

5 Ways to Stop a Foreclosure

The gulf states must contend with hurricanes. The northeast has their bitter cold. Here in California we must always be prepared for "The Big One," earthquakes that is. As our economy limps along, virtually lifeless, and looking more like a depression rather than the politically correct "recession," we must be prepared for the onslaught of more potential foreclosures.

If you or someone you know is facing or potentially facing a foreclosure, an attorney who is familiar with this area of law can explain your options so you can choose the course of action that is best for your individual needs, goals and desired outcome.

The five (5) ways to stop a foreclosure are:

1. Modification
2. Short Sale
3. Deed in Lieu
4. Bankruptcy
5. Injunction

Of the methods listed above, only a bankruptcy and a court-ordered injunction will legally stop a foreclosure and even those methods may be temporary. Most of the time, the lender may suspend their foreclosure proceedings in order to entertain the workout options of a modification, short sale or deed in lieu of foreclosure, but they are not legally required to do so.

Recent court rulings in Massachusetts to invalidate thousands of foreclosure proceedings because the chain of title had not included all of the assignments that had taken place prior to foreclosure. Unfortunately, a homeowner is not likely to invalidate a foreclosure in California after the sale date, especially where a bonified purchaser is involved and the property has been transferred.

A Chapter 13 bankruptcy is still the most economical and effective way to temporarily stop a foreclosure because of the automatic stay. This allows the homeowner time to make up all past due payments. This also allows the attorney to file any adversary proceedings necessary to invalidate the foreclosure proceedings and possibly sue the lender under TILA and RESPA violations; potentially recouping damages on behalf of their clients.

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