



## FORECLOSURE FACT SHEET



Foreclosure is the term used to describe a process which allows a lender to recover real property from a debtor who has failed to make payments in accordance with a contract between the parties. The lender cuts off the buyer's ownership interest and sells the property in order to recover his investment. The power to sell the property is a clause found in most mortgages or security deeds signed at closing.

### **GEORGIA FORECLOSURE PROCESS (non-judicial):**

1. You receive a demand letter from your lender, requesting past due payments and late fees, with a 10-day period to make payment.
2. Notice of the foreclosure sale is published in the legal notices of a newspaper for four weeks. A certified letter is sent to the debtor 15 days before the sale.
3. The foreclosure auction takes place on the first Tuesday of the month after the notice has taken place.

### **TYPICAL FORECLOSURE TIMELINE:**

Day 1-Day 60: Payment or payments are missed, and the Collection department calls to find out your situation.

Day 60 – Day 90: A demand letter arrives giving you 30 days to resolve the back payments.

Day 90-120: The Loss Mitigation department takes over your file, and hires an attorney to start foreclosure proceedings. The attorney places the foreclosure notice in the newspaper.

Day 90- Day180: Foreclosure sale takes place at an auction on the steps of the county courthouse.

### **WHAT CAN BE DONE TO SAVE MY HOME?**

Since the financial meltdown, Congress has authorized a number of programs to encourage banks to help homeowners keep their homes.

Some of the potential options include: Loan modification by the bank, new loans using Home Affordable Refinancing Program (HARP), FHA Refinance for Borrowers

with Negative Equity (FHA Short refinance), and the Treasury/FHA Second Lien Program. Filing for Chapter 13 bankruptcy is a possibility, but it is rarely the best option. A competent real estate mortgage broker can help you navigate these waters.

If you cannot keep the home, the government offers Home Affordable Foreclosure Alternatives (short sale and Deed in Lieu of Foreclosure),

## **HOW DOES THE SCRA AFFECT FORECLOSURE ?**

Most Soldiers have heard of the Servicemembers Civil Relief Act (SCRA), which was designed to protect the Servicemember whose service has materially impacted his or her ability to pay. In the foreclosure area, the process must take place in a way that does not violate the legal protections of the federal law.

The SCRA cannot stop foreclosures, but it can delay the proceedings in some cases. If you are on active duty and service affected your ability to pay your mortgage or meet a house purchase contract, you may be helped by the act. Real estate cannot be foreclosed without a court order, if the notice is given to the lender before a proposed sale. This is important in states that allow non-judicial foreclosures (without court orders).

Also, you are entitled with proper notice to a delay in the proceedings under certain circumstances. Upon proper notification to the lender, or to a Court if action has commenced, the judge will delay the proceedings for a minimum of ninety days to allow the member to secure counsel, prepare a defense or for any other legitimate purpose. After 90 days, the process may continue unless a subsequent request to stay proceedings is filed with the court.

Proper notice under the SCRA requires you to take action. Send a copy of your orders to active duty to the lender, with a letter claiming the protections of the Act. Contacting the lender will ensure they know you are on active duty.



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