

# **New Mexico (NM) Foreclosure Laws**

When you develop a definite plan of action with well-timed, well-informed steps, you can stop the foreclosure process and save your home. We have outlined the foreclosure process for the state of New Mexico.

**Judicial Foreclosure Available:**yes

**Non-judicial Foreclosure Available:**yes

A lender must file a lawsuit and undertake judicial foreclosure unless the loan is covered by the Deed of Trust Act, which allows non-judicial foreclosure. However, the Deed of Trust Act applies only to business and commercial loans on real estate in excess of \$500,000 and then only if the borrower agreed, in writing, to the deed of trust arrangement. Otherwise, in a typical foreclosure on a house, whether under a mortgage, trust deed or deed of trust, the lender must arrange to file a lawsuit, win a judgment ordering foreclosure and arrange a foreclosure sale in the manner required by law.

## **Judicial Sale**

Once the lender wins a judgment, then it can go ahead and arrange to sell the property to pay off what the borrower owes, in accordance with the court judgment. A notice of sale must first be given, then a sale can take place in 30 days.

## **Contents**

The notice of sale should specify the date, time and place of sale. It should also give a legal description of the property.

## **Advertising**

The notice of sale must be published once a week for four consecutive weeks. The last ad must be published at least three days before the foreclosure sale.

## **Cure**

The borrower may prevent the foreclosure by paying the amount of the judgment.

## **Time**

The sale may not take place until 30 days after the date the court grants a judgment in favor of the lender.

## **Manner**

The property will be sold to the highest bidder. However, if the sale fails due to lack of bidding, then the property may be offered again for sale any time before the return date on the writ of execution issued by the court to enforced its judgment.

## **Redemption**

After the sale, the real estate may be redeemed by the former borrower or owner by paying, at any time within nine months from the date of sale, the amount of the successful foreclosure bid, with interest at 10 percent a year, plus taxed and costs. The parties may agree to a shorter term, but not less than one month. For good cause, however, the court can increase the period to not more than nine months.

Once the borrower files the suit for redemption and serves it on the lender, the lender has 30 days to respond. Sometime after the response, or by default, the court will hold a hearing to determine the amount of money necessary for redemption. At the conclusion of the hearing, the clerk of the court will issue a certificate of redemption.

## **Deficiency**

A lender may obtain a deficiency judgment. The matter is unregulated by statute.