

# Deborah Benton

Licensed Real Estate Agent and Associate Broker

President

Timeless LLC.



[www.realestateagentsarepeople2.com](http://www.realestateagentsarepeople2.com)

Email: [timeless@realestateagentsarepeople2.com](mailto:timeless@realestateagentsarepeople2.com)

P.O. Box 278

Elberta, AL 36530

251-747-2636

FAX: 251-986-5030

## Need Help?

"I've compiled numerous links to information sites that can assist you, the reader, with credit counseling, legal questions, foreclosure information, etc. I am not recommending anything other than YOU MUST GET HELP! DO NOT AVOID OR IGNORE YOUR PROBLEMS, YOU MUST FACE THEM. I learned that there is more help out there, for free or for a very small fee, than you could ever imagine."

Deborah

### **"Who qualifies for mortgage help and how to get it" on Yahoo! News**

[http://news.yahoo.com/s/ap/20080730/ap\\_on\\_bi\\_ge/mortgage\\_relief\\_q\\_a](http://news.yahoo.com/s/ap/20080730/ap_on_bi_ge/mortgage_relief_q_a)

NHBA outlining the provisions of the 1st Time Homebuyer \$7500 Tax Credit  
<http://www.gulfnetwork.com/timeless/PDF/Tax-Credit-For-1st-Time-Homebuyers.pdf>

### **Short Sale Description - click following link**

<http://www.bestshortsales.com/articles/what-is-a-short-sale-2/>

## QUESTIONS AND ANSWERS REGARDING FORECLOSURES

*In 2007, there were 7,903 mortgage foreclosures in Alabama, up 82% from 2006 and a historical high for this state. As we all know, the number will be much higher for 2008.*

### **I. THE FORECLOSURE PROCESS**

Alabama allows foreclosure in one of three ways:

- **By filing a lawsuit for foreclosure (least common way)**
- **By a foreclosure sale conducted in accordance with the terms specified under a power of sale clause in the deed of trust or mortgage**

**Preliminary Notice** - Written notice to the property owners is NOT required in Alabama unless provided for in a power of sale clause in a mortgage.

**Advertising/Personal Notice** – The sale may not take place until 30 days after publishing an advance notice of the time, place and terms of the sale once a week for four consecutive weeks. The notice must be published in the primary newspaper in the county in which the property is located. There is no statutory requirement that personal notice of the foreclosure be given, although the mortgagee is often contractually obligated to do so under the terms of the mortgage.

**Documents may Specify Procedures** – If the mortgage or deed of trust contains a power of sale clause and specifies the time, place and manner of the foreclosure sale, then that procedure must be followed.

**Statutory Procedure** – However, if the mortgage or deed of trust with a power of sale clause is silent as to the place of terms of the sale, or as to the type of notice of the sale, then a foreclosure sale may be made at the courthouse door of the county where the property is located from the hours of 11:00 AM to 4:00PM, after a breach of the conditions or requirements of the mortgage by selling for cash to the highest bidder.

- **If there is no power of sale clause, then by a public sale at the courthouse steps**

If the mortgage or deed of trust lacks a power of sale clause and the lender chooses not to file a lawsuit to foreclosure, then the lender may foreclose by selling the property for cash to the highest bidder at the courthouse door in the county where the property is located from the hours of 11AM to 4PM. Advanced notice of the time, place, terms and purpose of the sale must be given by publishing an ad once a week for four consecutive weeks in a newspaper in the county in which the property is located.

**Deficiency** – The lender may sue to foreclose the mortgage without filing a suit to obtain a deficiency judgment. Alternatively, the lender may sue to foreclose, and then sue for any resulting deficiency. This would end up being a judgment against the homeowner. It is the lender's choice.

## II. STATUTORY RIGHT OF REDEMPTION

The biggest factor in dealing with foreclosed property, either as a listing agent or a selling agent, is the statutory right of redemption.

The Statutory Right of Redemption is the right of the property owner to:

1. pay the indebtedness; plus
  2. the interest; plus
  3. other permitted costs and charges incurred by the lender during the foreclosure period; and if necessary,
  4. to compel the reconveyance of the property from the lender whose interest in it was lost at the foreclosure
- The property owner cannot, prior to foreclosure, waive or sell his right to redeem the property. It can be assigned. If homeowner does not vacate within 10 days of foreclosure deed then they waive the right of redemption. This can however be reinstated by a judge.
  - The statutory redemption period in Alabama is one (1) year. The one year period begins to run on the date of the foreclosure sale.

