

Should no acceptable solution be achieved for your mortgage loan situation, a foreclosure may be inevitable. The non-judicial foreclosure procedure includes six events (as previously discussed) designed to balance your needs (enough time to reinstate or cure your mortgage loan defaults by paying your past-due payments and late fees or, if necessary, consider your future plans to find a new residence where to relocate when vacating your home is required).

The non-judicial foreclosure procedure provides a remedy to your lender to collect by directing your home be sold through California procedural law which provides sufficient time to ensure the highest possible price is received through a properly published and noticed, publically-conducted, but privately-held foreclosure sale.

From the time you miss a single mortgage loan payment, you should begin negotiating a modification or restructuring (pursuing a foreclosure prevention alternative or option) of your mortgage loan terms with your lender or its servicing agent. You should continue negotiating with your lender even after the lender or its servicing agent directs the trustee to prepare and record the NOD. You will have a minimum of three months to accomplish one of the alternatives or options to foreclosure discussed in this booklet before the recording of a NOS.

### The Foreclosure Procedure Guidelines

Excepting loans that are federally insured or indemnified (FHA or VA), held by Fannie Mae or Freddie Mac, or by a federally regulated credit union, some common procedures established by the Consumer Financial Protection Bureau (CFPB) apply to foreclosures of federally related residential mortgage loans (consumer loans) as follows:



- By 36 days after a homeowner misses a payment or is unable pay the full amount, the servicing agent must make a good faith effort to establish contact by telephone or at an in-person meeting.
- Servicing agents must contact borrowers every time they miss payments.
- If the borrower's situation calls for it, the servicing agent must tell the borrower about loan modification, or available workout alternatives or options.
- Before a borrower becomes 45 days delinquent, the servicing agent must send a written notice to the borrower or borrower's agent encouraging the borrower to contact the servicing agent, providing the phone number for the personnel assigned to the borrower, providing the borrower examples of loss mitigation options the servicing agent offers. The borrower must also receive information about how to find a housing counselor (typically HUD approved).
- A servicing agent may not cause either a NOD or the filing of a judicial foreclosure to occur until the borrower is more than 120 days delinquent.
- If a servicing agent receives a complete application for loss mitigation options 45 days or more before a scheduled foreclosure sale, the servicing agent must acknowledge receipt of the application in writing and determine if the application is complete.
- If a servicing agent receives a complete application 90 days or more before a scheduled foreclosure sale, the servicing agent must give the borrower at least 14 days to accept or reject an offer of a loss mitigation option.



- In addition, if a servicing agent receives a complete application 90 days or more before a scheduled foreclosure sale, the borrower may appeal the denial for any loan modification. The borrower has 14 days to file an appeal.
- A complete application received by a servicing agent 37 days or more before a scheduled foreclosure sale will be evaluated for loss mitigation options available to the borrower. The servicing agent must give the borrower written notice of the decision.
- Once a NOS is recorded, the non-judicial foreclosure sale is scheduled. A foreclosure trustee holds the privately-conducted and publicly-held sale.
- In a judicial foreclosure action, the sale will be scheduled by the court. A court appointed official will conduct the foreclosure sale.
- Most borrowers who lose their home to foreclosure have at least 30 days in which to pursue arranging a rental relationship with the buyer at the foreclosure sale.

Throughout the foreclosure process, you should continue to negotiate an acceptable mortgage loan solution with your lender or its servicing agent. Remember, your lender or its servicing agent is required to contact you or to make a good faith effort to contact you before proceeding with recording the NOD or no later than prior to recording the NOS. Your lender or its servicing agent should refer you to an independent HUD-authorized homeowner counseling service.

At the end of a minimum initial three-month reinstatement or cure period, the lender or its servicing agent is typically able to direct the trustee to record and publish the NOS in a newspaper of general circulation in the city, county, or judicial district where the foreclosure sale is to be conducted. It will be several weeks between this point and when the actual foreclosure sale occurs, as the publication must run multiple times prior to the sale. (This is a required notice and procedural delay.)

