

Explaining

# FORBEARANCE & FORECLOSURE

And How it Can Affect Your Title and Escrow Transaction

During uncertain financial times forbearance and/or foreclosure may be an option for many property owners.

**FORBEARANCE** is a temporary postponement or reduction of mortgage payments. It is a form of repayment relief granted by the lender or creditor to the borrower in lieu of forcing a property into foreclosure. Forbearance can help you deal with a hardship, such as, loss of income from the COVID-19 pandemic, a flood that damaged your home, an illness or injury that increased your healthcare costs, or loss of a job. Forbearance does not erase the amount you owe on your mortgage. You will have to repay any missed or reduced payments.



**TITLE & ESCROW** In the case of a forbearance there may be no public record indicating the action. If there is no knowledge of a forbearance by the escrow or title company, then the final payoff amount could be higher than expected and could delay or affect the closing. The amount owed would have to include the payments that were skipped and any fees or interest charged at the time of forbearance as well. It is important that real estate agents, escrow and closing agents, and lenders get information early regarding a forbearance in order to avoid potential issues at closing.

**FORECLOSURE** is the legal process by which a lender attempts to recover the amount owed on a defaulted loan by taking ownership of and selling the mortgaged property. Typically, default is triggered when a borrower misses a specific number of monthly payments, but it can also happen when the borrower fails to meet other terms in the mortgage document. The foreclosure process varies by state but typically after 90 days of a missed payment the lender will record a Notice of Default. After 120 days from the missed payment the lender will record a Notice of Sale with details of the date and time the property will be sold.



**TITLE & ESCROW** During a transaction a title company will perform a search of public records for all items affecting title to the property. The Notice of Default and Notice of Sale will be of record and the title company will show the pending foreclosure on the Title Report as well as the deadline to pay the lender to stop the foreclosure. In the case of a foreclosure it is very important that all parties work together in order to meet the closing deadline.



It is important to address the above scenarios if they pertain to your transaction in order to close smoothly and avoid all possible delays. Contact your title representatives immediately if your transaction involves a foreclosure or forbearance.



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