

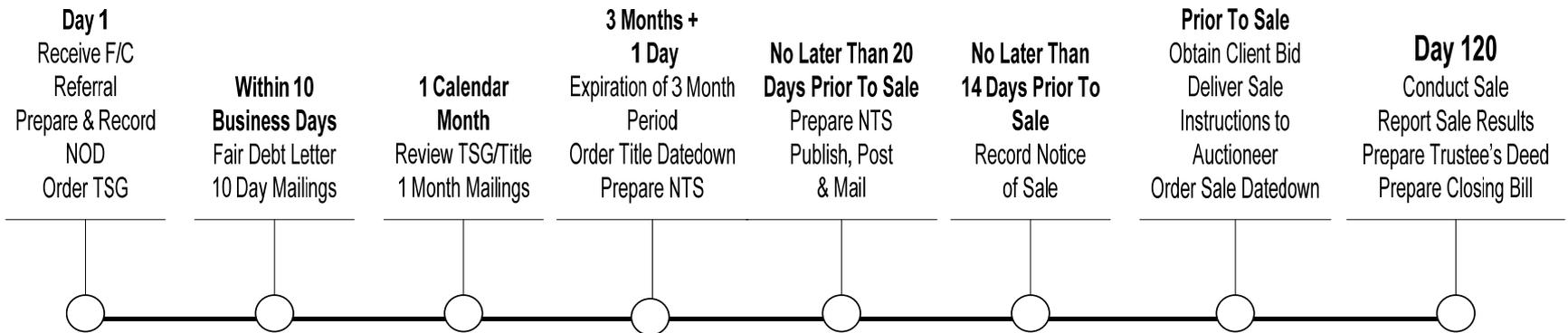
# California Foreclosure and Eviction Process

