

GENERAL EXPLANATION OF WHAT "STATUS" MEANS

PLEASE NOTE: The foreclosure laws CHANGED as of January 1, 2008. All foreclosure cases with a Notice of Election and Demand for Foreclosure RECORDED in 2007 (called "pre-2008 cases") will be processed under the laws in effect until 1/1/08. All foreclosure cases with a Notice of Election and Demand for Foreclosure RECORDED in 2008 (called "post 1-2008 cases") will be processed under the laws in effect as of 1/1/08.

Every foreclosure case can go through many legal phases or steps during its processing from beginning to end. The "status" line generally shows which phase or step a foreclosure case is in at the current time. **You MUST take into consideration that the Public Trustee's office is currently processing foreclosure cases under TWO different sets of laws, deadlines and requirements.** The following is a brief explanation of what some of the "status" descriptions mean:

BANKRUPTCY – there can be several different effects a bankruptcy filing can have on a foreclosure action. They are set forth in law and depend on the kind of bankruptcy filed, the date of filing, and bankruptcy court orders as a result of the filing. You may wish to refer to the Colorado Revised Statutes, Title 38 (available on the Colorado.gov website).

CURED – this means that the homeowners/borrowers have brought their loan payments, etc. current **PRIOR to the time of foreclosure sale.**

CONTINUED – a sale date may be continued (postponed to a future date), at the request of the lender or its attorney or by the Public Trustee's office, for several different reasons. **For pre-2008 cases**, the foreclosure sales MUST be held no later than 6 months after the date originally designated in the Notice of Sale. **For post 1-2008 cases**, the sale MUST be held no later than 12 months after the date originally designated in the Notice of Sale.

DEEDED or DEED ISSUED or CONFIRMATION DEED – once a property has gone through the sale and all redemption periods have elapsed without any redemption being made, the property may be deeded to the successful bidder at the foreclosure sale (the holder of the certificate of purchase) or, if a lienor has redeemed and all other lienor redemption periods have elapsed, then the Deed will be issued to the holder of the certificate of redemption. **For pre-2008 cases**, if an owner redeems within the 75-day period, there is no need for a Deed to be issued because the owner keeps title by redeeming and the owner is issued a Certificate of Redemption. **For post 1-2008 cases**, the Public Trustee's deed is called a "Confirmation Deed."

INTENT TO CURE FILED – this means that a Notice of Intent to Cure form has been filed with the Public Trustee and cure figures have been requested from the lender or its attorney. Once those figures are received by the Public Trustee's office they are sent to the person who wishes to cure the loan default prior to date of sale. If the **cure funds are timely paid PRIOR to noon on the day before the foreclosure sale**, the foreclosure is stopped and withdrawn. The **post 1-2008 cases** provide a longer time prior to sale being held. There is NO FEE for the owner/borrower to file a Notice of Intent to Cure.

LIENOR INTENT TO REDEEM FILED – this means that a lien holder (other than the foreclosing lender) has filed a Notice of Intent to Redeem form with the Public Trustee's office. **For pre-2008 cases**, the notice form filing deadline is **no later than 60 days** after Sale Date. **For post 1-2008 cases**, the notice form filing deadline is **within 8 business days** after foreclosure sale date. There is a fee required for filing a Lienor Notice of Intent to Redeem.

LIENOR REDEMPTION – this means that a lienor other than the foreclosing lender has timely filed a notice of intent to redeem and then timely paid the funds to redeem the property. The redeeming lienor is issued a Certificate of Redemption. There can be several lienors who may redeem in the order of their preference (or date of recording of their liens).

MAILINGS or MAILING LISTS – law requires the lender or its attorney to provide a mailing list or lists to the Public Trustee. Those lists are to include all persons who may have a recorded interest in the property being foreclosed. The Public Trustee's office mails notices to the parties shown on the initial, supplemental and/or amended mailing list.

