

FAQS FOR HOMEOWNERS AND HOUSING COUNSELORS:

WHAT IS THE FORECLOSURE PROCESS IN MICHIGAN?

I've been told that my house is "in foreclosure." What does this mean?

Foreclosure is the legal process your mortgage lender may use to try to sell your house if you are in default on your mortgage loan, usually because you have not made your payments. The foreclosure process varies widely from state to state. In some states all foreclosures must go through a court process before the property can be sold. In other states the foreclosure sale is "by advertisement." This means there is no judicial oversight of the foreclosure process. In Michigan, most foreclosures are "by advertisement."

When will my bank kick me out of my house?

Foreclosure is a lengthy process and, at the end, you can be evicted from the property. However, the mortgage company has to follow some steps to get to that point and they are not supposed to lock you out of the house without a court order.

What will happen now?

For several years, Michigan had a law that mortgage companies that wanted to foreclose "by advertisement" had to offer homeowners an opportunity to have a meeting and submit documentation to be evaluated for a loan modification if the house was the homeowner's principal residence, however that is no longer required.

However, you do have the right in many circumstances to request a loan modification or other options to avoid foreclosure under federal law. Depending upon where you are in the process, if you submit a complete application your mortgage company may not be able to move forward with foreclosure until they have fully reviewed your information.

If you have received a Summons and Complaint with court papers, you should review the FAQ regarding Judicial Foreclosure and consult with an attorney immediately for assistance. There are important time deadlines to respond to the court papers.

If you have not already contacted a housing counselor, you should contact a non-profit housing counselor for assistance. You can select from the list provided with your notice or go to www.michigan.gov/mshda.

How is the sheriff's sale advertised? Will I receive a notice?

Your mortgage company must advertise the date and time for the sale in a newspaper in the county where the property is located for four consecutive weeks. It may be in a legal newspaper or the regular newspaper.

They must also post the sale notice on the property itself. However, there is no requirement that you personally receive the notice.

I've been told the sheriff's sale has been adjourned. What does this mean?

Your mortgage lender and their attorneys can adjourn the sheriff's sale—that is, they can postpone it. Most adjournments are “week-to-week” adjournments. In order to postpone the sale on a week-to-week basis the mortgage lender and its attorneys only need to post a notice at the courthouse and, legally, do not have to re-publish or personally notify you in anyway. If your sale is being adjourned you should contact the mortgage company's attorneys on a regular basis to learn the new sale date.

What is the sheriff's sale?

The sheriff's sale is a public auction, which anyone may attend, where the house will be sold. While anyone with enough cash can purchase the property, in the vast majority of situations, the mortgage lender will buy the properties and the mortgage lender will be the purchaser and new owner.

Now am I going to get evicted?

Not yet. After the sheriff's sale there is a redemption period. For most properties the redemption period is six months, however the redemption period can be shortened. For more information on the redemption period see the *FAQ: What are my Rights During the Redemption Period*.

The redemption period has expired. What now?

You will receive a Summons and Complaint that has a court date for the eviction hearing. You should attend this hearing to confirm the date by which you need to be moved out of the property. If you are not out of the property by that date, the new owner (usually your mortgage lender) can ask that the court issue an Order of Eviction which allows them to put your belongings on the curb and lock you out of the house.

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