**CACTTC Annual Conference June 11, 2008**

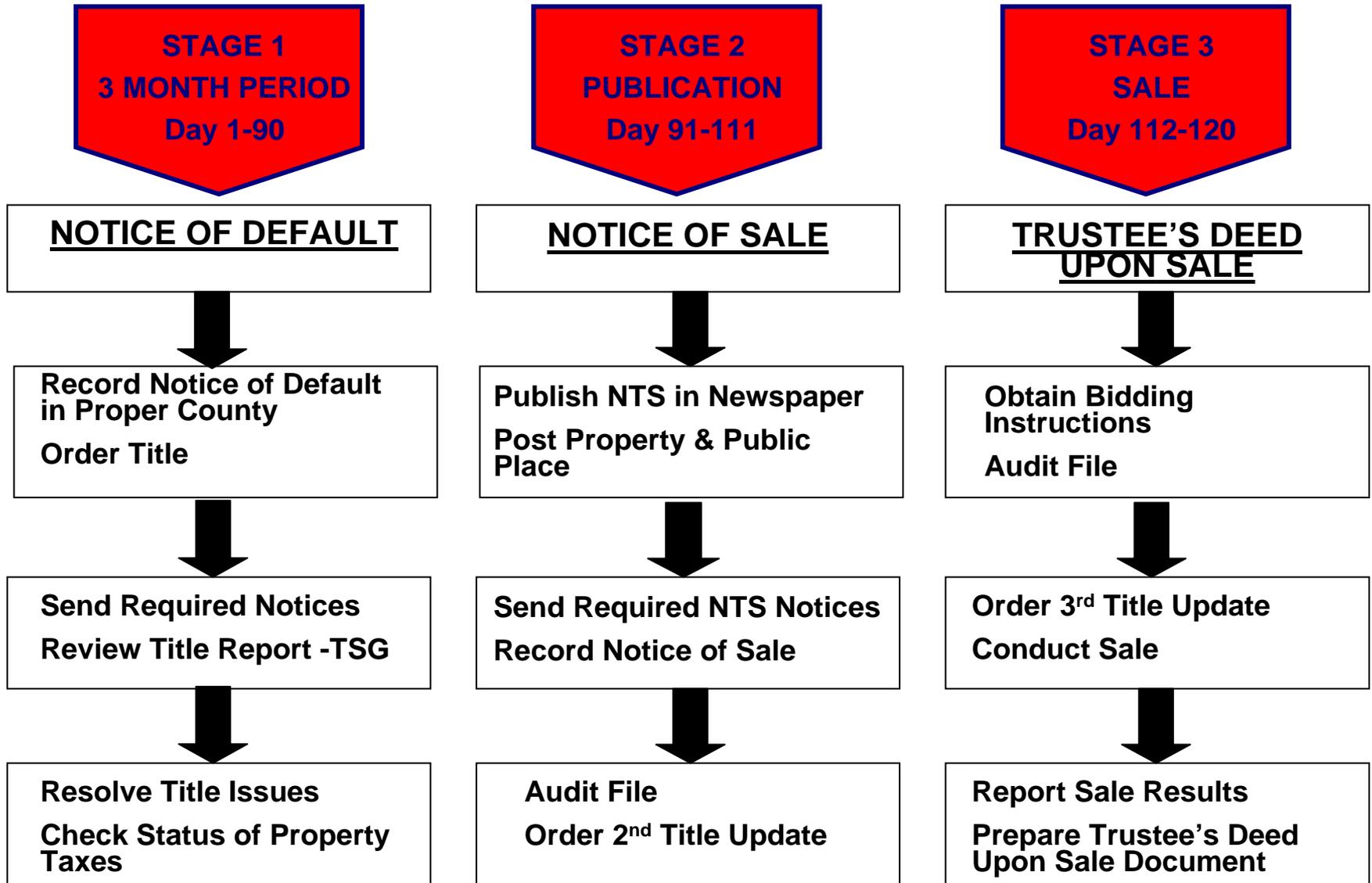
# California's 58 Counties



# California Foreclosure Timeline

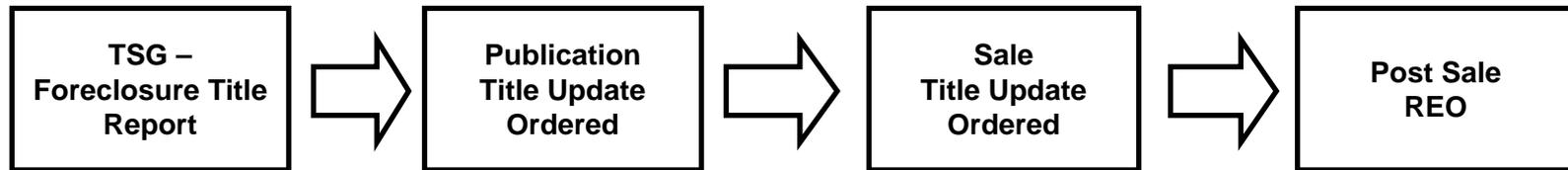


# California Foreclosure Process



# Property Taxes

During the foreclosure process when are property taxes reviewed?



## **Stage 1**

- ▶ The TSG Report is the first title product reviewed. This report will disclose the status of property taxes.

## **Stage 2**

- ▶ The publication datedown or second title update is ordered at the beginning of the publication period. This report will give any additional information from the original TSG report. Property taxes are researched again.

## **Stage 3**

- ▶ The sale datedown or 3<sup>rd</sup> title update is ordered when the file is close to sale. This last and final update will report all new items that have occurred since the second update was completed. Property taxes are disclosed.

