California

Table

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NOTES:

1. Borrower has the right to reinstate the loan up to five (5) days prior to the Trustee Sale date.
2. The Internal Revenue Service (IRS) has up to 120 days after the Foreclosure sale to redeem the property.
3. If the first mortgage forecloses and the second lien (junior lien) is a "recourse" loan, they will pursue the homeowner for the full balance of the loan, after the foreclosure.

The **pre-foreclosure** process starts when a mortgagor (the borrower) is **30 days late** on their payment. **Formal foreclosure** proceedings typically commence when the borrower is **90 days late** or more.

**Homeowner Bill of Rights**

California enacted a Homeowner’s Bill of Rights that became effective January 1, 2013. The most important feature of the bill is a prohibition on continuing a foreclosure while a loan modification application is under consideration. Running the two processes side by side is called dual-tracking.

Dual tracking is outlawed by HBOR. If a loan modification application is submitted to the lender or the servicer, the foreclosure process is paused. More on HBOR.

**No deficiency judgments**

California has a one-action rule.

Any lender who uses the power of sale in the deed of trust to conduct a foreclosure sale is prohibited from suing the borrower for any deficiency or loss on the transaction.

The lender gets ownership of the property but nothing more. The foreclosing creditor can’t try to recover any shortfall between the value of the property and what was owed. **Parties with junior liens that are cut off by the sale may be able to sue the former homeowner.**

Since the mortgage meltdown in 2008, lenders very seldom move a foreclosure as fast as the law allows.

Statistics on new foreclosures in the first quarter 2014 suggest that on average, homeowners in California had missed **18 payments** before foreclosure was started!

And once foreclosure was started, with the recordation of a formal notice of default, **another 429 days** elapsed, on average, before the foreclosure sale.

(<https://www.forbes.com/sites/darenblomquist/2014/04/24/3-signs-foreclosures-are-still-festering-in-california/#6769dd646f2f>)

How to Stop Foreclosure in California

There are really only two ways to stop a foreclosure: make a big enough payment to bring the loan current or file bankruptcy.

If you can get the cash together to make up for back payments, interest, and other expenses and fees, you can pull your home out of the foreclosure process. You can also stop the foreclosure by filing bankruptcy. Bankruptcy includes a powerful legal tool called the “automatic stay.” The automatic stay stops any collection actions against you, including repossession, collection lawsuits, and foreclosures. The banks won’t be able to touch your home while you go through the bankruptcy process.

Depending on the type of bankruptcy you choose to file, you may be able to catch up your mortgage through your bankruptcy plan payments. Remember that you can step in at any point along the California foreclosure timeline to stop the process, right up until the auction itself. It’s not too late to save your home.

According to California foreclosure law, the borrower may still balance out the default up to **5 days before** the foreclosure sale is set to take place, thus reinstating the loan. Moreover, during the 21-day period while the notice of sale is in circulation, the affected property may be redeemed by an entity or person interested in it by paying the full loan amount.