White Paper: The Puerto Rico Foreclosure Auction Process

A Practical Guide for Real Estate Investors

Version: May 2026

Disclaimer: This white paper is intended for informational and educational purposes only. The information provided originates primarily from an APEX Mastermind session on YouTube, featuring discussions between experienced investors and a former banking professional. It does not constitute legal, financial, or tax advice. Puerto Rico real estate law is complex, and investors should always consult with licensed local attorneys and tax professionals before participating in foreclosure auctions.

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1. Executive Summary

This white paper distills a multi-hour mastermind discussion between experienced foreclosure investors and a former bank special-assets officer in Puerto Rico into a practical guide for prospective investors.

Key Takeaways:

- **Auctions are hard to win by design.** One experienced investor reported preparing around 15,000 cases, bidding on about 3,000, and winning roughly 150. This translates to a ~10% win rate on auctions actively bid upon.
- **Puerto Rico is cash-only at the courthouse.** Unlike mainland jurisdictions such as Florida (which requires a 5% deposit at sale), Puerto Rico requires 100% of the maximum intended bid in certified funds at the moment of sale. The marshal/sheriff verifies these funds before allowing you to bid.
- **The "Three Bites at the Apple" structure.** Mortgage foreclosures feature up to three auction rounds. The 1st auction allows the bank to collect up to 100% of the original mortgage note; the 2nd up to 2/3; and the 3rd up to 1/2. The bank dictates strategy across these rounds.
- **Consumer protection is built in.** If a bank takes a property at a price higher than the total amount owed, the excess must be paid to the borrower. This risk heavily influences bank bidding strategies.
- **Due diligence is everything.** Investors must independently verify title priority, junior liens, HOA fees, and property taxes (which are not wiped out by foreclosure).
- **Success requires a team and a system.** Winning consistently demands a dedicated research/admin function, legal support for title reviews and judicial deeds, and well-funded capital partners.
- **Auction success is a war of attrition.** Expect to lose many auctions before winning. If your win rate rises significantly above 10% without a broader market crash, you may be overpaying.

2. Overview of Puerto Rico Foreclosure Auctions

2.1 Cash Requirements vs. Mainland U.S.

The barrier to entry in Puerto Rico is significantly higher than in many mainland U.S. states.

- **Florida (Example):** At the time of sale, the winning bidder deposits 5% of the purchase price with the clerk. The buyer has a short grace period to pay the balance and obtain the title.

- **Puerto Rico:** To participate, bidders must show the marshal/sheriff they have 100% of their maximum intended bid in hand (via certified funds). If you win, you must immediately hand over the full amount. You receive a receipt of sale, and must then work with an attorney to obtain a judicial deed of sale via court petition.

2.2 Types of Foreclosure

There are two primary categories of foreclosure in Puerto Rico:

- **Mortgage Foreclosure:** Based on a recorded mortgage. The bank can take the property to up to three auctions with specific fractional rules (100%, 2/3, 1/2).

- **Embargo Foreclosure (Personal Judgment):** Originates from a personal debt that becomes a recorded judgment. Key features: Only one auction, starting bid is $1, and lien position depends on recording date.

2.3 Key Roles in the Process

- **Bank / Mortgagee:** Initiates the foreclosure, sets the bidding instructions, and can only collect up to the total amount owed (principal + interest + fees).

- **Lawyer / Paralegal:** Executes the bank's bidding instructions. They inform potential bidders about minimum bank bids or if an auction will be declared vacant.

- **Marshal/Sheriff / Court Officer:** Opens and conducts the auction. Will not open bidding if instructed by the bank to declare the auction deserted (vacant).

- **Investor / Bidder:** Responsible for due diligence and providing proof of funds.

3. The Three Auction Rounds (100%, 2/3, 1/2)

3.1 Legal Structure

In mortgage foreclosures, Puerto Rico law provides three potential auction dates, defining the maximum amount the bank can collect based on the original mortgage note:

1. First Auction: Bank can collect up to 100% of the original note.

2. Second Auction: Bank can collect up to 2/3 of the original note.

3. Third Auction: Bank can collect up to 1/2 of the original note.

Note: The bank is not obligated to lower its effective bid. It can choose to maintain a higher "bank bid" in later rounds if it believes the property's market value warrants it.

