

Vermont (VT) 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 Vermont.

The Process

Vermont allows foreclosure either by filing a lawsuit to obtain strict foreclosure, in which the title given to the lender by deed will be ruled to be final, or by filing a lawsuit to foreclosure under a power of sale clause in a deed of trust. Both procedures are governed by the Vermont Rules of Civil Procedure. There is a statute for deed of trust foreclosure (VT. Stat. Ann tit 12 4531a). Under Vermont's strict foreclosure procedures, the lender gets a deed to the property at the outset of the loan, but the deed also provides that the borrower can get the title back by repaying the loan. All the lender has to do is get a court declaration that the borrower has failed to meet the condition, and the title becomes final in the name of the lender after a statutory redemption period passes, during which the borrower can recover the property by paying off the rest of the loan.

In strict foreclosure a complaint (lawsuit) must be filed in county court. The complaint and a summons to the borrowers to appear and answer the complaint must be served on the borrower. The complaint must state the borrower's and lender's names, the date of the mortgage deed, a description of the debt owed and a claim for attorney's fees, if any are sought. It must state that the reason the lender is foreclosing, is a breach in the deed's conditions. Although the lawsuit prays for the court to foreclose the borrower's right to redeem the property, the borrower nevertheless has a right to redeem under Vermont's statutes. Under Vermont statutes the time for redemption is one year for pre-1968 mortgage and six months for post-1968 mortgages, from the date of the judgment. However, the lender can request a shorter time for good cause. Once the complaint is served, the lender may move for summary judgment in order to avoid trial.

Non-judicial Foreclosure

Due to Vermont's long tradition of strict foreclosure, a foreclosure sale under a power of sale clause has only recently become common in residential loans, although they have been common in commercial transactions. Vermont does not have a well-established tradition of foreclosure auctions. In Vermont, a lender must still bring a lawsuit to foreclose a deed of trust and obtain an order for a sale. However, the foreclosure may not take place until seven months have passed from the date the lawsuit was served on the borrower, unless the borrower and lender agree otherwise, or the borrower is damaging the property.

Deficiency

In Vermont a lender may sue the borrower to collect deficiency if the foreclosure sale under the deed of trust was not sufficient to repay the loan plus the foreclosure expenses. However, if the lender buys at the foreclosure sale, the borrower can force the lender to credit the fair market value of the property against the total amount owed, which includes the loan balance and the foreclosure expenses. If the foreclosure sale generates a surplus, junior lien holders and creditors may claim it up to the amount owed in the order of their priority.