

Facing Foreclosure?

Need legal help?

If you are facing foreclosure or your home has already been foreclosed, call Atlanta Legal Aid to see if you are eligible for free legal help.



Foreclosure basics

- In Georgia, your mortgage company can foreclose without filing suit against you.
- Foreclosure sales are held on the first Tuesday of each month on the courthouse steps between 10AM and 4PM.
- The mortgage company must send written notice of the foreclosure sale to the borrower no less than 30 days before the foreclosure date by certified, registered, or overnight mail. This notice is typically sent by a law firm on behalf of the mortgage company.
- The foreclosure sale must be advertised in the county's legal newspaper once a week for four consecutive weeks before the foreclosure sale.
- The notice must include the name, address, and telephone number of the person or entity who has full authority to negotiate, amend, and modify all terms of the mortgage.

How can a foreclosure sale be stopped?

1. **Reinstate.** Most mortgage companies will stop a foreclosure if you pay the missed payments, attorney fees, and foreclosure costs. Be sure to get written confirmation that the scheduled foreclosure is cancelled.
2. **Work out a payment plan or loan modification.** A loan modification may restructure the loan into a more affordable payment (such as by reducing the interest rate, extending the length of the loan). Be sure to get written confirmation that the scheduled foreclosure sale is cancelled.
3. **Sell the home.** Hire an experienced, licensed real estate agent, sell your home, and pay off your mortgage in full, before the scheduled foreclosure.
4. **Do a short sale or deed in lieu of foreclosure.** Consider this option when you have no equity in your home (when the value of your home is worth less than what you owe on it). Beware of the potential income tax problem or deficiency (in other words, you may owe income taxes on the forgiven amount or could be sued for the remaining loan amount).
5. **File bankruptcy.** Retain a lawyer and file bankruptcy before the foreclosure sale, and notify the foreclosure lawyer of the bankruptcy filing.
6. **File a lawsuit and obtain a temporary restraining order (TRO) from the court to stop the scheduled foreclosure sale.** You will need to show the court a viable legal basis (for example, the loan is not delinquent or violation of foreclosure notice requirements) for the TRO. Retain a lawyer to represent you in court.

What if a foreclosure sale has already happened?

You no longer own the home. The purchaser at the foreclosure sale is typically the mortgage company but may be an investor.

The new owner can start eviction proceedings in court if you fail to vacate after a demand to do so. The county marshal may serve you with the dispossessory warrant by posting the warrant on the front door of the home.

Once you have been served, you have seven days to file an answer in court. Generally, a trial in court is scheduled about a week or so after the answer is filed. (If you do not file a timely answer or do not attend the court hearing, the process may speed up.)

At the court hearing, if the judge rules against you, you will have seven days to move out.

If you remain in the property after the deadline given by the judge, the county marshals could come at any time without warning and remove you and your family from the property and put all your belongings on the street.

Cash for keys?

In some cases, the buyer at the foreclosure sale may offer cash-for-keys: an arrangement where the buyer typically requires that you remove all your belongings and leave the home in broom-clean condition by a certain date. Consider this option if you realistically can comply with the written terms by the deadline provided.

WATCH OUT FOR FORECLOSURE RESCUE SCAMS

- Scammers take your money, making false promises to stop the foreclosure or get a loan modification, but do little or nothing, and then disappear.
- Scammers offer to lend you funds to catch up the mortgage payments, but trick you into transferring title over to them, and promptly evict you.
- Scammers ask you to pay money to record a document in the county deed records that they promise will stop the foreclosure. This is a scam and does not work.

- Remember: If it sounds too good to be true, it probably is!

Learn Your Legal Rights!

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