- There is no right of redemption in Mississippi or Florida

### **Who can redeem a property from foreclosure?**

1. any debtor on the obligation secured by the mortgage;
2. any debtor's guarantors and sureties;
3. any mortgagor (that is anybody who executed the mortgage), whether or not obligated to repay the indebtedness (example – a spouse who is not a borrower under the promissory note but who executed the mortgage to subject his or her constitutional homestead to the lien of the mortgage)
4. any junior mortgagee/lender(second mortgage holder or equity line lender) or any transferee or assignee of the original junior mortgage holder. This is the most common entity that redeems a property.
5. any judgment creditor or his or her transferee (could be an HOA)
6. any transferee of the interest of the debtor or the mortgagor;
7. the spouses of all debtors, mortgagors or transferees; and
8. in some cases, the United States Government

### **From whom can they redeem?**

A person or company entitled to redeem a property from foreclosure is entitled to redeem the property from the purchaser at the foreclosure sale or the purchaser's transferee. This means that someone purchasing a foreclosed property during the statutory redemption period might end up losing the house.

### **What happens when somebody redeems from the buyer?**

The person holding the right gives the current owners a *Demand for Lawful Charges*. The current owner prepares a statement of charges. The current owner has ten (10) days from the date of redemptioner's demand to provide the redemptioner with a statement of charges . If the current owner does not comply within the time frame, the redemptioner may seek to set aside the foreclosure.

### **How much does it cost to redeem the property from foreclosure?**

The redemption price is as follows:

1. the purchase price paid at the foreclosure sale (not the price somebody paid to purchase the property from whomever bought the property at the foreclosure sale; plus
2. interest at 12%; plus
3. "all other lawful charges" which are the following:

- Necessary permanent improvements
- Taxes paid or assessed
- All insurance premiums paid or owed by the purchaser
- Any lien or mortgage on the property having a higher priority than the one under which the property is being redeemed.

### **What are Necessary Improvements?**

Necessary improvements are those improvements that are made to make the property habitable. Necessary permanent improvements include ordinary repairs necessary to restore the property after damage, decay, storm, fire and flood.

Note that it is not the COST of the improvements that are recoverable, but the VALUE of the improvements. (this will be decided by a judge)

This is the area of the redemption process that has resulted in the most litigation – purchasers claim items as “necessary improvements” that the person seeking to redeem the property thinks are cosmetic in nature. Paint, new carpet, granite counter tops, etc would be considered cosmetic and therefore not reimbursable.

For this reason it is wise for foreclosure property purchasers to avoid undertaking major renovation or any construction projects until the expiration of the redemption period.

### **Can the owner who is foreclosed on redeem the property and get it back for less than he owed on the property?**

NO. Under Alabama law, if the former owner redeems the property, then all outstanding liens, mortgages and encumbrances against the owner that encumbered the property are reinstated upon redemption by the former owner.

### **Can a buyer who purchases a foreclosed property from the bank that foreclosed on a property owner lose money?**

YES. Very few properties are redeemed from foreclosure (4-5%) However, if the redemption price is less than what the purchaser paid for the property, the purchaser could end up losing money. Remember – the redemption price is determined by the foreclosure price, not the price for which the property resells following the foreclosure.

### **How can a Real Estate Agent protect a buyer who purchases a foreclosed property?**

1. Advise the buyer not to pay in excess of the foreclosure price.
2. Advise your client of the fact that the property is a foreclosure and that for one year following the foreclosure sale, there is a possibility, that someone who had an interest in the property prior to foreclosure might redeem the property, and that in that case the client would be forced to give up the property and could lose some or all of the money the client invested in the property.
3. The buyer should not engage in renovation projects during the redemption period.
4. Depending on when the foreclosure sale was held, delay closing until after the expiration of the one year redemption period

Note: DO NOT ask the title co to give affirmative coverage or insure over the redemption rights – no title co will insure against this risk on its owners policy.

### **What about a Redemption Bond?**

The purpose of a redemption bond is to allow the mortgage company to issue its mortgage secured by a property that is still subject to rights of redemption. THE REDEMPTION BOND DOES NOT PROTECT THE PURCHASE – ONLY THE LENDER.

- A bond is only required when the purchase price is higher than the foreclosure deed amount
- 115-120% of the foreclosure deed amount is the typical limit.
- Cost is usually about 1% of the sales price
- There are not many companies that provide redemption bonds. Closing agent should be able to handle getting this for the buyer. Also, there is a firm in Birmingham – Seiver, Fowlkes and Jackson that you can contact at 205-870-4026.

