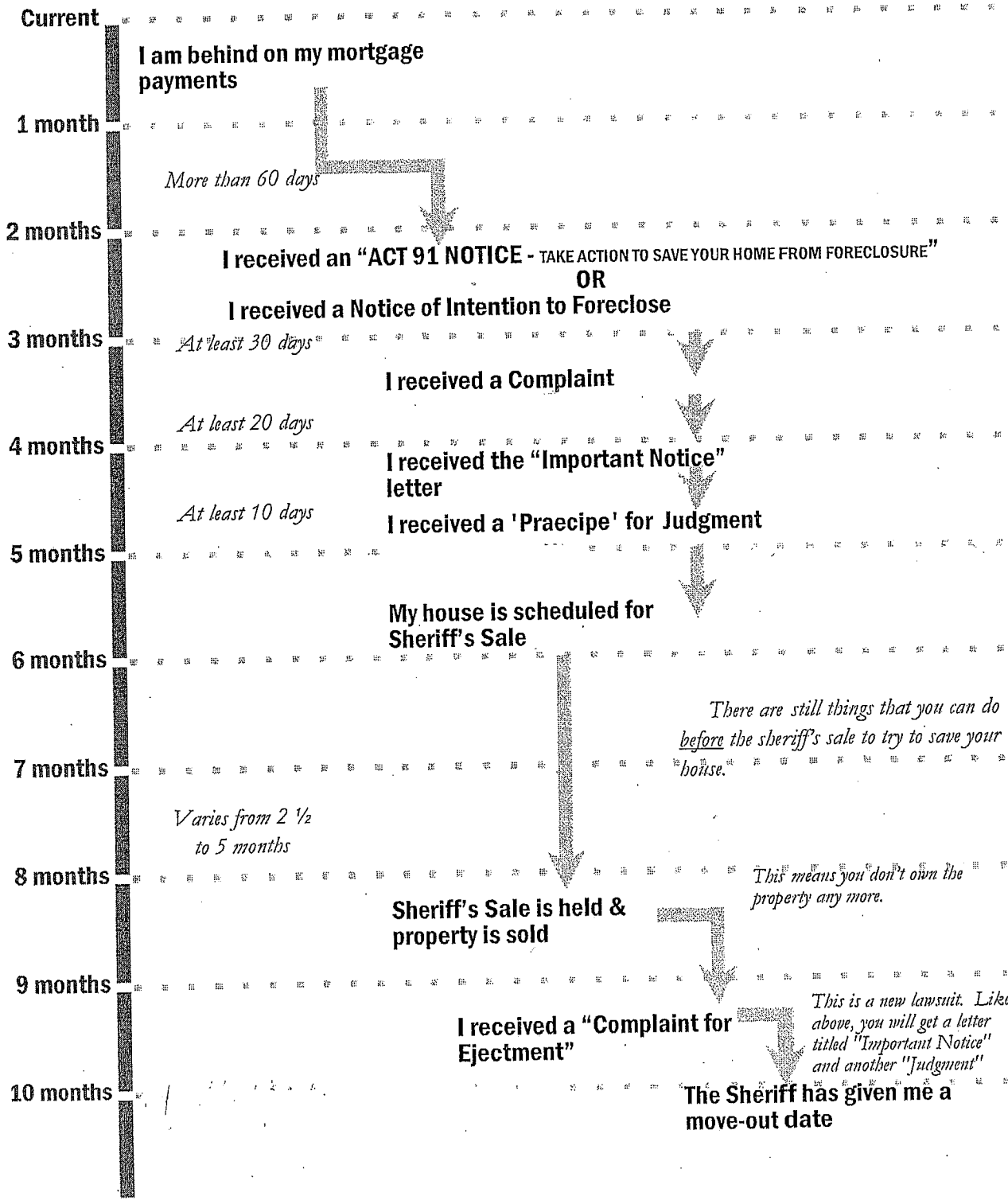


Understanding the Mortgage Foreclosure Process

This chart is meant to give you an idea of what happens if you don't 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 Foreclosure Process Explained

Step 1: I am behind on my mortgage payments

If you fall behind in your mortgage payments or if your mortgage company bills you for additional charges that you cannot pay or do not believe you owe and refuse to pay, you will receive any number of letters in different forms telling you 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 1, 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 either "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, but only if you meet with an approved housing counseling agency within 33 days of the date on the notice. You MUST contact a housing counselor 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 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.

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 Sheriff's Sale to each person who signed the mortgage and post a big Sheriff's Sale sign on your door.

NOTE: Sheriff's Sale is your cut-off. If your house sells at Sheriff's Sale, then 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.)

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, "reinstating" the mortgage, or filing a bankruptcy petition), and if the mortgage company has met all the requirements for the Sheriff's Sale to go forward, the sale will take place in a public place, usually the local county courthouse. Once someone buys your home at the Sheriff's 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. Sometimes, they will offer "cash for keys" – money for you to promise to move out by an agreed upon date. Sometimes, the new owner may offer to allow you to stay and pay rent. The new law does not require the

new owner to do any of this. Whether to accept 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 do that. 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 that 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 largely 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.