

STATE FORECLOSURE LAWS:
THE MEANING OF DIFFERENCE

Federal Reserve Board Forum:
Fixing the Foreclosure System
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Hypothetical State Foreclosure Laws

	State A	State B	State C
Nonjudicial Permitted	Nonjudicial (POS)	Nonjudicial (POS)	Judicial
Notice Required	Foreclosure	Default and Foreclosure	Civil Complaint
Service Method	Publish, Record, Serve	Record, Serve	File, Record, Serve
Min Mths to Sale	3	2	8
Reinstatement Rt	Until Sale	Until 15 Days Before Sale	None
Redemption Rt	Until 6 months after sale	None	None
Deficiency Judgment	Prohibited (but if jud process used, Sale Price - Amt Owed)	Sale Price - Amt Owed	FMV - Amt Owed (& court order)

Hypothetical Borrowers

	Sally Owner-Occupier	Bill Investor
Type	Single Family Owner-Occ	Four-plex
FMV	\$200,000	\$600,000
Amt Owed	\$125,000	\$700,000
Cause of Default	Unemployment/Disability	Negative Cash Flow
Rent	n/a	Rent of \$750/unit/mth

State A Foreclosure Procedure

Months

0

1

2

3

4

5

6

7

8

**NOTICE
SALE**
PUBLISHED

**NOTICE OF
FORECLOSURE**
RECORDED AND SERVED

SALE
TRANSFER OF
CONTINGENT TITLE

REDEMPTION PERIOD

**END H.O. RIGHT
OF REDEMPTION/
POSSESSION**

**NO
DEFICIENCY
JUDGMENT**

State B Foreclosure Procedure

Months

0

1

2

3

4

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**NOTICE
DEFAULT**
SERVED

**NOTICE OF
FORECLOSURE**
RECORDED AND SERVED

SALE
TRANSFER OF
TITLE & POSSESSION

**DEFICIENCY
JUDGMENT =
SALE PRICE -
AMOUNT OWED**

State C Foreclosure Procedure

Months

0

1

2

3

4

5

6

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8

CIVIL COMPLAINT
FILED, RECORDED
& SERVED

JUDICIAL PROCESS

ORDER FOR SALE

SALE
TRANSFER OF
TITLE & POSSESSION

**LATER COURT ORDER
FOR
DEFICIENCY JUDGMENT =
FMV -
AMOUNT OWED**

Sally Owner–Occupy in State A

Months

0

1

2

3

4

5

6

7

8

**NOTICE
SALE**
PUBLISHED

**NOTICE OF
FORECLOSURE**
RECORDED AND SERVED

SALE
TRANSFER OF
CONTINGENT TITLE

REDEMPTION PERIOD

**END H.O. RIGHT
OF REDEMPTION/
POSSESSION**

**NO
DEFICIENCY
JUDGMENT**

Sally Owner–Occupy in State B

Months

0

1

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3

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**NOTICE
DEFAULT**
SERVED

**NOTICE OF
FORECLOSURE**
RECORDED AND SERVED

SALE
TRANSFER OF
TITLE & POSSESSION

**DEFICIENCY
JUDGMENT =
SALE PRICE -
AMOUNT OWED**

Sally Owner–Occupy in State C

Months

0

1

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**CIVIL
COMPLAINT**
FILED, RECORDED
& SERVED

JUDICIAL PROCESS

**ORDER FOR
SALE**

SALE
TRANSFER OF
TITLE & POSSESSION

**LATER COURT ORDER
FOR
DEFICIENCY JUDGMENT =
FMV -
AMOUNT OWED**

Bill Investor in State A

Months

0

1

2

3

4

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**NOTICE
SALE**
PUBLISHED

**NOTICE OF
FORECLOSURE**
RECORDED AND SERVED

SALE
TRANSFER OF
CONTINGENT TITLE

REDEMPTION PERIOD

**END H.O. RIGHT
OF REDEMPTION/
POSSESSION**

**NO
DEFICIENCY
JUDGMENT**

Bill Investor in State B

Months

0

1

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**NOTICE
DEFAULT**
SERVED

**NOTICE OF
FORECLOSURE**
RECORDED AND SERVED

SALE
TRANSFER OF
TITLE & POSSESSION

**DEFICIENCY
JUDGMENT =
SALE PRICE -
AMOUNT OWED**

Bill Investor in State C

Months

0

1

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3

4

5

6

7

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CIVIL COMPLAINT
FILED, RECORDED
& SERVED

JUDICIAL PROCESS

ORDER FOR SALE

SALE
TRANSFER OF
TITLE & POSSESSION

**LATER COURT ORDER
FOR
DEFICIENCY JUDGMENT =
FMV -
AMOUNT OWED**