

**Foreclosure, by definition, is the forced sale of a piece of property to repay a debt.**

Foreclosure is conducted by the Office of the Public Trustee on Deeds of Trust containing a power of sale. The procedure for conducting the foreclosure is set by the Colorado Revised Statutes and must be followed precisely.

The Deed of Trust is an agreement between three parties: the Grantor (owner), the Public Trustee (who has the power of sale), and the Beneficiary (lender).

**Bankruptcy**

When a bankruptcy is filed, the bankruptcy court will issue a court order that prevents any creditor from attempting to collect any debt from the person who declared bankruptcy. Creditors, even though they are owed money, may not undertake foreclosure, repossession, eviction or seizure.

A bankruptcy filing by the owner of the property may stop the foreclosure sale until one of the following occurs:

- The automatic stay is lifted.
- The bankruptcy court abandons the property.
- The bankruptcy case is dismissed or closed.

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



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PUBLIC TRUSTEE  
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**The Foreclosure Process**



**New to the Foreclosure Process?**

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

[www.elpasopublictrustee.com](http://www.elpasopublictrustee.com)

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

**Review policies under "foreclosure reports"**

## **The Foreclosure Process**

### **Starting a Foreclosure**

After the Office of the Public Trustee receives the required documentation from the foreclosing party or their legal advisor, a Notice of Election and Demand is recorded in the County Real Estate Records, and a Combined Notice, which establishes the time and place of sale is mailed to all parties and published for five consecutive weeks as required by law. Foreclosure notices are published in the Gazette, El Paso County News, Pikes Peak Bulletin, and the Colorado Springs Business Journal.

### **Pre Sale – Curing Process**

#### **What is a Cure Amount?**

A cure amount is the amount necessary to bring a loan out of default.

The Public Trustee's foreclosure files do not contain the amount needed to bring a loan current, unless an Intent to Cure has been filed and a cure statement has been requested and received from the foreclosing attorney.

#### **Who can file an Intent to Cure?**

The only parties legally allowed to file an Intent to Cure include but are not limited to property owners, persons liable, any guarantor of evidence of debt and junior lien holders. If requested by the deadline, a cure statement must be provided to the Office of the Public Trustee prior to foreclosure sale.

### **Requirements**

An Intent to Cure may be filed by mail, fax or in person at the Office of the Public Trustee at least **fifteen** days prior to the scheduled Public Trustee sale. This deadline will change if the foreclosure sale is delayed. **There is no fee to file** and does not obligate the filer. Cure funds must be received in the Public Trustee's office by noon on the day

before the sale, and must be in the form of cash, certified funds or a wire transfer. Contact our office for wire instructions.

### **Bidding at Public Trustee Sale**

Sales are held on Wednesday at 10:00 a.m. at the Office of the Public Trustee. For more information about bidding at a Public Trustee Sale, please consult our Bidding at Public Trustee Sale brochures.

### **Post Sale – Redemption Process**

#### **What is a Redemption Amount?**

The amount necessary to purchase the property from the winning bidder at auction.

The Public Trustee foreclosure files do not contain these figures, unless an Intent to Redeem has been filed and the statement have been requested and received from the Certificate of Purchase holder.

#### **Who can file an Intent to Redeem?**

The only parties legally allowed to file an Intent to Redeem are junior lien holders as defined in 38-38-100.3 (11). A junior lien is one recorded later than the Deed of Trust in foreclosure. The lien must also have been recorded prior to the recording of the Notice of Election and Demand.

### **Requirements**

An Intent to Redeem by a lienor must be filed **within eight business days after the sale**. A lienor may file by mail or in person, and include a completed Lienor Intent to Redeem form (available on our website), the original or a certified copy of the lien, any recorded assignments of that lien, and the fee of \$50.00 for the intent. Filing the intent does not obligate any party to redeem. All redemption funds must be in the form of cash, certified funds or a verifiable wire transfer. Contact our office for wire instructions.

### **Requirements for HOAs**

See our website for the rules that apply in determining whether or not there are redemption rights associated with unpaid Homeowners' Association (HOA) assessments.

#### **How long is the redemption period?**

For junior lien holders who file their Intent to Redeem, the most senior lien holder may redeem **15 to 19 business days after the sale but no later than noon on the final day**. Subsequent lien holders each **have five business days after the senior lienor's period but must redeem by noon on the final day**. The Intents to Redeem are prioritized in recordation order and the lien must have been recorded **prior** to the Notice of Election and Demand being recorded. For more information on the redemption process, please see our Foreclosure Redemption brochures.

### **Transfer of Title**

Title does not transfer until the end of the 8<sup>th</sup> business day after sale, or at the conclusion of all established redemption periods. Until that time, the owner prior to sale remains the owner with full right to continue occupying the property.

### **Deed Confirming Transfer of Title**

The Public Trustee will issue a Public Trustee's Confirmation Deed after title has transferred. This will occur after the 10<sup>th</sup> business day after the transfer of title unless we receive written notice from the holder of the Certificate of Purchase or of the final Certificate of Redemption that the Certificate was not assigned to another party. Except for certain very old foreclosures, the cost of issuing and recording the Confirmation Deed is included in the purchase price. However, if there has been an assignment of a Certificate, you will need to pay for that to be recorded as an attachment to the Confirmation Deed unless you have already recorded it separately.