**Foreclosure** – The legal process by which a mortgage company seizes and sells a home because a homeowner does not make their payments or otherwise defaulted on the terms of their home loan. Oregon allows for two different foreclosure processes: judicial and nonjudicial. Foreclosure can also occur when a homeowner does not pay their property taxes, a court judgment, or other liens on the property. This covers **Judicial Foreclosure**.

45 Days

**Judical Foreclosure** – A complaint is filed in circuit court to foreclose on a property and reclaim it from the homeowner. If you receive a **summons** and **complaint** or any notice to appear in court regarding the sale of your house, **contact an attorney as soon as possible**.



# Missed Payment

Call a housing counselor or dial 211.

#### 36 Days

Mortgage company attempts to contact homeowner about missed payments.

Mortgage company sends homeowner a notice, a list of housing counselors, and available loss mitigation options.

# W HELP

#### **OFA Program**

Unless exempted, mortgage company will notify homeowner about the **OFA Program** and the opportunity for a face-to-face meeting (see reverse for details).



#### **Foreclosure Begins**

If no agreement is reached to avoid foreclosure, or homeowner does not follow the terms of an agreement, process may begin for foreclosure.

#### **Attorney Involvement**

Contact an attorney to know your rights or help you respond. Carefully review all documents including notices, dates, and amounts owed or delinquent. Respond to everything you receive from the mortgage company or the mortgage company's attorney by the deadline. Watch out for scams!

#### **Homeowner Response**

A homeowner must respond by filing a motion or answer, including to dispute facts or the right to foreclosure, within 30 days or the mortgage company may obtain a judgment by default allowing it to sell the property.



# Option to

Repurchase
Within 180 days
after sheriff's sale
date, the home may
be repurchased.
Seek advice if
anyone offers to
purchase your
redemption rights.

# **Property Possession** and Eviction

Immediately after a sale, a purchaser has the right to possess the property. If the purchaser does not obtain possession, an eviction can occur.

### **Auction Occurs**

The sheriff may auction the property between 60 and 150 days after the judgment allowing foreclosure.

#### Option to Reinstate Loan

Up to the day of a sale, homeowner may pay what is owed, including late and other allowable fees to reinstate the loan to stop the sale.

### **Complete Loss Mitigation Application**

Homeowner may apply for a home retention loss mitigation option before a foreclosure sale date. Homeowner should apply as early as possible.

- At least 37 days before sale date, the mortgage company must <u>receive</u> a homeowner's complete loss mitigation application for it to be considered.
- Within 30 days of receiving a complete loss mitigation application, the mortgage company should inform the homeowner of decision taken.

#### **Publication of Sale**

Before the sale, the sheriff will post notice of the sale date on oregonsheriffssale.org for at least 28 days and publish notice of the sale in a newspaper of general circulation in your county for four weeks.

#### **Request to Auction**

Upon receiving a judgment allowing it to foreclose, the mortgage company may request that the sheriff auction the home at a sheriff's sale. The sheriff will auction the property after receiving that request.

#### How to avoid foreclosure

Consider other ways to stop foreclosure if no loss mitigation or home retention option is worked out.

- Seek other options to bring loan current. **Learn more:**
- Explore filing for bankruptcy contact an attorney.
- Consider selling your home if your mortgage company will agree to additional time.







### STRUGGLING TO PAY YOUR NEXT MORTGAGE PAYMENT?

You are not alone. There is help.



For more information: OregonHomeownerHelp.org or dial 211.

### If you think you may miss a mortgage payment

Review your budget.

Reduce expenses.

Increase income.

Consult a certified housing counselor.

#### **Terms to Know**

**Default** = You have missed a payment or do not meet the terms of your mortgage contract.

**Beneficiary, trustee, lender, servicer** = Mortgage company

**Trustor, grantor, borrower** = Homeowner

Resolution conference, mediation meeting, Oregon Foreclosure Avoidance Program (OFA), mediation case manager = Face-to-face meeting

### Your right to a face-to-face meeting

Oregon Foreclosure Avoidance (OFA) Program. Unless it files an exemption, which is permitted for mortgage companies that filed a limited number of foreclosures the preceding year, a mortgage company must notify a homeowner of OFA and the pre-foreclosure right to a face-to-face meeting with a mortgage company representative. A homeowner may also request a face-to-face meeting as soon as 30 days after a missed payment and after meeting with a housing counselor, but carefully discuss this with your counselor because starting OFA before the mortgage company does may speed up the foreclosure process. To accept this meeting with the mortgage company, the homeowner must:

- ✓ Return completed form.
- ✓ Pay applicable fees on time.
- ✓ Gather and submit required documents.
- ✓ Meet with housing counselor as scheduled.

### If a face-to-face meeting takes place:

# And homeowner and mortgage company <u>reach an agreement</u>:

- Carefully review and sign agreement.
- Keep a copy.
- If you fully comply with the terms of agreement, you may be able to avoid foreclosure.

# And mortgage company complies with OFA requirements, but homeowner and mortgage company do not reach an agreement:

- The mortgage company and the homeowner receive a certificate of compliance, and then the mortgage company may start the foreclosure process.
- If your mortgage company starts a foreclosure without a certificate of compliance or is exempted to comply with this requirement, contact an attorney immediately. You may be able to dispute and dismiss the foreclosure.

### What to do if you miss a payment

36 days after first missed payment - The mortgage company will attempt to contact homeowner.

✓ Respond to your mortgage company. Ask about options. Take notes.

**45 days after first missed payment** - Mortgage company sends written notice to homeowner with loss mitigation options and a list of counseling agencies.

- $\checkmark$  Consult a certified Oregon housing counselor for free foreclosure avoidance counseling.
- $\checkmark$  **Respond** to mortgage company <u>immediately</u> to give you more time.
- ✓ Provide information about your financial situation.
- ✓ Ask what options you have. Take notes.
- ✓ Commit to make future payments on time, if you and your mortgage company agree on repayment terms.

#### **ADDITIONAL INFORMATION AND RESOURCES:**

Housing counselors: www.oregon.gov/ohcs/pages/talk-with-a-housing-counselor.aspx
Oregon Foreclosure Avoidance Program: www.foreclosuremediationor.org
Oregon State Bar: www.osbar.org/public/ris





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**Disclaimer**: This information is based upon laws and regulations that may have changed after its production. It is not legal advice. Please consult with an Oregon housing counselor or attorney regarding your unique situation and Oregon foreclosure processes.