

# Completing Third-Party Foreclosure Sales Checklist

When a third party is the successful bidder at the foreclosure sale, Servicers must report the results of the sale, and request reimbursement of expenses when applicable. Based on Servicer reporting, Resolve will automatically settle the transaction. This quick reference outlines the high-level activities Servicers must perform to complete third-party foreclosure sales. Information on how to request reimbursement, if applicable, is also provided.

Specifically, this section:

- [Explains how to notify Freddie Mac of the foreclosure sale results.](#)
- Provides instructions on [reporting the third-party foreclosure sale loan-level transaction.](#)
- Describes the circumstances when you must [request reimbursement of expenses](#), including [examples of how to request reimbursement based on the distribution of sale proceeds.](#)
- Contains information on [verifying the charge-off information](#), if applicable, and
- [Other activities that may be required.](#)

Please ensure that your foreclosure representatives refer to [Resolve® Online Help](#) when completing third-party foreclosure sales for Freddie Mac mortgages. In addition, coordination with other internal staff and departments (i.e., Investor Accounting, Fees and Claims etc.) may be needed to ensure all steps and requirements are met.

For additional information about completing third-party foreclosure sales, refer to *Single-Family Seller/Servicer Guide* (Guide) Sections 9301.38 through 9301.47 and 9601.1 through 9601.3.

If you have any questions about completing third-party foreclosure sales, contact your Freddie Mac representative or Customer Support (800-FREDDIE).

## Documentation

If we need to execute any documents related to a third-party foreclosure sale, email Form 105, *Multipurpose Loan Servicing Transmittal*, with supporting documentation to [Foreclosures@FreddieMac.com](mailto:Foreclosures@FreddieMac.com) and include the document we need to execute.

## Process Steps

Complete the following steps to submit foreclosure sales results.

### Step 1: Notify us of the sale using a Resolve Foreclosure Sale Reporting Submission.

You must notify Freddie Mac of the third-party foreclosure sale through a Resolve Foreclosure Sale Reporting submission within one business day of the foreclosure sale date. Complete the required data elements within the submission template, including whether deficiency rights were preserved. Refer to Guide Section 9301.38 for additional information.

#### Reminders:

- Servicers are required to complete the total debt, actual credit bid amount, attorney name and attorney contact number fields in the Foreclosure Sale Reporting file when submitting all foreclosure sale results, including Real Estate Owned (REO), U.S. Department of Housing and Urban Development (HUD) and U.S. Department of Veterans Affairs (VA) and successful third-party bids.
- Servicers are also reminded that they must represent and warrant that data for all foreclosure sales, including REO and successful third-party bids, entered in the foreclosure sale reporting template and uploaded into Resolve are true, complete and accurate and entered into Resolve correctly.

This information is not a replacement or substitute for the requirements in the Freddie Mac *Single-Family Seller/Servicer Guide* or any other contractual agreements. This information does not constitute an agreement between Freddie Mac and any other party.

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## Fees

If Servicers don't report the sale or don't report the sale correctly within one business day of the foreclosure sale date, Freddie Mac may assess you a compensatory fee of \$100 per loan, per day, for every day the foreclosure sale is not reported or reported incorrectly. Freddie Mac considers the foreclosure sale results to be correctly reported when we have received and successfully processed the foreclosure sale/deed-in-lieu of foreclosure (DIL) submission without errors.

To report accurately, it's important to understand some common terms. Terms are listed as required or optional per the Foreclosure Sale Reporting Template, where applicable.

### Glossary:

- **Actual Credit Bid Amount (State Minimum Sale Price) (required):** The bid amount used at foreclosure sale based on either credit bid issued by Freddie Mac or other value used by the attorney.
- **Gross Sales Price (required):** Final sales price of the property.
- **Net Sale Proceeds (optional):** Gross sales price less any expenses deducted by court.
- **Payoff Determination Date (for Third-party Foreclosure Sales):** The date that Freddie Mac determines the amount it will draft based on Servicer reporting. Freddie Mac will draft the prior Accounting Cycle Ending UPB, exception, and delinquent interest on the fifth business day after the reported transaction is successfully processed in Loan Level Reporting. Third-party foreclosure sales that settle in Freddie Mac systems on or before the Payoff Determination Date will be reflected in the Draft Report on the same date as the payoff draft. Transactions that settle in Freddie Mac systems after the Payoff Determination Date, charge-off adjustments will be reflected in the Draft Report on the second Business Day after the foreclosure sale settles in Freddie Mac systems.
- **Surplus Over Payoff (calculated by Resolve):** The excess amount the Servicer received from the sale proceeds over the payoff amount (Principal + Accrued Interest Until Sale). The surplus equals the (lesser of sale proceeds and total debt) minus the payoff amount.
  - Note: If Net Sale Proceeds are not submitted in the Foreclosure Sale Reporting in Resolve, then Surplus Over Payoff is calculated as Gross Sale Price minus Payoff Amount at Settlement.
- **Total Debt (required)** Also referred to as Total Indebtedness, it is the total of all reimbursable expenses and amounts, including those that may not be recoverable from the borrower or legally collectable from the third-party purchaser under state or local law. Includes but not limited to gross UPB, advanced amounts (e.g. property insurance premiums, mortgage insurance premiums, water/sewer bills, real estate taxed, preservation costs), foreclosure fees/costs, delinquent interest, bankruptcy fees/costs.
  - **Note:** Refer to [Calculating Total Debt](#) for more information.

