

# Glimmer of Hope to Overturn a Michigan Foreclosure

Everyone paying attention to foreclosure news has heard that major banks are suspending foreclosures across the nation because of problems in the foreclosure process. The problem for people facing foreclosure in Michigan is that these issues apply to only 23 states, and Michigan is not one of them. Representatives of the lenders were executing sworn statements about loans that they could not possibly have reviewed given the extremely large number of statements that they executed per day. Michigan does not require these sworn statements before a foreclosure by advertisement, the most common kind here.

So, one more option for defending against a foreclosure that applies in some states does not apply here. Does that leave us with no options? Almost. It is true that the foreclosure process is very lender friendly here and there are very few mistakes that can be made that will result in a sheriff's sale being stopped or a foreclosure sale being reversed if the deed has already been issued. But, we do have a few options available. For example, lenders are required to publish notices of the foreclosure for approximately a month before the sale. There is a little known case in which the Court of Appeals overturned a trial court's decision to let a sale stand when the bank started publishing the notices before it actually owned the mortgage. The bank then appealed to the state Supreme Court, which refused to hear their appeal because they were "not persuaded that the questions presented should be reviewed by this Court." This essentially means that the state Supreme Court thinks the Court of Appeals got the decision right and they are not going to change the ruling.

The bottom line is that if the bank that is foreclosing is not the bank that originally owned your mortgage, and the transfer of the mortgage did not get completed before their law firm issued the first notice of the foreclosure, the foreclosure sale may be invalid. There are some exceptions that would apply. For example, the servicer has standing to bring a foreclosure action. So, if the foreclosure was actually filed by the servicer, it would not matter who actually owned the note at the time of the notice. But, it is worth looking into this option before assuming that nothing can be done to stop the foreclosure.