Non-Uniform Foreclosures

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INTRODUCTION

Not all foreclosure actions fit neatly into the two broad categories of judicial or non-judicial foreclosures. In particular circumstances, a non-uniform foreclosure process is required, more appropriate, or more efficient than a standard state law foreclosure. These non-uniform foreclosures may closely follow the guidelines in most judicial or non-judicial foreclosures but may have nuances or even specific requirements that must be adhered to to be compliant and result in a valid transfer of title at the completion of the foreclosure process. Commercial loans and reverse mortgages each have unique processes and requirements that must be adhered to. Foreclosures on tribal lands and HUD Commissioner Foreclosures are both unique and have different procedures, timeframes, and specific requirements regarding who can be involved in the foreclosure. This paper discusses several of the non-uniform or alternative foreclosure types and processes that are commonly seen in this industry.

I. REVERSE MORTGAGE AS A NON-ROUTINE FORECLOSURE

Reverse Mortgages have become one of the most popular loan products in the United States. With most of the Baby Boomers now being 62 years of age or older, the concept of using the "equity in your home" (per TV ads) to provide retirees a place to live without paying a mortgage is very attractive. Reverse mortgages fit into the overall topic of "Non-Routine Foreclosures" given the uniqueness of the loan product, and causes for default vary more than those in a typical conventional mortgage foreclosure proceeding. The Baby Boomer Generation (born 1946-1964) accounts for [1] 70.09 million of the US population (approximately 21%) with the youngest of that generation turning 62 years old in 2026 whereby they will all be eligible for Reverse Mortgages. With mortgage interest rates going as low as 2.65% during the pandemic in 2020 [2] and property values increasing, Reverse Mortgages are going to be very attractive to those looking to retire who prefer to stay in their home.

In the case of a *Reverse Mortgage*, the bank pays out to the borrower like a home equity line of credit, but there is no requirement to make mortgage payments or repay the monies in the traditional sense. A borrower will pay the loan if they move, or their estate will if they die. The borrower is generally responsible for paying for property charges, including but not limited to taxes, ground rents, flood and hazard insurance premiums, special assessment and association dues. This is an attractive option allowing senior Americans to remain in their home without the responsibility of a large monthly mortgage payment when they are working less or retired. The common causes for default are a failure to pay taxes or insurance, transfer of title, no longer using as primary residence and the passing of the borrower(s) whereby there is no remaining spouse to continue. The latter is the most common as once the last borrower dies, the loan is due and payable in full. The distinction between a surviving spouse and a surviving borrower is an important one, as a surviving spouse did not execute the promissory note and would typically not be considered a surviving borrower under the terms of a reverse mortgage. [3]

Probate: Given the absence of a power of attorney or a pre-death conveyance of a deed, the need for probate arises. This delays the ability to pay the loan off for several months if not more than a year.

An estate will need to act quickly to retain an attorney and take the necessary actions. Depending on the jurisdiction, the probate can be a full or summary administration. The decedent either had a will or died "intestate" whereby the succession of heirs needs to be determined to distribute assets of the estate.

When applicable, the estate would then have to present the requisite documentation to the lender for authority through a process referred to as successors in interest in the industry to obtain a payoff. In the case of a conventional forward mortgage, assumption of the mortgage and other opportunities are available to resolve the default. These workout options are not available in a reverse mortgage. The death of the borrower(s) is not curable, and full payoff is necessary from a sale, refinance or some other source of funds. If the loan remains in default for too long, foreclosure is inevitable.

From the lender perspective, because the reverse mortgage requires the borrowers to use the subject property as their primary residence, the property is often vacant after the last qualified individual passes. The lender has a need to recover the asset quickly before disrepair, squatters (typically by heirs), code violations, or other preservation issues become a reality. Allowing the property to remain vacant for too long will often diminish the value of the property and result in a loss to the lender.

[1] U.S. population by generation 2023 | Statista
[2] Historical Mortgage Rates: See Averages and Trends by Decade | Mortgages | U.S. News (usnews.com)
[3] WVMF Fundin 12 USC §3751 g v. Palmero, 320 So. 3d 689 (Fla. 2021)

Conditions Precedent: Most conventional forward loans use standard Freddie Mac and Fannie Mae form language, and contain a pre-acceleration notice provision. Generally, this provision requires the lender to mail a letter notifying the borrowers of the default, how to cure the default, and the right to assert defenses in a foreclosure action based on the default in the re-payment obligations under the note and mortgage. Reverse mortgages have a similar notice requirement in situations of the borrower no longer living in the property, transferring an interest in the property or failing to perform other contractual duties, such as paying taxes, insurance, or association dues. However, there are situations in which a pre-suit demand is not necessary. This can include a circumstance where all the qualified owners are deceased.

