

# Georgia Foreclosure Law Summary©

## Quick Facts

- Judicial Foreclosure Available: **Yes**
- Non-Judicial Foreclosure Available: **Yes**
- Primary Security Instruments: **Deed of Trust, Mortgage**
- Timeline: **Typically 90 days**
- Right of Redemption: **Yes**
- Deficiency Judgments Allowed: **Yes**

In Georgia, lenders may foreclose on deeds of trusts or mortgages in default using either a judicial or non-judicial foreclosure process.

## Judicial Foreclosure

The judicial process of foreclosure, which involves filing a lawsuit to obtain a court order to foreclose, is used when no power of sale is present in the mortgage or deed of trust. Generally, after the court declares a foreclosure, the property will be auctioned off to the highest bidder.

## Non-Judicial Foreclosure

The non-judicial process of foreclosure is used when a power of sale clause exists in a mortgage or deed of trust. A "power of sale" clause is the clause in a deed of trust or mortgage, in which the borrower pre-authorizes the sale of property to pay off the balance on a loan in the event of their default. In deeds of trust or mortgages where a power of sale exists, the power given to the lender to sell the property may be executed by the lender or their representative, typically referred to as the trustee. Regulations for this type of foreclosure process are outlined below in the "Power of Sale Foreclosure Guidelines".

## Power of Sale Foreclosure Guidelines

If the deed of trust or mortgage contains a power of sale clause and specifies the time, place and terms of sale, then the specified procedure must be followed. Otherwise, the non-judicial power of sale foreclosure is carried out as follows:

1. A foreclosure notice must be mailed by certified mail, return receipt requested to the borrower no later than 15 days prior to the date of the foreclosure sale. The time period begins the day the letter is postmarked. The notice must be mailed to the address given to the lender by written notice from the borrower. No waiver or release of the rights to notice is valid if it was signed at the same time as the original documents.

The notice must be published in a newspaper of general circulation in the county where the sale will be held once a week for four (4) weeks proceeding the date of the foreclosure sale.

2. The sale must be made by public auction on the first Tuesday of the month between 10:00 am and 4:00 p.m. at the courthouse.

Lenders may seek a deficiency judgment in Georgia.

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