Nonjudicial Foreclosure

Foreclosure – The legal process by which a mortgage company seizes and sells a home because a homeowner does not make their payments or otherwise defaulted on the terms of their home loan. Oregon allows for two different foreclosure processes: judicial and nonjudicial. Foreclosure can also occur when a homeowner does not pay their property taxes, a court judgment, or other liens on the property. This covers **Nonjudicial Foreclosure**.

Nonjudicial Foreclosure – In this process, which occurs outside of the court system, a homeowner will receive a Danger Notice, Notice of Default, and/or a Notice of Sale by certified mail. If a homeowner disputes the facts or right to foreclose, homeowner must file a lawsuit in court to challenge the sale. Nonjudicial foreclosure auctions may occur quickly, typically between 120 and 180 days from the first notice date.



Missed Payment

Call a housing counselor or dial 211.

36 Days

Mortgage company attempts to contact homeowner about missed payments.

45 Days

Mortgage company sends homeowner a notice, a list of housing counselors, and available loss mitigation options.



OFA Program

Unless exempted, mortgage company will notify homeowner about the **OFA Program** and the opportunity for a face-toface meeting (see reverse for details).



Foreclosure Begins

If no agreement is reached to avoid foreclosure, or homeowner does not abide by the terms of an agreement, process may begin for nonjudicial foreclosure.



Contact an attorney to know your rights or help you respond. Carefully review all documents including notices, dates, and amounts owed or delinquent. Respond to everything you receive from the mortgage company or the mortgage company's attorney by the deadline. Watch out for scams!



Publication of Sale

Before the sale, the mortgage company will publicize the sale in a newspaper of general circulation in your county for four weeks, ending 20 days before the sale date.



How to avoid foreclosure

Consider other ways to stop foreclosure if no loss mitigation or home retention option is worked out.

- Seek other options to bring loan current. Learn more: —
- Explore filing for bankruptcy contact an attorney.
- Consider selling your home if your mortgage company will agree to additional time.

Property Possession and Eviction

Ten days after a sale, the purchaser has the right to possession of the property and to evict the prior owner.



Auction Occurs

Auction may occur between 120 and 180 days from the first notice date.

Option to Reinstate Loan

Up to five days before a sale, homeowner may pay what is owed, including late and other allowable fees to reinstate the loan to stop the sale.

Complete Loss Mitigation Application

Homeowner may apply for a home retention loss mitigation option before a foreclosure sale date. Homeowner should apply as early as possible.

- At least 37 days before sale date, the mortgage company must <u>receive</u> a homeowner's complete loss mitigation application for it to be considered.
- Within 30 days of receiving a complete loss mitigation application, the mortgage company should inform the homeowner of decision taken.

Challenge of Sale (if applicable)

If homeowner disputes the facts or the right to foreclose,

homeowner must immediately file a lawsuit in court to challenge the sale.

Temporary federal Regulation X (RESPA): Special protections are in place until Oct. 1, 2022, for homeowners impacted by the COVID-19 pandemic.

- For homeowners not in forbearance: Inform homeowners of forbearance options.
- For homeowners in forbearance: At least 10 days, but no more than 45 days before forbearance expiration, inform homeowners of available repayment plans and/or loss mitigation options.





STRUGGLING TO PAY YOUR NEXT MORTGAGE PAYMENT?

You are not alone. There is help.



For more information: OregonHomeownerHelp.org or dial 211.

If you think you may miss a mortgage payment

Q Review your budget.

Reduce expenses.

Increase income.

Consult a certified housing counselor.

Terms to Know

Default = You have missed a payment or do not meet the terms of your mortgage contract.

Beneficiary, trustee, lender, servicer = Mortgage company

Trustor, **grantor**, **borrower** = Homeowner

Resolution conference, mediation meeting, Oregon Foreclosure Avoidance Program (OFA), mediation case manager = Face-to-face meeting

Your right to a face-to-face meeting

Oregon Foreclosure Avoidance (OFA) Program. Unless it files an exemption, which is permitted for mortgage companies that filed a limited number of foreclosures the preceding year, a mortgage company must notify a homeowner of OFA and the pre-foreclosure right to a face-to-face meeting with a mortgage company representative. A homeowner may also request a face-to-face meeting as soon as 30 days after a missed payment and after meeting with a housing counselor, but carefully discuss this with your counselor because starting OFA before the mortgage company does may speed up the foreclosure process. To accept this meeting with the mortgage company, the homeowner must:

- ✓ Return completed form.
- ✓ Pay applicable fees on time.
- \checkmark Gather and submit required documents.
- ✓ Meet with housing counselor as scheduled.

If a face-to-face meeting takes place:

And homeowner and mortgage company <u>reach an agreement</u>:

- Carefully review and sign agreement.
- Keep a copy.
- If you fully comply with the terms of agreement, you may be able to avoid foreclosure.

And mortgage company complies with OFA requirements, but homeowner and mortgage company do not reach an agreement:

- The mortgage company and the homeowner receive a certificate of compliance, and then the mortgage company may start the foreclosure process.
- If your mortgage company starts a foreclosure without a certificate of compliance or is exempted to comply with this requirement, contact an attorney immediately. You may be able to dispute and dismiss the foreclosure.

What to do if you miss a payment

36 days after first missed payment - The mortgage company will attempt to contact homeowner.

Respond to your mortgage company. Ask about options. Take notes.

45 days after first missed payment - Mortgage company sends written notice to homeowner with loss mitigation options and a list of counseling agencies.

- \checkmark Consult a certified Oregon housing counselor for free foreclosure avoidance counseling.
- \checkmark **Respond** to mortgage company <u>immediately</u> to give you more time.
- ✓ Provide information about your financial situation.
- ✓ Ask what options you have. Take notes.
- ✓ Commit to make future payments on time, if you and your mortgage company agree on repayment terms.

ADDITIONAL INFORMATION AND RESOURCES:

Housing counselors: www.oregon.gov/ohcs/pages/talk-with-a-housing-counselor.aspx
Oregon Foreclosure Avoidance Program: www.foreclosuremediationor.org
Oregon State Bar: www.osbar.org/public/ris





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Disclaimer: This information is based upon laws and regulations that may have changed after its production. It is not legal advice. Please consult with an Oregon housing counselor or attorney regarding your unique situation and Oregon foreclosure processes.