

Foreclosure Defenses, using The Jurisdictionary method

You will need this mini course to implement this without attorney's needed.

<http://livingfreeandclear.com/selflegal>

Here are a few powerful **Affirmative Defenses** that can be filed in response to foreclosure complaints (or used as grounds to stop foreclosure in non-judicial states).

As made easy-to-learn in the affordable, step-by-step Jurisdictionary course, "Affirmative Defenses" are power you must not fail to use ... unless you like to fight with one hand tied behind your back!

Each of these can and should be used as grounds in a "**Motion to Dismiss**", if they apply. There are more listed in the Jurisdictionary course, of course!

Failure of **Condition Precedent**: Contracts (including mortgages and promissory notes which are fundamentally contracts used for the special purpose of securing finances to purchase property) may by their terms require certain actions or events to take place prior to filing a lawsuit to enforce them. The place to begin is the paperwork. Read the mortgage and promissory note very, very carefully! If any action or event required prior to claiming rights under either "contract" has not yet occurred, this affirmative defense should be pleaded.

For example, most promissory notes provide a clause by which the lender may "accelerate" the note (i.e., make the entire amount due and payable immediately) when certain conditions exist (like the borrower's failure to pay on time or failure to keep the property insured, etc.). Some notes specifically state that the lender must give the borrower actual "notice" of acceleration. Failure to provide notice of acceleration is a condition precedent to foreclosing the note.

See how easy this stuff really is, once it's explained in a way any average 8th grader can understand? The fancy words are just words, after all. Once you know what they mean, the rest is a piece of cake with Jurisdictionary on your side (get it via this link: <http://livingfreeandclear.com/selflegal>) .. at least get the free newsletter, but get the course asap.

Failure to Comply with Statutory Prerequisite: If the party initiating foreclosure is a corporation, trust, or other legal fiction (i.e., not an "individual person") some states forbid their bringing or defending an action in court unless they have met certain statutory requirements, such as the requirement of trusts and corporations to register with the Secretary of State here in Florida. Similar rules apply in other states.

Pleadings and Exhibits Inconsistent: Many court rules treat exhibits attached to a pleading as being part of the pleading. It's as if the exhibit were typed-out in the body of the pleading itself. When an exhibit isn't consistent with the allegations within the pleading, filing this defense puts the inconsistency in controversy and forces the opposing party to fix the problem if they can!

If they can't fix it, the court may deny their claim!

SIDE NOTE from TJ:

Dont forget to alwso us an Affidavit of Security Interest as well, to make the argument the YOU have a claim for ever dollar you have into the property.

Every dollar you have spent on the propety should be included in your counter claim or new claim if you are the one filing the complaint. Now make the court and lender disprove your claim (hard to do since it will be clear you have a claim of Security Interest. Now there is a controversy before the court beyond the lender's claim. This is one if the biggest issues people forget to make in a foreclosure. The lender will not be able to come close to showing their real damages because they loaned no real assets (they cannot). They used your singature to create the value. YOUR signature created it! Thus the party who can prove consideration wins, especially when the other party cannot prove damages! If you are in a non judicial state, you will have to file a suit for YOUR claim hear and submitted in court. This controversy turn the entire argument around in your favor. Stay on the offense not the defense.

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