

Need More Help?

Call the NC United Power organization in your area

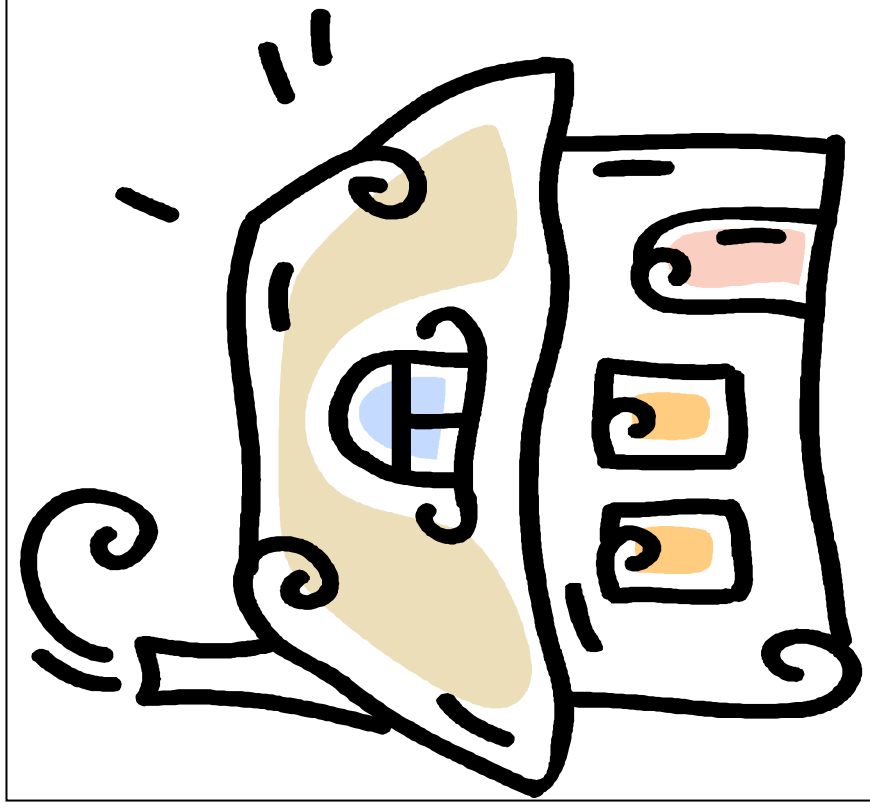
Durham CAN, Durham County – Ivan Parra –919-403-7082
OC Justice United, Orange County, Stephanie Perry, 919-358-7345
CHANGE, Forsyth County, Ryan Eller, 336-721-1660
HELP, Mecklenburg County, Alice Bennett, 704-905-2462
HOPE, Davidson County, Connie Russell, 336-239-6069
NC Latino Coalition, Statewide, Mauricio Castro, 919-423-6332
NC United Power Office, 919-403-7082

**PREPARED BY THE CHARLOTTE SCHOOL OF
LAW**

Prepared by The Charlotte School of Law



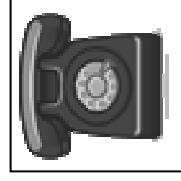
**FACING
FORECLOSURE?**



KNOW YOUR RIGHTS!

Having Trouble Paying Your Mortgage?

- ◆ Call your mortgage company and request a modification. Ask for the modification department's direct call-back number.
- ◆ Contact a counseling agency to discuss assistance with a modification. Do not pay any fee to counselors.
- ◆ Open all mail from your mortgage company or you may miss important notices.
- ◆ Beware of Scams- you do not need to pay for help.



DEED OF TRUST - AN INSTRUMENT SIGNED BY A BORROWER, LENDER AND TRUSTEE THAT CONVEYS THE LEGAL TITLE TO REAL PROPERTY AS SECURITY FOR THE REPAYMENT OF A LOAN. THE WRITTEN INSTRUMENT IN PLACE OF MORTGAGE IN SOME STATES.

DEFAULT - A MORTGAGE IS IN DEFAULT WHEN THE BORROWER FAILS TO MAKE THE PAYMENTS OR PERFORM OTHER ACTIONS AS AGREED TO IN THE ORIGINAL PROMISSORY NOTE OR DEED OF TRUST.

DEFICIENCY JUDGMENT - A JUDGMENT AGAINST THE BORROWER FOR THE BALANCE REMAINING AFTER THE PROPERTY IS SOLD AT AUCTION OR FORECLOSURE SALE.

ENCUMBRANCE – A CLAIM, MORTGAGE, LIEN OR TAX ATTACHED TO AND BINDING REAL PROPERTY.

FORECLOSURE - THE FORCED SALE OF PROPERTY PLEDGED AS SECURITY FOR A DEBT THAT IS IN DEFAULT.

SHORT SALE - A SALE WHERE THE LENDER WILL AGREE TO ACCEPT LESS THAN THE FULL AMOUNT OF THE OUTSTANDING DEBT.

TRUSTEE – THE PERSON WHO INITIATES AND OVERSEES THE FORECLOSURE HEARING AND SALE ON BEHALF OF THE LENDER.

NOTICE REQUIREMENTS



- ◆ You must receive at least 10 days notice prior to the Foreclosure Hearing
- ◆ If the Clerk orders a foreclosure sale, you must receive at least 20 days notice prior to Sale of your property

GLOSSARY

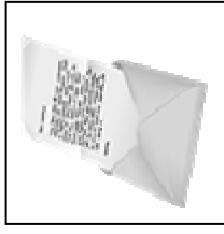
AFFIDAVIT - A WRITTEN STATEMENT, USUALLY GIVEN WHILE UNDER OATH OR IN THE PRESENCE OF A NOTARY.

DEED - A SIGNED DOCUMENT THAT SHOWS OWNERSHIP IN PROPERTY AND ALLOWS THE TRANSFER OF PROPERTY FROM ONE PARTY TO ANOTHER.

DEED-IN-LIEU OF FORECLOSURE - A VOLUNTARY TRANSFER OF TITLE BY THE BORROWER TO THE MORTGAGE COMPANY TO AVOID FORECLOSURE ACTION.

Already in Foreclosure?

- ◆ There are rules that your lender must follow
- ◆ Make sure you Know Your Rights
- ◆ Gather all paperwork you received from your lender and keep it in a safe place
- ◆ Make sure to attend all hearings. Ask the clerk to “continue the hearing” if you are working on a modification or if you need more



FORECLOSURE HEARING

- ◆ Foreclosure hearings are held before a clerk of court, not a judge
- ◆ At the hearing, the lender must prove four things:
 1. That a debt exists

TIPS

- a. The lender *must* produce the note (not just a copy) you signed at closing of your loan. If they cannot produce the original note, they cannot proceed with the foreclosure.
 - b. If they show you a copy, do not agree that it is your signature until they produce the original.
2. That you are in default

TIPS

- a. The lender must have an affidavit that shows you are behind in payment or violated the loan documents.
 - b. The affidavit must be signed and notarized by an official at the lender's office.
3. That mortgage (your deed of trust) gives the lender the specific right to foreclose
 4. That notice was given to all owners or anyone the loan documents specifies should get notice
 - ◆ Clerk will rule after reviewing the evidence
 - ◆ Either side can appeal to a Judge