

Foreclosure, Commercial Procedures - By Jurisdiction

Executive Summary

COMMERCIAL FORECLOSURE PROCEDURES

ANNUAL REPORT EXECUTIVE SUMMARY

May 2020

Overview

Lenders

Fifty-seven percent of the 54 surveyed jurisdictions offer procedures for both judicial and non-judicial lender foreclosures. Of the remaining jurisdictions, only the District of Columbia, which repealed its judicial foreclosure procedure statutes in 2002, allows for exclusively non-judicial lender foreclosures. State legislatures frequently revise their residential lending foreclosure laws.

Taxing Authorities

In contrast to lender foreclosure procedures, in which most states allow for both judicial and non-judicial foreclosures, only 24 percent of the 54 surveyed jurisdictions provide for both types of foreclosures by taxing authorities. Instead, most jurisdictions provide a single taxing authority foreclosure procedure, with 23 jurisdictions opting for non-judicial procedures, compared to 17 jurisdictions authorizing judicial foreclosures. In Hawaii, the procedure for collecting property taxes, including by foreclosure, is constitutionally vested exclusively to the counties.

Property tax foreclosure laws are also a fertile ground for legislative action.

Preconditions to Foreclosure

Lenders

Many states authorizing judicial lender foreclosures, either exclusively or as an alternative to non-judicial foreclosures, do not require any special preconditions to initiating the proceeding. While judicial foreclosure actions generally require notice under the applicable rules of civil procedure, several jurisdictions also require the mortgagee to serve the property owner a notice of default, notice of right to cure, or notice of intent to foreclose, generally within 30 to 60 days before initiating any foreclosure action. Additional notices regarding the sale of foreclosed property are required in many jurisdictions. Both pre-foreclosure and sale notice requirements are very common among jurisdictions using non-judicial foreclosures.

A recent trend developing in residential foreclosure procedures is a required notice of credit counseling, mediation, loss-mitigation, or other foreclosure alternatives. For example, California, Colorado, Iowa, Illinois, Indiana, Maryland, Michigan, Nevada, North Carolina, Pennsylvania, Rhode Island, Tennessee, and others have recently enacted foreclosure counseling or loss mitigation requirements.

A few states, such as Texas and North Carolina, have enacted laws that protect military service members from foreclosure during active duty and for short periods after active service ends.

Taxing Authorities

In both judicial and non-judicial tax foreclosures, pre-foreclosure requirements largely ensure that the taxpayer is notified of the amount of his or her tax delinquency, that the property will be sold to satisfy the delinquency, and that the taxpayer is aware of the sale time, date, and place. Key notice provisions also involve the taxpayer's right to redeem the sold property by satisfying his or her delinquent tax debt.

During the past year, a number of jurisdictions have revised their laws related to preconditions to foreclosures by tax authorities and/or lenders. Although most of the changes were minor, not substantive, or not relevant to this survey, the following changes were noteworthy:

- Nebraska modified the notice provisions related to tax sale certificate proceedings;

- Louisiana amended its notice provisions relating tax sale notices by the tax collector;
- Oregon added several new notice requirements related to residential foreclosures; and
- Nevada added provisions allowing expedited tax sales of abandoned properties.

Public Notice and Posting Requirements

Lenders

In both judicial and non-judicial lender foreclosures, 91 percent of the surveyed jurisdictions require public notice and advertising of the foreclosure or of the impending foreclosure sale. One jurisdiction provided no public notice or posting requirements independent of those inherent in a judicial foreclosure, and four jurisdictions require some form of public notice and posting in non-judicial foreclosures, but not in judicial foreclosures.

While these public notices often take the form of recording and filing requirements with the court or other county official, they also include substituted notice of the property owner's rights or the mortgagee's intent to foreclose, or details of any sale by publication in a newspaper of general circulation or by posting notices in a conspicuous public place.

In the past year, Michigan amended the required contents of a notice of foreclosure by advertisement.

Taxing Authorities

With the exception of Hawaii, which has no statewide tax foreclosure procedure, all of the surveyed jurisdictions require public notice, advertising, or posting of notices regarding tax delinquencies, intent to sell, sale, or redemption rights in tax foreclosures. These procedures are typically similar to the procedures employed in lender foreclosures.

During the past year, a number of jurisdictions have revised their laws related to public notice and posting requirements in foreclosures by tax authorities and/or lenders, however most of the changes were minor, not substantive, or not relevant to this survey.

