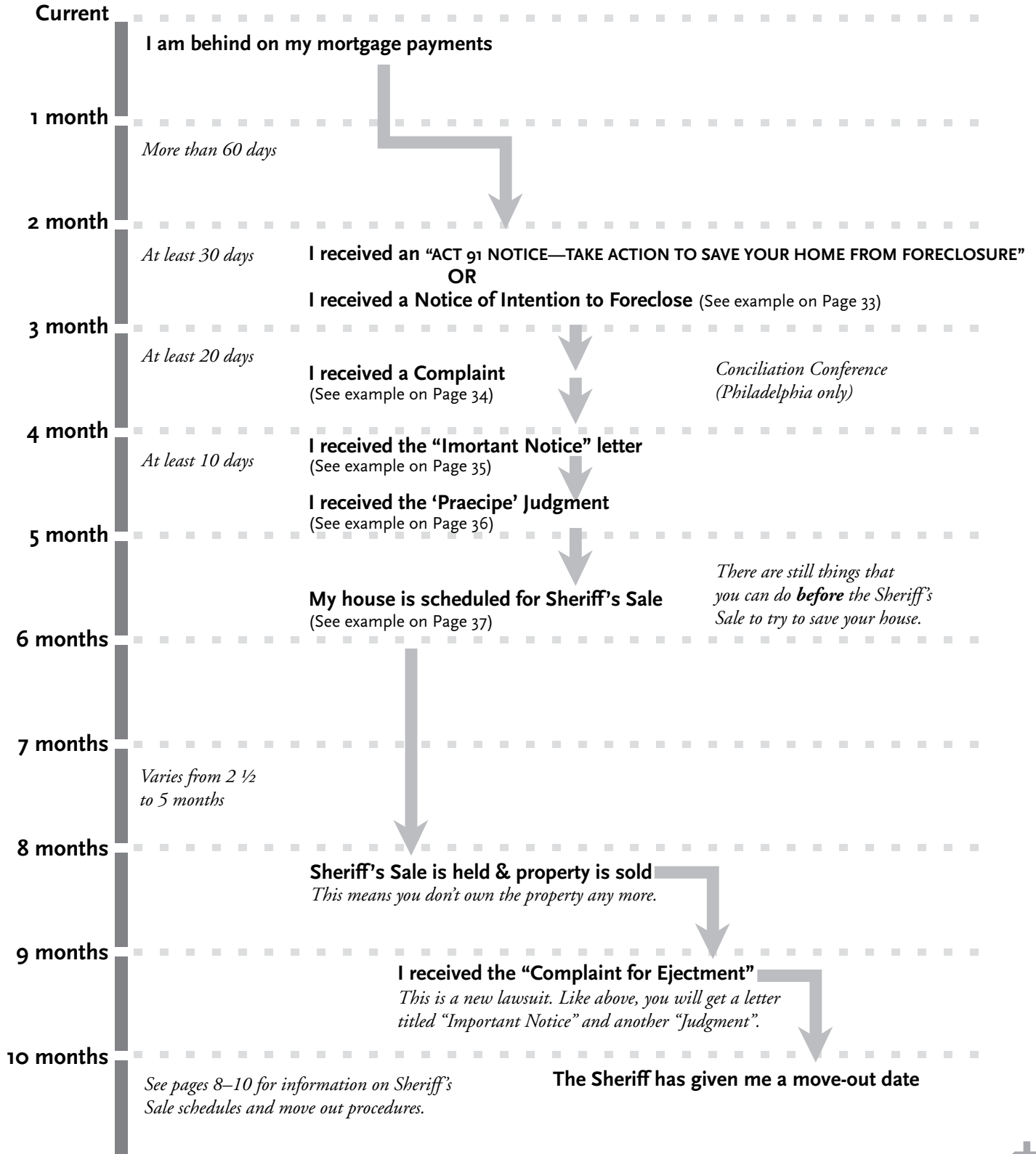


Understanding the Mortgage Foreclosure Process

This chart is meant to give you an idea of what happens if you do not do anything to stop the foreclosure. The chart shows the shortest amount of time that can pass between each step. At each step, there are actions you can take to defend against foreclosure that will also result in extending the timeline below. The following section explains each step in detail.



