



FORECLOSURE IN TN

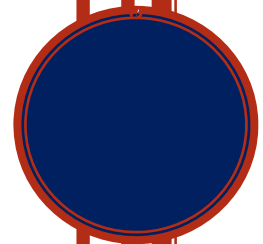
Know the process...learn the timelines!

To truly see the differences between Foreclosures and Short Sales, read the Foreclosure vs. Short Sales – The Real Deal report by TN LOSS MITIGATION SERVICES. The information below was compiled from multiple resources and noted below.

TN Loss Mitigation Services

5/1/2009

All information believed to be accurate but contact an attorney or visit www.TennesseeAnytime.org for the latest news, laws and developments.



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TENNESSEE FORECLOSURE PROCESS

Judicial	Non-Judicial	Process Period	Sale Publication	Redemption Period	Sale/NTS
No	Yes	40-45 Days	20-25 Days	730 Days	Trustee
Non-judicial foreclosures only					

The following information is provided by www.RealtyTrac.com

Pre-foreclosure Period

In Tennessee, court foreclosures are very rare. Out-of-court proceedings are customary and occur when a clause exists in a mortgage or deed of trust that authorizes the lender to sell the property if the borrower defaults. Once the borrower defaults on the payment, the trustee assigned in the deed of trust has the authority to begin the foreclosure process and advertise the property for sale.

The borrower may stop the foreclosure process prior to the sale by paying the total amount owed plus any applicable fees.

The typical foreclosure timeline is approximately two months.

Notice of Sale / Auction

If the deed of trust or mortgage contains a clause that specifies the time, place, and terms of sale, then the specified procedure must be followed. The notice of foreclosure sale includes the names of the affected parties, a description of the property, and the date, time, and location of the sale. It also includes all liens on the property. The notice is published three times in a newspaper, with the first publication appearing at least 20 days prior to the foreclosure sale. State statute does not require any further notification; however, it's not uncommon for the trustee to mail a notification of the sale to the borrower. The sale is held by a trustee between 10:00am and 4:00pm. After the sale, the trustee transfers the ownership to the highest bidder.

Deeds of trust in Tennessee commonly do not allow the borrower to redeem the property after the sale. If this right is not waived, the borrower may redeem the

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property by paying the total debt plus costs within two years.

The following information is provided by:

www.foreclosurelaw.org/Tennessee_Foreclosure_Law.htm

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

Judicial Foreclosure

The judicial foreclosure process is one in which the lender must file a complaint against the borrower and obtain a decree of sale from a court having jurisdiction in the county where the property is located before foreclosure proceedings can begin. Generally, if the court finds the borrower in default, they will give them a set period of time to pay the delinquent amount, plus costs. If the borrower does not pay within the set period of time, the court will then order the property to be sold.

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 their 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".

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:

1. A notice of sale must be published at least three (3) different times in a newspaper published in the county where the sale is to be made, with the first publication appearing at least twenty (20) days prior to the sale.
2. Unless otherwise ordered, if no newspaper is published in said county, the notice of sale must be posted at least thirty (30) days in advance of the sale in at least five (5) public places within the county. At least one of these notices must be placed at the courthouse door and another in the neighborhood of the property itself.
3. A notice of sale must also be served upon the borrower at least twenty (20) days prior to the date of sale if the borrower is in possession of the property.
4. The sale must be held between the hours of 10:00 am and 4:00 pm for cash to the highest bidder. The sheriff of each county in the state of Tennessee may set a minimum acceptable price for the property as long as the price is equal to or greater than fifty percent (50%) of the fair market value.
5. The successful bidder at the foreclosure sale will receive a certificate of sale and may be entitled to receive a deed once the borrower's right of redemption has expired.

Deficiency judgments are allowed in Tennessee and the borrower has a period of two (2) years to redeem the property, unless their right of redemption was waived in the original deed of trust.

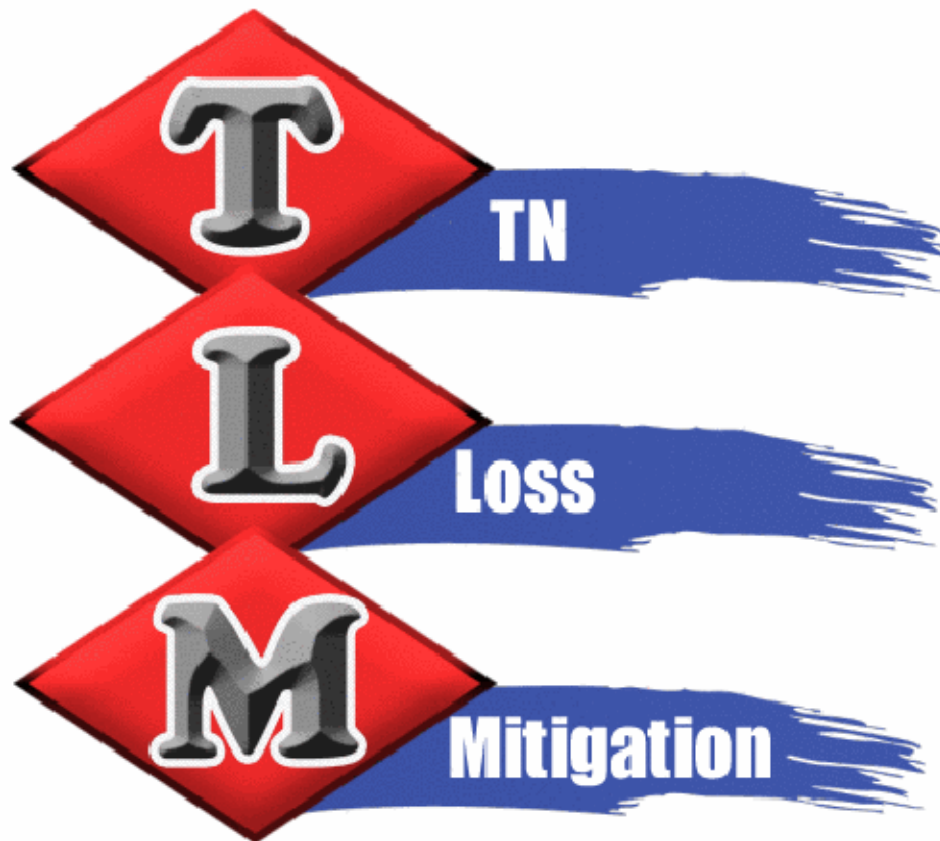
VIRGON NOTE: Most Deeds of Trust we have seen which were executed in the past 5 years contained language waiving the borrower's right of redemption in the deed of trust signed at closing. You may contact the title company or attorney who closed your loan. Request a copy of the deed and read through it thoroughly to determine whether your rights were waived at closing.

REMEMBER! Before you sell on a short sale or go through a foreclosure, seek tax advice. Real Estate Agents, Title Companies, should NOT give you legal or tax

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advice!!!! Besides...the rules seem to change every day! Certified Public Accountants live for those rules...they are **OUR** first call...and they should be yours. In fact, attorneys are now slowly starting to get educated about short sales too! For more information, contact a Certified Public Accountant, your attorney or check the IRS Web site. (<http://www.irs.gov>)

NEED MORE HELP? HAVE YOU RECEIVED AN AUCTION NOTICE? CONTACT US FOR ADDITIONAL INFORMATION 615.417.8300



www.StopForeclosureOptions.com