## **Stage 4**

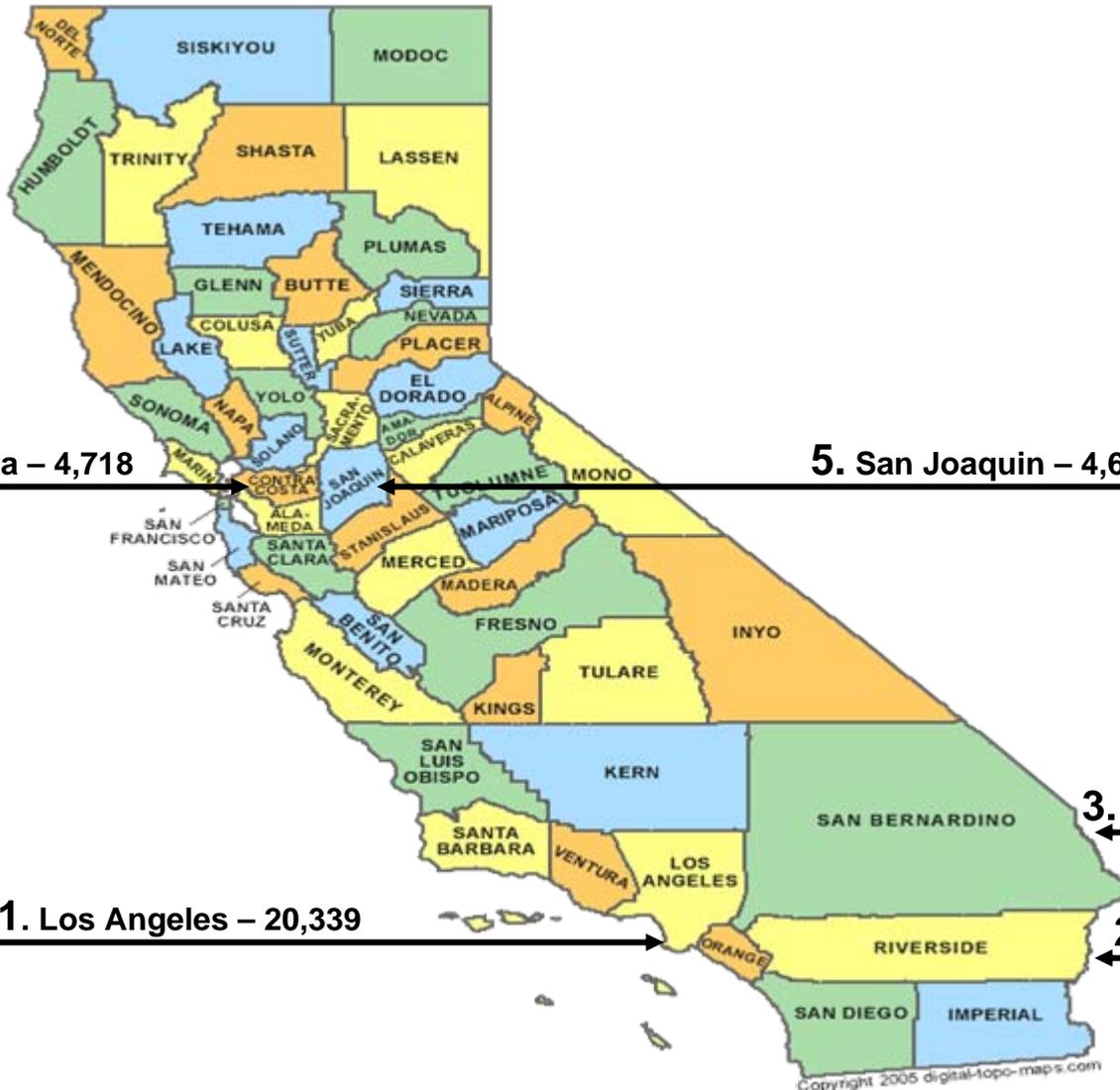
- ▶ After the sale has been conducted the property will either revert back to the investor or is sold to a new 3<sup>rd</sup> party bidder.
- ▶ Either party is now responsible for paying all property taxes.



# During the foreclosure when are property taxes paid?

- Any time the property is in jeopardy of a tax sale.
- When the borrower reinstates the loan prior to foreclosure sale.
- When the borrower pays off the loan prior to foreclosure sale.
- When the property goes to foreclosure sale and is sold to a third party bidder.
- When the property goes to foreclosure sale and reverts back to the investor. In this case, the investor usually waits until the property is in escrow and is scheduled to close during the REO process.