Foreclosure: The reverse mortgage judicial foreclosure process is the same as the forward process with the biggest challenge being when the borrowers are deceased. Because in rem foreclosures of a mortgage are a function of a judicial legal process to which law firms must adhere, attorneys are also responsible for providing clear, insurable title as well. This can complicate matters causing additional expense and time when the ownership of the property is in question. There may be a need for a guardian ad litem to assist in determining the heirs if a separate probate case is not open. The accounting aspect of the reverse mortgage when calculating the debt is generally outstanding principal, interest and advances; however, pre-acceleration monthly late charges do not exist. Given the nature of reverse mortgages, typically there are not deferred principal balances, modifications and charges from prior actions and defaults, all of which are common in a conventional forward mortgage foreclosure.

II. COMMERCIAL FORECLOSURES JUDICIAL AND NONJUDICIAL

Overview: Differences Between Commercial and Residential Foreclosures

Commercial real estate, such as office buildings, apartment complexes, gas stations and other commercial properties, which are not single family-owned residential properties, if encumbered by a mortgage or a deed of trust, can be foreclosed, similar to a residential property. There are a few key differences with the processes used with each type and there are different strategies used with each type.

First, commercial real estate and foreclosures are not subject to state and federal consumer protection laws like Regulations X and Z, Fair Debt Collection Protection Act (FDCPA), and so on, like residential real estate and foreclosures are. Second, residential property transactions receive oversight by the Consumer Financial Protection Bureau (CFPB), which has expanded Regulation X to provide foreclosure protections to residential homeowners such as a 120-day grace period prior to filing, regular statements, extensive loss mitigation options, and enforcement actions and consent orders for "wayward" servicers.

Unique Features

While commercial real estate transactions and foreclosures receive none of these consumer protections, the players in this space are typically more sophisticated businesspeople who in theory have incentive and bargaining power with lenders to maintain a liquid asset or to work out default situations. Commercial mortgages usually contain personal guaranties, assignment of rents, agreement to a receiver, and agreement to provide ongoing financial documents and proof of insurance on a regular basis. Commercial real estate owners often are in the business of owning, selling and developing commercial property, so they strive to be successful, or obtain a workout with their lender.

There are actions which a lender can take with commercial loans, whether in judicial or nonjudicial foreclosure states, that are inapplicable to or are not allowed with residential loans such as:

- Discontinuing advances on loan (if the loan has not been fully funded);
- Making demand upon the borrower and accelerating the loan;
- Making demand upon any or all of the guarantors;
- Exercising any self-help rights to other collateral if allowed, like repossession of vehicles;
- Drawing upon any pledged letters of credit;
- Exercising rights to set off against pledged deposits or reserve accounts;

- Pre-foreclosure alternatives (reinstatement, loan modification, liquidation, forbearance or repayment agreements, assignment for the benefit of creditors, assumption by qualified buyer, deed in lieu of foreclosure, short sale/pre-foreclosure sale, etc.).

Commercial Nonjudicial Foreclosure

Overview

While nonjudicial foreclosure processes vary by state, the process proceeds outside of the court system and therefore is generally faster and easier than judicial foreclosures. With both types, the loan documents and/or state requirements control what type of default notice, if any, must be sent upon default. Even if a default notice is not required, it may be effective to send one in order to get the attention of the borrower and possibly work out the default.

Nonjudicial states usually use deeds of trust, similar to mortgages in judicial states, that secure payment of a loan, and the power of sale clause in the deed of trust permits the trustee to foreclose and sell the property for the benefit of the lender without filing a lawsuit.

Default, Notice of Default, Notice of Sale

After default and notice of default is sent or not, if not required, and after any applicable notice or waiting period, the lender or trustee may proceed with publishing a notice of sale. Publication requirements vary from state to state, including how, where, and how many times the notice must be published prior to sale. The notice of sale usually will have a prescheduled sale date and time when the sale will take place if the borrower does not cure or contest the sale by filing a court action.

