

**NOTICE: The following explanation is not intended to be legal advice, but only for informational purposes. Each person facing foreclosure or seeking a better understanding of foreclosure in their state should seek the advice from their own attorney.**

#### Foreclosure in Virginia – What is it?

When a borrower, usually the homeowner, falls behind on their mortgage payments the mortgage company has the right to collect the missed payments as well as all of the remaining money it is owed under the original mortgage. The mortgage company has several ways it can collect the money it is owed by the homeowner.

1. It can send the borrower a collection letter asking that person to pay the missed payments.
2. The lender can call the loan due, requiring the borrower to pay all the money owed to the mortgage company right then and there. The effect is to pay off the mortgage in full.
3. The lender can sue the borrower for all the money it is owed by the borrower. If the lender wins then it can attempt to collect on that judgment by garnishment, levying on the borrower's assets and foreclosure.
4. The lender can start the foreclosure process by sending the borrower notice there is going to be a foreclosure on the house and what date that is going to take place and where the foreclosure auction is going to take place.

#### The Foreclosure Sale – What happens?

1. The person, usually an attorney, representing the lender, will appear at the place designated for the foreclosure auction and will announce the terms of the auction. Quite often the foreclosure auction is held at the local courthouse in the city or county where the house is located.
2. The terms of the auction have been previously advertised by the attorney on behalf of the mortgage company in a local newspaper.
3. The attorney will start the bidding process by asking for bids from the people who showed up for the auction. Once the final bid has been made, the attorney conducting the auction will close the bid and collect the successful bidder's deposit, usually a certified check and make arrangements with the successful bidder to pay the rest of the bid price and close on the transaction.
4. If no one bids, then the attorney will bid on behalf of the lender an amount the lender is willing to bid and thus will end up with the foreclosed upon house.

#### What if There is Not Enough Money From the Foreclosure Auction to Pay Off the Mortgage?

1. If there is a successful bidder but the bid is not enough to pay off the mortgage, then the mortgage company can pursue the borrower for the deficiency that was not paid through the foreclosure bid.
2. The mortgage company can attempt to collect the deficiency through collection efforts including filing a lawsuit against the borrower. If the lender is successful with its collection lawsuit it can then enforce its judgment by garnishing the borrower's wages, bank accounts and levying on their property.
3. If there is no successful bidder at the foreclosure auction and the bank ends up with the property, then it will try to sell the property. If the lender is unable to sell the property for enough to cover the amount it was owed, then there will be a deficiency. The lender then can pursue the borrower to collect the deficiency just like it could if there was not a large enough bid at the auction to pay off the loan in the paragraph above.

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