

**GILLESPIE & MURPHY, P.A.**  
**ATTORNEYS AT LAW**  
*Foreclosure Frequently Asked Questions*

• *What is a foreclosure?*

Foreclosure is the legal process in which a lienholder takes possession of property.

• *How will I know when a foreclosure starts?*

The lienholder must provide notice to the borrower. First, the lienholder will provide a pre-foreclosure notice. Second, the lienholder will provide the notice of default. Third, the lienholder will provide notice of the hearing. Fourth, the lienholder will provide notice of the sale.

• *How long does the process take?*

It depends. The typical foreclosure takes 2-3 months. This time frame may be shortened or lengthened.

• *Where is a foreclosure hearing held?*

Most foreclosure hearings in North Carolina are held at the Courthouse before the Clerk of Superior Court in the county where the property is located. Sometimes a foreclosure hearing may be held before a Superior Court Judge.

• *How will I know when the foreclosure sale will be held?*

Notice of the foreclosure sale will be mailed to the borrower at least twenty (20) days before the sale; posted in a public place like the courthouse, and published in the local newspaper.

• *Can the Clerk postpone the hearing or sale?*

Yes. The clerk may postpone the proceedings for up to sixty (60) days if it is likely the parties will resolve the matter.

• *Does a loan modification stop a foreclosure?*

It depends. Loan modifications are voluntary and a lender is not obligated to stop the foreclosure process.

• *How long will I have to move once the sale takes place?*

The borrower has a 10-day upset period after the sale in which they can redeem the property. If the borrower does not move out, the new purchaser must provide a 10-day notice to leave before going to the clerk to get an order for possession.

• *Does a bankruptcy stop a foreclosure?*

Yes. Filing of a bankruptcy case will automatically stay the foreclosure process. However, the bankruptcy must be filed before the 10-day upset period is completed. Bankruptcy may help you save your home.

• *What is my liability for the loan balance?*

It depends. There are legal and tax issues associated with every foreclosure. North Carolina recognizes an anti-deficiency statute in limited circumstances. You should consult with an attorney and/or tax advisor. If there is a second lien, there is a likelihood, you will still owe the balance.

• *How does foreclosure affect my credit?*

Your credit score is your credit reputation whereas your credit report is your credit history. Your payment history is the largest category to determine your credit score. The foreclosure typically shows up as a negative on your payment history and may adversely affect your credit score.

• *Are there other advantages in Bankruptcy?*

Yes, you may possibly avoid a second lien on your home and avoid personal liability on the debt.