## Step 2: Report a third-party foreclosure sales transaction (exception code 71) through the Loan Level Reporting tool.

Servicers must instruct the foreclosure attorney conducting the sale to remit the sale proceeds to the Servicer, via overnight mail or wire transfer, no later than three business days after he or she receives the proceeds. The attorney must not deduct his or her fees and/or costs from the sale proceeds check. If the Servicer has not received the sale proceeds from the foreclosure attorney within 60 days of the foreclosure sale, provide a status update to Freddie Mac at [shortsales@FreddieMac.com](mailto:shortsales@FreddieMac.com), and on a monthly basis thereafter until the received.

Pursuant to Guide Section 8303.3 (b) when a Servicer receives the proceeds from a third-party foreclosure sale, report the mortgage as a third-party foreclosure sale transaction (exception code 71) through the Loan Level Reporting tool within two business days after receipt of the sale proceeds.



When reporting, ensure that the:

- Foreclosure sale date is the date that the foreclosure sale occurred.
- Ending gross unpaid principal balance (UPB) is \$0.00.
- Principal due field is completed with the gross UPB as of the last reporting cycle before the mortgage was inactivated.
- Due date of last paid installment (DDLPI) is the date of the last fully paid monthly installment.

Refer to [Reporting Transactions and Resolving Loan-Level Edits](#) for how to report this transaction.

**Note:** A Servicer's receipt of the sale proceeds from a third-party foreclosure sale, when remitted by foreclosure counsel pursuant to Guide Section 9301.43 is considered received when the Servicer receives the entire sale proceeds.

Freddie Mac will draft the prior accounting cycle's ending UPB, exception interest and delinquent interest on the fifth business day after the reported transaction is successfully processed in loan-level reporting.

### Step 3: Automatic Settlement

After completing all reporting requirements and Freddie Mac drafts from the Servicer's designated Custodial Account pursuant to Section 8303.3 (b) Resolve will automatically settle the third-party sale with no further action required by the Servicer.

For additional information, refer to Guide Section 9301.43.

#### Supporting Settlement Documentation

We generally will not require you to send supporting documentation when settling a third-party foreclosure sale via Resolve. However, there are situations where we may ask for supporting documentation (per Guide Section 9301.43).

Standard supporting documentation includes, but is not limited to, the following:

- [Form 1160](#), *Third-Party Sale Transmittal Worksheet*.
- A breakdown of the distribution of proceeds, if the sale proceeds are less than the sale price (e.g., if the foreclosure court order required the payment of sheriff expenses from the sale price). If the sale proceeds equal 100 percent of the sale price, you do not have to provide this itemization.
- A copy of the BPO or appraisal report, if used for the foreclosure bid.
- A copy of the sale proceeds check or other documentation (e.g., proof of wire transfer) verifying the amount of sale proceeds received.
- A copy of the sheriff's appraisal or other documentation used to establish the opening bid, if required by state law.
- If there are amounts not legally collectable from the third-party purchaser that need to be reimbursed to you, supporting documentation, including but not limited to, the applicable state statute.



## Step 4: Determine if you need to file expense reimbursement in PAID.

Calculate the following to determine if you need to submit for expense reimbursement in PAID (Payments Automated Intelligent and Dynamic).

### Compare the Gross Sale Price and Net Sale Proceeds to the Total Debt

Gross Sales Price.....

Net Sale Proceeds .....

Total Debt (i.e. total indebtedness).....

Gross Sales Price minus Total Debt..... = .....

Net Sale Proceeds minus Total Debt..... = .....

