

## Civil Justice Tip Sheet: Foreclosure Timeline in Maryland

It is important to keep in mind that this timeline describes the quickest path to a foreclosure sale. While the lender may take longer to file foreclosure documents or take legal actions needed to sell the home, it is always best to be prepared for the quickest possible path.

### 1<sup>st</sup> Day of Default

- The foreclosure timeline starts the day after you miss your first payment. This is known as default. The first day after a missed payment is Day 1 of the timeline.

### Loss Mitigation in the Pre-File Stage

- Loss mitigation is the negotiation process that you and your lender go through to avoid foreclosure. Through this process, you can apply for a loan modification or other home retention options. The loss mitigation process is separate from the formal foreclosure process. The lender is allowed to continue taking steps towards foreclosure until you send in a completed loss mitigation application. Once the lender receives that application, it must stop going forward with the foreclosure until it makes a decision on your application.

### 45 Days prior to Foreclosure Filing: Notice of Intent

- The *Notice of intent to Foreclose* is a letter sent to you stating that the lender intends to start the foreclosure process. It will include valuable information about housing counselors, free legal service providers, possible alternatives to foreclosure, and a loss mitigation application.

### 120 Days after Default: Order to Docket

- The *Order to Docket* is a multi-page document that is filed in the Circuit Court of the county in which the property is located. You will be served with the Order to Docket by personal delivery to you or another responsible adult at your home. If the lender is not able to personally serve you, they may serve you by posting the papers at your home and sending them by certified mail and first class mail. With the Order to Docket, the lender must include either a *Preliminary Loss Mitigation Affidavit* or a *Final Loss Mitigation Affidavit*.

### The Loss Mitigation Affidavits – Preliminary or Final

- A loss mitigation affidavit is a sworn written statement that states that the lender has examined your mortgage file and current information for possible foreclosure alternatives.

### Preliminary Loss Mitigation Affidavit

- The Preliminary Loss Mitigation Affidavit states that the lender has not finished analyzing your mortgage file. The Final Loss Mitigation Affidavit states that the lender has completed its examination and sees no alternative to foreclosure.
- If the lender files the Preliminary Loss Mitigation Affidavit with the Order to Docket, it must wait at least 28 days before filing the Final Loss Mitigation Affidavit.

### Final Loss Mitigation Affidavit

- The Final Loss Mitigation Affidavit states that the lender has completed its examination and sees no alternative to foreclosure.
- The Final Loss Mitigation affidavit must be filed with the court and sent to you by first class and certified mail.
- Included with the Final Loss Mitigation Affidavit will be the mediation request form. This is your ONLY opportunity to request mediation for the foreclosure.

### Requesting Mediation

- You have only 25 days from the date the Final Loss Mitigation Affidavit was posted, served, or mailed to you to submit the mediation request form to the court. You must pay a \$50 filing fee to the court for mediation or request a waiver of the fee.
- Once mediation has been requested, the Office of Administrative Hearings (“OAH”) will send a letter to you stating the time, date, and place of the mediation. The mediation must take place no later than 60 days after you file the mediation request.

### **20 Days Before Mediation: Document Exchange**

- You must send certain documents to the foreclosure attorneys and the Office of Administrative Hearings in a process called document exchange. This must be completed 20 days before the mediation or the lender could attempt to have the mediation stricken.

### **Scheduling the Foreclosure Sale: If Mediation Is Not Requested**

- The timeline for scheduling the foreclosure sale depends on whether you request mediation and which loss mitigation affidavit the lender filed with the Order to Docket.
- If the lender sent the Final Loss Mitigation Affidavit with the Order to Docket, it can sell the home no earlier than 45 days after service to you of the Order to Docket.
- If the lender filed the Preliminary Loss Mitigation Affidavit with the Order to Docket, it must wait at least 28 days from the service of the Order to Docket to file the Final Loss Mitigation Affidavit. The lender can sell the home 30 days after the Final Loss Mitigation Affidavit is mailed to you. This means that the sale can be held no earlier than 58 days after service of the Order to Docket if the Preliminary was sent first.

### **Scheduling the Foreclosure Sale: If Mediation Is Requested**

- If no agreement was reached at the mediation session and no continuance of the mediation was granted, the lender can sell the home no earlier than 15 days after the mediation session.

### **Notice of Sale**

- The lender must provide notice to you of the sale date. This notice comes in the form of a letter called the Notice of Sale. This letter must be sent to you by certified and first class mail not more than 30 days and not less than 10 days before the sale.

### **After the Foreclosure Sale**

- Once the sale of the property occurs, several steps must occur before you can be evicted from your home. First, the court must ratify the sale of the property. This can occur no earlier than 30 days after the sale. During these 30 days, you may file a motion with the court (called “Exceptions”) asking to undo the sale. However, the court rarely grants these requests and will only do so if there was an error in the way the foreclosure sale was conducted.

### **After the Ratification of the Foreclosure Sale**

- After the court ratifies the sale, an audit of the proceeds and amounts owed is completed. You may still owe money after the sale or you may be entitled to any surplus money. In order to claim your right to any surplus money, you must file a request with the court.
- After ratification of the sale, the foreclosure sale purchaser must file a “Motion for Judgment Awarding Possession” and mail a copy to you. You have 15 days after the motion was mailed to you to file a response to the motion. If no response is filed, the court will grant the motion.
- After the motion is granted, the purchaser must schedule an eviction with the county sheriff. Only a sheriff with a valid writ of possession can begin eviction proceedings.
- If you are facing eviction, it is critical that you are proactive in seeking alternative housing, as eviction dates and timelines can be unpredictable.