

What happens to funds bid in excess of the foreclosing lender's bid?

They go to the lender, to junior lien holders, or to the property owner. For more information, see our Foreclosure Redemption/Overbid funds brochure.

I think my bank made a mistake in selling my property. What can I do?

Contact your bank, if you think they should not have taken the property to sale. The bank can rescind the sale through our office through the 8th business day after sale, and can get a court order overturning the sale after that.

After a foreclosure sale, what happens to other liens on the property?

Junior liens on the property are extinguished by the foreclosure but have a right to redeem. See our Foreclosure Redemption/Overbid funds brochure. Senior liens, such as 1st mortgages and tax liens, remain with the property. Title to the property after sale is subject to any senior liens.

Where can I get information about other recorded liens against this property?

Contact the El Paso County Clerk and Recorder's office, 1675 West Garden of the Gods.

Can I view a property in foreclosure?

It is up to the homeowner. There is no right to view a property in foreclosure prior to sale.

Can you recommend a lawyer?

No. Our written direction from the Governor of Colorado is not to recommend any specific lawyer or service company. The El Paso County Bar Association's Lawyer Referral Line is 636-1532.

This guide has been established as an informational tool for citizens. It is not intended to serve as legal advice.



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Frequently Asked Foreclosure Questions



New to the Foreclosure Process?

Begin your research with our brochures or visit our Web site at:

www.elpasopublictrustee.com

Search individual foreclosure records by number or address under "foreclosure search"

Review policies under "foreclosure reports"

Frequently Asked Foreclosure Questions

What is a Notice of Election & Demand?

That is the document that is recorded to commence the foreclosure process. When you signed your Deed of Trust, you agreed to allow the lender to “elect” to foreclose and “demand” that the Public Trustee do so, if you default on your loan. The recording date of this document sets the timetable for the foreclosure.

Do I still own my home during foreclosure?

Yes, for at least 8 business days after the actual sale. This period will be extended if a junior lien holder files an intent to redeem. During this time, the owner has every right to remain in the property.

When must I move out of my home?

Not until after it is actually sold, and ownership transfers to someone else. That will be no earlier than 8 business days after the actual sale, which may be delayed from the initial sale date on the notice you receive.

Is there an owner redemption period?

No, owner redemption of the property after sale was eliminated by the General Assembly in 2007.

What is an Order Authorizing Sale?

The OAS is an order from a judge following a hearing to establish that you are in default, and that the Servicemembers Civil Relief Act does not apply. You will get notice of the hearing from the lender and must contact the court if you plan to attend. If you do not contact the court in advance, no hearing will be held and the judge will approve the sale.

How can I cure my default?

You may file an “intent to cure” with our office up to 15 days prior to the actual date of sale. The form is available in our office, on our website, and is also mailed to the borrower. If you file, the lender must provide a statement of how much you must pay to clear your default. Bring that payment to our office.

What types of funds are needed to cure?

By law, you must pay via cash, wire transfer, or “certified check, cashier’s check, teller’s check, or draft denominated as an official check that is a teller’s check or a cashier’s check” issued by a bank, savings and loan, or credit union licensed to do business in Colorado. Your check(s) must be made payable to the El Paso County Public Trustee. Be aware that a wire transfer may take several days to arrive in our account, and so be sure that it arrives prior to the expiration of the cure statement. Large quantities of cash are not preferred. If you provide \$10,000 or more in cash, you will need to also complete all necessary Internal Revenue Service documents. This applies to bidding at sale as well.

Can the foreclosure sale be delayed?

The lender may delay it by up to one year from the initial sale date, longer if a bankruptcy is filed.

My bank says they will delay the foreclosure. Why haven’t you changed the date on your website?

We update the sale date at the request of the lender, through their attorney. Most lenders wait until a week prior to sale before telling us to delay the sale. If no bid is filed, we delay the sale for one week.

Will I be notified if the sale is delayed?

No, the law does not provide for that. The current sale date is reflected on our website.

What happens if I file bankruptcy?

The foreclosure sale cannot happen while a bankruptcy stay is in effect. If you file bankruptcy **before** all the publications are completed (about 1 month before the sale; the exact date is on the notice you receive in the mail), then when the stay is lifted we will restart the foreclosure and set a new sale date 4 months later. If you file bankruptcy **after** all the publications are completed, then the sale could occur anytime after the stay is lifted.

When and where is the foreclosure sale?

El Paso County Public Trustee’s Online Auction will be held on Wednesdays at 10:00AM Mountain Time. The El Paso County Public Trustee has contracted with RealAuction.com to host their online auction. Bidders may register at <https://elpasoco.realforeclose.com>.

Register for the free bidder training class that RealAuction offers by calling (877)361-7325 or emailing customerservice@realauction.com.

When are foreclosure reports updated?

Our website mirrors the information in our internal system on each property. We also produce reports of recently-filed NEDs on the first day of each week and month, as well as pre- and post-sale reports.

Does the Public Trustee conduct seminars concerning the foreclosure process?

The Office of the El Paso County Public Trustee does **not** conduct seminars concerning the foreclosure process. The Public Trustee is usually available after sale to answer questions about the process. You may also review the informational brochures in our office.

What is a deficiency bid?

A deficiency bid occurs when the foreclosing lender submits a written bid less than the amount owed. The foreclosing lender may elect to sue the homeowner, or anyone else who signed the original promissory note, for the amount of the deficiency.