

NON-JUDICIAL FORECLOSURE FREQUENTLY ASKED QUESTIONS

What is a non-judicial foreclosure?

A non-judicial foreclosure is processed without court intervention, with the requirements for the foreclosure established by state statutes. This process is utilized when a Deed of Trust, or Trust Indenture, contains a power of sale clause, which enables the trustee to initiate the foreclosure process without having to go to court.

Must the original trustee process a non-judicial foreclosure?

No. The beneficiary may appoint a substitute trustee at anytime.

What documents do I need to provide to the trustee?

The beneficiary will need to provide the Deed of Trust, or Trust Indenture, note, modification or extension agreements, and any assignments. Contact your trustee if any of these original documents are lost to determine how to proceed.

In addition, the trustee will need other essential information such as the unpaid balance of the note, the date to which interest is current, the reason for default, last know address of the owner, and the property address.

What is a Trustee's Sale Guarantee?

The Trustee's Sale Guarantee (TSG) is a form containing assurance specifically structured to meet the needs of a trustee or attorney contemplating the foreclosure of a Deed of Trust, or Trust Indenture. In particular, the form identifies all persons who, according to the public records, are entitled to receive notice of the contemplated Trustee's Sale. The TSG provides the following information:

- Legal description
- Vesting
- Liens on the property
- Property taxes
- Mailing addresses required for service

The issuance of this product does not commit us to issue any form of title insurance after the foreclosure sale and recordation of the Trustee's Deed. However, we do have the ability, if approved, to issue title insurance upon request once the Trustee's Deed has been recorded.

How would bankruptcy of the borrower affect the foreclosure?

If the borrower files petition for bankruptcy at any time during the non-judicial foreclosure process, the trustee will need to halt the process. Once a petition is filled, the debtor is federally protected and no action can be taken against the debtor. The beneficiary would need to hire an attorney to represent them in Bankruptcy Court. The attorney would attempt to get an order lifting the stay from the Bankruptcy Court so that the trustee can proceed with the action. In addition, the petition may be dismissed.

If you have any additional questions, please feel free to contact our office.



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