

## A FORECLOSURE PROCEEDING

When you invest in a Real Estate loan, your security is a Deed of Trust. This document contains a Power of Sale which is the remedy allowing you to foreclose if the borrower does not perform as promised. In order for you to better understand your investment, it is important to know the fundamental procedures involved in a California Non-Judicial Foreclosure.

### **1. DEFAULT.**

The first step in a Foreclosure action is to determine exactly how the borrower has failed to live up to the terms of the Note and Deed of Trust. Possible reasons for default include failure to make the principal and/or interest payments due to you or to a senior lienholder, failure to keep adequate insurance on the property, failure to pay property taxes, or perhaps a non-monetary issue ie. failure to owner occupy the property or selling the property without your approval or knowledge. After the reasons for the default have been ascertained, a formal document called a *Notice of Default and Election to Sell* is recorded with the County Recorder in the county the property is located. The Foreclosure process which takes four months to complete does not begin until the Notice of Default has been recorded. Copies of the Notice of Default must be mailed to certain people as detailed on a *Trustee's Sale Guarantee* which comes from a Title Company. This is similar to your Title Insurance Report. The costs for these procedures, including the Trustee's Sale Guarantee, certified mailings, recordation of documents, fees for the Trustee (Golden West Foreclosure Service, Inc.) must be paid by the borrower when he/she reinstates or before we rescind the Foreclosure.

### **2. PUBLICATION PERIOD.**

After the Notice of Default has been on record for three months and one day pursuant to California Civil Code, and no reinstatement has occurred, a *Notice of Trustee's Sale* is prepared setting forth the date and time and place of a Trustee's Sale on the property. The Notice of Trustee's Sale must be recorded, the property posted and the notice published three times in an adjudicated newspaper, and also the Title Report (Trustee's Sale Guarantee) is updated at this time. This is considered the "publication period" and as above the Trustor would be responsible for these costs in order to reinstate or payoff their loan.

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