# Top 5 NOD Recordings 2008 Q1



# NOD's Filed in California – Southern California

<b>County / Region</b>	<b>2007 Q1</b>	<b>2008 Q1</b>	<b>Yr/Yr%</b>
Los Angeles	8,843	20,339	130.0%
Orange	2,644	7,082	167.9%
San Diego	3,931	8,975	128.3%
Riverside	5,750	15,022	161.3%
San Bernardino	4,357	11,149	155.9%
Ventura	965	2,176	125.5%
Imperial	258	566	119.4%
<b>Southern California</b>	<b>26,748</b>	<b>65,309</b>	<b>144.2%</b>

# NOD's Filed in California – Central Valley

County / Region	2007 Q1	2008 Q1	Yr/Yr%
Sacramento	3,234	6,898	113.3%
San Joaquin	1,721	4,657	170.6%
Placer	518	1,031	99.0%
Kern	1,297	3,211	147.6%
Fresno	1,116	2,464	120.8%
Madera	184	523	184.2%
Merced	511	1,759	244.2%
Tulare	436	947	117.2%
Yolo	197	488	147.7%
El Dorado	219	394	79.9%
Stanislaus	1,141	3,192	179.8%
Kings	88	182	106.8%
San Benito	107	272	154.2%
Yuba	151	357	136.4%
Colusa	20	81	305.0%
Sutter	114	337	195.6%
<b>Ctrl Valley</b>	<b>11,054</b>	<b>26,793</b>	<b>142.4%</b>

# NOD's Filed in California – Bay Area

<b>County / Region</b>	<b>2007 Q1</b>	<b>2008 Q1</b>	<b>Yr/Yr%</b>
San Francisco	216	420	94.4%
Alameda	1,578	3,194	102.4%
Contra Costa	1,969	4,718	139.6%
Santa Clara	1,058	3,074	190.5%
San Mateo	382	911	138.5%
Marin	118	314	166.1%
Solano	914	2,091	128.8%
Sonoma	407	1,392	242.0%
Napa	88	284	222.7%
<b>Bay Area</b>	<b>6,730</b>	<b>16,398</b>	<b>143.7%</b>

# NOD's Filed in California

<b>County / Region</b>	<b>2007 Q1</b>	<b>2008 Q1</b>	<b>Yr/Yr%</b>
Santa Cruz	171	447	161.4%
Santa Barbara	372	897	141.1%
San Luis Obispo	181	385	112.7%
Monterey	458	1,468	220.5%
<b>Coast</b>	<b>1,182</b>	<b>3,197</b>	<b>170.5%</b>
<b>Mountains*</b>	<b>291</b>	<b>588</b>	<b>102.1%</b>
<b>No. California</b>	<b>755</b>	<b>1,391</b>	<b>84.2%</b>
<b>State Wide</b>	<b>46,760</b>	<b>113,676</b>	<b>143,1%</b>

\*includes some additional counties.

# California Eviction Process

- Purchaser with “duly-perfected” title may evict following persons after foreclosure:
  - Original borrowers and successors in interest
    - Three Day Notice to Quit – CCP § 1161a(b)(3)
  
- Tenants, subtenants and other occupants
  - Thirty Day Notice to Quit – CCP § 1161a(c)
    - Longer notice required for Section 8 tenancies
    - Longer notice required in some rent-controlled jurisdictions (e.g. San Jose)
    - Just-Cause eviction ordinances often prohibit tenant evictions or impose additional notice requirements
  
- Title is “duly-perfected” by recording Trustee’s Deed
  - Retroactive perfection as of 8am on sale date if recorded within 15 days
  - Otherwise, title is “duly-perfected” when Trustee’s Deed records
  
- Preparation and Service of Notices to Quit
  - Personal delivery
  - Substituted service
  - Posting and mailing

# California Eviction Process Cont'd

- Preparation and Service of Complaint for Unlawful Detainer
  - Filed in branch court for county in which real property is located
  - Service by personal delivery preferred; substituted service allowed after due diligence.
  - Service by posting and mailing allowed only by court order
  - Service includes Prejudgment Claim of Right to Possession for unnamed occupants
  