Other Requirements

Between May 2019 and May 2020, the following significant changes to foreclosure procedures, other than those mentioned above, were enacted:

- Georgia added provisions permitting nonjudicial tax sales at the office of the tax commissioner or collector;
- Maine extended the maximum permissible period for a foreclosure sale adjournment from seven to 60 days;
- Maryland established a tax sale ombudsman program to assist owners subject to foreclosure and modified its tax sale notice requirements;
- Oklahoma now allows a county board of commissioners, upon the county treasurer's request, to postpone delinquent tax sales, if the governor has declared a catastrophic health emergency; and
- Texas has prohibited the transfer of an owner's right of redemption to another person

Alabama

Lenders, Alabama, Foreclosure Type

Judicial and non-judicial.

Lenders, Alabama, Preconditions to Foreclosure

Judicial

If the mortgage or deed of trust contains no power of sale, a foreclosure action may be brought "after condition broken."

A party may not initiate a foreclosure proceeding against the surviving spouse or the estate of a mortgagor who died while deployed overseas on active duty military service until at least 180 days after the mortgagor's death. The surviving spouse or the estate must provide written notice that:

- identifies the service member;
- states that the service member died while being deployed overseas;
- describes the mortgage or the property subject to the mortgage and the debt;
- provides a telephone number or other means to communicate with the surviving spouse or the estate; and
- asks that foreclosure be delayed for six months.

This provision does not apply to a mortgage entered into before August 1, 2009. Nothing in the act restricts the provision to mortgages on residential property.

Non-judicial

No specific preconditions were located. As described above, a party may not initiate a foreclosure proceeding against the surviving spouse or the estate of a mortgagor who died while deployed overseas on active duty military service until at least 180 days after the mortgagor's death.

Section 35-10-3 amended 1940; § 35-10-71 enacted 2009.

[Ala. Code §§ 35-10-3, -71 \(2019\)](#)

Lenders, Alabama, Public Notice and Posting Requirements

Judicial

Lis pendens

Notice of lis pendens must be filed with the probate judge of the county in which the property is situated. The notice must be filed by the party who brings the foreclosure action, and must contain the names of all parties to the action, a description of the property, and a brief statement of the claim being asserted.

Sale

Notice of the foreclosure sale must be published for four successive weeks in a newspaper of general circulation in the county in which the property is located.

Non-judicial

Sale

Notice of the sale must be published for three successive weeks in a newspaper published within the county or in an adjoining county. Notice must also be posted on the courthouse door for 30 days prior to the sale.

Ala. Code § 35-10-13 added 1988; § 35-4-131 amended 1971; § 35-10-3 amended 1940.

[Ala. Code §§ 35-4-131; -10-3, -13 \(2019\)](#)

Lenders, Alabama, Preconditions to Eviction

Ejectment Action

If a lender does not surrender possession to the borrower, the borrower may bring an action in the nature of an ejectment action to recover possession of the property. No preconditions to bringing the action are set out in the statute.

Possession

Although Alabama generally has a one-year redemption period, a debtor must deliver possession of the land within 10 days after the purchaser at a sale has made a written demand for possession. Effective January 1, 2016, the redemption period is one year from the sale date for all property other than residential property on which a homestead exemption was claimed. If a debtor fails to so deliver possession, he or she forfeits his or her redemption rights.

Section 6-6-280 amended 1940; § 6-5-251 enacted 1988; § 6-5-248 amended 2018.

[Ala. Code §§ 6-5-248, -251; 6-6-280 \(2019\)](#)

Lenders, Alabama, Appeals

Judicial

Sale scheduling

Lands "levied on under execution from any court of record" must be sold on a Monday at the county courthouse.

Appeals

There are no specific provisions setting out the time for making objections to a foreclosure. As a general rule, a notice of appeal in a civil action must be filed within 42 days of the entry of judgment.

Non-judicial

Sale scheduling

Once notice is published, there are no additional time requirements for scheduling the sale. Sales under a power of sale must be conducted between 11 a.m. and 4 p.m. on the day designated for the sale.

Appeals

No provisions for an appeal were located.

Section 6-9-86 amended 1940; § 35-10-14 enacted 1988; Ala. R. Civ. App. P. 4 amended 2008.