Trustee Sale

After publication of the notice of sale, and any applicable waiting period, the trustee proceeds with the sale to public at large or sometimes to a private group of bidders. The lender can receive a credit bid up to the amount owed on the loan and property is sold to the highest bidder. If there is no bid higher than the lender's, the property is sold to the lender and becomes "real estate owned," or "REO." If there are excess funds after all liens are satisfied, the borrower receives those funds. In many nonjudicial states, the borrower has a redemption right to buy back the property from the successful bidder within a certain period of time.

Commercial Judicial Foreclosure

Overview

While the judicial foreclosure process varies by state, the process proceeds within the court system and therefore tends to be slower and lasts longer than nonjudicial foreclosure process. Like nonjudicial, the first step is to send notice of default to the borrower as required by the loan documents and/or state law. The documents also may allow a demand for rents from tenants, so this can be sent.

Judicial states typically use mortgages and notes, along with assignments of rents, contracts and permits; personal guaranties; and UCC-1 filings and security agreements which may be recorded for personal property. All these documents provide causes of action which include:

- Foreclosing the mortgage
- Enforcing the note, possibly for a deficiency
- Filing replevin to recover personalty
- Appointing a receiver
- Filing motion for assignment of rents

Default and Notice of Default

After default and notice of default is sent or not, if not required, and after any applicable notice or waiting period, the lender may file a complaint which contains at a minimum a count for foreclosure, plus any other additional

counts for causes of action as listed above. Some judicial states require that the original note be available at the time of filing the action, or at least at the time of judgment, so arrangements for the collateral file to be sent to counsel should be made when appropriate.

Filing of Complaint and Service, Assignment of Rents, Appointment of Receiver

After any demand period expires, a title search is ordered and reviewed. A complaint is filed and served on the borrower, who (generally) has twenty days to file a responsive pleading or be defaulted. The lender may also file a motion for assignment of rents with a proposed order, or follow local requirements, to have any rental payments sent directly to the lender. A motion to appoint a receiver can be filed and entered for this same reason, in addition to preserving the property.

Many commercial mortgages contain provisions allowing for the appointment of a receiver to take charge of the property during the foreclosure proceeding. Additionally, common law grounds for appointing a receiver exist to prevent the wasting of the property. A foreclosing lender may request appointment of a receiver for income-earning property in connection with a foreclosure action or in an action filed separately.

Receivers may be funded through special court-approved loans made by the lender, which are secured by the property and are given a super-priority over all other liens, including the mortgage.

Filing of Responsive Pleading or Entry of Default, Judgment and Setting of Sale

After the borrower is served, they can file a responsive pleading and defend the action or be defaulted. Either way, the lender can attempt to proceed to judgment at which time a sale date will be set. If the case becomes contested, the parties have an opportunity to set a mediation or to otherwise resolve the case through options previously outlined, to avoid costly and protracted litigation.

III. FORECLOSURE ON TRIBAL LANDS

Foreclosing mortgages on tribal Indian land is a complex process because of the unique legal status of the land and the historical context of federal policies. "Tribal lands" are those held in trust by the federal government for the benefit of Native American tribes. This distinction means these lands are not subject to various state laws in the same way as other real properties.

The history of Native American land ownership dates back to a series of federal policies which eroded tribal land holdings. The "General Allotment Act of 1887" (also called the "Dawes Act" after U.S. Senator Henry Dawes of Massachusetts) played a role in this process by authorizing the President to divide communal tribal lands into individual allotments, with the "surplus" land sold to non-Native settlers. This act fragmented tribal lands and introduced the concept of private land ownership among Native Americans, which was foreign to many tribal cultures.

This "allotment" process resulted in a significant loss of tribal land, as many Native Americans, unfamiliar with the concepts of individual ownership, inheritance, property taxes and mortgages, lost lands. The "Indian Reorganization Act of 1934" attempted to reverse some of these policies by ending the allotment process and allowing tribes to regain control over lands through the return of surplus lands.

<u>Legal Framework of Foreclosures</u>: The starting point for reviewing the foreclosure process on tribal lands is federal law, particularly the regulations issued by the Bureau of Indian Affairs ("BIA") and certain other federal agencies. Various tribal laws and codes would also apply, depending on the particular tribe involved. The various statutes which govern land ownership and foreclosures in Indian Territory are complex due to the sovereign status of Native American tribes.

