

WHAT TO DO IF YOU RECEIVE A 30-DAY NOTICE OF INTENT TO FORECLOSE AN ARIZONA PROPERTY TAX LIEN

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If you own Arizona real estate for which some portion of the property taxes have not been paid, you will likely receive a 30-Day Notice of Intent to Foreclose when those unpaid taxes mature for foreclosure. This Notice is sent by a tax lien investor who has purchased the delinquent tax lien on your property. The investor is seeking repayment of the tax lien (usually with interest) or, alternatively, foreclosure and ownership of the liened property.

If you are the property owner, the Notice is a last call for you to pay the taxes, before a tax lien foreclosure law suit is initiated. The Notice is mandated by statute before the suit may be commenced, but your receipt of the Notice is not required by the statute. That is, if the investor has sent the Notice to an address that complies with the statutory requirement ("to the owner of record according to the records of the county in which the property is located" -- A.R.S. §42-18202) then the fact that the Notice has not been received by you is not likely to be a defense when the lawsuit is initiated. So if you learn of the Notice by accident or because someone forwards it to you, you should respond to it along the lines described in this article.

Information Required in the Notice

The Notice is required to contain the following information about the property subject to the tax lien: the legal description (not a street address); and the tax parcel number (an identification number assigned by the County Assessor and used by the County Treasurer to track tax payments). The Notice is also required to identify the Certificate of Purchase number of the tax lien intended to be foreclosed, and the earliest date (at least 30 days after the date of the Notice) that the foreclosure suit will be filed. With the foregoing information in the Notice, you should be able to confirm the tax liability and your ownership of the property, to determine what, if any, action you might take in response to the Notice.

React to the Notice

Don't ignore the Notice. Read it carefully. Failure to act in response to a 30-day Notice of Intent to Foreclose may result in a foreclosure judgment being entered against you (and your losing your interest in the property), or additional expense for attorney's fees and costs to payoff the liens, if suit is filed before you attend to the problem. Even if you have no interest in the

property, it may be preferable to deed the interest to the noticing party instead of ignoring the Notice, to avoid having a judgment entered against you, which might adversely affect your credit.

If you are not sure that you are the actual owner of the property, first call the County Assessor to double check, giving the tax parcel number as a reference. Further research may be necessary, such as contacting a real estate professional or title company ownership department, to confirm vesting deed information. If you recently transferred the property, you should forward the Notice to the party to whom you transferred the property, although you are under no statutory obligation to do so.

If you are satisfied that you indeed are the owner or have an interest in the property which is described in the Notice (note: the legal description in the Notice often tracks the Assessor's abbreviated description, not necessarily the full description spelled out on a deed), you will want to confirm the amount of the tax liability. To do this, you should first call the County Treasurer's Office, again giving as reference the tax parcel number. The Treasurer's Office can usually give the current payoff figure for the tax lien(s) sought to be foreclosed, as well as any other taxes owing on the property.

When the Notice and the Treasurer Are Inconsistent

Occasionally, however, the Treasurer's Office may report that taxes for the year described in the Notice are **not** owing, because they have been paid. In such a case, you should inquire actually *who* paid the taxes. If you were not the payor, the actual payor may still have a tax lien claim against the property for the taxes that person paid. Thus, you should next call the sender of the letter in case the information in the letter does not match the information available from the Treasurer's office, to determine the basis for the noticing party's claim upon which the Notice is based.

Pay the Taxes

To protect your interest in the property, you, someone else with an interest in the property, or someone on your behalf, must pay (redeem) the taxes. Sometimes the party issuing the Notice will be amenable to making arrangements with the property owner to allow the latter to pay the taxes other than in a lump-sum or to avoid being named in the suit.

If you are unable to pay the tax lien claim before the foreclosure suit is filed, all is not lost. Actual entry of a judgment foreclosing rights of redemption of a tax lien can only occur after the parties with an interest have been formally served with a summons and complaint in the suit, their defaults entered (if they fail to appear and answer the complaint), and the scheduling

of a default judgment hearing with the Superior Court. Under the law, redemption of the tax lien can be made at any time prior to entry of foreclosure judgment by the Court. The downside of delay in redeeming, though, is that once suit has commenced, the redeeming party will likely be additionally liable for the investor's attorney's fees and costs incurred in the action. And if not also paid at the time of redemption of the tax lien, this liability may result in entry of a money judgment against the redeeming party. Perhaps ironically, such a money judgment may attach as a lien to the redeeming party's interest in the property, and ultimately be enforced by a sheriff's execution sale.

Conclusion

In sum, if you receive a 30-day Notice of Intent to Foreclose a property tax lien, do not ignore it. Read it, confirm the details, and if you wish to protect your interest in the property against foreclosure, pay the taxes before suit is filed. After suit is filed you may still be able to redeem, but the expense of attorney's fees and court costs will likely be added to the amount necessary to pay off the claim.

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