

## Event 6: Foreclosure Sale

When your home sells at the foreclosure sale, the lender or its servicing agent may elect to accept the sale proceeds as payment in full whether the amount received from the third-party bidder represents the full balance due and owing to the lender. Should there be no third-party bidder and the lender elects to open the bid at an amount equal to the full balance due and owing, this is known as a “full credit” bid which will discharge in full your debt to the lender. Should your lender or its servicing agent elect to “underbid” (direct the trustee to open the bidding in an amount that represents a specified partial payment of the debt owing under your defaulted mortgage loan), the successful bidder may be able to purchase your home for less than the full balance due and owing to your lender at the time of the foreclosure sale.

Lenders or their servicing agents may elect to “underbid” if they believe waste, physical damage or injury to the property described in the deed of trust, occurred due to the borrower’s bad faith. In these situations, a “civil suit for waste” may be filed against you.

It is worth noting again that when a lender forecloses based on a default on the mortgage loan used to buy your home (a purchase money loan), the lender may not obtain a deficiency judgment against you if proceeds from the non-judicial foreclosure sale are insufficient to cover the full balance due and owing to the lender. In some circumstances, a lender may obtain a deficiency judgment against you on non-purchase money loans secured by your home, such as an equity line of credit, or a mortgage loan obtained to refinance your purchase money loan to the extent additional loan funds are advanced to you.



For more information on your rights and the lender's ability to collect money from you (whether in the form of a deficiency judgment or a civil suit for waste) when your home sells at a foreclosure sale for less than what is owed to the lender, contact an attorney familiar with California and applicable federal foreclosure law.

The homeowner also has a right of redemption (to redeem the full balance due and owing to the lender) prior to the date and time of the noticed or postponed non-judicial foreclosure sale. In a judicial foreclosure sale, the right of redemption can only be exercised by a defaulting homeowner after the home is sold through a court ordered and supervised sale. No redemption rights are available to the homeowner after the security property is foreclosed at a non-judicial foreclosure sale.

In a judicial foreclosure sale, the right of redemption essentially means to repurchase your home from the buyer by paying in full the price paid (not the defaulted loan amount). To redeem your home, you must pay the new owner the amount paid for your home at the judicial foreclosure sale plus interest until payment in full is tendered.

When no deficiency exists to pay off the loan at the judicial foreclosure sale, your redemption right will extend for a period of three months. If, however, a deficiency judgment was awarded by the court and recorded as a lien naming you as the judgment debtor, your redemption right as the former homeowner will extend up to a one year period following the judicial foreclosure sale.

Assuming the lender foreclosed in a judicial action in court, then within this one year period you will be given the opportunity to pay the deficiency judgment awarded to the lender and to redeem your home from the new owner by paying the purchase price plus interest as previously described. During the redemption period (whether extended for three months or one year), the new owner who purchased your home at the judicial foreclosure sale does not enjoy full ownership rights and may have the purchase at the judicial foreclosure sale set aside in favor of your redemption rights as the former homeowner.

