

Contract and Legal Issues

Can I be foreclosed on if the mortgage company cannot produce the deed of trust?

Even in the event that a promissory note or deed of trust cannot be produced, the lender can still proceed with foreclosure by purchasing a surety bond, which can cost 1.5 to 2 percent of the value of the real property.

This has recently been a contentious issue in FL and NJ as lenders have been sued by homeowners to "produce the note". As of 2016, there are cases being brought before the Supreme Court to resolve the legality of foreclosures without original documentation.

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