

## [When in Foreclosure, Don't Strip Down Home of Appliances and Fixtures](#)

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There have been recent reports about property owners in foreclosure that are stripping down or vandalizing their homes just before the sheriff's sale. Appliances, including air conditioning units and pool pumps, are being sold for pennies on the Dollar. A television news reporter recently interviewed a woman that was actually selling her toilets. She felt that she should get every penny out of her home before losing it to the lender. Whether the house is stripped for profit or otherwise intentionally vandalized, the wrong-doer might just later learn to regret it.

When the lender forecloses on real property, it obtains a final judgment for the total amount due on the mortgage, including interest, costs and attorney's fees. When the property is worth less than the judgment, it is very unlikely that an investor third party will bid on and buy the property at the public auction. When there are no bidders, the lender then takes title to it.

Lender owned property (also known as "Real Estate Owned" or "REO's") will later be listed with a real estate agent and sold at market value which, during these times, will most likely be less than the final foreclosure judgment. In addition to the real estate agent's commission, the lender will also incur closing costs which will reduce the amount of money they will receive at closing. The difference between the final judgment and the amount of money the lender recovers when it sells the property is referred to as the "deficiency." And the lender is then free to seek a "deficiency judgment" against the borrower (the party that lost the property in foreclosure).

Should the lender be required to remodel, repair or purchase appliances in order to sell the property, the deficiency will only grow and therefore the deficiency judgment will be greater. The same is true when the selling price reflects the property's poor condition.

Aside from the ethical issues raised when one destroys or strips the home before losing the property at public auction, it is, or can be, financially detrimental to do so. Currently, it seems, most lenders are so inundated with foreclosures that they have yet to pursue deficiency judgments against those they have foreclosed upon. It is only a matter of time, however, before the number of foreclosures is reduced to the point where the lenders can then focus on collecting on these deficiency judgments.

As an attorney, I have yet to see lenders pursue these judgments. Indeed, no one has come to me for help for protection under these circumstances. But I believe that it is all a matter of time before it happens. Obviously, there are other alternatives to allowing the

property to be sold at public auction. In previous posts, I have discussed other options such as short sales and deed-in-lieu as possible alternatives to foreclosure. Albeit, the lenders are not always agreeable to forgiving the deficiency when accepting a short sale or deed-in-lieu, but when they do, this is the best course of action for the property owner to take when in foreclosure.

Property owners that ignore or neglect a foreclosure will only face deficiency judgments later on, when they incorrectly assume that the public auction is the end of the road for the lender. There could be no bigger mistake for the property owner assuming that stripping or vandalizing the home is a way to get the last “jab” in against the lender. They could, more likely than not, be faced with a judgment that includes amounts for the items stripped or damaged – much more than what they were able to get during the fire sale or the short-lived and misguided satisfaction they received in damaging the home in the first place.