

# The Foreclosure Process

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Are you one of the millions of North Carolina homeowners behind on your mortgage? If so, we encourage you to call us today at **919-362-6799**. The sooner you do, the sooner we can help. Our counselors can help you get a clear picture of your finances, provide you with important information about avoiding foreclosure, and work with you and your lender to find the best option for you.

## What is Foreclosure?

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When a homeowner fails to make his or her agreed upon mortgage loan payments, the lender (typically a bank or mortgage company) will try to avoid any additional loss by taking possession of the home, which is the collateral that had secured the loan.

Foreclosure is a **legal process** that employs many terms that may be new to you. We've put together a helpful [glossary](#) to help you understand the most common words and concepts. You can always call for clarification as well.

Although the foreclosure process may vary from state to state, here is a general description of the foreclosure process:

### **Step One: Notice of Default**

The first step in the foreclosure process is the issuance of a Notice of Default by the lender, which typically occurs after the homeowner is 30-45 days past due on their mortgage. It will usually be sent to the homeowner by certified mail. The lender will set a period of time for the homeowner to pay the lender the required amount past due and return the loan to good standing.

### **Step Two: Legal Filing**

If the homeowner does not pay off the amount past due by the stated deadline, the lender may elect to proceed with foreclosure. There are generally two types of foreclosures: judicial and non-judicial. In judicial foreclosures, the lender may file a lawsuit in order to obtain a court order to sell the property. This usually happens after 90 days of delinquency. In a non-judicial foreclosure, the process follows the procedures spelled out in the mortgage (or deed of trust) that allows a trustee – the bank or mortgage company – to foreclose on and sell the property. North Carolina is a non-judicial foreclosure state.

### **Step Three: Notice of Foreclosure Sale**

After the required time has elapsed, typically after 120 days without making a payment, the homeowner will be sent a notice of foreclosure sale, which will provide notice of the date by which the premises must be vacated and may include the total amount in arrears as well.

*Please Note: At any point during these proceedings, you may be able to keep your home if you pay off the loan and all foreclosure proceeding costs accrued.*

#### **Step Four: Public Sale**

The sale of a foreclosed home could involve a public sale held by an auction, where the highest bidder can buy the property. If there are no buyers, the lender may buy the property by submitting a credit bid based on the amount owed on the mortgage. If the lender takes the property, it could be sold in a private sale at a later date.

If the homeowner has not vacated the property by the time of the foreclosure sale, an unlawful detainer lawsuit could be filed to evict the homeowner. ***You may ask for time to move out of the property; however the bank does not have to grant the request and may request that you evacuate the property immediately.***