

# FORECLOSURES and DEEDS in LIEU

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## Focus of Presentation

- Deeds in Lieu of Foreclosure
- Non-Judicial Foreclosures
- Commercial Properties Only
- Forms
  - Deed in Lieu Agreement
  - Warranty Deed in Lieu
  - Appointment of Substitute Trustee
  - Notice of Sale
  - Trustee's Deed

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## Deed in Lieu of Foreclosure

- Voluntary agreement by mortgagor to convey title to mortgagee, and voluntary agreement by mortgagee to accept title in partial or complete satisfaction of the debt.
- Texas Property Code § 51.006: Mortgagee may void deed conveying property within four (4) years of execution if debtor fails to disclose lien or encumbrance on the property before executing the deed and the mortgagee had no personal knowledge of the undisclosed lien or encumbrance on the property.

## Deed in Lieu

- Advantages to doing a deed in lieu
  - More expeditious and generally less expensive than foreclosure
  - Prevents waste of asset
  - Private transaction
  - Borrower generally more cooperative
  - Does not require release of lien or extinguishment of lien

## Deed in Lieu

- Disadvantages to deed in lieu
  - No immediate impact on other lienholders
  - Negotiation of agreement may take more time and money than anticipated
  - Risk of priority of lien

## Deed in Lieu

- When to seek or accept
- Is a receivership a better option?
- Consensual Foreclosure

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Title search: Foreclosures and Deeds in Lieu

Also available as part of the eCourse

[2023 William W. Gibson, Jr. Mortgage Lending and Servicing eConference](#)

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"Foreclosures and Deeds in Lieu"