Step 1:

I am behind on my mortgage payments

If you fall behind in your mortgage payments or your mortgage company bills you for additional charges you cannot pay or do not believe you owe and refuse to pay, you will receive any number of letters stating that if you do not pay, you may face foreclosure, lose your home and/or have negative credit information reported about you. Until you receive the official notice in Step 2, you are not really in foreclosure (although it may be treated that way by the mortgage company or credit agencies).

Step 2:

I received a Notice of Intention to Foreclose

If you are less than 24 months behind on your mortgage, are behind less than \$60,000 and do not have a federally insured mortgage (FHA), you must receive an Act 91 notice before your mortgage company can file a foreclosure case against you in court — at the top it says “Act 91 NOTICE — TAKE ACTION TO SAVE YOUR HOME FROM FORECLOSURE”.

This notice may also be combined with a Notice of Intention to foreclose (for those whose original loan amounts were \$217,873 or less), advising you of how much you are allegedly behind on payments or any other basis upon which the mortgage company claims you are in default and stating what you must do to reinstate your mortgage. If your original mortgage loan amount was \$217,873 or less but you do not meet the criteria above for receiving an Act 91 Notice, you still must receive a “Notice of Intention to Foreclose”, advising you of how much you are allegedly behind on payments or any other basis upon which the mortgage company claims you are in default and stating what you must do to reinstate your mortgage.

Before these notices can be sent to you, you must be at least three months in arrears (they can be sent on the 2nd day of the 3rd month). These notices usually come by both certified and first class mail. There must be a separate notice for each person who signed the mortgage. The notices give you 30 days to “cure” (get caught up on) the delinquency and, if you are eligible, to meet with a housing counselor to apply for the “Homeowners Emergency Mortgage Assistance Payments” (HEMAP) program of the Pennsylvania Housing Finance Agency. If you “cure” the delinquency or, if you are eligible for HEMAP, you meet with a housing counselor, no mortgage foreclosure action can be started in court (there is no such thing as mortgage foreclosure outside of court in Pennsylvania).

The mortgage company cannot foreclose on your home while you have a pending HEMAP application. You MUST meet with an approved housing counseling agency within 33 days of the date on the notice to apply for HEMAP.

NOTE: If you have an FHA loan you will not get an Act 91 notice, but you will get a notice telling you your rights. FHA loans are not eligible for HEMAP.

Step 3:

I received a Complaint

If you do not “cure” your delinquency or meet with a housing counselor within 33 days, the mortgage company must file a legal document in the local Common Pleas Court, called a “complaint”, claiming that you are in default of the mortgage.

Service of the mortgage foreclosure complaint. The Sheriff’s office in your county must hand deliver a copy of the mortgage foreclosure complaint to an adult at the homeowner’s residence (unless the Court has permitted a different form of service, such as posting on your door or certified mail).

Responding to the mortgage foreclosure complaint. You have 20 days from the date the Sheriff delivered the complaint to respond either by filing preliminary objections or an answer, in the Common Pleas Court. You must also “serve” (send by mail) a copy to the lawyer for the mortgage company.

Philadelphia Only: Conciliation Conference

On April 16, 2008, the Philadelphia Court of Common Pleas created the “Residential Mortgage Foreclosure Diversion Pilot Program” to help homeowners save their homes. Foreclosures of owner-occupied homes filed after September 9, 2008, has a “conciliation conference” scheduled when the case is filed. Homeowners receive a notice stating when their court hearing is scheduled. Before appearing in court, homeowners must prepare a proposal to resolve the mortgage default and send it to the lawyer for the mortgage company. Homeowners can do so by scheduling an appointment with a certified housing counseling agency (see pages 31–32). Appointments can be scheduled by calling the Save Your Home Philly Hotline. At the conference, the mortgage company lawyer will be there, as well as a court-appointed mediator. See page 13 for a more detailed explanation.

Step 4:

I received the “Important Notice” letter

If you do not file a response to the mortgage foreclosure complaint, the mortgage company lawyer must send you a notice of default, informing you that you have not responded

to the complaint and that judgment can be entered against you if you do not file a response in the Common Pleas Court within 10 days of the Notice (the day it was sent, not the day you receive it).

