

may offer you the opportunity to remain in your home following the foreclosure sale on a mutually acceptable basis. For example, the lender or its servicing agent may ask you to stay in the home for the payment of market rent.

Event 4: Delay of Notice of Sale

Prior to the lender or servicing agent preparing and recording a notice of sale (NOS), the three month reinstatement or cure period following the recording of the NOD must have been completed. Under state law, the lender or servicing agent is required to accomplish certain predicates pursuant to the HBOR.

Federal law requires additional predicate steps to be accomplished including completing a loss mitigation process. Should the homeowner prepare and deliver a loss mitigation application after the NOD has been recorded, the recording of a NOS and the scheduling of a foreclosure sale may be delayed. For example, the loss mitigation example must be completed 37 servicing days or more before the foreclosure sale.

Event 5: Notice of Sale (NOS)

Upon completion of Events 1-4 above, your lender or its servicing agent can direct the trustee to prepare a NOS to notice and schedule a foreclosure sale. The trustee will record the NOS at least 21 days prior to the scheduled sale, post your home with a copy of the NOS, and publish the NOS in an authorized newspaper of general circulation in the jurisdiction where the foreclosure sale is to occur. The NOS usually is published about 20 days prior to the scheduled date for the sale of your home and runs for three consecutive weeks. The NOS is also sent to you as the homeowner and all other entitled persons.



It is possible the NOD was recorded against your home prior to the effective date of the California law establishing the requirement to delay the recording of the NOD until 30 days after contact is made with you or after satisfying due diligence requirements to make contact with you (demonstrate a good faith effort).

These required contacts or good faith efforts to make contact put many homeowners in direct communication with their lender or its servicing agent early in or during the foreclosure procedure. Time and energy that was once wasted tracking down your lender or its servicing agent (or the appropriate member of their staffs) can now be invested in negotiating monthly mortgage loan payments that you can afford and that are acceptable to your lender (modifying or restructuring your mortgage loan). You should continue to negotiate with your mortgage lender or its servicing agent up until the scheduled date of the foreclosure sale or the date of the postponed sale. You should not prematurely move out of your home, particularly when you are continuing to negotiate with your lender or its servicing agent.

You have a right of reinstatement or to cure which is valid until five days prior to the scheduled sale or the date of the postponed sale. On the fifth day prior to the sale, your right to reinstate the debt and cure the default expires. Thereafter, you are entitled to redeem the debt by paying in full the balance due and owing to the lender as described in the NOS. Should you not redeem prior to the date and time of the noticed or postponed foreclosure sale, your home can be sold to the highest bidder.