### **How may contracts to buy foreclosed property from a lender differ?**

- Many times the foreclosure lender will insist that the buyer pay all closing costs (no seller concession) but this is not always the case so ask – all they can do is say no.
- The foreclosure lender selling the property typically will choose the title company (may not be local) and the closing agent (usually a local person that does not necessarily work for title co but is just providing closing agent services)
- Foreclosure lender will likely control the time and date of closing since their asset management companies require 24-48 hours of advance notice to review HUD.

## MORE ON RIGHTS OF REDEMPTION

### **Federal Tax Liens**

Even if a Federal Tax Lien is recorded subsequent to a mortgage that is foreclosed on, the IRS's lien position will not be treated as a junior lien holder having a right of redemption, unless notice is given to the IRS of the pending foreclosure. If they are not given notice, their lien will survive the foreclosure and will occupy a senior lien position to the mortgage that was foreclosed.

This notice requirement applies to all IRS liens filed at least 30 days prior to the foreclosure sale. The IRS must be given at least 25 days notice of the sale. If the proper notice is not provided to the IRS, this defect cannot be overcome by simply giving notice to the IRS and re-foreclosing the mortgage.

### **in Favor of the Department of Justice**

There is some question as to whether liens in favor of the federal government should be treated the same for notice purposes as Federal Tax Liens. Erring on the side of caution, it is not uncommon to provide notice to the appropriate department of the Federal government from whence the lien arose, in order to alleviate any question as to whether the lien holder will simply be entitled to a one year right of redemption, or will actually gain priority over the insured mortgage due to a failure to timely notify of the pending foreclosure.

### **UCC-1 Financing Statements**

UCCs, which secure a purchase money security interest in a fixture, such as a heat pump, or HVAC system, are not cut off by a mortgage foreclosure, even if the mortgage was recorded prior to the recordation of the UCC. These UCCs must be paid off, or an exception to title should be made.

### **Other Liens Not Cut Off By Foreclosure**

There are several other types of liens that are not cut off by a mortgage foreclosure, even if they arose after the mortgage being foreclosed. City assessments, fire district liens, and ad valorem tax liens or ad valorem tax sales are not cut off by foreclosure of a prior mortgage. Also, up to six months of Condominium assessments can enjoy priority over a previously recorded mortgage.

### **Service Members Civil Relief Act**

The Service Member's Civil Relief Act is a complete restatement of the Soldiers and Sailors Civil Relief Act. This act provides for forbearance upon foreclosures for members of the armed forces and subjects parties who foreclose in violation of the act to penalties. When insuring title through a foreclosure, you should require an affidavit from the foreclosing lender that the mortgagor was not in active military service on the date of foreclosure or 90 days prior thereto.

## CREDIT CONCERNS & MONEY MANANGEMENT:

### \* LOCAL CONSUMER CREDIT COUNSELING SERVICES \*

#### Consumer Credit Counseling Service of Montrose

(Baldwin County)

22787 Highway 98 – Bldg. B-2

Montrose, AL 36559

**251-990-8499**

#### Consumer Credit Counseling Service of Mobile

(Mobile County)

705 Oak Circle Drive, E.

Mobile, AL 36609

**251-602-0011**

251-666-6850 (F)

#### Consumer Credit Counseling Service of Jackson

(Clarke County)

208 Commerce Street

Jackson, AL 36545

**251-246-9898**

Website: [www.cccsmobile.org](http://www.cccsmobile.org)

E-mail: <mailto:counselor@ccsmobile.org>

Call Homeowner Crisis Resource Center - [www.housinghelpnow.org/](http://www.housinghelpnow.org/)

(National Foundation for Credit Counseling)

**1-866-557-2227** for the office nearest you

or **Online go here:** [www.debtadvice.org/takethefirststep/housing\\_locator.cfm](http://www.debtadvice.org/takethefirststep/housing_locator.cfm)

**Homeownership Preservation Foundation:** [www.995hope.org/](http://www.995hope.org/)

Consumer Credit Counseling Service (CCCS)

has online counselors at credit rating now or call

**1-888-995-HOPE** (4673) or **Online go here:** [www.995hope.org/contact-us/](http://www.995hope.org/contact-us/)

Loan Safe: [www.loansafe.org](http://www.loansafe.org)

**Consumer Credit Counseling Service of Mobile**  
(Mobile County)

705 Oak Circle Drive, E.  
Mobile, AL 36609

**251-602-0011**

251-666-6850 (F)

Website: [www.cccsmobile.org](http://www.cccsmobile.org)

E-mail: [counselor@cccsmobile.org](mailto:counselor@cccsmobile.org)

Credit rating: [www.creditratingnow.com](http://www.creditratingnow.com) “WARNING! You can harm your credit rating by too many repeated credit rating reviews!

