Foreclosure 101

What does foreclosure mean, exactly? In simple terms, the foreclosure process allows a lender to recover the amount owed on a defaulted loan by selling or taking ownership of the property. There are nearly a thousand properties in "some stage of foreclosure (default, auction or bank-owned)" in the greater Saint Louis area, so it's hardly an uncommon occurrence.

If you (or someone close to you) are facing foreclosure, make sure you understand the process. While there is variation from state to state, there are normally six phases of a foreclosure procedure.

This page is meant to provide a general informative overview, please seek the advice of a licensed professional for any specific legal or financial guidance. Additional information is also available from Fannie Mae (Know your options).

KEY TAKEAWAYS

- Foreclosure occurs when a lender seeks to seize your property as collateral for failure to pay your mortgage as agreed.
- There are typically six phases in the foreclosure process and the exact steps vary state by state.
- Before a home is foreclosed on, owners are given 30 days to fulfill their mortgage obligations.
- Most lenders would actually prefer to avoid foreclosing on a property.

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Phase 1: Payment Default

A payment default occurs when a borrower has missed at least one scheduled mortgage payment. The lender will send a missed payment notice indicating that it has not yet received that payment.

Typically, mortgage payments are due on the first day of each month, and many lenders offer a grace period until the 15th of the month. After any grace period, the lender may charge a late payment fee and send the missed payment notice.

After two payments are missed, the lender will often follow up with a demand letter. This is more serious than a missed payment notice. However, at this point, the lender may be still willing to work with the borrower to make arrangements for catching up on payments. The borrower would normally have to remit the late payments within 30 days of receiving the letter.

Phase 2: Notice of Default

A notice of default (NOD) is sent after 90 days of missed payments. In some states, the notice is placed prominently on the home. At this point, the loan will be handed over to the lender's foreclosure department in the same county where the property is located. The borrower is informed that the notice will be recorded.

The lender will typically give the borrower another 90 days to settle the payments and reinstate the loan. This is referred to as the "reinstatement period."

Phase 3: Notice of Trustee's Sale

If the loan has not been made up to date within the 90 days following the notice of default, then a notice of trustee sale will be recorded in the county where the property is located.

The lender generally must also publish a notice in the local newspaper for three weeks indicating that the property will be available at public auction. All owners' names will be printed in the newspaper notice, along with a legal description of the property, its address, along with when and where the sale will take place.

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Phase 4: Trustee's Sale

The property is now placed for public auction and will be awarded to the highest bidder who meets all of the necessary requirements. The lender (or firm representing the lender) will calculate an opening bid based on the value of the outstanding loan and any liens, unpaid taxes, and costs associated with the sale.

Once the highest bidder has been confirmed and the sale is completed, a trustee's deed upon sale will be provided to the winning bidder. The property is then owned by the purchaser, who is entitled to immediate possession. When a foreclosed property is purchased, it is up to the buyer to say how long the previous owners may stay in their former home.

Phase 5: Real Estate Owned (REO)

If the property is not sold during the public auction, the lender will become the owner and attempt to sell the property through a broker or with the assistance of a real estate owned (REO) asset manager These properties are often referred to as "bank owned," and the lender may remove some of the liens and other expenses in an attempt to make the property more attractive.

Phase 6: Eviction

The borrower can often stay in the home until it has sold either through a public auction or later as an REO property. At this point, an eviction notice is sent demanding that any persons vacate the premises immediately.

Several days may be provided to allow the occupants sufficient time to remove any personal belongings. Then, typically, the local sheriff will visit the property and remove the people and any remaining belongings. The latter are placed in storage and can be retrieved at a later date for a fee.

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The Bottom Line

Throughout the foreclosure process, many lenders will attempt to make arrangements for the borrower to get caught up on the loan and avoid foreclosure. The obvious problem is that when a borrower cannot meet one payment, it becomes increasingly difficult to catch up on multiple payments.

If there is a chance that you can catch up on payments—for instance, you just started a new job following a period of unemployment—it is worth speaking with your lender. If a foreclosure is unavoidable, knowing what to expect throughout the process can help prepare you for the six phases of foreclosure. You, the borrower, are in control during the early stages. We, at S and S Property Group, LLC are here to listen, inform, and help whenever possible.

Please reach out to us via phone at 314.924.6555 or mail Info@SandSPropertyGroup.com and tell us your story