

Learning About Foreclosures (Part 1)

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Ever play the word game where someone says a word and you say the first word that pops into your mind? For example, if Kim says “Happy.”, I say “Marriage!”. If Kim says “Beautiful.”, I say “Redhead!”. If Kim says “Wise.”, I say “Wife!”. You get the idea. (Husbands, if you don’t play the game *just* this way, you’ll say “Sleep”, and she’ll say “Couch!”)

Let’s carry this word game over to REI (Real Estate Investing). If I say “Real Estate Investing”, most folks will say “Foreclosures”. REI has always been closely tied to the Foreclosure market. Why? Because the average person doesn’t have a clue how the Foreclosure process works.

Today’s mission is to clear up some of the mystery surrounding Foreclosures. First thing you need to know is that you will not become a Foreclosure expert by the end of this column. Kim and I have been at it for almost nine years, and we are still learning new things.

DO ALL STATES HAVE THE SAME FORECLOSURE RULES? Nope, fact is each state has its own Foreclosure rules. What works in Georgia won’t work in California or Mississippi, etc.

WHAT ARE THE FORECLOSURE RULES IN GEORGIA? Georgia is a non-judicial Foreclosure state. This means that the mortgage company doesn’t need to go to court in order to Foreclose on a property. All they need to do is:

First, send the person(s) whose name(s) is on the mortgage a certified letter telling him that his house is about to be sold at the Foreclosure auction.

Second, run a weekly Foreclosure advertisement in the legal section of the county’s (the county in which the property is located) “legal paper of record” for the four consecutive weeks prior to the auction. (To find which is your county’s legal paper of record, call your county’s Clerk of Superior Court office. They will know.)

Third, on the first Tuesday of the month between the hours of 10 a.m. and 4 p.m., a representative of the Foreclosing attorney must stand in front of the county’s court house doors and read the legal notice as it appeared in the newspaper. After the notice has been read, the auction is conducted.

Fourth, the property is sold to the highest bidder. The winning bidder must pay for the property in full with either cash or certified funds, *right* then and *right* there! If the winning bidder does not have these funds, then the property is immediately re-auctioned.

Fifth, if no one bids on the property, the mortgage company gets the property back. The property is then known as REO (Real Estate Owned) property.

WHAT ALLOWS THE MORTGAGE COMPANY TO FORECLOSE ON A PROPERTY? When someone needs to borrow money (get a mortgage) with which to buy a

property, they must go to a “closing”. At the closing, you’ll usually find a Closing Attorney, a big wooden table with comfortable chairs, lots of papers to sign, and a big bowl of candy in the center of the table.

When the closing begins, the Closing Attorney will request (require is a better word) that you sign papers until you have writer’s cramp. One of the papers you sign is a Security Deed. By signing the Security Deed you agree to use the property you are buying as collateral for the mortgage. In other words, if you don’t make your Note payments like you promised, the mortgage company can sell your house at the Foreclosure auction to help them recover the money you borrowed.

Another document you sign is called a “Waiver of Borrower’s Rights”. Want to guess which rights you are waiving? That’s right, you are waiving your rights to a jury trial and agreeing to let the mortgage company Foreclose on your property if you don’t live up to the terms in the Security Deed.

What if you decide not to sign the Security Deed or the Wavier of Borrower’s Rights? Simply put, no signee, no checkee. No checkee, no housee.

Next week we’ll talk about how to buy Foreclosure properties.