in the county in which the property is located.

2. In California, a borrower has up until 5 days prior to the sale to cure the default. If the borrower cures the default, the process stops. State law also allows a borrower to request a meeting with the lender to discuss how the foreclosure can be stopped, such as through foreclosure alternatives.

涉及法规：

A：不需要法庭程序 non-judicial process (Trustee sale)

“Power of Sale”-- 写在贷款合同条款里面的：With very few exceptions, foreclosures in California go through the non-judicial process. A lender's right to sell the home when the borrower defaults on the payments is covered in a “Power of Sale” clause in the mortgage contract. When a lender opts to pursue foreclosure in California, one must do so in accordance with the guidelines set by the state.

Redemption and Deficiency Judgments: In California, non-judicial foreclosures have no redemption period so a person who loses a home to this method can't reclaim the property. There is also no deficiency judgment allowed for non-judicial foreclosures, so lenders can't sue homeowners to recoup lost money.

B：需要法庭程序：mortgage? (没有power of sale 条款的贷款)

没有“Power of Sale”-- 没有写在贷款合同条款里面的：While California does allow for judicial foreclosures, the judicial method isn't used as often as non-judicial foreclosures. The judicial process is reserved for homes without a “Power of Sale” clause in the mortgage. It moves forward in a similar manner as a non-judicial method, but the process takes place in court. The lender has to file a lawsuit and the court has to issue an order to foreclose. From there, the public auction can take place.

C: Due to federal mortgage servicing laws, defined by the Consumer Finance Protection Bureau, your servicer must wait 120 days before making a first official notice, or before they file a judicial or nonjudicial foreclosure