<u>Land Status</u>: This is an important distinction from typical residential foreclosures throughout the country. "Tribal lands" can be classified as either "trust land," "restricted fee land," or "allotted land." "Trust land" is the most common, and such lands cannot be sold or transferred without federal approval. Tribal lands are held in trust by the federal government, meaning that the United Staes holds the legal title to the land, while the tribe or individual holds the beneficial interest in the land. This trust relationship complicates the process of foreclosure because

trust lands cannot be easily alienated or encumbered without federal approval. Foreclosing on trust land thus requires navigating federal protections. Furthermore, the BIA has a critical role in managing the trust lands, and, therefore, must approve of any land transactions, including those involving mortgages. The BIA's involvement is intended to protect Native American landowners from predatory lending practices and to ensure that trust lands remain under Native control. However, while intended as a protective measure, this also adds a layer of bureaucracy, which can make it difficult for Native Americans to access mortgage financing. "Trust land" can be further broken down into "Individual Trust Land" and "Tribal Trust Land."

"Restricted Fee Simple Land" differs from Trust Land, in that this land is titled in the name of the individual Native American or the Tribe. The type of land is "restricted" because it can only be transferred or mortgaged by the owner with the consent of the Secretary of the Interior. See, e.g., 25 U.S.C. § 5135:

> a. The individual Indian owners of any land which either is held by the United States in trust for them or is subject to a restriction against alienation imposed by the United States are authorized, subject to approval by the Secretary of the Interior, to execute a mortgage or deed of trust to such land. Such land shall be subject to foreclosure or sale pursuant to the terms of such mortgage or deed of trust in accordance with the laws of the tribe which has jurisdiction over such land or, in the case where no tribal foreclosure law exists, in accordance with the laws of the State or Territory in which the land is located. For the purpose of any foreclosure or sale proceeding the Indian owners shall be regarded as vested with an unrestricted fee simple title to the land, the United States shall not be a necessary party to the proceeding, and any conveyance of the land pursuant to the proceeding shall divest the United States of title to the land. All mortgages and deeds of trust to such land heretofore approved by the Secretary of the Interior are ratified and confirmed.
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> b. In the event such land is acquired by an Indian or an Indian tribe, such land shall not be removed from trust or restricted status except upon application to the Secretary under existing law.

25 U.S.C. § 5135.

Due to the differences in ownership, a lender's mortgage may encumber different things. If the land is tribal trust land or tribal restricted fee land, the security instrument is typically set up as an interest in a leasehold estate. In these instances, it is the lease and not the land itself that the lender can seize in the event of default.

Lender Pre-Foreclosure Requirements: Lenders must obtain approval from the BIA before initiating a foreclosure on trust land. The lender must demonstrate that it has followed the relevant laws and regulations, and that the foreclosure is necessary and appropriate.

Tribal Sovereignty: Tribes have a limited "sovereignty," including over their lands, which means that the Tribe can set its own rules, regulations and court procedures to govern foreclosures. Such rules can include, for example, requirements for lenders to work with the borrower or tribe to find an alternative solution before commencing a foreclosure. This sovereignty also allows tribes to develop a legal framework which is consistent with the tribe's cultural values and economic goals. The variability in tribal laws across different reservations creates a patchwork of different regulations that complicate the foreclosure process.

Judicial Process: Foreclosures on tribal land may require approval from both tribal and federal courts, depending on the circumstances. The process can be lengthy and complicated, with multiple layers of jurisdiction. Foreclosures of restricted fee properties may take place in either a tribal court or a state court in the county in which the property is located.

Considerations for Borrowers: Borrowers on tribal land may have additional protections under tribal law. They may also be able to work directly with their tribe for assistance in avoiding foreclosure.

Disposition of the Mortgaged Property: If a foreclosure is approved, the sale of the property must be conducted in accordance with the federal and tribal laws. Proceeds from the sale may be used to satisfy the debt, but the land itself typically remains in trust or returns to tribal ownership rather than becoming private property.

The foreclosure process on tribal Indian land is intricate, involving a combination of federal oversight, tribal sovereignty, and unique legal protections that must be navigated by lenders and borrowers.

