

# Summary of Nevada's Foreclosure Laws

A summary of the most important information in Nevada's foreclosure laws relevant to residential homeowners is presented below. Because non-judicial foreclosures are the most common type of foreclosure in Nevada, this information focuses on non-judicial foreclosures. "Mortgage lender" refers to the bank or financial institution holding the mortgage, and "borrower" refers to the residential homeowner.

## Non-judicial Foreclosure

A mortgage lender does not need to sue the borrower in court to foreclose. Once a borrower has defaulted on his or her mortgage, the lender has the right to sell the property securing the mortgage, subject to certain requirements. Nev. Rev. Stat. 107.080.

## Borrower's Right to Cure

A homeowner has up to five days prior to the date of the foreclosure sale to prevent the foreclosure sale by making any missed payments on the mortgage or by curing any other deficiency, as well as paying for the mortgage lender's foreclosure fees or expenses. Nev. Rev. Stat. 107.080.

## Notice Requirements

The mortgage lender must file a notice of breach and election to sell with the office of the recorder in the county where the property is located. This notice must be recorded at least three months before the date of the foreclosure sale. Nev. Rev. Stat. 107.080. After this three-month period expires, the mortgage lender must file the notice of sale with the county recorder, as well as deliver the notice of sale to the borrower by registered or certified mail, post the notice for 20 days in three public places, and publish in a newspaper a copy of the notice once a week for three consecutive weeks. Nev. Rev. Stat. 107.080.

Along with the notice of default and election to sell, the mortgage lender must provide the borrower the following information:

- Contact information for the person authorized to negotiate a loan modification on behalf of the lender
- Contact information for at least one local housing counseling agency; and
- A form on which the borrower may elect mediation. Nev. Rev. Stat. 107.086.

## Mediation

The mortgage lender is required to notify the borrower of the availability of mediation. If the homeowner requests mediation, the lender may not take further action to foreclose on the property. Nev. Rev. Stat. 107.086. If your goal is to delay foreclosure as long as possible, it is in your best interest to elect mediation.

## Right of Redemption

In non-judicial foreclosures, homeowners do not have a right of redemption. Nev. Rev. Stat. 107.080(5).

Deficiency judgment: The lender has the right to sue the borrower for the deficiency within six months after the date of the foreclosure sale, unless all of the following conditions are met:

- The mortgage lender is a financial institution.
- The property securing the mortgage is a single-family dwelling.
- The borrower was the owner of the property at the time of the foreclosure sale.
- The borrower used the proceeds of the mortgage to purchase the property.
- The property was the borrower's primary residence continuously after the borrower took out the mortgage.
- The borrower did not refinance the mortgage.

If all of these conditions are met, the homeowner is not liable to the lender for any deficiency remaining after the foreclosure sale. Nev. Rev. Stat. 40.455.

The amount of the deficiency is limited to the lesser of these two amounts:

- The difference between the amount of the outstanding mortgage debt and the property's fair market value at the time of the foreclosure sale, or
- The difference between the amount of the outstanding mortgage debt and the foreclosure sale price. Nev. Rev. Stat. 40.459.