

The Notice of Sale must meet a variety of requirements for a sale to be valid.

For example, it must be:

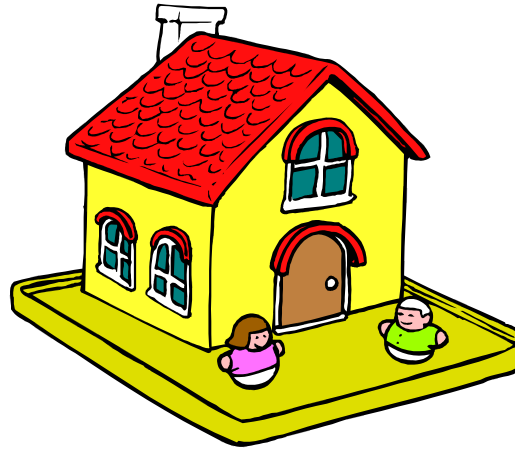
- posted in a conspicuous part of the property and in a public place in the same city 20 days before the sale;
- sent to the homeowner's last known address at least 20 days before the sale;
- published once a week during those 20 days in a general publication, which usually means three times during that period;
- recorded 14 days before the sale.

Additional requirements also apply.

Within the five business days just before the sale, the owner has the "right of redemption." This right of redemption lets the owner recover his or her property and stop the foreclosure only by paying the total balance of the loan. It is no longer enough to pay just the late payments. Call the lender or trustee about payment, or your property may be sold.

WHAT ARE MY RIGHTS AFTER THE PROPERTY IS SOLD?

In California, foreclosure of residential properties is usually done through non-judicial foreclosure. Once the property is sold, the homeowner is not liable to pay any more money on the mortgage, but also cannot redeem the property.



FOR FURTHER INFORMATION AND ASSISTANCE CALL THE LEGAL AID SOCIETY OF SAN MATEO COUNTY
521 East Fifth Avenue
San Mateo, CA 94402
(650)558-0915 or 1-800-381-8898

www.legalaidsmc.org

or

www.landlordtenantinfo.org

This pamphlet is designed to provide general information on the law, which may change. If you have a specific legal problem, you may wish to see a lawyer.

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LEGAL AID SOCIETY
OF SAN MATEO COUNTY

NON-JUDICIAL FORECLOSURE

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WHAT SHOULD I DO IF I AM LATE WITH A MORTGAGE PAYMENT?

Your particular loan might allow you up to a ten day grace period to make a mortgage payment without a late fee. Even if your payment is overdue past the grace period, a payment which includes a late fee - usually 6 -10% of the original payment amount - may keep the account in good standing. This will vary by institution.

If you know that you are or will be late with a payment, contact the lender immediately and inform it of any difficulties you are having. You may be able to negotiate the following:

1. a temporary delay in payments;
2. temporarily reduced payments; or
3. a permanent loan restructuring.

Refinancing the loan or selling the home on your own are other possibilities depending on the lending institution. What you can do depends on the institution, the amount in default and how long the loan has been in default.

WHAT IF I MISS MORTGAGE PAYMENTS AND THEN RECEIVE A NOTICE OF DEFAULT?

If a payment has been missed, the trustee

may start a foreclosure proceeding by filing a Notice of Default with the county recorder in the county where the property is located. All deadlines in a foreclosure start from the date the Notice of Default is recorded.

The purpose of the Notice of Default is to put the homeowner on notice and give him or her a chance to “reinstate” the loan by paying the late payments.

Within ten days of recording the Notice with the county, the trustee must send the Notice of Default by registered/ certified mail, as well as first class mail, to the homeowner at the last known address.

Homeowners should be aware of the following:

1. Filing bankruptcy can stop a foreclosure for a period of time, and may help homeowners cure past defaults and make future payments.
2. A temporary restraining order may stop the sale if there is some irregularity or illegality in the sale.
3. A homeowner may try to sell the house on his or her own.
4. A homeowner should talk to the lender about postponing the sale so as to negotiate a work out agreement.

CAN I STILL MAKE LATE PAYMENTS AFTER THE NOTICE OF DEFAULT IS RECORDED?

Three calendar months (not 90 days) must pass between the date the Notice of Default is recorded and the date the trustee may give notice of the sale date.

During this time - and up to five business days before the sale - the homeowner has the right to reinstate the loan by making late payments bringing the loan current. This means:

1. The owner must pay the amount in default, plus any other allowable costs and trustee’s fees.
2. Payment of the back payments and fees stops the foreclosure.

To do these things, contact the lender or trustee.

WHAT IF I DO NOT PAY THE LATE PAYMENTS WITHIN THREE MONTHS OF THE NOTICE OF DEFAULT?

Once three calendar months have passed since the Notice of Default was recorded, the trustee/beneficiary may file a Notice of Sale. The homeowner has the right to make the late payments to bring the loan current up to five business days before the sale date.