Florida Foreclosure Process & Timeline:



**Step 1: Pre-foreclosure**

As a lien theory state, Florida’s mortgage loans are secured by the property purchased with said mortgage. Generally speaking, borrowers sign both a mortgage and a promissory note when buying residential property, with the promissory note containing the terms and details of the loan, as well as the borrower’s legally binding commitment to repay it.

Missing one payment

If a borrower misses one payment, most mortgages in Florida include a 10- to 15-day grace period during which no late fees will be charged. After this period however, late fees will be incurred by delinquent borrowers. Late fees are detailed on the promissory note, but usually hover around 5% of the missed payment.

The lender must contact, or attempt to contact the borrower by phone to discuss loss mitigation options, like a [loan modification, forbearance, or repayment plan](https://www.nolo.com/legal-encyclopedia/whats-the-difference-between-loan-modification-forbearance-agreement-repayment-plan.html), no later than 36 days after a borrower misses a payment and again within 36 days after each following delinquency. No later than 45 days after missing a payment, the lender has to inform the borrower in writing about loss mitigation options that might be available and appoint personnel to help the borrower to work out a way to avoid foreclosure, unless the borrower has filed for bankruptcy or asked the lender not to contact.

Missing multiple payments

Usually if a borrower misses several payments, the lender will try to establish contact with the delinquent borrower to balance out the overdue payments. This can be a great time for a borrower to try foreclosure mitigation methods such as a loan modification, payment plan or forbearance agreement. **If a borrower is 120 or more days late with payment, the mortgage servicer may file a notice with the court and start the foreclosure process.**

**Step 2: Foreclosure**

Mortgages in Florida can feature a letter of breach clause requiring the lender to inform the borrower via a “breach letter” if a loan is in default before the foreclosure process is initiated. The letter must contain the default amount, the action required to balance it out, as well as the due date. The breach letter gives the borrower a chance to [cure the default](https://www.nolo.com/legal-encyclopedia/what-does-it-mean-to-default-on-a-mortgage-loan.html) and avoid foreclosure. **However, the lender is not legally required to notify a delinquent borrower prior to initiating the foreclosure process if there is no letter of breach clause in the mortgage contract.** On the other hand, a delinquent borrower may stop the foreclosure at any time up until the date of sale by curing the loan – paying the entirety of the owed amount.

Lis pendens

In Florida, foreclosures are handled by circuit courts and are always judicial, meaning the lender must file a notice of impending lawsuit with the courts known as lis pendens. Following the lis pendens filing, the delinquent homeowner will receive the notice and a summons, to which they must reply within 20 days or risk receiving a default judgement in favor of the lender. If the homeowner replies, the case may go to foreclosure trial, the lender may file further documents supporting its position and/or refuting the case made by the homeowner, or may pursue a summary judgement motion. The latter is preferred by lenders, since it significantly shortens the foreclosure timeline by avoiding trial.

The foreclosure trial

If the lender fails to secure a summary judgement, the foreclosure goes to trial. In Florida’s case this can the form of a single or bulk trial. In the case of bulk trials, more than one case is heard in a short timeframe. If the lender wins the trial or secures a summary judgement, the court sets a date for the sale date which can vary between 20 to 90 days from the day of the final judgement. Usually foreclosure sales are scheduled 30 days after the final judgement. Expedited foreclosure is also an option in Florida, and can run consecutively with regular foreclosure proceedings.

Publication of a Notice of Sale

The lender must publish a notice of the foreclosure sale in a newspaper once a week for two consecutive weeks, with the second publication at least five days before the sale.

**Step 3: Foreclosure Auction**

Deficiency judgement

When a borrower is handed down a final court ruling against them, they are liable for the total amount owed to the borrower – regardless of the final sale price. As such, delinquent borrowers may be exposed to deficiency judgements in Florida. This means that if the delinquent property’s final sale price at the foreclosure auction is lower than the outstanding balance, the lender may sue for the remaining balance. If the courts issue a delinquency judgement against the delinquent borrower, they will be held liable for the outstanding balance and will have to repay the lender.

In Florida, the bank may obtain a deficiency judgment as part of the foreclosure action if the borrower was personally served with the [foreclosure complaint](https://www.nolo.com/legal-encyclopedia/whats-the-difference-between-lis-pendens-summons-foreclosure-lawsuit.html). The bank may also file a separate lawsuit against the borrower for a deficiency judgment. The court has flexibility regarding the amount of the deficiency. But the judgment generally can't exceed the difference between the judgment amount and the **fair market value** of the home as of the date of sale, particularly if the property is owner-occupied and residential.

Foreclosure auction

Dates for Florida foreclosure auctions may vary by court, but sales are usually scheduled 20 to 35 days after the final ruling is handed down. Following the final ruling, a notice of sale is issued by the court clerk. The notice contains the date, time and location of the sale, and must be published for two consecutive weeks. The second date must appear no less than 5 days before the scheduled sale date. Sales are usually held at 11 AM at the county courthouse, and the winning bidder has to provide a minimum 5% deposit onsite. The remainder of the balance must be satisfied by the end of the day. If the winning bidder fails to comply, a new auction is scheduled 20 to 35 days later.

If a sale is undisputed, the property’s ownership is transferred to the new owner after 10 days, and the former owner loses right of redemption – the right to regain ownership of the property. In Florida, deficiency judgements are left to the discretion of the courts, but may not exceed the difference between the outstanding loan balance and the property’s fair market value. If no satisfying bids are made on the property, it may revert to the lender and become real estate owned (REO).

Step 4. Foreclosure eviction

Florida foreclosures generally include a right to possession clause, meaning that after a judgement favorable to the lender is issued, and the clerk of court issues the certificate of title, the lender may file a motion for writ of possession. When this is released – also by the county clerk – the sheriff will post it on the foreclosed property, giving the former owner 24 hours to vacate. If the delinquent borrower fails to comply, the sheriff’s office has the legal jurisdiction to remove them. The new owner may also offer the former owner a cash-for-keys deal – this consists simply of a financial incentive paid to the former owner to vacate the property.

Reference:

<https://www.propertyshark.com/info/foreclosure-process-florida/>