

# **Foreclosure Steps in NC**

## **What Is the Foreclosure Process in North Carolina?**

If you default on your mortgage payments in North Carolina, the lender may foreclose using a judicial or nonjudicial method.

### **How Judicial Foreclosures Work**

A judicial foreclosure begins when the lender files a lawsuit asking a court for an order allowing a foreclosure sale. If you don't respond with a written answer, the lender will automatically win the case. But if you choose to defend the foreclosure lawsuit, the court will review the evidence and determine the winner. If the lender wins, the judge will enter a judgment and order your home sold at auction.

### **How Nonjudicial Foreclosures Work**

If the lender chooses a nonjudicial foreclosure, it must complete the out-of-court procedures described in the state statutes. Though, North Carolina nonjudicial foreclosures usually involve one court hearing (see below). After completing the required steps, the lender can sell the home at a foreclosure sale. Most lenders opt to use the nonjudicial process because it's quicker and cheaper than litigating the matter in court.

## **Which Is the Most Common Foreclosure Process in North Carolina?**

1. most residential foreclosures in North Carolina are nonjudicial.
2. Pre-foreclosure Notices

At least 45 days before filing a notice of hearing in a foreclosure proceeding on a primary residence, the servicer must send a notice to the borrower that includes the following information (among other things):

- the past due amount and other charges that must be paid to bring the loan current
- contact information for the mortgage lender, the servicer, or an agent who's authorized to work with the borrower to avoid foreclosure, and
- contact information for a HUD-approved housing counseling agency. (N.C. Gen. Stat. § 45-102).

The lender also must send a notice of default, which includes a detailed statement of amounts due along with a daily interest charge (based on the contract rate as of the date of the statement), to the borrower within 30 days of the date of the notice of hearing. (N.C. Gen. Stat. § 45-21.16(c)(5a)).

3. Notice of Hearing

The lender officially starts the foreclosure by filing a notice of hearing with the court clerk. The notice of hearing must be served to the borrower, usually by certified mail, not less than:

- ten days before the hearing (if served to the borrower personally) or
- twenty days before the hearing (if posted on the property). (N.C. Gen. Stat. § 45-21.16).

At the hearing, the court will consider certain issues, like whether the debt is valid and the foreclosing party is the holder of the debt, if the homeowner is actually in default, whether foreclosure is allowed under the deed of trust, and whether proper notice was given. (N.C. Gen. Stat. § 45-21.16(7)(d)).

The clerk can decide to postpone the hearing for no more than 60 days if:

- the residence being foreclosed is the borrower's principal residence, and
- the clerk determines there is good cause to believe that additional time or additional measures have a reasonable likelihood of resolving the delinquency without foreclosure. (N.C. Gen. Stat. § 45-21.16C).

If a postponement isn't warranted and the lender followed the procedural steps, the clerk will authorize a foreclosure sale.

#### 4. Notice of Sale

At least 20 days before the sale, a copy of the notice of sale must be:

- sent to the borrower, and
- posted in a public place. (N.C. Gen. Stat. § 45-21.17).

Typically, the notice is posted at the courthouse immediately after the hearing.

The notice of sale must be published once a week for at least two successive weeks in a newspaper in the county in which the property is situated, with the last publication being not more than ten days before the sale. (N.C. Gen. Stat. § 45-21.17).

#### The Foreclosure Sale

The sale is an auction, which is open to the public. At the sale, the lender usually makes a credit bid. The lender can bid up to the total amount owed, including fees and costs, or it may bid less. In some states, including North Carolina, when the lender is the high bidder at the sale but bids less than the total debt, it can get a deficiency judgment against the borrower, subject to some limitations (see below). If the lender is the highest bidder, the property becomes what's called "Real Estate Owned" (REO).

But if a bidder, say a third party, is the highest bidder and offers more than you owe, and the sale results in excess proceeds—that is, money over and above what's needed to pay off all the liens on your property—you're entitled to that surplus money.

## 时间线

non judicial foreclosure in North Carolina

- It takes approximately three months to complete a if everything goes smoothly. It may take longer than three months if the borrower fights the foreclosure or if the lender seeks a judicial foreclosure.

Sample foreclosure timeline (60-90-120days)

Day 1. Notice of pre-sale hearing given to interested parties.

Day 10-30. (depending on Court schedule). Pre-sale hearing takes place.

Day 30. Notice of impending sale given to general public.

Day 50. Property sold.

Day 55. Trustee (or lender) submits preliminary report of sale.

Day 65. Deadline for filing of upset bid.

Day 65. Upset bid filed.

Day 70. Trustee (or lender) submits preliminary report of sale.

Day 80. Absent additional upset bids, sale becomes final

Reference Website:

1. [https://www.foreclosure.com/statelaw\\_NC.html](https://www.foreclosure.com/statelaw_NC.html)
2. <https://realestateexperts.net/nc-foreclosure-process/>
3. <https://www.natlbankruptcy.com/north-carolina-foreclosure-process-works/>