Efforts to Encourage Mortgage Lending in Tribal Communities: Many tribal areas are underserved by financial institutions, and there is limited data regarding foreclosure rates on tribal lands. This lack of information has hampered efforts to develop policies to assist Native American homeowners. There have been some initiatives aimed at reducing foreclosure rates in Indian Territory. For example, the United States Department of Housing and Urban Development implemented the "Section 184 Indian Home Loan Guarantee Program," which provides access to mortgage financing for Native Americans. This program helps mitigate risk for lenders by offering a federal guarantee on loans made to Native American borrowers, thereby encouraging more lenders to offer mortgages on tribal lands.

The Summary to the Strengthening the Section 184 Indian Housing Loan Guarantee Program Regulation, effective June 18, 2024, summarizes the issues facing lending on tribal lands:

> Native American households face a number of housing challenges, including overcrowding and a lack of affordable housing in Tribal areas. These challenges stem in part from barriers to mortgage lending in these communities. There are several unique challenges to mortgage lending in Tribal areas, including their often-remote locations, the specialized situation of observing Tribal courts and laws, and the unique Trust Land status of much of the land in Tribal areas. Trust Land includes, but not is not limited to land where the Federal Government holds legal title for the benefit of a Tribe or individual Tribal member. Before a lien can be placed on a property, it must receive Federal approval through the U.S. Department of the Interior's Bureau of Indian Affairs. Consequently, financial institutions may struggle with utilizing the land interest as security in mortgage lending transactions. By mitigating risk to private lenders through the loan guarantee, the Section 184 Program addresses barriers to mortgage lending in Tribal areas, helping to increase housing supply, relieve overcrowding, and expand homeownership in these underserved communities.
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> A lack of access to mortgage credit also poses challenges to Native American households outside of Tribal areas, where they have historically experienced lower homeownership and higher home loan denial rates than other groups. Like in other historically underserved markets, prospective borrowers are likely to have limited experience dealing with mainstream financial institutions and have limited incomes, assets, and credit histories. The Section 184 Program is also available to members of federally recognized Tribes in many areas beyond Tribal areas, where it similarly promotes homeownership opportunities among this underserved community by mitigating risk to lenders.
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> Since its inception in 1994, the number of loans guaranteed under the Section 184 Program has significantly increased from an average of 105 loans per year the first five fiscal years (FYs 1994-1995) the program operated to an average of 2,531 loans per year for the past five fiscal years (FYs 2018-2023). In total, the Section 184 Program has guaranteed over 56,000 loans totaling over $10 billion. However, the program regulations have not been substantially revised since publication in 1996.

24 CFR Parts 58 and 1005, Federal Register Vol. 89, No. 55, p. 20032 (March 20, 2024).

IV. HUD COMMISSIONER FORECLOSURE

Another non-uniform type of foreclosure action is a foreclosure on behalf of the Secretary of Housing and Urban Development ("Secretary") by a foreclosure commissioner ("HUD Commissioner" or "Commissioner"). These foreclosure actions have a reduced timeline compared to most foreclosures conducted pursuant to state statutes and are less costly to complete. HUD may proceed under the Single Family Non-Judicial Foreclosure Act, 12 U.S.C. §§ 3151 et seq., to foreclose on HUD-held single-family or multi-family loans, whether state law allows non-judicial foreclosures or has a state non-judicial foreclosure statute.

Purpose

The purpose for the HUD Commissioner foreclosures is to avoid the disparate state foreclosure laws, decrease the burden on programs administered by HUD, decrease the cost of enforcing HUD loans, and alleviate the detrimental effects, such as vandalism, depreciation, and damage to the property that a typical state law foreclosure has on the community in which the foreclosed property is located. [4]

Designation of HUD Commissioner

The Secretary designates a person to serve as a foreclosure commissioner for the purpose of foreclosing upon a single-family mortgage. The foreclosure commissioner, once designated, will have a nonjudicial power of sale. To qualify as a foreclosure commissioner, the individual must reside in the state in which the property is located, is responsible, financially sound, and competent to conduct a foreclosure. An entity that is authorized to transact business under the laws of the state where the property is located can also be appointed as a commissioner. [5] The appointed foreclosure commissioner will receive a written designation as foreclosure commissioner from the Secretary. The written designation must be filed or recorded in the county where the property being foreclosed is located prior to the initiation of the foreclosure action.