[Ala. Code §§ 6-9-86; 35-10-14 \(2019\); Ala. R. Civ. App. P. 4](#)

Taxing Authorities, Alabama, Foreclosure Type

Judicial.

Taxing Authorities, Alabama, Preconditions to Foreclosure

Recording in "Book of Lands"

The probate court of each county may order the sale of lands in that county for the payment of taxes after the tax collector reports to the court that he or she, or a tax lien holder, was unable to collect the taxes assessed against the land without a sale. The tax collector must keep a "book of lands" and record, in the usual manner for docketing cases for trial, each parcel for which taxes are unpaid. If the tax collector has received written notice from the tax lien holder requesting that the

tax collector list the property in the book of lands, the tax collector must record that such taxes have been paid by the tax lien certificate holder.

Notice to Taxpayer

The books must ordinarily be delivered to the judge of probate on or before March 1 of each year. Upon receiving the book, the probate judge must issue a notice addressed to each person against whom any unpaid taxes are assessed.

The notice must be served by the tax collector or his deputy by:

- handing a copy to the party to whom it is addressed or his or her agent;
- leaving a copy at the residence or place of business of such party or his or her agent; or
- sending a copy of the notice to the party to whom it is addressed by certified or registered mail, postage prepaid, marked "for delivery only to the person to whom addressed," with return receipt demanded, addressed to the county's tax collector.

If the party against whom the tax assessment was made has died, notice must be served on his or her personal representative, if a resident of the county. If the property is in the hands of a personal representative, a guardian or trustee (other than the spouse of the owner), a public officer, receiver, or appointee of any court, notice must be served not only on that party or his or her successor, but also by publication or posting, as provided in *Public Notice and Posting Requirements*, below.

If notice to resident taxpayers remains unserved after two notices to the same person are returned, notice by publication or posting may be given as in the case of a nonresident. *See Public Notice and Posting Requirements*, below.

Order for and Confirming Sale

If service of the notice is perfected 10 days before the next term begins, the case is set for trial during that term. Unless the case is contested, the probate judge must issue a decree for the sale, providing that the taxes remain unpaid, that notice has been served, and that the real estate will be sold to pay the taxes and/or tax lien certificates.

The sale must be made in front of the courthouse door, to the highest bidder, for cash, between the hours of 10:00 A.M. and 4:00 P.M., and must continue from day to day until all the real estate covered by the decree has been sold.

Within 10 days after the sale, the tax collector must make a report of each sale to the probate court and seek confirmation of the sale. If no objections have been filed after five days, or if, in the court's opinion, the objections are insufficient and the tax collector sold the real estate in accordance with the law, the court must enter an order confirming the sale.

Expedited Actions

A Class 3 municipality may file an expedited quiet title and foreclosure action in circuit court to establish clear title to abandoned tax sale property acquired from the State Land Commissioner pursuant to Chapter 10 of Title 40 of the Code of Alabama. The municipality must record a notice of its intention to file an expedited quiet title and foreclosure action and must make a good faith effort to identify the interested parties and the addresses at which they can be reached. A municipality is presumed to have made a good faith effort to identify interested parties if it:

- erects on the property for at least 30 days a sign that meets statutory requirements;
- examines the addresses that appear on the face of the recorded deeds, mortgages, and relevant instruments; and
- examines the tax assessor's or revenue commissioner's records to find the names and addresses of all parties who paid taxes in the five-year period before the tax sale date.

Also, if the interested party is an individual, the municipality must examine voter registration lists,

available municipal archives for death records, and the probate court records of estates opened in the county. If the interested party is a business entity, the municipality must search the Secretary of State's records for the registered agent's name and address.

The municipality may file a single petition for an order to quiet title and expedite foreclosure on one or more parcels. The petition, which must identify each parcel by its legal description, tax parcel number, and street address, must be served on all interested parties.

The circuit court petition must set the date, time, and place for a hearing within 90 days. The court, upon a party's request, may extend the 90-day period for good cause.

No less than 30 days before the hearing date, the municipality must send a notice of the hearing to the interested parties and post a hearing notice conspicuously on each property named in the petition.

If the municipality is unable to identify the interested parties, or is unable to provide the above notice, the municipality must apply to the circuit court for an order to allow notice by publication.

The municipality must also file with the clerk of the circuit court proof of notice to the interested parties by certified and regular mail, proof of the posting on the property, and, if applicable, proof of notice by publication.

