

Difference Between Deed in Lieu and Foreclosure

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Key Difference – Deed in Lieu vs Foreclosure

Deed in lieu and foreclosure are two similar aspects with slight variations and are often confused for the same reason. As such, it becomes important to clearly distinguish between the two. The key difference between deed in lieu and foreclosure is that **a deed in lieu refers to the situation where the borrower transfers the ownership of the property to the lender as a result of being unable to make repayments of a loan in order to avoid foreclosure proceedings** whereas a foreclosure refers to a procedure of a lender taking possession of a mortgaged property of a borrower in case he or she fails to make loan payments. The relationship between deed in lieu and foreclosure is that a deed in lieu can be used as a substitution for a foreclosure and the latter is more formal in nature.

What is a Deed in Lieu?

A deed in lieu or deed in lieu of foreclosure refers to a situation where the borrower transfers the ownership of the property to the lender as a result of being unable to make repayments of a loan in order to avoid foreclosure proceedings.

A deed in lieu must be entered into by both the borrower and the lender voluntarily and in good faith. Further, the settlement value must be at least equal to or above the fair market value of the property to be sold. If the outstanding indebtedness of the borrower exceeds the current fair value of the property, the lender may choose not to proceed with a deed in lieu.



Figure 01: Deed in lieu can be used to avoid foreclosure.

A number of advantages can be enjoyed by both lender and the borrower in a deed in lieu as follows. From the borrower's point of view, the biggest advantage is that it immediately releases him/her from most or all of the personal indebtedness associated with the defaulted loan. Further, this gives the borrower the opportunity to obtain a less stringent term compared to a formal foreclosure. Lenders can save a significant time and the cost of a repossession; it also avoids the possibility of any vandalism conducted based on revenge of the property before eviction.

What is a Foreclosure?

Foreclosure refers to the procedure of a lender taking possession of a mortgaged property of a borrower in case he or she fails to make loan payments. When a borrower keeps a property as a [collateral](#) (a pledged asset in the form of security for repayment of a loan), he or she is obliged to make monthly loan repayments to the lender (financial institution or an individual lender). If the borrower fails to meet the monthly payments beyond a certain time frame, the lender will start to foreclose. The farther behind the borrower falls, the more difficult it will be to meet the upcoming payments.



Figure 02: Property is auctioned and sold in a foreclosure.

The foreclosure laws vary among countries; therefore, lenders have to go through necessary criteria to ensure foreclosure.

E.g. In the United States, 22 states require judicial foreclosure i.e. the lender must go through the courts to get permission to foreclose by proving the borrower is delinquent.

If the foreclosure is approved by the courts, the property will be auctioned and sold to the highest bidder. In certain situations, the lender may agree to make some adjustments to the borrower's repayment schedule in order to delay or not carry out a foreclosure. This procedure is known as mortgage modification.

What are the similarities between Deed In Lieu and Foreclosure?

- In both deed in lieu and foreclosure, the ownership will be transferred to the lender.

What is the difference between Deed in Lieu and Foreclosure?

Deed in Lieu vs Foreclosure

Deed in lieu is referred to the situation where the borrower transfers the ownership of the property to the lender as a result of being unable to make repayments of a loan in order to avoid foreclosure proceedings.

Foreclosure is referred to as the procedure of a lender taking possession of a mortgaged property of a borrower in case he or she fails to make loan payments.

Nature

Deed in lieu is conducted to avoid the need of formal foreclosure.

Foreclosure is a formal procedure of transferring the ownership of a property.

Cost and Time

Deed in lieu is less costly and less time-consuming compared to foreclosure.

Due to the formalities include foreclosure is costly and time-consuming.

Summary – Deed in Lieu vs Foreclosure

The difference between deed in lieu and foreclosure is not a very detailed one; the end result of both is similar since the ownership will ultimately be transferred to the lender. Since foreclosure is a formal arrangement, it results in both lender and borrower incurring more costs and the procedure is time-consuming. This can be avoided to a significant extent by using deed in lieu, which is a more informal process.

References:

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