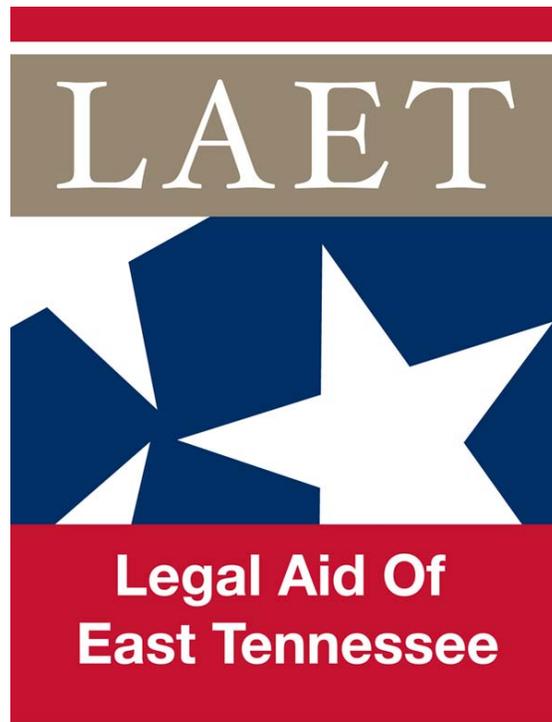


Information about  
**FORECLOSURE**



JUSTICE FOR ALL

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### **What is a foreclosure?**

Let's use this example: Bill buys a house for \$50,000. At "Closing" the seller gives Bill a "Deed" to the house. That means Bill owns the house. The closing costs were \$2,000. (\$50,000 + \$2,000 = \$52,000 Total) Bill paid \$3,000 in cash.  $\$52,000 - \$3,000 = \$49,000$  that Bill still owes. American Mortgage Trust Bank loans Bill the \$49,000. Bill signed a "Deed of Trust" to the lender. This means that Bill agreed for the house to be collateral for the loan. The "Deed of Trust" is like a string the lender has around the house. If Bill does not pay the mortgage, the lender may pull in the string.

#### *Deeds*

Usually the "Deed" is called a:

- *Warranty Deed*
- *General Warranty Deed*
- *Special Warranty Deed, or*
- *Quitclaim Deed*

### **This is a "foreclosure"**

1. The lender will sell the house.
2. The lender will use the money from the sale to pay Bill's loan.

### **Can the lender foreclose if I am just one month behind?**

The lender may foreclose if you are "in default". Most "Deeds of Trust" say that you are "in default" if you miss one payment. However, most lenders do not foreclose after you miss just one payment.

### **Does the lender have to tell me before foreclosing?**

It depends on what the "Deed of Trust" says. The "Deed of Trust" might say that the lender does not have to tell you before foreclosing. However, most lenders will tell you before they foreclose.

Most lenders send several letters before they foreclose. Let's say that Bill's mortgage payment is \$320 per month plus a late fee of \$16 per month. He owes  $\$320 + 16 = \$336$  for each month he is behind.

Bills gets letter #1 from the lender after he has missed two payments:

*"You are behind in payments. Please pay  $\$320 + \$16 = \$336 \times 2 \text{ months} = \$672$  **now**.*

Bill gets letter #2 from the lender after he has missed three payments:

*"If you do not pay \$1,008 immediately, we will foreclose."*

### **If Bill paid \$1,008 would the lender stop the foreclosure?**

Yes. The lender must stop the foreclosure if Bill catches up the payments-unless the lender has sent letter #3.

Bills gets letter #3 from the lender after he has missed four payments:

*“You have to pay \$49,400 within 30 days. If you don’t we will foreclose.”*

**How did the amount Bill owed go from \$1,008 to \$49,400?**

When the lender decided to foreclose, the lender made the entire loan due immediately.

**If Bill paid \$1,008, would the lender stop the foreclosure?**

The lender will decide that. After the lender demands payment in full, the lender may continue with the foreclosure unless the entire loan is paid off. If Bill does pay off the entire loan, the lender must stop the foreclosure.

**Tip #1. Talk to the lender.** If you know you can’t make a payment, tell the lender. Explain the problem.

The lender will ask, “When can you make a payment?” The lender wants to know if your problem is temporary or permanent. If the problem is temporary, the lender might lower your payments for a while. *Example:* You can’t pay because you lost your job. You applied for disability, but you won’t hear anything for three months. Your mortgage payment is \$300 per month. The lender says you can pay \$200 per month for the next three months.

If the problem is permanent, the lender might lower your payments permanently. You will still owe the same amount of money, but you will pay it off over a longer period of time.

When you talk to the lender about this. . .

**Tip #2: Do not promise too much.** If you promise the lender that you will do something but you do not do it, the lender will not help you later. Do not promise to pay more than you can pay. Do not promise to pay sooner than you can pay.

**Tip #3: Write down your agreement.** If the lender does not send you a written agreement, you should send the lender a letter. The letter will say, “This is what we agreed.” Then, say what your agreement is.

**What if the lender will not work with me?**

Most lenders do not have to work with you. But if you have a VA or FHA loan, the lender must find out if you qualify for a program to avoid foreclosure.

**“Forbearance Agreement”**

You will catch up late payments over time. *Example:* You owe \$1,200 in back payments. Your regular mortgage payment is \$300 per month. You agree to pay \$400 per month (an extra \$100) for 12 months. After that, your payment will go back down to \$300. If you miss one of the \$400 payments, the lender may foreclose.

## **“Mortgage Modification”**

You change something about your loan to make your payments lower.

*Example:* A lower interest rate will lower your payments.

*Example:* “Extend the term” of the loan. You will pay the loan for a longer time, but it will reduce the amount of your monthly payments.

## **What is a “deficiency”?**

Suppose that

- You owe \$45,400 on your loan
- The lender spends \$1,500 to hire someone to handle the foreclosure. You will owe the  $\$45,400 + 1,500 = \$46,900$ .
- The lender forecloses.
- At the foreclosure sale, the house sells for \$43,000. The lender got \$43,000 at the foreclosure sale. But you owed the lender \$46,900. The \$3,900 is the “deficiency” or the balance of the loan. The lender can sue you to collect it.

## **What will foreclosure do to my credit rating?**

Your credit report will show:

- Late payments
- Foreclosure
- Bankruptcy
- Deficiencies

Consumer Credit Counseling Service may be able to help you work out a plan with your lender. For more information, contact CCCS at 1-800-358-9231.

Home  
Foreclosure  
Sale



## OFFICE HOURS AND LOCATION

Legal Aid of East Tennessee offices are  
open from 8:30 A.M. to 5:00 P.M.  
Monday through Friday.

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This pamphlet is intended for general information only. The circumstances of every case are different and need to be dealt with on a case-by-case basis. This is not a substitute for the advice of a lawyer. Also, the law may change and may be different from county to county.