Step 5: I received a Judgment and my house is scheduled for Sheriff's Sale

If you still do not file a response to the mortgage foreclosure complaint, the mortgage company can take a “default” judgment against you. At the same time, the mortgage company will file a “Writ of Execution” and schedule a Sheriff's Sale of your home. The length of time varies from county to county (anywhere from 2 ½ to 5 months) between entry of default judgment and the date of the Sheriff's Sale. The sheriff must deliver a notice of the sale to each person who signed the mortgage and post a big Sheriff's Sale sign on your door.

NOTE: If your house sells at Sheriff's Sale, you no longer own it and there is nothing you can do to save your home. (Unless there was a technical defect in the foreclosure process, which is extremely rare.) **County specific information on pages 8–10.**

Step 6: Sheriff's Sale is held & property is sold

If you have not taken any action to prevent the Sheriff's Sale from taking place (such as having the judgment opened, “re-instating” the mortgage or filing a bankruptcy petition) and if the mortgage company has met all the requirements for the Sheriff's Sale to proceed, the sale will take place in a public place, usually the local county courthouse. Once someone buys your home at the sale (often the mortgage company itself), you no longer own it. However, you do not have to leave your home at that time.

Sometimes, the new owner may try to contact you. They may offer “cash for keys”—money for you to promise to move out by an agreed upon date or offer to allow you to stay and pay rent. The new law does not require the new owner to do any of this. Accepting these offers is your decision. If you do not reach an agreement with the new owner, they will probably proceed to eject you.

Step 7: I received a “Complaint for Ejectment”

The new owner of the house cannot remove you from the home, only the Sheriff can. They may ask or demand that you leave, but you can choose to remain in possession of

the house until a separate court case, called an “ejectment action”, is brought against you and won by the new owner. Again, the mortgage company or other buyer at the Sheriff's Sale must file another complaint in the local Common Pleas Court, this time claiming that you no longer have a right to possess your home because you lost legal title to it in the Sheriff's Sale.

NOTE: If you choose to remain in the house, the new owner has the right to demand fair market value rent. Often, they do not try to collect this, but you should know they can demand that money in the ejectment suit.

Service of the ejectment complaint. The Sheriff's office in your county must hand deliver a copy of the ejectment complaint to each adult person in possession of the house (unless the Court has permitted a different form of service).

Responding to the ejectment complaint. You have 20 days from the date the Sheriff delivered the complaint to respond to the complaint, by filing either preliminary objections or an answer, in the Common Pleas Court. You must also “serve” (send by mail) a copy to the lawyer for the mortgage company or other buyer. If you do not file a response to the ejectment complaint, the lawyer for the mortgage company or other buyer must send you a notice of default (entitled “Important Notice”), informing you that you have not responded to the complaint and that judgment can be entered against you if you do not file a response in the Common Pleas Court within 10 days of the Notice (the day it was sent, not the day you receive it).

Step 8: The Sheriff has given me a move-out date

If you still do not file a response to the ejectment complaint, the mortgage company or other buyer can take a “default” judgment against you. At the same time, the mortgage company or other buyer will file a “Writ of Execution” or a “Writ of Possession.” The Sheriff will deliver this notice to the house. The Sheriff will also schedule a time that you must be out by. If you remain beyond that time, a deputy sheriff can go out to your home and forcibly evict you. The length of time varies from county to county depending upon the workload of the Sheriff's office, but the Sheriff's office is not allowed to take longer than 90 days to evict you once the writ is filed. In some counties, a representative of the Sheriff's office will notify you a few days before coming out to evict you, but this is not required. You still have a right to keep all of your personal possessions from the home.

Note on Sheriff's Sale and Eviction Timeline (by county)

Bucks County

Length of time between filing writ of execution and date of Sheriff's Sale:

Approximately three months (see schedule available from website: www.buckscounty.org/government/rowOfficers/Sheriff/SheriffSales2008.pdf); sales take place on the 2nd Friday of each month, with the exception of the second Fridays that fall on a day the courthouse is closed and are held in the James Lorah Auditorium, 132 North Main Street, Doylestown, PA 18901 (corner of Broad and Main Streets) directly across from the courthouse.

