

Foreclosure Basics

Foreclosure in New Hampshire can happen very quickly. **You can lose your home in less than 120 days if you do nothing.**

In New Hampshire, most home mortgages have a "power of sale" clause. A "power of sale" clause means that the lender can take your home without taking you to court if you are behind in your home mortgage payments. Because of this "power of sale" clause allowed in New Hampshire home mortgages, New Hampshire is called a "non-judicial" foreclosure state.

Here are the steps to losing your home:

1. **You miss payments and receive an acceleration letter.** Default: Meaning, you are not current in your home mortgage payments. If you do not cure the default, you will soon receive an acceleration letter from the "mortgagee" (a "mortgagee" is the person or entity holding your mortgage and you, the borrower, are the "mortgagor") telling you that you need to pay the past due amounts within a certain timeframe.
2. **You may incur other charges in addition to the missed mortgage payments.** You may incur late fees, penalties, and the lender's costs and fees for the mortgagee's attorney for being in default - so being late in your mortgage payments may cause you to incur these additional charges.
3. **The foreclosure sale is scheduled.** After the acceleration letter, the mortgagee is permitted to schedule a foreclosure sale of your home if you have not brought all of your mortgage payments, cost, fees, and late charges current. The mortgagee must send you a notice of foreclosure sale at least 45 days before the foreclosure sale.
4. **The foreclosure is advertised in the newspaper.** The mortgagee advertises the sale once a week for three weeks in the newspaper before the foreclosure sale. This published notice states the date and time that your foreclosure sale is going to take place.
5. **The foreclosure sale occurs.** On the day of the foreclosure sale, an auctioneer on behalf of the mortgagee shows up on your front lawn and auctions off your home. Up to the point of foreclosure sale, you can "reinstate" by paying back the lender all the past due payments as well as the costs, fees, late fees, and penalties - again, it is not just paying back the late mortgage payments. You do not have to vacate your home on the sale date.

6. **The foreclosure deed is recorded by the new owner.** Whoever buys your home at the foreclosure sale has 60 days to record the foreclosure deed at the Registry of Deeds. The mortgagee may buy your home at the foreclosure sale or a third-party may buy your home.
7. **You are evicted.** After the foreclosure sale deed is recorded, the new owner (often the mortgagee) will start the process to evict you, the former homeowner.

How do I stop the foreclosure?

1. **Lender consents:** Ask the mortgagee to adjourn the foreclosure sale and give them a reason to do so - such as you have a mortgage loan modification pending, or you have a sale pending of your home that will repay the loan. With respect to a loan modification, remember you can get FREE help in the State of NH from a [Housing Counselor](#). If the mortgagee agrees to adjourn the foreclosure sale, it is very wise to get this in writing. Or, you can pay the lender all of the back payments, late fees, penalties etc., that have accrued up to the date of the foreclosure sale, also called "curing the arrearages" - and then you can go back to making your normal monthly mortgage payments on time - but you normally only have until the time the foreclosure sale takes place to "cure the arrearages."
2. **TRO:** You may be able to seek a temporary restraining order (TRO), also called an "injunction," in the state court to temporarily stop the foreclosure sale, but you need to give the judge a reason to stop the foreclosure sale and you need to do this before the foreclosure sale. You must file a [Complaint to Enjoin Foreclosure](#) with the court before the foreclosure sale. 603 Legal Aid may be able to help you with the TRO process.
3. **Bankruptcy:** File a petition in bankruptcy which automatically stops the foreclosure proceedings. In a Chapter 13 bankruptcy proceeding, you can have up to 60 months (5 years) to cure the back payments you owe to the lender and keep your home, as long as you can make the normal monthly payments going forward. Chapter 7 automatically stops the foreclosure sale; however, once the Chapter 7 case is over, the mortgagee can reschedule the foreclosure sale or ask the bankruptcy court for permission to restart the foreclosure process before the Chapter 7 case is closed.

The Foreclosure Relief Project

To speak to an attorney who can evaluate your legal options, call 603 Legal Aid to apply for the **Foreclosure Relief Project** at 603-224-3333 or [apply online](#). After an intake interview, you will be scheduled for a free telephone appointment. After speaking with the attorney, you may be referred to a partner program either through the New Hampshire Bar Association or New Hampshire Legal Assistance if you would benefit from further legal assistance.

Try Also Reading...

- Foreclosure Relief Project
- Foreclosure and COVID-19
- Housing Counselors
- Question/Answer Walk Through Foreclosure Eviction
- HomeHelp NH

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