Legal questions: **Just Answer - legal:** [law.justanswer.com/](http://law.justanswer.com/) they will charge a small fee.

Call **211** for quick access to local Social Services

**Bay Area Food Bank – 1-888-704-3663**

This was forwarded to me by a relative who added: Great money saving tips...

<http://www.betterbudgeting.com/ezine/jul2008-145232.htm>

## MEDICAL ASSISTANCE:

For assistance and information

Contact: **Alabama Department of Public Health @ [www.adph.org/](http://www.adph.org/)** or call

**Baldwin County Dept. of Public Health – 251-947-1910**

**Access email form here for ADPH.ORG: [www.adph.org/ContactUs.asp?cnt=1&id=1216](http://www.adph.org/ContactUs.asp?cnt=1&id=1216)**

**Alabama Free Clinic – Bay Minette, AL**

currently mainly assists patients with high blood pressure and diabetes.

**You must call 1st for an appointment – 251-937-6935.** They can only see a limited number of people one day a week. They are trying to open an office in Robertsdale, AL.

**Loxley Family Medical Center: [www.franklinprimary.org/loxley\\_family\\_medical\\_center.htm](http://www.franklinprimary.org/loxley_family_medical_center.htm)**

Based Income Medical Clinic - with proof of income you can receive a reduced co/pay or reduced office visit fee. Walk-ins are welcomed, but we advise you to call 1st – **251-964-4011**. Emergencies should go to local hospital Emergency Rooms.

**Baldwin Clinic – Foley, AL – Based Income Medical Clinic - 251-947-5651**

## COUNSELING:

### Social and Welfare Services for Foley, Alabama

[www.socialwelfareservices.org/Alabama/Foley\\_36535\\_social\\_and\\_welfare\\_services.php](http://www.socialwelfareservices.org/Alabama/Foley_36535_social_and_welfare_services.php)

**Catholic Social Services** – Foley, AL – 251-947-2293. They provide counseling as well as emergency aid for limited assistance with utility bills.

**Christian Service Center** – Gulf Shores, AL – 251-968-5256

**Ecumenical Ministries in Baldwin County** – assistance with food, counseling, medicine, rent, and utilities, when funds are available.

Offices located in **Foley** – 251-943-3445

**Fairhope** – 251-928-3430

**North Baldwin County** – 251-937-8115.

**Mental Health Center - Crisis Line** – 1-800-558-8295

**Waterfront Rescue Mission**

1-888-853-8655

<http://www.waterfrontmission.org>

#### SERVICES PROVIDED

##### Rescue Services:

Nutritious Meals

Safe Shelter

Clothing

Shower Facilities

Personal Hygiene Items

Chapel Services

Bible Studies

Counseling

Referrals

##### Recovery Services:

Residential Drug and Alcohol

##### Recovery Programs:

Discipleship Classes

Life-Skills Training

- Educational Opportunities

- Job Readiness

Parenting Classes

Work Therapy

## STRESS & HEALTH:

Stress Confidential Helpline: [www.stresshelp.tripod.com](http://www.stresshelp.tripod.com)

Stress Relief 101: [www.StressRelief101.com](http://www.StressRelief101.com)

About stress management: [www.aboutstressmanagement.com](http://www.aboutstressmanagement.com)

Medicine Net: [www.medicinenet.com](http://www.medicinenet.com)

Revolution Health: [www.revolutionhealth.com](http://www.revolutionhealth.com)

### Alabama Food Banks

<http://www.alfoodbanks.org/contact/contact.htm>

### Mobile County Health Department:

**251-690-8158**

Promoting, improving and protecting the health of Mobile County

“No one is denied medical assistance. Fees are based on your pay scale.”

<http://www.mobilecountyhealth.org/Default.asp?p='Clinics'>

### Safety Net Listings

Region 1 - is Lauderdale, Colbert, Franklin, Marion, Winston and Walker cos.