3.2 Bank Strategy: Two Core Scenarios

Bank behavior is driven by the relationship between the total amount owed and the property's market value.

Scenario A: Total Amount Owed > Market Value Example: Original note: $100k | Total owed: $115k | Market value: $125k Strategy: The bank may take the property at the first auction (adjudicating at the $100k note value) and resell it as an REO (Real Estate Owned) for $125k, recovering their full debt.

Scenario B: Total Amount Owed << Market Value Example: Original note: $100k | Total owed: $50k | Market value: $125k Strategy: If the bank takes the property at the first auction for $100k, they must pay the $50k difference out-of-pocket to the borrower. To avoid this, the bank will usually wait for the third auction, where 1/2 of the original note ($50k) equals the total amount owed. An investor can win this third auction by bidding just over $50k.

3.3 Consumer Protection and Bank Flexibility

The fractional structure is designed to protect borrowers by forcing banks to share the upside when a mortgage is substantially paid down. However, banks retain flexibility. They can instruct lawyers to declare early auctions vacant or maintain high minimum bids. Investors can occasionally negotiate indirectly by calling the bank's legal team, though revealing a maximum bid is highly discouraged.

4. Pre-Auction Due Diligence

4.1 Building the Master Spreadsheet

Successful operators maintain a rigorous database tracking:

- Source link (auction notice)

- Catastro number, Case number, Auction date/time

- Property type, Address, Starting bids per round

- Estimated After-Repair Value (ARV) and comparable sales (comps)
- Status (sold, canceled, tracking to next round)

4.2 Official Public Systems & Tools

Investors must utilize Puerto Rico's official digital infrastructure to verify property details.

- **Edicto Subastas (Auction Notices):**
  - **URL:** https://poderjudicial.pr/edictos/ (Official Judicial Branch Edicts)
  - **Use:** Find auction notices, case numbers, law firm contacts, and the Sentencia (judgment detailing the total amount owed, interest, and fees).
- **CRIM & Catastro Digital (Taxes & Property Data):**
  - **URLs:** https://portal.crimpr.net/ and https://catastro.crimpr.net/
  - **Use:** Verify property data and obtain debt certificates (deuda contributiva). Certificates can be purchased online for ~$10 or in person at a CRIM office.
- **KBE / Karibe (Property Registry):**
  - **URL:** https://karibe.pr.gov/
  - **Use:** Conduct title searches, confirm lien priority (ensure the foreclosing mortgage is in first position), and pull deeds for accurate comparable sales data. Self-searches cost $10–$20; third-party searches run $70–$125.
- **SUMAC (Court Case System):**
  - **URL:** https://unired.ramajudicial.pr/
  - **Use:** Review full legal dockets, complaints, and judgments for cases from 2017 onward. (Pre-2017 cases require in-person visits to courthouse archives; physical copies cost between $1.00 and $2.50 per page).
- **OGPe (Oficina de Gerencia de Permisos) (Permits & Use):**
  - **URL:** https://ogpe.pr.gov/
  - **Use:** Review permits, zoning, and the certificate of use (uso y ocupaci"n) for a property. This is mandatory to identify unpermitted structures or open municipal violations, which pose a significant liability for a new owner.

4.3 Contacting the Bank’s Legal Team

Using the auction notice, investors should call the handling law firm.

- **Goal:** Ask to speak to the paralegal handling the case.
- **Questions:** Ask if the auction will be opened or vacant, and what the bank's opening bid is.
- **Timing:** Call 3 days before the auction; never reveal your maximum bid.

5. Auction Day Strategy

5.1 Capital and Team Structure

- **Capital:** Arrive with certified funds for your maximum bid ($50k+ per partner).

- **Profit Splits:** Common split is 50% to capital partners and 50% to the operational team.

