

Renegade Foreclosure Fighter Newsletter

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Nevada Loan Modification Process

Loan Modification Nevada - Judicial Foreclosure

In Nevada, lenders may foreclose on deeds of trusts or mortgages in default using either a judicial or non-judicial foreclosure process.

Judicial Foreclosure The judicial process of foreclosure, which involves filing a lawsuit to obtain a court order to foreclose, is used when no power of sale is present in the mortgage or deed of trust. Generally, after the court declares a foreclosure, your home will be auctioned off to the highest bidder.

The borrower has one year (12 months) after the foreclosure sale to redeem the property if the judicial foreclosure process is used.



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California Statute SBX2 7

An act to amend, repeal, and add Section 2924 of, and to add and repeal Sections 2923.52, 2923.53, 2923.54, and 2923.55 of, the Civil Code, relating to residential mortgage loans.

LEGISLATIVE COUNSEL'S DIGEST

SB 7, Corbett. Residential mortgage loans: **foreclosure**.

Existing law requires that, upon a breach of the obligation of a mortgage or transfer of an interest in property, the trustee, mortgagee, or beneficiary record a notice of default in the office of the county recorder where the mortgaged or trust property is situated and mail the notice of default to the mortgagor or trustor. Existing law provides that, after not less than 3 months after the filing of the notice of default, the parties described above may give notice of sale, stating the time and place of the sale, as specified.

This bill, until January 1, 2011, and only with respect to specified loans that were recorded between January 1, 2003, to January 1, 2008, would prohibit a mortgagee, trustee, or other person authorized to take sale from giving a notice of sale for an additional 90 days if the loan at issue is the first mortgage or deed of trust that the property secures, the borrower occupied the property as his or her principal residence at the time the loan became delinquent, and the notice of default has been filed. The bill would exempt certain loans from this prohibition, including, upon order of

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Loan Modification Nevada - Non-Judicial Foreclosure

The non-judicial process of foreclosure is used when a power of sale clause exists in a mortgage or deed of trust. A "power of sale" clause is the clause in a deed of trust or mortgage, in which the borrower pre-authorizes the sale of property to pay off the balance on a loan in the event of the default. In deeds of trust or mortgages where a power of sale exists, the power given to the lender to sell the property may be executed by the lender or their representative, typically referred to as the trustee. Regulations for this type of foreclosure process are outlined below in the "Power of Sale Foreclosure Guidelines".

Loan Modification Nevada - Power of Sale Foreclosure Guidelines

If the deed of trust or mortgage contains a power of sale clause and specifies the time, place and terms of sale, then the specified procedure must be followed. Otherwise, the non-judicial power of sale foreclosure is carried out as follows:

- A copy of the notice of default and election to sell must be mailed certified, return receipt requested, to the borrower, at their last known address, on the date the notice is recorded in the county where the property is located. Any additional postings and advertisements must be done in the same manner as for an execution sale in Nevada.
- Beginning on the day after the notice of default and election was recorded with the county and mailed to the borrower, the borrower has anywhere from fifteen (15) to thirty five (35) days to cure the default by paying the delinquent amount on the loan. The actual amount of time given is dependent on the date of the original deed of trust.

The owner of the property may stop the foreclosure proceedings by filing an "Intent to Cure" with the Public Trustee's office at least fifteen (15) days prior to the foreclosure sale and then paying the necessary amount to bring the loan current by noon the day before the foreclosure sale is scheduled.

- The foreclosure sale itself will be held at the place, the time and on the date stated in the notice of default and election and must be conducted in the same manner as for an

execution sale of real property.

Lenders have three (3) months after the sale to try and obtain a deficiency judgment. Borrowers have no rights of redemption.

Success in the Court Room

I was at your LA seminar. I just used your materials and tools and obtained my first restraining order today. The Notice of Trustee's Sale was filed and served before the Notice of Default which stated that that the property could not be sold for three months after the Notice of Default was recorded. The Judge also granted the TRO based on inability to determine the real party in interest! YAHOO!

My client has a 1.4M home in the trails in Westlake Village. His business has suffered greatly due to the recession. His mortgage payment was about \$6K per month. He made a deal with them such that his payments would be reduced to \$2000.00 and the excess would be added to the back of the loan.

