

## Insights

# Buying a Final Judgment of Foreclosure: What to Watch For

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*This article is the fifth in a multi-part series based on the Lowndes white paper, "Selling & Acquiring Distressed Real Estate in Florida." Each installment will examine key legal and strategic considerations for acquiring distressed assets in the state. The next article will be the final article in the series and address key contract considerations when thinking about buying a winning foreclosure bid.*

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Purchasing a final judgment of foreclosure can be an effective strategy for acquiring distressed real estate, but it comes with unique timing and procedural risks. Unlike buying loan documents, this approach requires careful attention to various timing considerations prior to signing the contract, during an appeal period, and when closing on the purchase of the final judgment.

## Before the Judgment Is Entered

If the final judgment has not yet been entered when the contract is signed, the contract should require the lender to use reasonable efforts to obtain the judgment within a stated period of time. It should also include language allowing for its assignment to the buyer. If the judgment is not obtained within the stated timeframe, the contract should address subsequent steps, including whether the buyer has the right to terminate the contract.

## During the Appeals Period

A final judgment may be appealed within 30 days after entry. If the buyer signs the contract before the judgment is entered, or after it is entered but before the appeal period expires, the contract should provide that the buyer is not obligated to close until the appeal period has passed without an appeal being filed. If an appeal is filed, the contract should state what

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happens next, including whether the seller has to contest the appeal (and thereby delay the closing) or whether either party has the right to terminate the contract. If the closing is to be delayed pending the completion of an appeal, the contract should specify for how long, after which a termination right may be exercised.

### Timing Considerations when Purchasing a Final Judgment

In the assignment of a Final Judgment, timing is critical because a short window may exist after closing during which the buyer must be recognized by the Clerk of the Court as the holder of the Final Judgment, which is necessary to enable the buyer to credit bid at the foreclosure sale. Thus, both the prudent buyer and lender should be aware of and contemplate timing considerations within the Contract to clarify how each party will meet critical deadlines.

### Overall

Purchasing a Final Judgment of Foreclosure presents unique timing and procedural challenges. Prudent buyers should consider carefully structuring the Contract to account for the efforts to be pursued if the Final Judgment is not obtained before the Contract is signed, assignment feasibility and procedure, the potential for appeal, and strict deadlines associated with foreclosure sales. Key provisions should address the timing of the entry of the judgment, appeal risks, and recognition by the Court for credit bidding purposes. By anticipating these issues in the contract, buyers can better protect their position and avoid delays or missed opportunities at the foreclosure sale.

A more detailed discussion of the issues presented by this article are contained in a longer article on the Lowndes website [here](#).

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