MOTION TO SET ASIDE SALE, SALE SET ASIDE BY COURT ORDER, SALE HELD IN VIOLATION OF BANKRUPTCY or SALE RESCINDED – there may be several legal reasons why a sale may have to be set aside by Court order or may be rescinded (**rescission is available only for post 1-2008 cases**) by action of the lender or its attorneys. In some instances, the foreclosing lender is working with the borrower on a payment arrangement or reinstatement and the case should not have proceeded to foreclosure sale. If a foreclosure sale is held before the Public Trustee receives notice that the owner/borrower has filed a bankruptcy prior to Sale Date, that sale needs to be set aside because it unknowingly violated the bankruptcy "stay order." The foreclosure may be restarted and the sale may be continued to a new date or there could be other court-ordered requirements if the foreclosing lender wishes to proceed with the foreclosure thereafter.

NED or E&D RECORDED – the Notice of Election and Demand for Foreclosure is the first legal document recorded with the Clerk and Recorder's office to put the world on notice that the property is involved in a foreclosure action. The date of recording or re-recording of the NED determines if the case is a pre-2008 or a post 1-2008 case and which law applies to that case.

OWNER INTENT TO REDEEM FILED or **OWNER REDEMPTION** – for **pre-2008 cases ONLY**, the owner/borrower has a 75-day redemption period after Sale Date (unless the property is agricultural, then the redemption period is 6 months after Sale Date). In order to exercise that right of redemption, the owner/borrower **MUST** file a Notice of Intent to Redeem form with the Public Trustee’s office no later than 60 days after foreclosure sale date. **THERE IS NO FEE FOR THE OWNER TO FILE A NOTICE OF INTENT TO REDEEM.** The Public Trustee’s office then requests redemption figures from the holder of the Certificate of Purchase and provides those figures to the owner/borrower. In order to redeem and keep title to the property, the owner/borrower must essentially pay off the foreclosing lender, plus costs and fees, before the 75-day redemption period expires. **For post 1-2008 cases, the owner/borrower NO LONGER HAS ANY REDEMPTION PERIOD after the foreclosure sale date.**

PUBLICATIONS – the law requires that an accurate notice or combined notice must be published in a legally-qualified newspaper of general circulation within the county where the property is located for 5 consecutive times over a period of 4 weeks before the property can be taken to foreclosure auction sale.

RESTARTED – a foreclosure case may need to be restarted when a bankruptcy is filed and then the property is dismissed or abandoned from the bankruptcy action or a bankruptcy court order allows the foreclosure case and sale to proceed.

SALE DATE or **FORECLOSURE SALE DATE**– for **pre-2008 cases**, the initial sale date is scheduled somewhere between 45 and 60 days after the date of NED recording. For **post 1-2008 cases**, the initial sale date is scheduled somewhere between 110 and 125 days after the date of NED recording (for agricultural properties, the sale date is scheduled somewhere between 215 and 230 days after the date of NED recording).

SOLD – this is the status **AFTER** the property has been sold at the Public Trustee’s foreclosure sale. The successful bidder at the foreclosure sale is issued a Certificate of Purchase which is evidence of his/her investment in the property, but does **NOT** convey title to the property. **NOTE: For post 1-2008 cases, the owner/borrower does NOT have any redemption rights after sale; the owner/borrower has ONLY cure rights PRIOR to the time of sale.**

TEMPORARY RESTRAINING ORDER – this means that a Court of law (with jurisdiction over the property) has issued an order temporarily restraining anyone from proceeding with the foreclosure action.

TO BE WITHDRAWN, WITHDRAWN or **ADMINISTRATIVE WITHDRAWAL** – there are several reasons why a foreclosure case can or must be withdrawn – the owners have worked directly with their lender to bring their loan current or arrange a payment plan; the sale has not been held in a timely manner (within 6 months of the initially-scheduled Sale Date for **pre-2008 cases** or within 12 months for **post 1-2008 cases**). An administrative withdrawal can be done by the Public Trustee (on **post 1-2008 cases** only and with proper notification) if the attorney for the lender does not request a withdrawal and the last possible sale deadlines have passed. Once a foreclosure has been withdrawn, if the default remains or occurs again, a new foreclosure action may be started by the lender.

The laws regarding foreclosures are in Title 38, Article 38 of the Colorado Revised Statutes. Those Statutes are available in most public libraries as well as online under Colorado.gov, then click on “General Assembly” and “Colorado Revised Statutes.”