Procedure once judgment is entered and writ of possession is filed in post-foreclosure ejection action:

Notice provided

Length and specificity of notice to former owner and/or occupants regarding forcible eviction:

30 days minimum by Sheriff's Office policy (unless there are extenuating circumstances that require less notice); a particular date for the eviction is provided to the former owner and/or occupants of the property; a \$100 deposit must be posted by the mortgage company's law firm toward the costs of a locksmith, moving and storage of any personal possessions still at the premises.

Other information provided:

\$2,000 deposit must be posted by the mortgage company's law firm at the time of filing the writ of execution to have the property listed for Sheriff's Sale to cover the Sheriff's commission and advertising costs; the unused portion will be returned either after the sale or if the case is resolved and the sale does not take place.

General Sheriff's office website link for more information and Sheriff's Sale listings:

www.buckscounty.org/government/rowOfficers/Sheriff/SheriffRealEstateSalesListings.aspx

Contact information:

Sheriff's Office
Edward J. Donnelly, Sheriff
Bucks County Court House
55 E. Court Street, 1st Floor
Doylestown, PA 18901
Main Number: 215-348-6124
Real Estate: 215-348-6132
Civil Rates: 215-348-6130
Civil Rates (out of County): 215-348-6122
Personal Property: 215-348-6129

Chester County

Length of time between filing writ of execution and date of Sheriff's Sale:

Approximately three months (see schedule available from website: dsf.chesco.org/sheriff/lib/sheriff/pdf/legalcal2008.pdf); sales take place on the 3rd Thursday of each month at 11:00 a.m., except December and are held at the Chester County Justice Center, Sheriff's Department, 201 West Market Street, Suite 1201, in a Courtroom to be assigned the week of the sale.

Procedure once judgment is entered and writ of possession is filed in post-foreclosure ejection action:

Notice provided

Length and specificity of notice to former owner and/or occupants regarding forcible eviction:

Sheriff's deputy serves former owner/occupants with writ of execution and provides between 6 and 30 days notice of the date of forcible ejection (usually the actual length of notice is about three weeks); a particular date for the eviction is provided on the writ posted on the property to the former owner/occupants of the property; the mortgage company's law firm or that of any other new owner of the property must confirm that they are ready to proceed 24 hours in advance of the scheduled ejection date and arrange for a locksmith, moving truck and storage facilities

for any personal possessions still at the premises or the Sheriff's office will not proceed with the ejection and will require that a new writ be issued; the former owner/occupants are given the opportunity to take any possessions with them that they can put in their vehicle or otherwise remove from the premises and can designate their own storage facility in lieu of the storage facility arranged by the mortgage company or other new owner of the property.

Other information provided:

\$2,000 deposit must be posted by the mortgage company's law firm at the time of filing the writ of execution to have the property listed for Sheriff's Sale to cover the Sheriff's Fees and advertising costs; the unused portion will be returned either after the sale or if the case is resolved and the sale does not take place.

General Sheriff's office website link for more information and Sheriff's Sale listings:

dsf.chesco.org/sheriff/cwp/view.asp?a=3&q=609171#2005

Contact information:

Office of the Sheriff
Chester County Justice Center
Carolyn B. Welsh, Sheriff
201 West Market Street, Suite 1201
West Chester, PA 19380-0991

Delaware County

Length of time between filing writ of execution and date of Sheriff's Sale:

Approximately three months, in accordance with a schedule of deadlines for getting all paperwork in to schedule a Sheriff's Sale on a property. The schedule is not on the website, but is available from the Sheriff's office. Sales take place about three months after the paperwork has been submitted, on the third Friday of each month at 11:00 a.m. (unless the third Friday is a holiday, when the sale will be held on Thursday) and are held in the County Council Meeting Room on the first floor of the Government Center Building, Delaware County Court House, Front Street & Veterans Square, Media, PA 19063.

