

### Original loan documents

**Deed of Trust**

**Mortgage**

**Promissory Note**

**Trustee's Sale  
ARS 33-807**

**Judicial Foreclosure  
ARS 33-721**

Can the lender elect to sue on the Promissory Note instead pursuing a trustee's sale or judicial foreclosure? Perhaps, but you may have a defense. **NOTE: IF YOU ARE SUED YOU MUST FILE AN ANSWER IN ORDER FOR THE COURT TO DETERMINE WHETHER OR NOT YOU ARE PROTECTED**

Character of Property: 2 ½ acres or less, utilized as a one- or two-family dwelling. **BUT DOES NOT INCLUDE** deeds of trust signed after 12/31/14 for borrowers engaged in business to resell property, or for properties that were not "substantially completed" or were not "actually utilized as a dwelling".

Character of Property: 2 ½ acres or less, utilized as a one- or two-family dwelling & **PURCHASE MONEY**, **but does not include** deeds of trust after 12/31/14 for borrowers engaged in business to resell property, or for properties that were not "substantially completed" or were not "actually utilized as a dwelling".

**If All Are Yes**

**If One Is No**

Is the property 2 1/2 acres or less, utilized as a 1 - 2 family dwelling **and** the debt **PurchaseMoney?**

**If All Are Yes**

**If One Is No**

No Deficiency  
ARS 33-814(G)

Deficiency, but complaint must be filed within 90 days  
ARS 33 814(A)

**If All Are Yes**

No, if any of the above elements are missing

No Deficiency  
ARS 33-814 (G) & 33-729  
**\*But deficiency if Debtor caused waste to property ARS 33-729(B)**

Deficiency

No Deficiency  
ARS 33-729(A)  
**\*Includes consumer goods purchased with real property ARS 33-730**

Deficiency

Judgment – This could now be considered an unsecured debt and might be dischargeable in bankruptcy (see latest case law).

**\*Trustor liable for waste to property, regardless of anti-deficiency laws: ARS 33-806(B) (trustee sale) or 729(B) (judicial foreclosure)**