Sections 40-10-3, 40-10-4, 40-10-8, 40-10-13, and 40-10-15 amended 1940; §§ 40-10-1, 40-10-2, and 40-10-11 amended 1995; §§ 11-70A-2, 11-70A-3, 11-70A-4, 11-70A-5, 11-70A-6, and 11-70A-7 enacted 2012.

[Ala. Code §§ 11-70A-2, -3, -4, -5, -6, -7; 40-10-1, -2, -3, -4, -8, -11, -13, -15 \(2019\)](#)

Taxing Authorities, Alabama, Public Notice and Posting Requirements

Nonresident and Deceased Owners

If the person against whom a delinquent assessment is made is a nonresident of the county and has no agent in the county, or if he or she has died and there is no executor or administrator of the estate residing in the county, notice may be given by publication in a newspaper published in the

county. If no newspaper is published in that county, notice must be given by posting the notice at the county courthouse for three weeks.

"Owner Unknown"

If the owner is unknown, notice must be given by publication once a week for three successive weeks in a newspaper published in the county. If no newspaper is published in that county, notice must be given by posting the notice at the courthouse for three weeks. When practicable, all real estate assessed delinquent for any one year must be incorporated in one notice.

The tax collector may select the newspaper or newspapers in which notice is given. The tax collector may give notice in the same or in a different newspaper for each week of the three consecutive weeks, as long as the newspaper in which the notice is placed is a legally qualified newspaper published in the county.

Notice of Sale

After the court's decree is rendered, the property may be sold. Notice of the sale must be:

- made by publication for three successive weeks in a newspaper published in the county; or
- at least three weeks before the sale date, posted at the courthouse and at some public place in the precinct in which the real estate is situated.

The notice must:

- describe the portions of the property embraced in each decree;
- state the amount for which each decree was rendered; and

- state the person against whom the taxes were assessed or, if assessed to "owner unknown," state that fact.

For alternative, expedited procedures that apply to foreclosures against a parcel of tax sale property that Class 2 municipalities purchased from the State Land Commissioner, see [Ala. Code § 11-70-1 et seq.](#)

Expedited Actions

Effective May 16, 2012, in an expedited action on abandoned property by a Class 3 municipality, the municipality must send a notice of the hearing to the interested parties and post conspicuously on each property a notice that includes the following statement: "THIS PROPERTY HAS BEEN TRANSFERRED TO [NAME OF MUNICIPALITY] AND IS SUBJECT TO AN EXPEDITED QUIET TITLE AND FORECLOSURE ACTION. PERSONS WITH INFORMATION REGARDING THE PRIOR OWNER OF THE PROPERTY ARE REQUESTED TO CONTACT [THE MUNICIPALITY]."

If a municipality is not able to identify the interested parties' names and addresses, or is not able to provide the required notice to interested parties, the municipality must apply to the circuit court for an order to allow notice by publication. If ordered, the municipality must publish a notice "once each week for three consecutive weeks in a newspaper of general circulation in the county in which the property is located." If no newspaper is published in the county, the publication must be in a newspaper of general circulation in an adjoining county. If the municipality discovers the interested party's name and address following publication, it must notify that party of the expedited quiet title and foreclosure action as soon as practicable.

For similar alternative, expedited procedures that apply to foreclosures against a parcel of tax sale property that Class 2 municipalities purchased from the State Land Commissioner, see [Ala. Code § 11-70-1 et seq.](#)

Sections 40-10-4, -5, and -12 amended 1940; § 40-10-6 amended 1995; §§ 11-70A-5 and 11-70A-6 enacted 2012.

[Ala. Code §§ 11-70A-5, -6; 40-10-4, -5, -6, -12 \(2019\)](#)

Taxing Authorities, Alabama, Preconditions to Eviction

Possession

If the state buys the land at the tax sale, it is entitled to possession immediately upon execution of the certificate of sale by the probate judge. If possession is not surrendered within six months from the date of sale, the Land Commissioner may, on behalf of the state, maintain an action in ejectment or other proper remedy for recovery of possession and will thereafter be entitled to possession, subject to all rights of redemption set forth in Ala. Code §§ 4-10-74, -75, and -120.

Ejectment

Any purchaser at a tax sale other than the state is entitled to possession immediately upon receipt of the certificate of sale from the tax collector. If possession is not surrendered within six months after demand is made, the purchaser may maintain an action in ejectment or other proper remedy for the recovery of possession and is entitled to possession upon recovery, subject to the rights of redemption set forth in Ala. Code §§ 4-10-74, -75, and -120.