Procedure once judgment is entered and writ of possession is filed in post-foreclosure ejection action:

Notice provided

Length and specificity of notice to former owner and/or occupants regarding forcible eviction:

Approximately two weeks by Sheriff's Office practice (but in special circumstances a former owner/occupant could be ejected without notice); first the writ of possession is served; then, unless special circumstances justify an ejection without further notice, a date is provided to the former owner and/or occupants by mail and posting of the property on a form used by the Sheriff's Office; a \$250 deposit must be posted by the mortgage company's or new owner's law firm for Sheriff's costs in the ejection

action and the firm must arrange for a locksmith, bonded moving company and a storage facility within Delaware County for entry and removal of any personal possessions still at the premises and confirm these arrangements with the Sheriff's office 2 days in advance of the scheduled date for the ejection or the ejection is postponed and must be rescheduled.

Other information provided:

\$2,000 deposit must be posted by the mortgage company's law firm at the time of filing the writ of execution to have the property listed for Sheriff's Sale to cover the Sheriff's commission and advertising costs; the unused portion will be returned either after the sale or if the case is resolved and the sale does not take place.

General Sheriff's office website link for more information and Sheriff's Sale listings:

www.co.delaware.pa.us/sheriff/realestate.html

Contact information:

Sheriff's Office
Joseph F. McGinn, Sheriff
Delaware County Court House
201 W. Front Street, Room 101
Media, PA 19063
Main Number: 610-891-4296
FAX: 610-891-1765
Real Estate: 610-891-4305

Montgomery County

Length of time between filing writ of execution and date of Sheriff's Sale:

Approximately two months (see schedule available from website: sheriff.montcopa.org/sheriff/cwp/view,a,1529,q,41042.asp); sales generally take place on the last Wednesday of each month (except in November and December, when they are scheduled earlier in the month) at 1:00 p.m. and are held in Courtroom "A" at the Montgomery County Courthouse, Swede and Airy Streets, Norristown, PA 19404.

Procedure once judgment is entered and writ of possession is filed in post-foreclosure ejection action:

Notice provided

Length and specificity of notice to former owner and/or occupants regarding forcible eviction:

Sheriff's deputy serves former owner/occupants with a Writ of Possession and provides a 30 day notice to vacate the property. After 30 days has expired Sheriff's Deputies will schedule a date for eviction; the mortgage company's law firm must provide a moving truck and storage facilities for any personal possessions still at the premises.

Other information provided:

\$3,020 deposit must be posted by the mortgage company's law firm at the time of filing the writ of execution to have the property listed for Sheriff's Sale to cover the Sheriff's commission and advertising costs; the unused portion will be returned either after the sale or if the case is resolved and the sale does not take place

General Sheriff's office website link for more information and Sheriff's Sale listings:

sheriff.montcopa.org/sheriff/cwp/view,a,1529,q,41007.asp

Contact information:

Montgomery County Sheriff's Department
John P. Durante, Sheriff
Court House, 1st Floor
P.O. Box 311
Norristown, PA 19404
610-278-3331

Philadelphia County

Length of time between filing writ of execution and date of Sheriff's Sale:

Approximately three months between filing and sale (see schedule available on the website www.phillysheriff.com/homesales.html) Sales take place on the first Tuesday of each month, check website for updates. The sales take place at 10:00 a.m. at The First District Plaza, 3801 Market Street, 3rd Floor, Philadelphia, PA.

Procedure once judgment is entered and writ of possession is filed in post-foreclosure ejection action:

Notice provided.

Length and specificity of notice to former owner and/or occupants regarding forcible eviction:

The Philadelphia Court of Common Pleas serves the former owner/occupants with a Writ of Possession and provides a 30 day notice to vacate the property. After 30 days have expired Philadelphia Sheriff's Real Estate Division will provide the former owner/occupants with a formal eviction notice; the mortgage company must provide a moving truck, locksmith and storage facilities for any personal possessions still at the premises.

Other information provided:

The mortgage company must pay a \$2,000 deposit at the time of filing the writ.

General Sheriff's office website link for more information and Sheriff's Sale listings:

www.phillysheriff.com

Contact information:

Philadelphia City and County Sheriff's Department
John D. Green, Sheriff
100 South Broad Street, 5th floor
Philadelphia, PA 19110
SheriffGreen@PhillySheriff.com
Main Phone: 215-686-3530
Real Estate Phone: 215-686-3535, 3534
Real Estate Fax: 215-686-3971