



Terms to Know Regarding Foreclosure

With the increasing Foreclosure volume in Colorado, it is important to familiarize yourself with common terminology used to identify the status or components of the foreclosure process. Below is a brief list of terms frequently referenced:

Certificate of Purchase - The legal document issued to the successful bidder at a Foreclosure Sale held by the Public Trustee. If the property is not redeemed by the owner/borrower or a recognized lien holder before the redemption period expires, the holder of the Certificate of Purchase will be issued the Public Trustee's Deed or Confirmation Deed confirming their ownership of the property.

Continuance - A sale may be continued or extended at the request of the lender's attorney or by the Public Trustee's office for varying reasons. The Foreclosure Sale for cases initiated after January 1, 2008 must be held no later than 12 months after the first established sale date, and continuances cannot be made after that 12-month period has expired. The Sale may, at that time, be subject to Administrative Withdrawal.

Cure - The owner/borrower may bring their loan payments current (including costs and fees) prior to the Foreclosure Sale. The Owner's Cure period is the time between the recordation of the NED (Notice of Election and Demand) and the Foreclosure Sale. Deeded, Public Trustee's Deed or Confirmation Deed - Once the property has gone through the Foreclosure process without being cured or redeemed, the property is deeded to the successful bidder at the Foreclosure Sale (the holder of the "Certificate of Purchase") OR in the instance of redemption by another qualified person or entity, to the holder of the "Certificate of Redemption".

Intent to Cure - The owner/borrower must file a form known as the Notice of Intent to Cure with the Public Trustee if they intend to cure the property after the NED has been recorded. Cure figures are requested from the lender's attorney and are provided to the person wishing to cure the loan prior to the Foreclosure Sale, and communicated with the Public Trustee. If funds are paid timely as required, the foreclosure is withdrawn.

Intent to Redeem - The owner/borrower, a lien holder, or other qualified person/entity with a recorded interest in the property prior to recordation of the NED must file a form known as the Notice of Intent to Redeem with the Public Trustee in order to exercise the right to redeem after the Foreclosure Sale.

Motion to Set Aside Sale or Sale Set Aside by Court Order - There are many legal reasons why a sale may be set aside by Court Order, which means a motion has been or is being filed to set aside the Foreclosure Sale of the property, or that a court order has been entered setting aside a Sale that was previously held. The foreclosure may be restarted and the sale may be continued to a new date once the Order of Court is signed or there may be other court-ordered requirements if the foreclosing lender wishes to proceed with the foreclosure thereafter.



NED - The Notice of Election and Demand (NED) for Foreclosure is the first legal document recorded with the Clerk and Recorder's office to give the public notice that the property is involved in a foreclosure case. Filing of the NED initiates the foreclosure process with the Public Trustee's office.

REO - Real Estate Owned. When the foreclosure process has been completed through the Public Trustee, and the lender (former lien holder) is deeded the property by either a Public Trustee's Deed or Confirmation Deed, the property is known as an REO, or commonly referred to as a bank-owned property.

Redemption - The owner/borrower, a lien holder, or other qualified person or entity with a recorded interest in the property prior to the NED recordation, other than the foreclosing lender, timely redeems the property after the Foreclosure Sale and prior to the expiration of the redemption period. The redeeming party is issued a "Certificate of Redemption". If a lien holder redeems the property, the Public Trustee's Deed or Confirmation Deed is issued after redemption.

Rescission - The foreclosing lender (typically the successful bidder at the Foreclosure Sale and the holder of the "Certificate of Purchase") files a Notice of Rescission of Sale to rescind the sale with the Public Trustee no later than 8 business days after the Sale, in essence having it set aside and voided as if the sale did not take place. The foreclosure may be rescheduled for a new Sale date if requested by the lender or its attorney.

Restarted - The foreclosure process may be restarted after being set aside (or in essence, suspended). This may occur when: a bankruptcy is filed and then dismissed by the bankruptcy court so foreclosure may be restarted; a sale was unknowingly held in violation of a bankruptcy stay order and the sale is set aside by court order and restarted once the Order by the Court is returned; or there is relief from a stay order granted by the bankruptcy court and the foreclosure process is able to restart.

Sold - This is the status of the property after it has been sold at the Foreclosure Sale by the Public Trustee, and the case remains in this status during the redemption period unless an Intent to Redeem is filed and redemption is fulfilled. A "Certificate of Purchase" is issued to the successful bidder at the Foreclosure Sale.

Withdrawn - Foreclosure proceedings have been stopped by the lender's attorney and the Foreclosure is withdrawn from the Public Trustee, the process is halted. Withdrawal may occur when the owner/borrower cures the loan, or if the sale has not been held in a timely manner (must be held within 12 months of originally-scheduled Sale date as per law effective January 1, 2008) and cannot be continued any longer. If default remains or occurs again after the foreclosure has been withdrawn, a new foreclosure action may be initiated by the lender or its attorney.

Disclaimer: The subject matter in this bulletin is accurate and should only be used for informational purposes. It is not a substitute for brokerage requirements, legal counsel, accounting expertise, or other professional service. As all situations vary, it is advised that legal or other expert professional assistance should be pursued as needed.