



Real Estate

Q: May a lender pursue a guarantor of a commercial loan for a deficiency after a non-judicial foreclosure if the amount bid at the trustee's sale is less than the debt?

A: In most cases, a lender may pursue a guarantor for a deficiency on a commercial loan if the proceeds of the trustee's sale are insufficient to repay the lender in full. To pursue a deficiency, a lender must commence a lawsuit against the guarantor within one year of the trustee's sale. A lender's right to pursue a guarantor may also be limited by the documents governing the loan or by applicable law. For example, under Washington's Deed of Trust Act, a guarantor's deficiency liability may be reduced or eliminated entirely if a court determines that the fair value of the property exceeded the purchase price paid or credit bid, if the lender was the winning bidder at foreclosure.

Michael N. Kot
1221 2nd Avenue, Suite 500
Seattle, WA 98101
mike.kot@hcmp.com
206-470-7621

HCMP
Law Offices

Hillis
Clark
Martin &
Peterson P.S.