

When can a lender start a foreclosure? Most loans from a bank must be 120 days delinquent before any foreclosure activity starts. However, smaller lenders can sometimes start foreclosure even if you are only 1 day late. The lender is only required to send you two notices before a foreclosure sale.

How can I prevent a foreclosure? Talk with your lender about a payment plan, a temporary forbearance, or a loan modification. Pay what you can. If your payments are not accepted, save them until you can pay in full. For free foreclosure prevention counseling, contact the HOPE™ Hotline at 1-888-995-HOPE (4673) or visit <http://www.995hope.org/>. The earlier you apply for assistance the more rights and options you will have.

What is loss mitigation? Loss mitigation refers to ways to prevent foreclosure. If you're behind in payments, ask your lender for a loss mitigation application packet. For most servicers, if your application is complete and received at least 37 days before a scheduled sale, the lender must stop all foreclosure activities. If your lender starts foreclosure after you timely submitted your complete application, you have a right to file a suit to stop the sale. You can also file a complaint with Consumer Financial Protection Bureau at 855.411.2372 or online at: <http://www.consumerfinance.gov/complaint/>. Keep a copy of your application, attachments, and proof of delivery (such as a fax confirmation page or tracking number) to prove receipt by your lender. Your lender should also send you a letter telling you whether your application is complete.

What is the foreclosure process? In Texas, foreclosure is generally a 3-step process. (*Exception:* If you have a home equity loan, home equity line of credit, a tax lien transfer loan, or owe assessments to a homeowner's association, a court order is usually required before your property can be posted for sale. In some instances, an order is also required to foreclose on a reverse mortgage. A lawsuit must be filed if a government entity is trying to foreclose, e.g. for property taxes, a condemned property, etc.).

1. Notice of Default – Demand Letter – By law, the lender/servicer is required to send a written notice allowing you 20 days to "cure" (pay in full the amount owed) to bring the defaulted loan current. Some loans increase this period to 30 days (most FHA, VA and home equity loans).
2. Notice of Sale Filed, Posted and Mailed – Next, the law requires at least 21 days' written notice of the date on which the foreclosure sale (auction) is to take place. The 21 days begin from the date the notice is mailed, not the date you receive it. Failing to collect your certified mail will not stop or invalidate the foreclosure sale. The foreclosure notice is also posted at the courthouse and filed with the county clerk.
3. Foreclosure Sale - Foreclosure sales are held at the county courthouse on the first Tuesday of each month. Anyone may bid. After the auction, you do not have a right to buy back your property from the new owner unless it is being sold by a government entity, a tax lender or for nonpayment of homeowner's association fees. There are time limits involved and in some cases you must pay a redemption fee.

Can bankruptcy prevent foreclosure? Filing for bankruptcy will delay foreclosure, but will not wipe out your lien or allow you to stay in the home without making payments. Chapter 13 is a reorganization in which certain debts are repaid over time, and the home can be saved. Chapter 7 is a liquidation, and may delay a foreclosure, but usually will not allow you to keep your house if you are behind on payments.

Can I refinance or sell my home to avoid foreclosure? If you are behind in payments, refinancing is usually not an option. You can sell if the sale proceeds would pay off the mortgage and the cost of the sale.

Can I be sued for a deficiency? Lenders rarely sue for a deficiency because of the time and expense involved. If you are being sued for a deficiency, bankruptcy might be a good option for you.

Can I stay in my home during foreclosure? You do not have to move out on the sale date. If you are still living in the home after a foreclosure, the new owner will have to evict you. You'll get a notice to vacate (usually giving 3 days) before an eviction is filed. Some lenders will pay moving expenses in order to avoid the time and expense of an eviction proceeding (called "cash for keys").