



CHICAGO TITLE
INSURANCE COMPANY



TITLE TALK By: Katie Button



Call or email
anytime with
questions!

Katie Button
NH State Counsel
Katie.Button@fnf.com

Lori Routhier,
Sr. Title Officer
Lori.Routhier@fnf.com

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additional information:
Nationalagency.fnf.com/NH

Foreclosures under the Federal Statute

The HUD Single Family Mortgage Foreclosure Act, 12 USC 3751 et seq, (the "Federal Act") was enacted on September 28, 1994 and became effective as of December 15, 1995 and applies to 1-4 family residential properties encumbered by a mortgage held by the Secretary of Housing and Urban Development (HUD), either as original mortgage holder or by assignment.

HUD can foreclose under State Law or the Federal Act and usually proceeds under the Federal Act in New Hampshire because the terms are slightly less stringent.

The most common scenario for Federal Act foreclosures are reverse mortgages, a loan product for homeowners of advanced age to access the equity in their home with no repayment until the last owner is deceased or permanently vacates the property. Once repayment is triggered, the balance is usually due within 6 months.

Reverse Mortgages have been around since the 1960's but surged in popularity in the early 2000's as the first wave of baby boomers reached their mid-60's. Those baby boomers are now passing away, leaving home for assisted living/nursing home care, or moving in with family, triggering repayment of the loans.

If the property has sufficient value, it is usually sold to satisfy and discharge the reverse mortgage. If the property isn't sold HUD proceeds to foreclosure.

A foreclosure deed under the Federal Act must be reviewed carefully to confirm all required actions have been taken to extinguish all junior liens and properly notify all required parties. Our [Foreclosure Deed Checklist](#) is a tool to assist our agents with this process.

Frequent Issues

Deceased homeowners require a probate or other court action to identify the heirs/owners prior to foreclosure. Under NH law, the heirs vest in title as of the date of death, subject to sale by the estate administrator. A probate or sufficient court order is required to identify the heirs and a Guardian Ad Litem may also be appointed by the Court to accept service on behalf of unknown heirs. Any Court orders must be carefully reviewed to make sure they are sufficient and properly worded.

Homeowners under Guardianship require notice to both the Guardian and homeowner. Care should be taken to determine if the homeowner has been relocated out of state with their children or to a care facility and if an out of state guardianship has been commenced.

What's your title question? Send us information on what you want answered in our future editions.
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