

# California Foreclosure Process (Non-Judicial)

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.

## 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:

A notice of sale must be:

- 1) recorded in the county where the property is located at least fourteen (14) days prior to the sale
- 2) mailed by certified, return receipt requested, to the borrower at least twenty (20) days before the sale
- 3) posted on the property itself at least twenty (20) days before the sale
- 4) posted in one (1) public place in the county where the property is to be sold

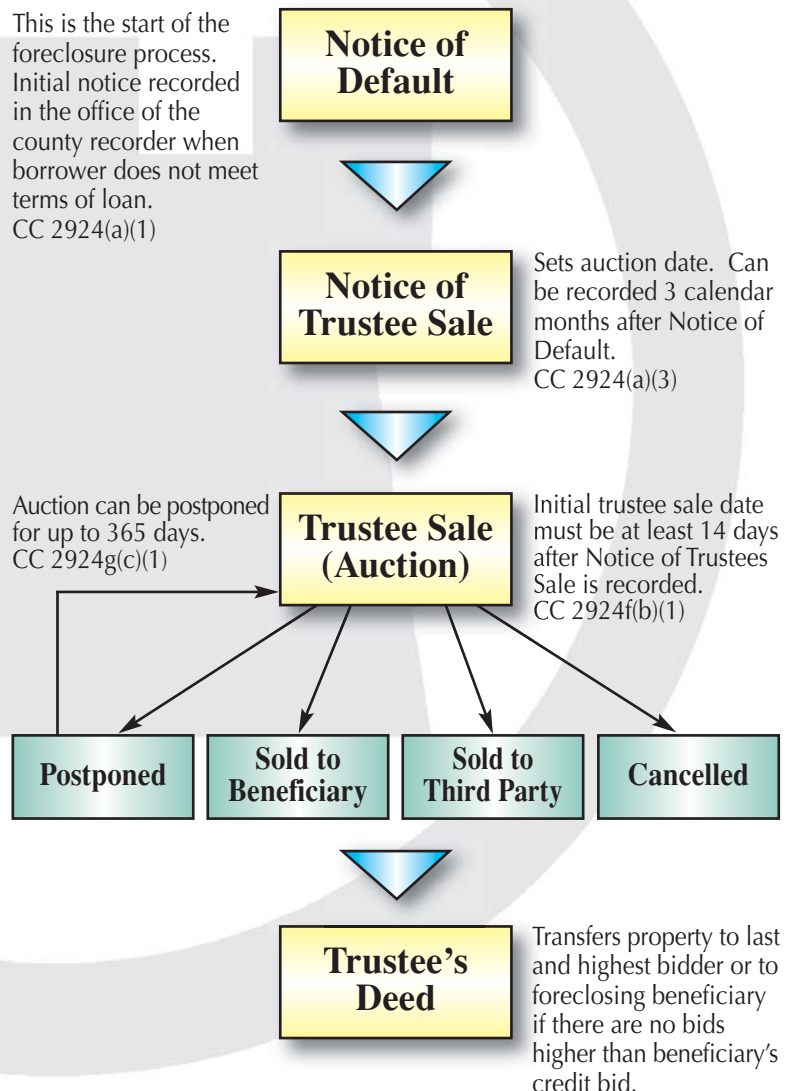
The notice of sale must contain the time and location of the foreclosure sale, as well as the property address, the trustee's name, address and phone number and a statement that the property will be sold at auction.

The borrower has up until five days before the foreclosure auction to cure the default and stop the process.

The sale may be held on any business day between the hours of 9:00 am and 5:00 pm and must take place at the location specified in the notice of sale. The trustee may require proof of the bidders ability to pay their full bid amount. Anyone may bid at the sale, which must be made at public auction to the highest bidder. If necessary, the sale may be postponed by announcement at the time and location of the original foreclosure sale.

Lenders may not seek a deficiency judgment after a non-judicial foreclosure sale and the borrower has no rights of redemption.

## California Foreclosure Process Chart



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