If you are on active duty in the military or left within the past nine months, or you are the spouse or dependent of someone on active duty, you have special protections from foreclosure under the Servicemembers Civil Relief Act. This Act applies to all types of mortgage loans, but only applies if you entered into the loan before your current period of active duty.

Even if you are in a state that allows nonjudicial foreclosures, the lender must obtain a court order or your written permission to foreclose on your home. You can also ask make a written request with the court for a ninety day (or even longer) delay in any court foreclosure case brought against you. The request must explain why your military duties affect your ability to appear in court, give the date when you will be able to appear, and include a statement by your commanding officer that your military duties prevent you from appearing in court and that leave is not authorized.

Make sure you get in writing that the case against you has been delayed. The court also can lower your mortgage payments or add your back payments to your loan balance if your military service affects your ability to make your payments.

Source: National Consumer Law Center, Surviving Debt [50th NCLC Anniversary Edition], updated at www.nclc.org/library
Source URL: https://library.nclc.org/sd/1808