

Colorado Foreclosure Process and Time Frames

DELINQUENCY: The day after a payment is due, a loan is DELINQUENT. If the grace period runs until the 16th of each month (as it does for all FHA loans) and payments are posted each month on the 10th, then the loan becomes DELINQUENT for a short period each month.

DEFAULT: A loan is IN DEFAULT as soon as any payment has been due and unpaid for more than 30 days. Lenders often have subdivided collection departments dealing with loans that are in different stages of default.

FORECLOSURE: When a lender says a loan is in FORECLOSURE, they usually mean that the loan file has been transferred to an internal department whose job is to decide if and when to send the loan to the lawyers who handle the lender's foreclosures in Colorado. Most lenders use an outside law firm.

FHA loans cannot be put into foreclosure status until at least three payments are due and unpaid. However, a foreclosure on an FHA loan CAN begin before the grace period expires for the third payment. Conventional (non-government insured) loans can be put in foreclosure AS SOON AS THE LOAN IS IN DEFAULT, which may be only 15-20 days after the grace period ends. However, most lenders will choose not to begin foreclosure until three payments are due and unpaid.

LEGAL WORK: After the lender transfers a loan file to their foreclosure attorneys, the borrower will become responsible for the lender's legal costs, the total of which can be up to \$2500 or more. Foreclosure costs and fees including all legal fees incurred must be paid in addition to back payments and late fees in order to CURE the loan and stop the foreclosure. The attorneys usually spend two to four weeks preparing documents, which, assuming the lender is foreclosing on a Deed of Trust, will be sent to the Public Trustee's Office for the county where the property is located.

PUBLIC AUCTION:

When the Public Trustee receives the foreclosure documents from the lender's attorneys, the Public Trustee will record a Notice of Election and Demand ("NED") and will schedule a public auction of the property 110-125 days in the future. The borrower's RIGHT TO CURE the loan is dependent upon borrower filing an INTENT TO CURE form with the Public Trustee's office for the appropriate county at least 15 days before the public auction of the property. Borrower will then receive the CURE FIGURES, i.e. the amount of money needed to reinstate their loan, within one week before the sale. The Public Trustee's Office must receive a cashier's check or other certified funds of the total amount due before 12 Noon, one day prior to the public auction. The lender's attorneys must schedule a RULE 120 HEARING to take place before the auction date. The purpose of the hearing is to legally establish whether the lender has the right to foreclose on the property and have it sold at the public auction. The judge may cancel this hearing and simply sign the order allowing the sale, if the borrower does not officially respond when given notice.

REDEMPTION PERIOD FOR JUNIOR LIENORS:

If a home is sold at the public auction, it is followed by a short REDEMPTION PERIOD during which time junior lien holders may pay off the amount bid at auction plus "allowable fees" i.e. taxes, insurance, and any interest accrued per day, made payable to the county Public Trustee's Office.

To receive the REDEMPTION FIGURES the INTENT TO REDEEM must be filed at the county Public Trustee's office within 8 business days after the sale. Only junior lienholders whose liens were of record prior to the recording of the NED will be allowed to redeem.

DEFICIENCY JUDGMENT: If the debt on the home exceeds what the lender thinks the home is worth, a homeowner could still owe the lender money even after the loss of the home. If a court can be convinced that the lender bid less than a good faith estimate of the property's value (minus holding expenses) at the public auction, then a DEFICIENCY JUDGMENT for additional debt may be avoided. Otherwise the owner of the property will be held responsible for the deficient amount.

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