If:	Then:
The Gross Sales Price or Net Sale Proceeds minus total indebtedness is less than zero	Proceed to Step 5 below.
The Net Sale Proceeds minus total indebtedness is zero or greater than zero	The Net Sale Proceeds is equal to or greater than the total indebtedness. Do not request reimbursement of expenses. <a href="#">Go to Step 6.</a>

## Step 5: Request reimbursement.

Submit all third-party foreclosure sale related expenses, when total sale proceeds do not exceed total indebtedness, in PAID. If a Servicer is owed reimbursement of any shortage in the Net Sale Proceeds (e.g., sheriff or auctioneer fees), and/or reimbursable expenses or amounts are not legally collectable, submit your request for reimbursement via PAID. Ensure that you offset these expenses or amounts by income as set forth in Guide Section 9701.19. For additional information regarding reimbursement timeframes, refer to Guide Section 9701.5.

**Note:** We generally will not require you to provide supporting documentation with your expense reimbursement requests. However, in the event we do request supporting documentation to process expenses, you must meet the appropriate submission deadline in Guide Section 9701.5 or any deadline provided in our request for documentation.

### Examples: Requesting Reimbursement Based on the Distribution of Sale Proceeds

The following are examples of when to request reimbursement based on the distribution of sale proceeds. Refer to [Exhibit 74 Expense and Income Codes for Expense Reimbursement Requests](#) for additional information.

If:	Then:
Gross Sales Price is greater than the Net Sale Proceeds: For example, the court has deducted court fees and costs from the gross sales price prior to remitting funds to	<b>Example A:</b> Submit expenses via PAID to request reimbursement using the applicable expense codes. For this example, use expense code per Exhibit 74 for reimbursement of the fees and costs the court deducted from the gross sales price.



If:	Then:
the foreclosure counsel. Therefore, the sale proceeds the Servicer received (i.e. Net Sale Proceeds in Resolve) are less than the gross sales price.	<p>For example, if:</p> <ul style="list-style-type: none"><li>• Gross Sales Price = \$140,000</li><li>• Court Fees and Costs Deducted = \$3,000</li><li>• Net Sale Proceeds: = \$137,000</li></ul> <p>Request reimbursement for the court fees and costs in the amount of \$3,000 using expense code per Exhibit 74.</p> <p>If requested, Servicers must provide evidence reflecting the deduction(s) from the gross sales price made by the court.</p> <p><b>Example B:</b> Submit expenses via PAID to request reimbursement using the applicable expense codes.</p> <p>For example, if:</p> <ul style="list-style-type: none"><li>• Gross Sales Price = \$125,000</li><li>• Second Lien = \$25,000</li><li>• Net Sale Proceeds = \$100,000</li></ul> <p>Request reimbursement using the expense code per Exhibit 74 (code 502000 Other Liens) for the amount awarded to interested parties other than Freddie Mac (i.e. second lien) in the amount of \$25,000.</p> <p>If requested, you must provide evidence reflecting the deduction(s) from the gross sales price made by the court.</p>
Gross Sales Price is greater than the UPB plus accrued interest until sale (resulting in a positive charge-off amount); however, is less than the UPB plus accrued interest until sale plus expenses (Total Debt)	<p>Submit expenses via PAID to request reimbursement using the applicable expense codes.</p> <p>Refer to <a href="#">PAID online help</a>, for more information on this process.</p>

If:	Then:
If the sales proceeds result in a Surplus Over Payoff.	<p>Servicers must pursue and claim to retain the surplus proceeds, or overbid funds provided it is determined to be in Freddie Mac's best interest, to the extent:</p> <ul style="list-style-type: none"><li>▪ The funds will satisfy or reduce the total indebtedness under the terms of the mortgage or such other amount (e.g., amount and terms of the judgment) and the costs and expenses of the sale, if possible; and</li><li>▪ It is permitted under applicable State law.</li></ul> <p>For additional information, refer to Guide Section 9301.37. If attorney services are required to pursue the surplus proceeds or</p>



