The Foreclosure Process

Foreclosure Defined

A foreclosure occurs when a property owner cannot make principal and/or interest payments on his/her loan, typically leading to the property being seized and sold.

Stages of Foreclosure

The foreclosure process is not very difficult to understand. There are several stages during which the homeowner has an opportunity to bring the loan current and avoid foreclosure.

After about three to six months of missed payments, the lender orders a trustee to record a **Notice of Default (NOD)** at the **County Recorder's Office**. This puts the borrower on notice that he or she is facing foreclosure and starts a **reinstatement period** that typically runs until five days before the home is auctioned off.

If the default isn't corrected (the loan must be brought current) within three months, a foreclosure sale date is established. The homeowner will receive a **Notice of Sale**, and this notice will also be posted on the property. In addition, the Notice of Sale is recorded at the County Recorder's Office in the county where the property is located. Finally, this Notice of Sale is also published in newspapers local to the county in question over a three-week period.

The foreclosure **Trustee Sale** typically occurs on the steps of the county courthouse in which the property is located. The time and location of this sale are designated in the **Notice of Sale**. At the Trustee Sale, the property is auctioned in public to the highest bidder, who must pay the high bid price in cash, typically with a deposit up front and the remainder within 24 hours. The winner of the auction will then receive the trustee's deed to the property.

Foreclosure Auction

At auction, an **opening bid** on the property is set by the foreclosing lender. This opening bid is usually equal to the outstanding loan balance, interest accrued, and any additional fees and attorney fees associated with the Trustee Sale. If there are no bids higher than the opening bid, the property will be purchased by the attorney conducting the sale, for the lender.

If this occurs, and the opening bid is not met, the property is deemed a **REO** or **Real Estate Owned**. This typically occurs because many of the properties up for sale at foreclosure auctions are worth less than the total amount owed to the bank or lender.

When you purchase property at a foreclosure sale, all **junior liens** other than property taxes are wiped out. Priority of liens is determined by the date of recording. When you purchase a REO aka. **Bank REO**, you will typically receive the property with a clean title.

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