

# Foreclosures: Finally Explained!

Recently Matt and I performed at the Glenridge in Sarasota, Florida and met a bubbly, energetic Realtor, Carol Barnhart, who offered her knowledge and experience to us in the form of articles dealing with real estate issues. In times like these when home sales, foreclosures, lending and mortgages are topics of constant discussion, it helps to hear it straight from an expert. The following is provided by Carol and we are sure you will learn from and enjoy the information she shares on foreclosures and what to do when your mortgage gets sold! Make sure to call Carol when looking in the Sarasota area!



There are a lot of alarming statistics out there about foreclosures. But when you understand what a foreclosure is and how it works, it takes some of the fear out of the unknown.

To break it down to its bare bones, a mortgage foreclosure happens when a lender exercises its lien against a borrower's home in order to sell the house to pay off the mortgage loan. This, of course, only happens after the borrower has failed to make mortgage payments for an extended period of time, has ignored notices that the payments are behind, hasn't bothered to call the lender to see what can be worked out. So how did we get from popping the champagne cork on closing day to having our belongings set out on the lawn? It didn't happen overnight:

## **Step 1 - Notice of default is recorded by the bank**

This happens after you've missed a payment. Usually, especially in the old days, it happened after several payments were missed. Banks are tightening the reins, however, trying to move homeowners to action long before the point of no return. So you've missed one or several payments, and now the bank officially records the notice of default.

## **Step 2 - Opportunity to reinstate the loan**

**T**his sounds pretty hopeful, doesn't it? You can reinstate your loan! You have the power to stop the foreclosure process anywhere along the way-until five days prior to the auction of your home. But we're getting ahead of ourselves. How do you reinstate the loan? Bring your loan payments current plus the late fees and whatever penalties are assessed, and you have just reinstated your loan. You've stopped the foreclosure. You won't lose your house.

## **Step 3 - Date of foreclosure is set by the bank**

**B**ut what if you can't beg or borrow the back payments and other fees? Is all hope lost? Not quite. We've come to the third step of the foreclosure process: the bank sets a date of foreclosure.

Typically, the date is three months (about 90 days) after the bank sets the notice of default. You are allowed to live in the house until



the actual date of foreclosure. You cannot be evicted or thrown out of the house until this date. You still have time to come up with that money.

## **Step 4 - Notice of trustee sale is prepared, published and posted**

**N**ow the bank prepares the notice of trustee sale. The bank will publish it (you've seen those notices in your local newspaper). The bank then mails you a copy of the notice and physically posts it on the outside of the house. You still have time to bring the payments current.

## Step 5 - The house is sold at a foreclosure auction

**W**e've come to the final step: the foreclosure auction sale. If you are still living in the house and it is sold to a bidder at the auction, the winning bidder can have you evicted by the sheriff within 24 hours. If the house doesn't sell, the bank will show the house just like you would if you were selling the house yourself. The bank may also have you evicted within 24 hours, or the bank may decide to let you stay until the house sells.

Bottom line: if you miss a payment, don't let it turn into two. Find the money, even if you have to borrow from family or friends. Although the process can be stopped anytime up to five days before the sale, the earlier you intervene, the easier it is to stop.

### What to do if your Mortgage Has Been Sold:



#### **N**ow What?

If you receive a letter from XYZ Mortgage telling you they've bought your loan and you should now send payments to them, don't do it unless you receive a coinciding letter from your current lender. This type of mortgage scam goes on all the time, and many homeowners don't even think twice before sending off a check.

Congress took note of these scams, and in 1990 moved to regulate the assignment, transfer or sale of mortgage loans. As part of the National Affordable Housing Act, certain provisions were added to the Real Estate Settlement Procedures Act (RESPA):

1. The lender must disclose to the borrower its policy on assigning or selling loans at the time a borrower applies for a mortgage loan. HUD has written a model disclosure statement that all federally related mortgage lenders must use.

2. If a lender assigns, sells or transfers your loan , both your current lender and the mortgage buyer must make certain disclosures, including the name, address and telephone number of the transferee, as well as the effective date of the transfer.

3. Each disclosure statement must declare that the transfer does not affect any term of the mortgage other than who's servicing the loan.

4. A 60-day grace period ensures that borrowers can't be penalized if they mistakenly send payments to the old lender. Even if you send your payment to your old mortgage company during this time, and they have to reroute your check, you cannot incur any penalties during this time, neither late fees nor black marks on your credit report.

**S**elling mortgages is becoming more common all the time. It's called the secondary mortgage market. Organizations such as the FannieMae and FreddieMac purchase large packages of loans from lenders at a discount, providing the individual lender more cash available to generate new mortgage loans. Lenders depend on available cash to do business.



While having your mortgage sold over and over again can be inconvenient and annoying, the bottom line is that it's good for everyone. Why? As more lenders enter the marketplace by issuing conventional mortgages, the result is more competition, which helps keep interest rates competitive from lender to lender because consumers have more choices. For more information, write to the Mortgage Bankers Association of America and request their free booklet, "When Your Loan is Transferred to Another Lender," at 1125 Fifteenth St., NW., Washington, DC 20005.

Carol Barnhart is a 20 year veteran agent in the real estate industry selling many years for Hunt Real Estate ERA in Buffalo, Rochester and Syracuse, New York. Carol currently is a top sales agent in their new Sarasota, Florida office

Hunt Real Estate ERA Sarasota, Florida  
cbarnhart@huntrealestate.com  
941-993-3085



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mattandshari

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