

# Foreclosure Law

Nash Law Firm, LLC provides representation in a variety of real estate matters to individuals and businesses, including foreclosure matters. A description of our broader real estate practice is contained in the Real Estate section of our website.

We provide representation to lenders and borrowers in foreclosure matters. We provide pre-foreclosure advice and representation when warranted. We explore with our clients options for a beneficial resolution that avoids the institution or continuation of legal proceedings. We provide litigation services when needed to protect or advance client interests. When appropriate, we evaluate troubled real estate relationships in the larger context of a client's overall financial picture to help determine the best course of action. We counsel clients with regard to the potential positive or negative role that bankruptcy may play, and can represent clients in bankruptcy matters

As each situation is different, we develop an effective approach for each client by reviewing and evaluating at the outset the circumstances and laws that apply to their particular situation. We can develop this approach during the initial consultation that can be arranged by **contacting us**.

In N.J.S.A. 2A:50-54, New Jersey's legislature declared that that homeowners should be given every opportunity to pay their home mortgages and retain their homes and that lenders will benefit when residential mortgage debtors cure their defaults and return defaulted residential mortgage loans to performing status.

For residential mortgages, once a mortgage debtor fails to perform any obligation of a residential mortgage, N.J.S.A. 2A:50-56 authorizes the lender to accelerate the maturity of the mortgage obligation and begin foreclosure or other legal action to take possession of the residential property which is the subject of the mortgage. However, the lender is required by law to give notice of such intention at least 30 days in advance to the mortgage debtor. This notice must be in writing, sent to the debtor by registered or certified mail, return receipt requested, at the debtor's last known address, and, if different, to the address of the property which is the subject of the residential mortgage. The notice is deemed to have been effectuated on the date the notice is delivered in person or mailed to the party. The written notice must clearly make the debtor aware of the situation:

- (1) the particular obligation or real estate security interest;
- (2) the nature of the default claimed;
- (3) the right of the debtor to cure the default as provided in section 5 of this act;1

(4) what performance, including what sum of money, if any, and interest, shall be tendered to cure the default;

(5) the date by which the debtor shall cure the default to avoid initiation of foreclosure proceedings, which date shall not be less than 30 days after the date the notice is effective, and the name and address and phone number of a person to whom the payment or tender shall be made;

(6) that if the debtor does not cure the default by the date specified, the lender may take steps to terminate the debtor's ownership in the property by commencing a foreclosure suit in a court of competent jurisdiction;

(7) that if the lender takes the steps indicated pursuant to paragraph (6) of this subsection c., a debtor shall still have the right to cure the default pursuant to section 5 of this act, but that the debtor shall be responsible for the lender's court costs and attorneys' fees in an amount not to exceed that amount permitted pursuant to the Rules Governing the Courts of the State of New Jersey;

(8) the right, if any, of the debtor to transfer the real estate to another person subject to the security interest and that the transferee may have the right to cure the default as provided in this act, subject to the mortgage documents;

(9) that the debtor is advised to seek counsel from an attorney of the debtor's own choosing concerning the debtor's residential mortgage default situation, and that, if the debtor is unable to obtain an attorney, the debtor may communicate with the New Jersey Bar Association or Lawyer Referral Service in the county in which the residential property securing the mortgage loan is located; and that, if the debtor is unable to afford an attorney, the debtor may communicate with the Legal Services Office in the county in which the property is located;

(10) the possible availability of financial assistance for curing a default from programs operated by the State or federal government or nonprofit organizations, if any, as identified by the Commissioner of Banking and Insurance. This requirement shall be satisfied by attaching a list of such programs promulgated by the commissioner; and

(11) the name and address of the lender and the telephone number of a representative of the lender whom the debtor may contact if the debtor disagrees with the lender's assertion that a default has occurred or the correctness of the mortgage lender's calculation of the amount required to cure the default.

At **Nash Law Firm, LLC** , we represent both lender and mortgage debtors who become entangled in the foreclosure process.