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Pre-foreclosure:

An up-close look to protect yourself early in the process.

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During the pre-foreclosure period, a homeowner still owns the property and has significant rights to explore alternatives and avoid losing their home. These rights are protected by a combination of federal and state laws.

Key Nationwide Rights in Pre-Foreclosure

- **Right to Receive Notice:** Lenders are required by law to provide specific notices before initiating foreclosure. Federal Law: Mortgage servicers generally cannot start the foreclosure process until the homeowner is more than 120 days delinquent on payments. During this time, the servicer must attempt to contact the borrower and provide written notice about loss mitigation options.
- **State Law:** All states require formal notices, such as a Notice of Default (NOD) or a Notice of Intent to Foreclose, which officially start the pre-foreclosure period and provide an opportunity to respond.
- **Right to Occupy the Home:** Homeowners have the right to remain in their home until the foreclosure process is complete and the property is legally sold.
- **Right to Pursue Alternatives (Loss Mitigation):** Federal regulations require lenders to review and consider any complete loss mitigation application (e.g., loan modification, repayment plan, or forbearance) before moving forward with a foreclosure sale.
- **Right to Reinstate the Loan:** Most states and many mortgage contracts allow homeowners to stop the foreclosure by paying the overdue balance, plus accumulated interest and fees, in a lump sum.
- **Right to Sell the Property:** A homeowner can sell their property during the pre-foreclosure phase to pay off the outstanding mortgage debt and avoid a foreclosure on their credit history. If the home's value is less than the amount owed, they may be able to negotiate a short sale with the lender's approval.
- **Right to Legal Defense:** Homeowners have the right to challenge the foreclosure in court if they believe the lender made a mistake, breached the contract, or failed to follow proper procedures.
- **Right to File for Bankruptcy:** Filing for bankruptcy (such as Chapter 13) can put an immediate, temporary stop to the foreclosure process and provide time to catch up on payments under a court-supervised plan.

Important Considerations

- **State Laws Vary:** While federal laws provide a baseline of protection, specific procedures, timelines, and additional rights (like the right of redemption after a sale) vary significantly by state.
- **Act Quickly:** The pre-foreclosure period is a critical window of opportunity. Being proactive and communicating with your lender or a HUD-approved housing counselor or attorney is essential to exploring all available options.
- **Get Legal Help:** Consult a [legal aid](#) attorney to understand your specific state's laws and options. The [Consumer Finance Protection Bureau](#) (CFPB) and the [U.S. Department of Housing and Urban Development](#) offers support to homeowners including, (but not limited to) the CFPB accepting [formal complaints](#) regarding your mortgage company and [housing counseling](#) from HUD.

Last updated: December 24, 2025

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C & S Equity Advocates

267 Langley Drive, #1432 * Lawrenceville, GA 30046-6907 * (404) 490-4189

info@csequityadvocates.com

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