

Glossary of Foreclosure Terms



Acceleration: When the lender “calls in” the loan, meaning that you must pay the entire loan amount by a specified date or the lender will file a foreclosure lawsuit. Once a loan has been accelerated, the lender is no longer required to accept payments.

Answer: A written response to the complaint, which has to be submitted to the lender’s attorney and filed with the court. An answer can be submitted with or without the help of an attorney.

Arrears: The total amount of missed payments, late fees and other charges owed to the lender.

Complaint: A written document by the lenders attorney, which is served to the homeowner. It means that a foreclosure lawsuit has been filed and provides the reason that the bank has the right to foreclose.

Deed-in-Lieu: A loss mitigation option that involves the homeowner voluntarily turning over the deed to the property to the bank in exchange for avoiding foreclosure. Each lender has its own guidelines.

Defendant: A person being sued in court- in the context of a foreclosure action, a defendant is the borrower.

Deficiency: If a foreclosed property is sold at auction and the proceeds of the sale do not cover the amount owed on the mortgage, the leftover amount still owed to the lender is called a deficiency.

Forbearance: A loss mitigation option in which the borrower agrees to make payments for a specified amount of time and sometimes involves a down payment. It often is only a temporary solution.

Judgment of Foreclosure & Sale: A legal order signed by the judge, which confirms the amount owed to the lender and allows the lender to sell the property through a referee.

Lien: A legal claim on property as security to repay a debt. A judgment against a homeowner for a debt is a lien on

their property. Liens can be a roadblock for some loan modifications and other workout options.

Lis Pendens: A filing with the county clerk that informs the public that the property’s ownership is being disputed. It formally begins the foreclosure action.

Loan Modification: A loss mitigation option in which one or more of the original terms of the mortgage is changed. Often it includes a new term and/or interest rate which generally make the loan more affordable. The arrears are typically rolled back into the loan.

Loss Mitigation: The process of working with the lender to negotiate a mutually agreeable deal regarding the property.

Motion: A formal request to the court to take action in a case.

Order of Reference: An order from the court to send a foreclosure case to a referee to determine how much is owed to the lender.

Plaintiff: A person or entity suing another in court- in the context of a foreclosure action, the plaintiff is the owner of the mortgage.

Sale Date: The lender may refer to a “sale date” when speaking to the borrower. The lender cannot schedule a sale date until the foreclosure action is complete and the lender has obtained a judgment of foreclosure and sale.

Settlement Conference: NY law requires that the court hold a settlement conference for all residential foreclosure actions on owner-occupied homes. Both parties are required to negotiate in good faith and the foreclosure is on hold while the lender and borrower work in the conferences towards a mutually agreeable option to save the home.

Short Sale: A loss mitigation in which the borrower attempts to sell the property, but they owe more on the mortgage than the value of the home. In this case, the lender may accept an offer for less than the amount owed on the loan.