If:	Then:	
	overbid funds, you must submit a request for prior approval (RPA) in PAID using expense code 010000 (Attorney Fees (Judicial)) or 010006 (Attorney Fees (Non-Judicial)) to recommend incurring additional attorney fees.  Refer to <a href="#">PAID online help</a> , for more information on this process.	
	If:	Then:
	A Servicer is able to claim the surplus proceeds or overbid funds	Submit expenses via PAID to request reimbursement for any remaining expenses, if recovery of the funds does not satisfy the total indebtedness.
	A Servicer is <u>not</u> able to claim the surplus proceeds or overbid funds	Retain documentation you received stating you may not claim the funds, or why pursuit of funds was determined not to be in Freddie Mac's best interest, in the mortgage file. This documentation must be made available to Freddie Mac upon request.  Submit expenses via PAID to request reimbursement for the funds and expenses, if applicable, using the applicable expense codes. For this example, use expense code 030000 (Sheriff/Auctioneer Fees) for reimbursement of the funds.
Gross Sales Price is greater than the Net Sale Proceeds. The Servicer receives 100 percent of the Gross Sales Price.	Submit expenses via PAID to request reimbursement using the applicable expense codes if sale proceeds do not meet or exceed the total indebtedness.	

### Step 6: Verify the charge-off information, if applicable.

The amount that will be charged off will be determined, in part, by the Gross Sales Price (i.e., the gross sale price plus any excess proceeds you receive), and not the Net Sale Proceeds from the sale of the property. The adjustment amount will be reflected on the *Draft Report* as follows:

If the third-party foreclosure sale settles in Freddie Mac systems:	Then the charge-off adjustment will be reflected in the <i>Draft Report</i> :
On or before the payoff determination date	On the same date as the payoff draft.
After the payoff determination date	On the second business day after the foreclosure sale settles in Freddie Mac systems.



Access the *Draft Report* via the Cash Manager tool on Freddie Mac Gateway. Review the *Draft Report* and notify us of any discrepancies between your records and the amount on the *Draft Report* via the Freddie Mac Servicing Data Corrections tool within the same accounting cycle in which Freddie Mac posts the amount to the *Draft Report*.

**Note:** The [Post Settlement Correction Charge-off Forms for Fixed Rate Mortgage and ARMs](#) resource is available to assist you with determining the charge-off amount for your records.

### Perform other activities that may be required.

The following are activities that are exceptions to the regular process that you must be familiar with as you complete third-party foreclosure sales for Freddie Mac mortgages.

Perform Servicer responsibilities related to property preservation and advancement of property taxes and insurance premiums after a third-party foreclosure sale.

In some jurisdictions, a mortgagee's interest in the mortgaged premises may not be immediately extinguished with a third party's successful at the foreclosure sale. During the period between the foreclosure sale date and the date the foreclosure action is completed (which might not be until the sale is confirmed or ratified), you must take the following actions, unless prohibited by applicable law:

- Continue to order and obtain timely and accurate property inspections in accordance with Guide Section 9202.12.
- Per Guide Section 9301.26 Servicer must submit an RPA (Request Prior Approval) and obtain Freddie Mac's approval prior to completing any necessary property preservation or maintenance, even if the work you are recommending is within the allowable limits outlined in Guide Exhibit 57, *1-4 Unit Property Approved Expense Amounts*. For additional information about RPAs, refer to the [PAID Online Help](#)

**Note:** Unless deferred maintenance caused or may cause Freddie Mac to have additional responsibilities or obligations in or for the property, you must not complete maintenance work.

- If it is determined to be in Freddie Mac's best interest, you may continue to advance all property taxes and property insurance premiums that become due if the net foreclosure sale proceeds from the third-party foreclosure sale do not equal or exceed the total indebtedness. Freddie Mac will reimburse you for such advances to the extent those amounts are not recovered from the borrower or purchaser.

**Note:** You may advance the property taxes and property insurance premiums that become due during this period, at your discretion, but we will not reimburse these amounts if the net foreclosure sale proceeds equal or exceed the total indebtedness at the time of the foreclosure sale.

### Request a rollback, if applicable.

If the third-party foreclosure sale results reported to us in [Step 1](#) need to be corrected or removed for various reasons including, but not limited to, the reasons noted in Guide Section 9301.39(a), within one business day of determining the need to correct or remove a reported foreclosure sale, Servicers must notify us by requesting a "rollback" via the Freddie Mac Servicing Data Corrections (SDC) tool. When completing the notification through the SDC tool, this initiates the cancellation of any sale submitted in Resolve. Refer to Resolve Dashboard for the Rollback Status once request has been completed. Resume Servicing requirements per the Guide (e.g. EDR and Investor Reporting).

For additional information about rollbacks, refer to Guide Section 9301.39.

**Note:** Do not request a rollback if you reported that a third party purchased the property at the foreclosure sale, erroneously or otherwise, and need to report that Freddie Mac acquired the property at the foreclosure sale (i.e., REO). Instead, re-report the foreclosure sale results using the Foreclosure Sale



