

Chapter 6

Pre-Foreclosures and Short Sales

Finding a Pre-foreclosure

Many states' laws usually require legal proceedings for home foreclosure on homes. However, the following information does not apply to states without judicial or court ordered foreclosures.

At the beginning of this kind of proceeding, the lender files a "notice of pendency" (otherwise known as a "lis pendens") with the county clerk, court clerk, land records office or registry. This document notifies all involved that a legal proceeding affecting a property's ownership interest has been initiated -- and announces that a homeowner has defaulted on a mortgage and the foreclosure process has begun. The notice of pendency is useful to the deal hunter, as it allows a bargain hunter potentially to find a seller that may be forced to sell at a less than market price.

However, these searches are not for the faint of heart. They provide the potential for an incredible deal for someone with specific information about a certain home or building, or who has been tracking a certain neighborhood and has a lot of free time. However, these exhaustive searches can also be frustrating and often result in failure. Some typical obstacles include the inability to access the home, failing to discover that there is already a sale to another person in progress, finding that the home is heavily encumbered with liens, and encountering unusual difficulties in negotiation. Even if you're able to get past all of this, you may discover that the homeowners have either pulled out of your deal or have taken a better deal elsewhere -- even after they've orally agreed to your terms.

Of course, finding a fantastic deal on one of the biggest investments of your lifetime will make the sweat, exhaustion and the risks involved worth it.

Using the Internet to Find a Pre-Foreclosure

The internet has become involved in the pre-foreclosure arena. Private for-profit websites provide lists of notice of pendency filings, many of which even offer free trial periods. I am aware of at least one website that provides dependable data. Since many real estate brokerages subscribe to these services, feel free to ask them about dependable resources in your area. Though my real estate company does searches free of charge for its clientele, such services are not typical and can usually only be found in boutique brokerage houses.

The Foreclosure Filing

To find pending foreclosure cases, go to the county clerk's office -- or your state's equivalent -- for a list of the notice of pendency filings. Though these records are available to the public, they are almost never user-friendly. Once the computer, big book or list reaches your hands, you'll want to separate the cases initiated by banks -- since those actions are most likely foreclosure filings.

Since the cases are usually indexed by plaintiff and defendant, you should be able to narrow the search considerably. First determine which banks are the most common lenders in the neighborhoods that interest you; then, simply look up those banks as plaintiffs in the land records index. For example, if "Bank X" is a typical mortgage bank in your area, going directly to Bank X listings is a lot faster than going through all the listings.