Foreclosure is by judicial sale, commonly called judicial foreclosure, involves the sale of the mortgaged property under the supervision of a court. The proceeds go first to satisfy the mortgage, then other lien holders, and finally the mortgagor/borrower if any proceeds are left. Judicial foreclosure is available in every US state and required in many (Florida requires judicial foreclosure). When the remaining mortgage balance is higher than the actual home value, the foreclosing party is unlikely to attract auction bids at this price level. A house that has gone through a foreclosure auction and failed to attract any acceptable bids may remain the property of the owner of the mortgage. That inventory is called REO (real estate owned). When foreclosed property is sold, any money remaining over the loan payoff, costs and penalties, plus selling costs are returned to the borrower. Title is transferred to either the lender or to a 3rd party who purchases the property in a foreclosure sale. The lender pays any tax liens on the property, and the foreclosure process removes all other liens, including junior liens on the property, giving the lender a clear title to the property. In a short sale, the borrower sells to a buyer willing to pay at least the value of the property. A lender will more likely agree to a short sale if the borrower cannot continue payments and the property is underwater. Types of Foreclosure. In particular, a foreclosure cannot proceed if the debtor’s breach of the obligation, which is secured by a pledge, is insignificant when compared to the value of the pledged property. The Law introduces certain specifications stipulating that, unless otherwise proven, the breach of the obligation secured by a pledge is deemed insignificant if the two following conditions are both met: The amount of the outstanding obligation does not exceed five percent of the value of the pledged property; and. The delay in performance of the obligation, which is secured by the pledge, is less than three mon