Time frame of debt and collections varies for each lender, in each state

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Tribune Content Agency

Q: I have paid $30,000 of a $60,000 mortgage on vacant land but then got behind on payments. The owner has failed to foreclose. I have continued to pay the real estate property taxes for several years. If the owner dies without foreclosing, can I claim the property?

A: Let's start with the simple fact that if the land was yours when you bought it, even if you borrowed money against the property, you should still own it. When you give someone a mortgage, trust deed or lien against your property, the ownership of the land remains yours.

But, and this is a big but, the land is now encumbered by terms of the loan and the documentation that you signed in connection with the loan.

You've paid off half the loan, but then you stopped making payments. While you have continued to pay the real estate taxes on the land, we assumed that you have also reaped the benefits of owning the land. While the loan remains unpaid, the lender still remains your lender and retains its rights as a lender. Those rights may include filing a suit to foreclose on the loan and sell the property to satisfy the debt you owe him.

The lender may have the right to sit and wait until you decide to pay up. In the meantime, if you were to try to refinance or sell the property, you may find it hard to get a lender to give you a loan and you'll have to deal with your original lender to sell the property. So, the lender can sit and wait with the hope that someday you'll pay up.

If the lender dies, the lender's heirs would inherit the assets and one of those assets would be the debt you owe the lender. With that in mind, you might not be able to sit back, never pay the lender and hope to outlive your lender. On the other hand, there are some state laws that may affect the claim the lender has against your property. If the lender takes no action to collect on a loan, your state's laws may preclude the lender from collecting on that debt after a certain number of years.

For more precise information on how long your lender can sit and wait for you to start sending checks again, you'll have to talk to an attorney with experience in debt and collections in your area.

In some states, the time period in which a creditor can wait for a debt to be paid can be as long as 20 years. We don't know how or why you got behind on your payments, but if you end up being able to pay off the debt, the payment in full of the debt is the best recourse in getting the loan paid off and any lien on your land released.

Ilyce Glink's latest book 100 Questions Every First-Time Home Buyer Should Ask, 4th edition, will be published in mid-February. She is also the CEO of Best Money Moves, an app that employers provide to employees to measure and dial down financial stress. Samuel J. Tamkin is a Chicago-based real estate attorney. Contact Ilyce and Sam through her website, ThinkGlink.com.