Region 2 - is Jackson, Marshall, Madison, Morgan, Cullman and Lawrence cos.,

Region 3 - is Lamar, Fayette, Pickens, Tuscaloosa, Greene and Bibb cos.,

Region 4 - is Jefferson,

Region 5 - is Shelby, St. Clair, Blount, Etowah, Cherokee and DeKalb cos,

Region 6 - is Coosa, Clay, Calhoun, Cleburne, Randolph, Chambers and Talapoosa cos.,

Region 7 - is Sumter, Choctaw, Marengo, Hale, Perry, Dallas, Wilcox, Lowndes cos.,

Region 8 - is Chilton, Autauga, Elmore, Montgomery, Macon, Bullock, Lee, Russell cos.,

Region 9 - is Washington, Clarke, Monroe, Conecuh, Escambia, Butler, Covington Baldwin cos.,

Region 10 - is Crenshaw, Pike, Barbour, Coffee, Dale, Henry, Geneva and Houston cos.,

Region 11 - is Mobile.

These files can be downloaded from this page:

<http://www.gulfnetwork.com/timeless/need-help.cfm>

Information provided by: research conducted at the UAB School of Public Health.

## GOING GREEN & SAVING MONEY:

Green is Universal: [www.greenisuniversal.com/](http://www.greenisuniversal.com/)  
ideal bite: [www.idealbite.com/](http://www.idealbite.com/)  
The Find: [www.thefind.com/](http://www.thefind.com/)  
ode magazine: [www.odemagazine.com/](http://www.odemagazine.com/)  
Find Green Magazine: [www.findgreen.com/](http://www.findgreen.com/)  
Divine Caroline: [www.divinecaroline.com/](http://www.divinecaroline.com/)  
Car Care: [www.carcare.org/](http://www.carcare.org/)  
Energy Savers: [www.energysavers.gov/](http://www.energysavers.gov/)  
Home Gardening: [www.about.com/homegarden/](http://www.about.com/homegarden/)  
Coupons: [www.coupons.com/](http://www.coupons.com/)  
Planet Green: [www.planetgreen.com/](http://www.planetgreen.com/)

**Alabama Cooperative Extension System** - [www.aces.edu](http://www.aces.edu),  
**Alabama Master Gardeners** toll free Helpline – **1-877-252-4769**.

One Idea I had was to start an apartment, condo or neighborhood co-op, each family/person grows specific veggies (you don't need a yard, just a planter) and exchange the excess. I always end up with too many tomatoes and would love to trade for cucumbers, etc.! Great way to get to know your neighbors, share time with your family & friends, exchange ideas and save money!

**BRATS** - Transportation for Rural Baldwin County, AL – provides transportation throughout Baldwin County with 24 hour notice required. Fees are very low: to Mobile - \$10 round trip, Foley to Fairhope - \$5.00 round trip, to Bay Minette - \$5.00 round trip. The price is ½ if only used one way. In town - \$1.00 Prices may be increased due to increase in fuel costs.

Call **251-990-4636** Eastern Shore  
**937-0355** Bay Minette  
**972-6817** Foley

**Brats website:** [www.co.baldwin.al.us/PageView.asp?edit\\_id=174](http://www.co.baldwin.al.us/PageView.asp?edit_id=174)

**The Wave Transit System - Mobile, Alabama**  
<http://www.thewavetransit.com/RidingTheWave/busfares.htm>

## MICSELANEOUS:

**Baldwin County Library:** [www.gulftel.com/bclc/](http://www.gulftel.com/bclc/)

Baldwin County Public Libraries offer more than just books! Computers are available with a minimum of 30 minutes usage. If you have your own wireless laptop computer, bring it with you to use their wireless access for free. And you have a quiet, air conditioned building to relax, read and search the internet.

### Christian Life Church Fellowship Dinner

Food Service Ministry

To-Go Plates Available!

open to the public Wednesdays from

5:00 to 6:15 PM

\$3.00 per child, \$5.00 per adult with a maximum of \$20.00 for family of 4 or more!

Fantastic Food and Great Fun! Call ahead for reservations:

**251-967-4840**

Services to follow at - 6:30 PM.

Located at:

25550 Canal Rd., Orange Beach, Alabama 36561.

We are taking donations to help feed the growing number of people in need.

### Menu:

September 10, 2008

Pulled Pork Sandwich or Plate, BBQ Baked Beans, Coleslaw, Dessert

September 17, 2008

Grilled Fish, Yellow Rice, Grilled Fresh Veggies, Bread & Dessert

September 24, 2008

Spaghetti, Fresh Green Salad, Garlic Bread, Dessert

### Animal Shelters – Alabama

<http://www.netpets.org/dogs/dogresc/alabama.htm>

**Petfinder pet list - Pets at City of Mobile Animal Shelter, Mobile, AL**

<http://www.petfinder.com/search.html>