Out of nowhere, he received a Notice of Trustee's Sale. He had the DOT but not the Promissory Note. The lender and trustee on the DOT were different than those claiming to foreclose. There was no substitution of trustee. Last week, my client received a Notice of Default with a recordation date of May 27. The Notice stated that they would not foreclose for another 3 months from the date of the recording of the Notice. The date set for the Trustee's Sale was this Thursday, June 18, an apparent violation of the statement in the Notice of Default.

The Judge was persuaded that the party seeking to foreclose was not the holder of the note. Also, he was persuaded that no trustee sale should take place due to the 3 month statement on the Notice of Default. The Judge signed my TRO as drafted. When I served it on ETS Services (the party conducting the sale), the representative was incredibly pissed off. My hearing for preliminary injunction is now set for June 29. There were a lot more violations, but those were what the Judge seized on.

Jeffrey L. Hoffer, Esq.
Westlake, CA

Quote of the Month

The man who makes a success of an important venture never wails for the crowd. He strikes out for himself. It takes nerve, it takes a great lot of grit; but the man that succeeds has both. Anyone can fail. The public admires the man who has enough confidence in himself to take a chance. These chances are the main things after all.

The man who tries to succeed must expect to be criticized. Nothing important was ever done but the greater number consulted previously doubted the possibility. Success is the accomplishment of that which most people think can't be done.

C. V. White

CALENDAR OF UPCOMING EVENTS

Next Workshop: Foreclosure Prevention and Loan Modification Strategies on July 25th 2009 9:00 - 4:30. Location: 7840 Mission Center Court, Suite 101 San Diego, CA 92108. For more information visit: www.landslaw.com/foreclosures. Space is Limited. Register now to reserve your seat today!!

Foreclosure Prevention and Loan Modification Strategies is now available on CD. You will receive a set of CD's and the manual for \$395.00. To receive MCLE credit attendance is required at the live workshop.

HOME OWNERS: FREE FORECLOSURE PREVENTION CLINIC. LEARN HOW YOU CAN SAVE YOUR HOME AND SECURE YOUR FAMILY. SPACE IS LIMITED. CALL TO RESERVE. 619-296-7898.

ON THE RADIO: LISTEN IN ON 1040 AM EVERY SATURDAY MORNING FROM 10:00 - 11:00 A.M., WHERE I HOST A SHOW CALLED "ALL ABOUT REAL ESTATE". THIS IS A ONE HOUR SHOW THAT OFFERS AN OPPORTUNITY FOR HOMEOWNERS TO CALL IN TO GET FREE ADVICE CONCERNING THEIR HOMES.

the Commissioner of Corporations, the Commissioner of Financial Institutions, or the Real Estate Commissioner, as applicable, the loans of a mortgage loan servicer, as defined, if the mortgage loan servicer applies to the commissioner for an exemption indicating that it has implemented a loan modification program with specified features and the commissioner concludes that the program meets specified requirements. The bill would permit a mortgage loan servicer to submit a revised application if its application is denied, and would permit the commissioner to revoke an exemption under certain circumstances. The bill would require the commissioners to adopt regulations in this regard, as specified. The bill would require the Secretary of Business, Transportation and Housing to report to the Legislature 3 months after the first exemption is granted regarding the details of the actions on exemption of loans serviced by a mortgage loan servicer under a loan modification program and to submit subsequent reports every 6 months thereafter. The bill would require the secretary to post specified information on the exemption program on the agency's Internet Web site.

The bill would provide that a person who violates these provisions is deemed to have violated his or her license law. The bill would provide that the failure to comply with the provisions described above does not invalidate a sale that is otherwise valid under specified provisions. The bill would require that a notice of sale include a declaration from the mortgage loan servicer regarding the issuance of a temporary or final order of exemption from the commissioner pursuant to these provisions and the timeframe applicable to the notice of sale. The bill would make a statement of legislative findings.



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ADDRESS CORRECTION REQUESTED

DO YOU HAVE CLIENTS FACING FORECLOSURE AND DON'T KNOW HOW TO HELP THEM?

GIVE ME 1 DAY AND I'LL SHOW YOU HOW TO QUICKLY STOP A FORECLOSURE, HELP FAMILIES STAY IN THEIR HOMES AND PUT SUBSTANTIAL FEES IN YOUR POCKET

AVERAGE EARNINGS PER CASE \$5000-\$7500

Attend or refer a colleague to attend the Foreclosure Prevention and Loan Modification Strategies

July 25, 2009

9:00 a.m. - 4:30 p.m.

\$495

Approved for 6 MCLE credits by the California State Bar

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PLACE STAMP

HERE