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A New Class Of Redemptioners: The Enhanced Position Of Tenants, Prospective Owner Occupants, And Nonprofit Or Governmental Entities In Residential Foreclosures

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The borrower has no post-sale redemption right in California's nonjudicial foreclosure process. This redemption bar has long been justified as a trade-off for the lender's post-sale deficiency bar under Civ. Proc. Code, § 580d. The secured creditor has the option of foreclosing judicially and pursuing a deficiency, which gives the borrower the right to redeem from the sale and preserve the property. Alternately, the secured creditor can foreclose nonjudicially, thereby waiving the right to a deficiency and allowing the purchaser in foreclosure to take possession and control of the property without risk of losing it if the debtor exercises its right of redemption.

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