

Georgia Foreclosure Law

Overview

In Georgia, your mortgage company usually does not need to take you to court in order to foreclose on your home.

Foreclosure sales in Georgia occur on the **first Tuesday of each month** on the courthouse steps between 10:00AM and 4:00PM.

For most mortgages, notice must be sent to the borrower **no less than 30 days** before the foreclosure sale date by certified, registered, or overnight mail.

The foreclosure sale must be advertised in the legal ads **once a week, four consecutive weeks** prior to the scheduled foreclosure sale date. The notice must include the name, address, and telephone number the person or entity who has full authority to negotiate, amend, and modify all terms of the mortgage.

How Can I Stop a Scheduled Foreclosure Sale?

Pay up the money owed. In most cases, the mortgage company will stop the foreclosure if you pay the money owed (the overdue payments, plus attorney fees and foreclosure costs). Be sure to get written confirmation that the scheduled foreclosure has been cancelled.

Work out a payment arrangement or loan modification with the mortgage company. Be sure to get written confirmation that the scheduled foreclosure has been cancelled.

Sell the home prior to the foreclosure sale. Get an experienced real estate agent. If you have equity, do a “full sale” so that the sale proceeds will pay off the mortgage loan in full, pay the real estate agent commission, and pay you the remaining proceeds. **BEWARE** of short sales, as you could face a potential deficiency or income tax problem in the future.

Enter into a deed in lieu of foreclosure. Consider this option when you have no equity in your home. Negotiate cash for keys and a move out date. Make sure the exchange is even, and releases you from all liability on the mortgage loan. Otherwise, you could face a potential deficiency or income tax problem in the future.

File bankruptcy before the foreclosure sale and notify the foreclosure lawyer. The bankruptcy may involve a repayment plan that allows you to catch up the missing payments, a plan to obtain a loan modification, a plan to pay off the mortgage using the proceeds of a reverse mortgage (for seniors), or a plan to sell the home. Because bankruptcy law is complex, retain an attorney to represent you.

File a lawsuit in superior court and obtain a temporary restraining order stopping the scheduled foreclosure sale. If you believe you have legal claims arising out of the mortgage loan or scheduled foreclosure sale, contact a lawyer immediately, especially given the complexities of mortgage and foreclosure law.

What if a foreclosure sale has already taken place?

You are no longer the owner of the home. The new owner can file a dispossessory if you fail to vacate after a written demand to do so. The purchaser at the foreclosure sale is typically the mortgage company but may be an investor. The foreclosure **dispossessory process** is as follows:

The county marshal may serve you with the dispossessory warrant by posting the warrant on the front door of the home.

Once you have been served, you have seven (7) days to file an answer in court. Generally, a trial in court is scheduled about a week or so after the answer is filed. If you do not file a timely answer or do not attend the court hearing, the process may speed up.

If the judge rules against you, you will have seven (7) days to move out.

If you remain in the property after the deadline given by the judge, the county marshals could come at any time without warning and remove you and your family from the property and put all of your belongings on the street.

Cash for Keys?

In some cases, the buyer at the foreclosure sale may offer cash-for-keys, which typically requires that you move out all of the belongings and leave the home in broom-clean condition by a certain date. Consider this option if you realistically can comply with the written terms by the deadline provided.

Wrongful foreclosure?

If you believe you have legal claims for wrongful foreclosure, talk with a lawyer immediately. If your goal is to remain in the home, your lawyer will need to act quickly.

Watch out for foreclosure rescue scams!

False savior ask for money to help you stop the foreclosure, get a loan modification, and/or file a bankruptcy, but does little or nothing, takes all of your money and disappears.

False savior offers to lend funds to the homeowner to catch up the missing payments, but tricks the homeowners into transferring the deed over to the crook.

False savior promises to buy but never pays for the home, and either has the homeowner stay in the property under a rent-to-own contract, or the homeowner moves out and the mortgage remains in her name and on her credit report.

**Are you or someone you know facing foreclosure? Already been foreclosed on?
Need legal assistance?**

Call the Home Defense Program of Atlanta Legal Aid at (770) 648-4290.