Section 40-10-74 amended 1940; §§ 40-10-75 and 40-10-120 amended 2009.

[Ala. Code §§ 40-10-74, -75, -120 \(2019\)](#)

Taxing Authorities, Alabama, Appeals

Appeal to Circuit Court

The property owner or the state, on behalf of itself and the county, may appeal to the circuit court of the county from any decree rendered by the probate court for the sale of real estate for the payment of taxes, within 30 days after decree is rendered. If the owner appeals, he or she must execute a bond in double the amount of the decree, payable to the State of Alabama. If the owner appeals and the case is decided against him or her, the court must render judgment in favor of the state for the amount of the taxes, fees, and costs, besides the costs of the appeal. That judgment will be a lien upon the lands described in the decree.

Expedited Actions

A Class 3 municipality or interested party may, within 42 days following a judgment's effective date, appeal the judgment to the Court of Civil Appeals. A party appealing from an order vesting title in the municipality must:

- identify the parcel that is the subject of the appeal; and
- post a bond in the amount due to redeem the property.

The appeal stays the circuit court's order with respect to each parcel identified as the subject of the appeal. The circuit court's order must be affirmed "absent a defect in the identification of the property or in the notice such that the notice deprived a party of the right to due process of law." The order will not be reversed "on the basis of merely technical noncompliance."

Section 40-10-25 amended 1940; § 11-70A-9 enacted 2012.

[Ala Code §§ 11-70A-9; 40-10-25 \(2019\)](#)

Alaska

Lenders, Alaska, Foreclosure Type

Judicial and non-judicial.

Lenders, Alaska, Preconditions to Foreclosure

Judicial

No preconditions to judicial foreclosures were located.

Non-judicial

The trustee must record notice of the default no less than 30 days after the default and not less than 90 days prior to the sale. Notice must be sent by certified mail or personally delivered to: (1) the trustor in the trust deed; (2) the successor of the trustor whose interest appears of record or of whose interest the trustee or beneficiary has actual notice, or who is in actual physical possession of the property; (3) any other person in actual physical possession of the property; and (4) any person having a lien or interest subsequent to the trustee's interest, if the lien or interest appears of record or the trustee or beneficiary has actual notice of it. The notice must be sent by certified mail within 10 days of recording of the notice of default, or personally delivered within 20 days of recording.

If notice is delivered personally and there is no structure on the property and no one is present on the property at the time of delivery, the notice may be placed on the property, or as close as practicable to the property if there is no road access to the property or access is restricted by gates or other barriers. If the trustee or other person who delivered notice personally signs an affidavit of delivery, the affidavit is prima facie evidence of compliance.

If a person entitled to receive notice by mail is known by the trustee or beneficiary to be deceased, the notice requirement may be satisfied by mailing the notice to the last known address of the deceased person and to the personal representative of the decedent if the beneficiary or trustee know that a personal representative has been appointed. If it is not known that a personal representative has been appointed, the notice requirement may be satisfied by mailing the notice to the decedent's heirs and devisees whose names and addresses are known or who have recorded a notice of their interest in the property and by publishing and posting the notice of foreclosure as provided by law, with the notice titled "To the Heirs or Devisees of (insert the name of the deceased person)."

Section amended 2010.

[Alaska Stat. § 34.20.070 \(2019\)](#)

Lenders, Alaska, Public Notice and Posting Requirements

Judicial

Lis pendens

Either party to a foreclosure action may record a notice of lis pendens. The notice is recorded in the office of the recorder of the recording district in which the action is pending. The notice must state the parties' names, the object of the action, and a description of the property.

Sale

Notice of the sale, describing the property to be sold, must be posted not less than 30 days before the day of sale in three public places. Notice must also be published four times, once a week for four successive weeks, in a newspaper of general circulation published nearest to the place of sale.

Non-judicial

Notice particularly describing the property to be sold must be posted for not less than 30 days before the day of sale in three public places, and published four times, once a week for four successive weeks in a newspaper of general circulation published nearest to the place of sale. Notice must also be given by publishing a notice of sale on a qualified website beginning at least 45 days before the sale date.

Section 09.45.940 enacted 1962; §§ 34.20.080 and 09.35.140 amended 2010.

