

Claim Your Foreclosure Surplus Funds and Avoid Scams

IF YOUR HOME IS SOLD AT A FORECLOSURE SALE, the money from the sale might be more than what was needed to pay off what you owed. That “surplus” money belongs to you. Below are tips on accessing your surplus funds and protecting yourself from scammers who want to steal your funds.

Notice

This is intended for general information only and not as legal advice. If possible, please consult with an attorney for legal assistance regarding your particular circumstances relating to surplus funds.”

Q: What are surplus funds?

A: If your home is foreclosed on, your house will be sold at a public auction at the courthouse. After the initial auction, potential buyers might also submit “upset bids” on the home, pushing up the sale price. As a result of this process, your home might sell for more money than what you owe. **The money left over is called “surplus funds.”**

Q: Who do surplus funds belong to?

A: Surplus funds belong to the person or persons who owned the property at the time of the foreclosure. If you lose your home as the result of a foreclosure, any surplus funds belong to you. The surplus funds represent the equity you saved up in your home over time.

Q: What happens to surplus funds after a home is sold?

A: The trustee who handles the foreclosure sale will usually deposit the surplus funds with the local clerk of court. **To claim the surplus funds, you will have to provide documents to the court to show that you were the owner of the home at the time of the foreclosure sale.** You are supposed to receive a notice that you have surplus funds, but you can also check with the substitute trustee or the court to find out if the foreclosure resulted in surplus funds.

Q: Do I need to be careful about surplus funds scams?

A: Yes! Scammers are looking to steal your surplus funds from you. By reviewing public foreclosure records, scammers know when a foreclosure sale has resulted in surplus funds – and they will try to trick you into giving them the right to claim your funds.

Q: How would a scammer gain access to my surplus funds?

A: The scammer will need you to sign a document that says you are assigning or transferring your right to any surplus funds over to the scammer. Once you sign that document, the scammer can file it with the court and claim your surplus funds. **Do not sign any documents you do not fully understand and seek legal assistance from a lawyer before you sign anything.**

Q: What are common tactics used by surplus funds scammers that I should look out for?

A: Scammers will likely claim to be only trying to help you. **They might offer to give you extra time to stay in your home after the foreclosure. Or they might offer you some money.** They will ask you to sign a document, but they will likely lie about what the document is for and won't tell you that you are entitled to surplus funds or how much you are entitled to.

Q: What steps can I take to avoid the surplus funds scam?

A: Don't sign any documents if you do not understand what you are signing. Be prepared for the scammer to use high-pressure tactics to get you to sign ("This offer is only good if you sign today."). Don't give in. Seek legal assistance for help.

You may qualify for free assistance with one of the civil legal services organizations across the state. You can visit the Legal Resource Finder (<https://nclrf.org/en/home>) to see if you qualify for free legal assistance.