- Responsive Pleadings
  - Five calendar days to respond after personal delivery
  - Ten calendar days to respond after substituted service or posting and mailing
  - Default Judgment by Clerk if no timely response
  - Types of Responsive Pleadings
    - Motion to Quash Service – alleges improper service
    - Demurrer – challenges legal sufficiency of complaint
    - Answer – admits or denies allegations; raises affirmative defenses

# California Eviction Process Cont'd

## ➤ Trial in contested Cases

- Contested evictions set for trial once Answer is filed
- Trial must be set within 21 days after filing of written request
- Broker or other lender representative must testify at trial
- Cases often settled by stipulated judgment for possession only
  - Avoids defendant liability for money judgment
  - Avoids adverse credit reporting
  - Controls time frame for any lockout
- Unnamed occupants bound by Judgment – CCP § 415.46

## ➤ Post-Trial Enforcement Proceedings

- Clerk's of the Court issues Writ of Possession for Sheriff to Enforce Judgment
- Sheriff posts copies of Writ of Five Day Notice to Vacate at premises
- Sheriff coordinates lockout date with broker
- Lockout is completed under Sheriff supervision
- Premises are secured

# California Eviction Process Cont'd

- Storage and Disposition of Personal Property
  - Duty to store personal property at premises or other secure location
  - Create inventory and/or photographic record of personal property
  - Send written notice to former occupants
    - Personal delivery or first-class mail service
    - 15 or 18 days to reclaim property depending on service method
    - Payment of reasonable storage and moving costs
  
- Failure to Reclaim
  - May dispose or retain if resale value is \$300 or less
    - Serve and publish notice of sale
    - Recover storage and selling costs from sale proceeds
    - Any surplus deposited with county treasurer
    - One year to claim surplus
  
- No liability if these procedures followed

# Southern California Home Sales

All Homes	# Sold Feb '07	# Sold Feb '08	Pct. Chg	\$ Median Feb '07	\$ Median Feb '08	Pct. Chg
Los Angeles	6,300	3,468	-45.0%	\$528,000	\$460,000	-12.9%
Orange	2,449	1,471	-39.9%	\$620,000	\$520,000	-16.1%
Riverside	3,057	2,147	-29.8%	\$410,000	\$325,000	-20.7%
San Bernardino	2,274	1,242	-45.4%	\$368,750	\$290,000	-21.4%
San Diego	2,863	1,954	-31.7%	\$480,000	\$415,000	-13.5%
Ventura	737	495	-32.8%	\$584,000	\$445,000	-23.8%
<b>So. Calif</b>	<b>17,680</b>	<b>10,777</b>	<b>-39.0%</b>	<b>\$495,000</b>	<b>\$408,000</b>	<b>-17.6%</b>

# Bay Area Home Sales

All Homes	# Sold Feb '07	# Sold Feb '08	Pct. Chg	\$ Median Feb '07	\$ Median Feb '08	Pct. Chg
Alameda	1,356	753	-44.5%	\$585,000	\$486,500	-16.8%
Contra Costa	1,160	753	-35.1%	\$537,000	\$450,000	-16.2%
Marin	228	136	-40.4%	\$829,000	\$775,000	-6.5%
Napa	93	57	-38.7	\$612,500	\$525,000	-14.3%
Santa Clara	1,654	984	-40.5%	\$677,000	\$658,000	-2.8%
San Francisco	375	431	14.9%	4757,500	\$736,000	-2.8%
San Mateo	528	343	-35.0%	\$720,000	\$646,500	-10.2%
Solano	458	278	-39.3%	\$445,000	\$350,000	-21.3%
Sonoma	453	254	-43.9%	\$515,000	\$400,000	-22.3%
<b>Bay Area</b>	<b>6,305</b>	<b>3,989</b>	<b>-36.7%</b>	<b>\$620,000</b>	<b>\$548,000</b>	<b>-11.6%</b>