

CALIFORNIA'S FORECLOSURE PROCESS AND TIMELINES- FREQUENTLY ASKED QUESTIONS

✚ How does the foreclosure process work in California?

The most commonly used process is called the “non-judicial process”. The loan servicer or lender:

- i. Must contact you and/or whoever else is on the mortgage loan, by phone or in person, to assess your financial situation and explore your options to avoid foreclosure.
- ii. Cannot start the foreclosure process until at least 30 days after making contact to do that assessment and explore options to avoid foreclosure.
- iii. Must advise you during that first contact that you have the right to request another meeting about how to avoid foreclosure. That meeting must be scheduled to take place within 14 days.
- iv. You may designate a HUD-certified housing counseling agency, attorney, or other advisor to talk on your behalf with the servicer or lender about ways to avoid foreclosure. You get a chance to accept or reject any loan modification or other foreclosure avoidance plan that your representative and the lender/servicer come up with during that conversation.
- v. After taking these steps, if no foreclosure avoidance plan has been worked out, the foreclosing entity must record and serve the homeowner (and anyone else listed on the title) with a Notice of Default.
- vi. A minimum of three months after serving the Notice of Default, the foreclosing entity must serve the homeowner (and anyone else on title) with a Notice of Sale
- vii. A minimum of twenty days later, the property can be sold at a foreclosure sale.

Before the foreclosure process begins, the lender or loan servicer will probably send you two or three letters (over the course of 2-3 months) demanding payment. Those letters are not notices of default.

✚ What happens after my home is sold at the foreclosure sale?

- i. Whoever owns your home cannot just change the locks to the home. The new owner must serve you with a 3-day written notice to quit, and then must take you through the formal eviction process in order to get possession of the property. That process takes about 30-45 days.

✚ What if someone knocks on my door and tells me to get out?

- i. Don't panic. No one has the right to simply tell you to leave. If you feel threatened or unsafe, do not answer your door, or call the police. The new owner must follow the formal legal process and evict you in order to have you leave. To evict you, the new owner must file a complaint in court and serve you with it. You may (and should) file a response in court. The court has a self-help website at <http://www.alameda.courts.ca.gov/selfhelp>. You can also get help from the Court's Self-Help Center in Oakland. Call 510 268-7221.
- ii. Make sure you know who you are talking to. Request proof of who the person works for, and proof of who owns the property now that it has been sold.
- iii. Go yourself to your County Recorder's Office and check to find out who the new owner is.
- iv. Alternatively, contact the Trustee listed on the Notice of Sale to ask who purchased the property. (It might turn out that the lender has become the owner because no one else would buy it at the price requested.)

✚ If I have other questions, who do I call?

- i. Contact Housing and Economic Rights Advocates (HERA) at (510) 271-8443.

✚ What if someone offers me cash to move out? Why would someone do that?

- i. The new owner of the property cannot legally make you leave the property without evicting you. To evict you, the new owner must take you to court. The new owner (which might be the lender itself) may offer you cash to move out because it is cheaper than taking you to court. You should ask for as much as you need, realistically, to pay for first, last, and a security deposit, as well as moving expenses.
- ii. If you do agree to move out in exchange for cash, make sure you get paid all or at least half of that cash up front so that you actually receive what you need. Do not agree to less time to move out than what you realistically need. Also- Get The Agreement In Writing!

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