

HOMEOWNERS' RIGHTS IN FORECLOSURE PROCEEDINGS



Donald C. Spencer, Clerk
Santa Rosa County Clerk of Court
Circuit Civil Division/Foreclosures
4025 Avalon Blvd
Milton, FL 32583

Business Hours: 8:00am—4:30pm
850-983-1973
<http://www.santarosaclerk.com>

If your home is in the process of foreclosure proceedings, the following resources may be of assistance to you:

Northwest Florida Legal Services
701 South J St.
Pensacola FL 32502
Ph: 850-432-3999

www.nwfls.org

U.S. Department of Housing and
Urban Development
www.hud.gov

If you decide to sell your home or hire someone to help you claim any surplus funds, you should carefully read all papers you are required to sign. Make sure that you understand what you are signing and that you are not transferring the ownership of your property or the equity in your property without the proper information. When in doubt, contact your own attorney.

This brochure describes various issues which may be of importance to you regarding foreclosure proceedings. It does not represent a complete summary of the applicable law in this area, or any and all legal rights which may be available to you. If you have any questions or concerns regarding this process you may choose to seek the advice of an attorney. Employees of the Clerk's Office cannot provide legal advice.

Foreclosure Proceedings

Foreclosure proceedings begin with the filing of a civil action complaint, the recording of a Lis Pendens in the Public Records and the issuance of a summons to each defendant in the case including the homeowner.

As the homeowner, you will be given 20 days to respond to that summons by filing an answer to the complaint. If you fail to answer, you may not be given an opportunity to present your side of the case to the judge, and a Final Judgment may be entered against you.

If a Final Judgment is signed by the judge, it will instruct the Clerk of Court to sell the property at auction, to the highest bidder. Circuit Civil assigns a date to auction the property and a Notice of Sale is published in a publication that meets the requirement of the Florida Statutes.

**Homeowners' Rights to Surplus
Foreclosure Sale Proceeds**

Proceeds from the sale are distributed pursuant to the Final Judgment. You, as the former homeowner, may be eligible to file a claim for any surplus funds.

Please contact the Clerk of Court, Circuit Civil Division to find out if there are any surplus funds from the foreclosure sale and for assistance in filing your claim for those funds.

You are not required to have a lawyer or any other representation to claim your surplus funds, nor do you have to assign your rights to anyone else in order to claim these funds.

Within ten (10) days of the sale, you should call the Clerk of Court, Circuit Civil Division to find out if there are surplus funds for which you may be eligible. You may be charged a \$50.00 reopening fee to file your claim.

Lien holders as well as the former homeowner may be eligible to claim surplus funds.

If you, as the former homeowner are the only person to make a claim, you may be required to set this matter for a hearing in front of the judge. This can be done by contacting the office of the judge in your case.

**Homeowners' Rights to Surplus
Foreclosure Sale Proceeds cont'd.**

However, if any lien holders have filed claims, or if you acknowledge that there may be lien holders who may be entitled to the surplus, then the court shall set a hearing to determine the distribution of the surplus funds.

**Defendants' Right of Redemption
(Florida Statute 45.0315)**

As the homeowner, you may recover your property by redeeming it prior to auction, or immediately after the auction of your property, up until the time that the Certificate of Sale is issued or as stated in the Final Judgment. Please see Property Redemption section below.

Once full payment of the bid amount has been timely received from the successful bidder, the sale is complete and the Certificate of Sale is issued to the new owner.

Property Redemption

To redeem your property, you must pay the full amount of the Final Judgment (plus interest, fees, and costs) to the Clerk of Court. Payment must be made in the form of cash or cashiers' check, made payable to the Clerk of Court.

You should contact the Clerk of Court, Circuit Civil Division (see contact information on the front of this brochure) for a redemption certificate which will give you the correct amount you must pay to redeem your property.

After you have redeemed your property, you will receive a "Clerk's Certificate of Satisfaction of Final Judgment of Foreclosure" which will be recorded in the public records by the Clerk's Recording Department at the Administration Center, 6495 Caroline St. Suite A, Milton FL. Phone 850-983-1967

A fee is required to record this document.

For homeowners facing the loss of their home due to mortgage foreclosure proceedings, the Santa Rosa County Clerk of Court has prepared this brochure to educate you on your rights regarding these proceedings (F.S. 45.035(2)(a)).