5.2 The War of Attrition Mindset

Expect a 1-in-10 win rate. The bank may abruptly change its opening bid based on accrued interest or updated appraisals. If a lawyer opens at the full judgment amount rather than the statutory minimum, the bank likely has a high appraisal and intends to take the property as an REO.

5.3 Bidding Tactics

- **Negotiation:** If only 1–3 bidders are present, it is sometimes possible to negotiate privately with competitors to step aside for a fee, securing the property at a lower price.

- **Psychology:** Learn competitors' patterns. Pushing a competitor slightly beyond their comfort zone can eventually lead to collaborative opportunities rather than bidding wars.

5.4 Attendance and Fund Verification

Attendance is mandatory at the courthouse for the auction process. Bidders must present 100% of their maximum intended bid in certified funds to the marshal/sheriff for verification before being allowed to bid.

5.5 Observer Attendance

No pre-registration or advance coordination is required to attend auctions as an observer, as these are public processes. Upon arrival, attendees will be asked about their capacity (bidder or observer) and provided with instructions.

6. Post-Auction Considerations

6.1 Title Search and Chain of Priority

A first mortgage foreclosure generally wipes out properly named junior liens. However, if a junior lienholder was not named in the lawsuit, their lien may survive. Always conduct a title search before bidding.

6.2 What Foreclosure Does NOT Clean

- **HOA Fees:** Foreclosure does not wipe out Homeowners' Association dues. Third-party buyers may be liable for substantial arrears.

- **Property Taxes:** Foreclosure does not erase CRIM property tax debt. Buyers are generally responsible for up to six years of back taxes (five years + the current year). Always budget for this.

6.3 Judicial Deed and Title Transfer

Winning the auction grants you a sale receipt. You must then hire a lawyer to petition the court for a Judicial Deed of Sale to officially transfer the title into your name.

6.4 Advanced/Niche Strategies

- **Unclaimed Proceeds:** Excess funds from a sale belong to the borrower. If unclaimed, they sit in court escrow.

- **Tax/Embargo Strategy:** Some investors intentionally pay past-due taxes on abandoned properties, convert that payment into a personal judgment, record it as a lien, and foreclose via embargo. Note: This carries high legal costs and risks, and requires specialized legal counsel.

7. Glossary of Terms

- **CRIM**: Centro de Recaudación de Ingresos Municipales. The entity managing property taxes.

- **Embargo**: A foreclosure mechanism based on a personal debt recorded as a lien. Features a single auction starting at $1.

- **First / Second / Third Auction**: The three dates for mortgage foreclosures, capping bank collections at 100%, 2/3, and 1/2 of the original note, respectively.

- **Judicial Deed of Sale**: The court-ordered deed transferring title to the auction winner.
- **Karibe (KBE)**: The online Property Registry system used for title searches and comps.
- **Katastro (Catastro) Number**: The unique property identifier used by CRIM.
- **Original Mortgage Note**: The initial loan amount recorded as a mortgage.
- **Sentencia**: The official court judgment detailing the total amount owed.
- **SUMAC**: The online portal for Puerto Rico court cases (2017-present).
- **Total Amount Owed**: The full legal balance (principal, accrued interest, fees, attorney costs).
- **Vacant / Deserted Auction**: An auction where the bank instructs the marshal not to open bidding.

8. Actionable Recommendations

- **Build a Robust Research Engine**: Maintain a master spreadsheet tracking Katastro numbers, auction rounds, estimated ARVs, and bank bidding instructions.
- **Pre-Qualify Strictly**: Discard cases where the total amount owed exceeds the market value. Prioritize properties approaching the third auction where the debt is below market value.
- **Verify Liens and Arrears**: Never bid without confirming the foreclosing lien is in first position. Always pull a CRIM debt certificate and verify HOA balances. Budget for 6 years of property taxes.
- **Leverage Public Portals**: Master the use of Poder Judicial (Edicts), CRIM, Karibe, and SUMAC.
- **Maintain Capital Discipline**: Plan for a 10% win rate. Ensure you have sufficient capital not just for the cash-only auction, but for post-auction renovations, taxes, and legal fees.
- **Partner Up**: Combine boots-on-the-ground operational expertise with pooled capital to scale effectively.