



## Foreclosure Timeline Highlights

Comparison of the new law effective 2008 to the previous foreclosure timeline

The following timetable is an overview of the new foreclosure law but does not purport to address every change.

### Prior Law

#### **Pre-foreclosure:**

- Lender decides to foreclose and elects to foreclose with the Public Trustee on their Deed of Trust or through the courts judicially on their Promissory Note
- Attorney hired and documentation sent from lender
- Attorney prepares Mailing List and all documentation for presentation to the Public Trustee
- Attorney sets hearing for Rule 120 Order that authorizes Public Trustee to auction property if no cure occurs before sale date—Public Trustee must have prior to sale

#### **Cure period:**

- Notice of Election and Demand recorded by Public Trustee within 10 working days
- Sale date set within 45-60 days of NED recording date
- All parties on Mailing List sent NED, Notice of Sale and Notice of Intent to Cure within 20 days
- Notice of Intent to Cure must be filed 15 days prior to sale date
- Sale date is published for 5 consecutive weeks

### New Law Effective January 1, 2008

#### **Pre-foreclosure:**

- Lender decides to foreclose and elects to foreclose with the Public Trustee on their Deed of Trust or through the courts judicially on their Promissory Note
- Attorney hired and documentation sent from lender
- Attorney prepares Mailing List and all documentation for presentation to the Public Trustee
- Attorney sets hearing for Rule 120 Order that authorizes Public Trustee to auction property if no cure occurs before sale date—Public Trustee must have prior to sale

#### **Cure period:**

- Notice of Election and Demand recorded by Public Trustee within 10 working days
- Determination made by Public Trustee if property non-agricultural or agricultural within 10-20 days—based on legal description of property
- Sale date set from NED recording date
  - 110-125 days for non-agricultural property
  - 215-230 days for agricultural property
- NED and Combined Notice sent to owner, any guarantor on the note, and occupant only
- Notice of Intent to Cure must be filed 15 days prior to sale date
- 45-60 days prior to sale, NED and Combined Notice sent to all parties on Mailing List
- Sale date published for 5 consecutive weeks prior to sale

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**Prior Law****Sale occurs and Redemption begins:**

- Certificate of Purchase to highest bidder recorded by Public Trustee
- **Owner Redemption period begins—75 calendar days—Owner must file Notice of Intent to Redeem 15 days prior to end of redemption period**
- Junior creditors only have rights of redemption if owner does not redeem—file Notice of Intent to Redeem 15 days prior to end of owner redemption period
  - **1st junior creditor: 10 calendar days to redeem**
  - **2nd or after: 5 calendar days to redeem**
- If junior creditor redeeming, Certificate of Redemption and Public Trustee's Deed
- If no redemption, Public Trustee's Deed to holder of the Certificate of Purchase or any assignee
- All other liens no longer affect property after Public Trustee's Deed unless HOA, mechanic's lien(s), municipality lien(s), taxes, omitted party or senior lien(s)

**New Law Effective January 1, 2008****Sale occurs and Redemption begins:**

- Certificate of Purchase to highest bidder recorded by Public Trustee
- **No owner redemption period.**
- **Any junior creditor with lien recorded prior to NED or with any involuntary lien such as a judgment, HOA lien, mechanic's lien or IRS lien that records after the NED, can file a Notice of Intent to Redeem within 8 business days**
  - **1st junior creditor: 5-19 business days to redeem**
  - **2nd or after: 5 business days to redeem**
- Redemption prior to 12 noon on last day
- If junior creditor redeeming, Certificate of Redemption and Public Trustee's Deed
- If no redemption, Public Trustee's Deed to holder of the Certificate of Purchase or any assignee
- All other liens no longer affect property after Public Trustee's Deed unless HOA, mechanic's lien(s), municipality lien(s), taxes, omitted party or senior lien(s)

The most significant changes to the new foreclosure law have been highlighted in red or blue for easier identification.

For more information about this topic, or to schedule a Continuing Education class for your office, please contact your Land Title sales representative or closer.



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