

Know Your Rights

What Are My Rights During Foreclosure?

- The Foreclosure Fairness Act (FFA) governs the non-judicial foreclosure process in Washington State.
- The FFA provides the timeline for non-judicial foreclosure in Washington and the responsibilities of mortgage companies and borrowers during the process.
- Under the FFA, the servicer (the company that sends you your monthly statements) is required to send three notices before it can foreclose on a home:
 1. **Notice of Pre-Foreclosure Options**
 2. **Notice of Default (via a trustee or beneficiary)**
 3. **Notice of Trustee Sale (via a trustee or beneficiary)**

COVID-19 Alert: Read [COVID-19: If you have a Mortgage on your Home](#) if the pandemic affects your ability to pay your home loan.

I haven't been making my mortgage payments. What's going to happen? Do I have rights?

If a homeowner misses a mortgage payment, the homeowner's account goes into default. When this happens, the servicer must send a **Notice of Pre-Foreclosure Options (NOPFO)**.

- ◆ If you are at the beginning stages of foreclosure and receive a NOPFO, **you have the right** to request a "Meet and Confer." This is a request to meet with your lender in your own county to discuss options regarding your foreclosure situation.
 - **SEEK ASSISTANCE NOW. DO NOT DELAY.** A housing counselor can help you even if you are not currently in foreclosure. Their services are free. You can contact a Housing Counselor at **1-877-894-4663**.
 - You must make your request for a Meet and Confer within 30 days of receiving the NOPFO.
 - If you would like an in-person meet and confer in your county of residence, you must request it in writing. It is highly recommended you send the request via certified mail, so you have proof of delivery.
 - When you speak with your servicer, take detailed notes, including the date and time, and the name of the person you are speaking with.
 - Open and keep all letters and documents from your servicer, including envelopes. The date on the stamp is not necessarily the same as the date on the letter inside.
 - Carefully store and organize documents regarding your income and expenses. (For a list of documents, see *What to Expect at Mediation*, available on <http://washingtonlawhelp.org>.)
- ◆ Once you request a Meet and Confer, the servicer must wait an additional 60 days before issuing a Notice of Default. If a homeowner does not respond within 30 days of receiving the NOPFO, the servicer may issue the Notice of Default.



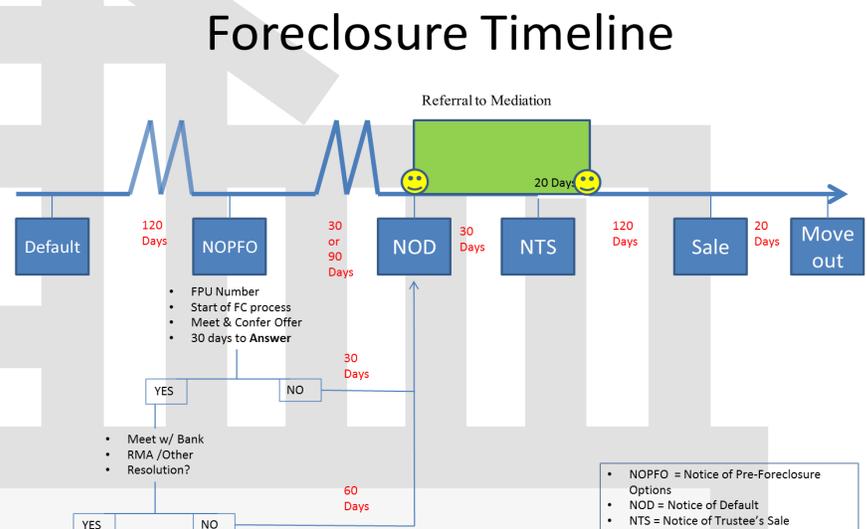
What other rights do I have in the foreclosure process?

- ◆ **You have the right** to bring your mortgage current before the foreclosure occurs. This is called reinstatement.
- ◆ **You have the right** to be informed about your foreclosure situation. **You have the right** to request information from your bank by sending a Qualified Written Request (QWR). A sample QWR is available at <http://www.alembik.com/HAMP/HUD%20RESPA%20Sample%20QWR.pdf>.
- ◆ **You have the right** to discuss various options with your lender, including a short sale, a deed in lieu, a loan modification, or a strategic foreclosure.
- ◆ **You have the right** to not be dual-tracked during the foreclosure process. This means the servicer cannot move forward with foreclosing on your home while you are in the review process for a loan modification or while you are in the mediation process.
- ◆ **You have the right** to a single point of contact with your servicer. As a borrower, you have the right to speak to someone assigned to your file and knowledgeable about your mortgage situation.
- ◆ If you are a tenant in a foreclosed home, **you have the right** to receive notice by the new owner **at least 90 days** prior to an eviction action.
- ◆ If you are having problems or issues with your servicer, **you have the right** to file a complaint with the Consumer Protection Division of the Washington State Attorney General's Office. For details, see <http://www.atg.wa.gov/FileAComplaint.aspx#.UgBFNG1XhX0>.

I received a Notice of Default. What are my rights?

If you have received a **Notice of Default (NOD)**, then **you have the right** to mediation with non-exempt banking institutions (see *What to Expect at Mediation*, available at <http://www.washingtonlawhelp.org>).

- ◆ **SEEK ASSISTANCE NOW. DO NOT DELAY.** Contact the Northwest Justice Project's Foreclosure Prevention Unit Hotline at **1-800-606-4819**. You can also contact a Housing Counselor at **1-877-894-4663**.
- ◆ Only a Housing Counselor or an attorney can request mediation on behalf of the borrower. An attorney or housing counselor can:
 - Identify possible workout options
 - Review financial documentation
 - Submit your documentation to your servicer
 - Communicate with you and your servicer
- ◆ Whenever you speak with your servicer, take detailed notes, including the date and time, and the name of the person you are speaking with.
- ◆ Request a list of the documents your servicer needs in order to review your file.
- ◆ Open and keep all letters and documents from your servicer, including envelopes.



I didn't respond to the Notice of Default. What's going to happen?

If you have not yet been referred to mediation within 30 days from receiving the Notice of Default, the trustee may issue the **Notice of Trustee Sale (NOTS)**. A homeowner who receives a NOTS has only 20 days from when the NOTS was recorded to be referred to mediation. This is the last notification you will receive before the "Trustee Sale" of the property.

- ◆ **SEEK ASSISTANCE NOW. DO NOT DELAY.** Contact the Northwest Justice Project's Foreclosure Prevention Unit Hotline at **1-800-606-4819**. You can also contact a Housing Counselor at **1-877-894-4663**.
- ◆ The sale date of the home must be **at least** 120 days from when the NOTS was recorded.

If the bank completes the foreclosure process, **you have the right** to stay in your property for up to 20 days after the Trustee Sale.

STOP FORECLOSURE!

YOU HAVE OPTIONS



Foreclosure Prevention Unit (FPU)

FPU helps people throughout Washington who are threatened with home foreclosure. If you are a homeowner or a tenant needing help with a foreclosure, call **1-800-606-4819** to see if you are eligible for free legal help.

Get Help

Northwest Justice Project, Statewide Civil Legal Aid

1-800-606-4819, or

www.nwjustice.org/what-clear

Washington State's Homeownership Information Hotline

1-877-894-HOME (1-877-894-4663),

www.wshfc.org/buyers/counseling.htm, or

www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm

This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice. This information is current as of April 2018.

© 2018 Northwest Justice Project — 1-888-201-1014

(Permission for copying and distribution granted to the Alliance for Equal Justice and to individuals for non-commercial purposes only.)