Unit 2 Summary
National Finance: Foreclosure

Order of Payment in Foreclosure

- Cost of Sale - advertising, attorney fees, etc.
- Special assessment and general taxes are paid after the costs of the sale.
- The first mortgage, which is determined by the order of recording.
- Whatever is recorded next would then be paid because of a foreclosure.

Judicial foreclosure is required to foreclose a Mortgage. Non-Judicial foreclosure is required to foreclose on a Deed of Trust.

The trustee, in a Deed of Trust, holds "Naked Legal Title" (one without possessory rights), and can claim the property without going through the courts.

The Equitable Right of Redemption gives the borrower the right to clear up the debt prior to the foreclosure sale. The Statutory Right of Redemption gives the borrower a certain amount of time after the sale to clear the debt.

Equitable Redemption -> Foreclosure -> Statutory Redemption

If the proceeds from the foreclosure sale are not sufficient to cover the debt, the lender can go to court and seek:

- **Deficiency judgment** - a general lien and would apply to all of the borrower’s assets.
- **Deed in lieu of foreclosure** - Lender and borrower agree that the lender will become the owner of the property instead of going through the formal foreclosure process.