

Chapter 7

Foreclosures and Bank Owned Properties

Finding a Foreclosure Sale

Foreclosure notices are typically posted at courthouses, clerk's offices, town halls and printed in newspapers. They list the property's address, the date, time and place when the bidding will occur and, occasionally other relevant information such as the minimum acceptable bid -- which is usually the amount owed on the mortgage loan. Though it varies widely depending upon the state in which the property is located, bidders will frequently meet at the entrance to the property itself, on the courthouse steps, or be directed to a room. I have seen foreclosure sales with crowds standing in the room at convention sites, and others with only two or three people in attendance. While gavels are traditional in some places, in no state does the law require them.

Buying a Foreclosed Property

At the time you are attending a foreclosure auction, the foreclosure litigation should be concluded along with the removal of the liens, encumbrances and judgments previously affecting the property. Although the foreclosure sale is supposed to extinguish all outstanding liens, this is not always the case.

First, you want to make sure that the foreclosing party has the most senior lien; if it does not, your purchase may be swallowed into the larger lien. Simply run a title or lien search on the property to identify the foreclosing lien's seniority position. If this is second or third, and older liens have not expired due to the statute of limitations or for any other reason, then the purchaser would have to foreclose or pay off the older liens to obtain clear title.

Second, any lien or encumbrance not named in the foreclosure action may force the foreclosure sale to be overturned. The title or lien search should allow you to identify such liens. I strongly suggest that you do not enter the foreclosure world without professional guidance.

Attending the Foreclosure Auction

A foreclosure auction is not the time to tell everyone how much you love or know about the property. You don't want to share, or let everyone know how familiar you are with the home's features. It *is* the time to ask questions and learn as much as possible from others, while surrendering no information of your own. Many will have individuals present who attend these auctions as a profession. In some cases, only sparse details about the home will be available and people bid based only on limited information, such as details from a foreclosure internet service that provides basic data like taxes, the amount of the mortgage and sales history. Get to the auction extra early to familiarize yourself with the protocol and ensure that you have time to get to the right place and register properly.

Determining How Much Money to Bring to the Auction

It is not only how *much* money you bring to the foreclosure sales, but *how* you bring the money. The auctioneer will usually require between five and ten percent of the auction price as a down payment upon obtaining the winning bid, or even just to register for the auction. You do not want to overpay and certainly do not want to underpay. Most auctions require bank checks or certified funds as payment. Depending on the approximate purchase price, you will want to bring