If the Secretary, as holder of a single-family mortgage, determines that the prerequisites to foreclosure are satisfied, the Secretary may request the foreclosure commissioner to commence foreclosure of a single-family mortgage. Upon such request, the foreclosure commissioner shall commence foreclosure of the mortgage by serving a notice of default and foreclosure sale. The Secretary is authorized to initiate a foreclosure action of a mortgage upon the breach of the terms of the mortgage agreement. To initiate the foreclosure action, there can be no other pending enforcement proceedings.

Notice of Default and Foreclosure Sale

Much like any state foreclosure action, a title report is ordered to determine whether there are any title issues and to facilitate the preparation of a mailing list for the foreclosure action. Next, the foreclosure commission will prepare the Notice of Default and Foreclosure Sale. This document will identify the sale date, location of the sale, the property, the amount of the outstanding debt, and the Secretary's opening bid.

The Notice of Default and Foreclosure Sale must be provided to:

- current owner of the property;
- the original mortgagor;
- all occupants of the property; and
- all lienholders.

The Notice of Default and Foreclosure Sale must be filed no less than 25 days before the date of the foreclosure sale. There is also a three-week publication requirement in which the Notice of Default and Foreclosure Sale must be published once a week for three successive weeks in a legal publication in the county where the property is located.

Sale

HUD commissioner sales can involve single family residence or multi family residences. The Commissioner can sell multiple properties at one sale. The Commissioner has a duty to conduct the sale in a manner that is fair to the borrower and the Secretary. The sale must be an arm's length transaction and individuals with familial relationships or employees of the Commissioner are not allowed to bid.

The Commissioner may withdraw the property for sale if there is a presale reinstatement or the non-monetary default has been cured, for instance the borrower moves back into the property after an extended stay at a care facility. In the event of a withdrawal the commissioner will file a notice of cancellation of the sale. The commissioner may call the sale themselves or hire an auctioneer to handle the sale.

The sale is conducted as an auction and written, and oral bids may be accepted. Before the close of the sale the Commissioner will announce the amount of the highest bid and the name of the successful bidder. A detailed record of who attended and bid at the sale is kept which is helpful in the event the highest bidder does not produce the sale amount pursuant to the requirements and the second highest bidder can then be the successful bidder.

At the conclusion of the sale the high bidder will provide a deposit in the form of a cashier's check totaling 10%

[4] 12 USC §3751
[5] HUD Commissioner qualifications are outlined in 12 USC §3754.

of the Secretary's bid. The remainder of the successful bid amount must be received by the Secretary within 30 days of the sale. Noncompliance with the terms of the sale may result in the high bidder's forfeiture of the cash deposit, or, at the election of the Foreclosure Commissioner after consultation with the Secretary, there may be a liability of the bidder to the Secretary for any costs incurred as a result of such failure.

Post Sale

There is no right of redemption in the HUD Commissioner foreclosure sale. Once the funds are received, the commissioner will provide a deed to the successful bidder. The order in which the proceeds of the foreclosure sale are applied are as follows:

1. Toward the costs of the foreclosure action;
1. To pay any tax liens;
1. To pay any prior liens;
1. Toward any service charges, assessments, taxes and insurance as required;
1. Interest; and
1. The outstanding principal balance of the lien being foreclosed plus all fees and cost allowed under the note and deed of trust. [6]

The process for the HUD Commissioner foreclosure is like many state foreclosure actions, however in most instances it is a more cost-effective process and a shorter timeframe. Generally, the HUD Commissioner foreclosure can be completed within 50-90 days of referral. This shortened timeframe supports the purpose of the HUD Commissioner foreclosure by reducing the expense to the Secretary, the detrimental effect of foreclosure on the surrounding community and the risk of damage and depreciation to a property secured by a defaulted loan.

CONCLUSION

Some states allow non-judicial foreclosures; others require judicial foreclosures; and others have a quasi-judicial process. While each state has its own laws, rules, and procedures related to foreclosure actions, there are many nuances related to non-uniform foreclosure actions that deal with different loan types and/or deal with unique procedures. Regardless of the process or form of foreclosure action, strict compliance at every stage in any foreclosure is imperative, and non-compliance can be extremely costly. Legal counsel handling the foreclosure must understand the fine distinctions and procedures when proceeding with a foreclosure on real property where a non-uniform foreclosure is appropriate.

[6] 12 USC §3764 provides detail of the order of application of funds from the sale.