This is for general information only. We advise you to talk to a qualified attorney for legal advice

State Foreclosure Laws in Arizona

Again, most Arizona foreclosures are nonjudicial. Here's how the process works.

Notice of the Foreclosure

In Arizona, the trustee starts the foreclosure process by the recording of a notice of sale in the county recorder's office. The notice must include the date, time, and place of the sale. The sale date can't be sooner than the 91st day after the notice of sale's recording date. (Ariz. Rev. Stat. § 33-808(C)(1)).

The trustee must then mail you (the borrower) a copy of the notice of sale by registered or certified mail within five business days after the recording date. (Ariz. Rev. Stat. § 33-809(C)).

The notice of sale must also be:

- posted at least 20 days before the sale in a conspicuous place on the property, if posting can be done without breaching the peace
- posted at a building that serves as a location of the superior court in the county where the property is to be sold, and
- published in a newspaper of general circulation in the county where the property is located at least once a week for four consecutive weeks, with the last publication not less than ten days before the sale. (Ariz. Rev. Stat. § 33-808).

The Foreclosure Sale

The sale is a public auction. The sale will be held at the time and place designated in the notice of sale on a day other than a Saturday or legal holiday between 9:00 a.m. and 5:00 p.m. mountain standard time. (Ariz. Rev. Stat. § 33-808(B)).

Right to Reinstate Before a Foreclosure Sale in Arizona

"Reinstating" is when a borrower pays the overdue amount, plus fees and costs, to bring the loan current and stop a foreclosure. In an Arizona nonjudicial foreclosure, you can reinstate before 5:00 p.m. mountain standard time on the last day, other than a Saturday or legal holiday, before the sale date. (Ariz. Rev. Stat. § 33-813).

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Mortgage Loans in Arizona

If you get a loan to buy residential real estate in Arizona, you'll likely sign two documents: a promissory note and a deed of trust. The promissory note is the document that contains your promise to repay the loan along with the repayment terms. The deed of trust, which is very similar to a mortgage, is the document that gives the lender a security interest in the property and will probably include a power of sale clause. If you fail to make the payments, the power of sale clause gives the lender the right to sell the home nonjudicially so it can recoup the money it loaned you.

What Happens if You Miss a Mortgage Payment

If you miss a payment, the servicer can usually charge a late fee after the grace period expires. Most mortgage loans give a grace period of ten to fifteen days, for example, before you'll incur late charges. To find out the grace period in your situation and the amount of the late fee, review the promissory note or your monthly billing statement.

If you miss a few mortgage payments, the servicer will probably send letters and call you to try to collect. Federal mortgage servicing laws require the servicer to contact you (or attempt to contact you) by phone to discuss foreclosure alternatives—called "loss mitigation" options—no later than 36 days after a missed payment and again within 36 days after each following missed payment. No more than 45 days after a missed payment, the servicer must let you know in writing about loss mitigation options that could be available, and assign personnel to help you. Some exceptions to a few of these requirements exist, like if you file for bankruptcy or tell the servicer not to contact you under the Fair Debt Collection Practices Act. (12 C.F.R. § 1024.39).

What Is a Breach Letter?

Many deeds of trust in Arizona have a provision that requires the lender to send a breach letter if you fall behind in payments. This notice tells you that the loan is in default. If you don't cure the default, the lender can accelerate the loan (call it due) and go ahead with the foreclosure.

When Does Foreclosure Start?

Federal law generally requires the servicer to wait until the loan is over 120 days delinquent before officially starting a foreclosure. However, in a few situations, like if you violate a due-on-sale clause or if the servicer is joining the foreclosure action of a superior or subordinate lienholder, the foreclosure can begin sooner. (12 C.F.R. § 1024.41).