

THE TYPICAL FORECLOSURE PROCESS **IN MASSACHUSETTS**

- 1) The homeowner misses a mortgage payment(s).
- 2) The mortgage lender sends the homeowner a 90-day right to cure. During the 90-day period, the lender is prohibited from piling up excessive fees and penalties. The lender also has a duty to work with the homeowner to cure the default.
- 3) If the homeowner and the lender cannot resolve the problem, then the lender makes a demand for payment in full and accelerates the note. The homeowner now owes the full balance, plus interest and fees.
- 4) Next, the lender sends the homeowner, via certified mail, a notice of intent to foreclose. This notice must be sent at least 21 days before the scheduled auction sale. At this point, the house is officially in “foreclosure” status.
- 5) Around the time that the foreclosure notice is sent, the lender will also start a court action in Massachusetts Land Court. Normally, the homeowner has no involvement in this court action. Essentially, what happens is the lender files a complaint in Land Court to verify that the homeowner is not protected under the Service Members’ Civil Relief Act of 2003. Only homeowners actively serving in the military have the ability to take advantage of this Act. If the homeowner is not in the military, then she does not respond to the complaint filed in Land Court.
- 6) ****Watch out for scams!** The proceeding in the Land Court is public record. Be wary of solicitations from unscrupulous mortgage brokers, attorneys, or lenders who obtain your information from this public record. There are plenty of mortgage foreclosure rescue schemes out there that seek to take advantage of distressed homeowners, so be careful. We recommend that you first talk to a free, non-profit housing counselor to explore your options.

- 7) The Land Court will then issue a judgment in favor of the lender, who can then proceed with the foreclosure without further involvement with the courts.
- 8) **This means that the lender does not need to take the homeowner to court to take her house. If you believe that you have been the victim of fraud, or the seller, mortgage broker, or lender committed some other bad act, then you should seek legal advice to determine how you can raise those claims against the lender AS SOON AS POSSIBLE. Because if you don't seek legal assistance, you won't be able to raise those claims, since the foreclosure process does not occur through the courts.
- 9) The Lender will then serve a notice of sale upon the homeowner, by registered mail, at least 14 days before the property is sold. The notice of sale indicates the date on which the property is to be sold at auction. The notice must also be published in the newspaper for three consecutive weeks.
- 10) On the auction date, the homeowner's house is sold to the highest bidder.
- 11) ** It is common for 6 months or more to pass from the date of the first missed payment until the date the house is sold.
- 12) Once the house is sold, the homeowner becomes a tenant in the home. He no longer has the right to live in the house. However, before the new owner can evict the homeowner, he must take the homeowner to court and go through the eviction process. This can take months.
- 13) The entire process, from the date of the first missed payment, until the date the homeowner is evicted from the property, can take up to nine months or longer.
- 14) If there is money left over from the sale after the lender is paid off, that money goes to the homeowner.
- 15) However, if there is not enough money gained from the sale to fully cover the amount of the loan, the homeowner is liable for the difference.