[Alaska Stat. §§ 09.35.140, .45.940; 34.20.080 \(2019\)](#)

Lenders, Alaska, Preconditions to Eviction

Action to Recover Possession

An action to recover possession of property held by force may be brought following service of a written notice to quit against a person in possession of property without a written lease agreement and the landlord's consent. In such cases, there is no length of time set out for the notice, and an action for possession generally may be commenced immediately after the occupation is deemed illegal.

Agricultural Property

A tenant whose lease or occupancy is for agricultural purposes and who continues in possession of the premises "at the expiration of the time limited in or contrary to a condition or covenant" in the lease, must receive a written notice specifying the breach and demanding the tenant quit the premises at least 30 days before an action for recovery of the property is brought. The tenant must have free access to cultivate and harvest crops or produce he or she planted before the service of the notice and demand to quit the premises.

Possession during Redemption Period

Even if a mortgagor has redemption rights pursuant to the deed of trust, after a trustee executes a deed to the purchaser at a sale, the purchaser is entitled to possession of the premises after recording the deed of trust in the recording district where the property is located.

Sections 09.45.090 and 09.45.110 amended 1994; § 34.20.090 enacted 1957; § 34.05.025 enacted 1974.

[Alaska Stat. §§ 09.45.090, .110; 34.05.025, .20.090 \(2019\)](#)

Lenders, Alaska, Appeals

Judicial

Appeal

No specific time for an appeal from a foreclosure is given. As a general rule, a notice of appeal in a civil action must be filed within 30 days from the date shown in the clerk's certificate of distribution in the judgment.

Sale scheduling

No specific time limits before a sale may be scheduled are set out in the statutes. Sales are by auction conducted between 9 a.m. and 4 p.m.

Non-judicial

Appeal

No provisions for an appeal from a non-judicial foreclosure were located.

Sale

After notice is published, there are no additional time limits before a sale may be scheduled. Sales are by auction conducted between 9 a.m. and 4 p.m.

Section 09.35.150 enacted 1962; rule amended 2016.

[Alaska Stat. § 09.35.150 \(2019\)](#); [Alaska R. App. P. 204](#)

Taxing Authorities, Alaska, Foreclosure Type

Judicial.

Taxing Authorities, Alaska, Preconditions to Foreclosure

Foreclosure List

In Alaska, each municipality has foreclosure power. A municipality enforces delinquent real property tax liens by an annual foreclosure process, unless otherwise provided by local ordinance. Each municipality must annually present, to the superior court, a petition for judgment and a certified copy of the foreclosure list for the previous year's delinquent taxes. The municipality must publish this list as set out under *Public Notice and Posting Requirements*. Within 10 days after the first publication or posting, notice must be mailed to the last known owner of each property,

advising them of the foreclosure proceeding in which a petition for judgment of foreclosure has been filed, and describing the property and the amount due.

The list must be arranged in alphabetical order by last name and must include:

- the last known owner;
- the property description as stated on the assessment roll;
- years and amounts of delinquency;
- penalties and interest due;
- a statement that the list is available for public inspection at the clerk's office; and
- a statement that the list has been presented to the superior court, with a petition for judgment and decree.

Completion of these requirements has the same force and effect as filing a separate complaint and service of summons to foreclose a lien against each listed property.

Court Proceeding

The municipality must bring one general foreclosure proceeding against the properties on the foreclosure list. If the owner is unknown, the property is proceeded against as belonging to "unknown owner." A person having an interest in property on the list may file an answer within 30 days after the last publication date, specifying the person's objection. When answers are filed, the court may still summarily enter judgment against, and order the transfer to the municipality of, all other properties on the list, pending determination of the contested matters. The court will

determine the issues raised by the answers in the same manner and under the same rules as it hears and determines other actions. Once a judgment and decree is entered, the property is transferred to the municipality, and no further objections may be raised.

Sections enacted 1985.

[Alaska Stat. §§ 29.45.320, .330, .360, .370, .390 \(2019\)](#)

Taxing Authorities, Alaska, Public Notice and Posting Requirements

Foreclosure List

The municipality must publish the foreclosure list for four consecutive weeks in a newspaper of general circulation distributed in the municipality or, if there is no newspaper of general circulation, it must post the list at three public places for at least 30 days.

Redemption Period Expiration Notice

At least 30 days before the redemption period expires, the clerk must publish a redemption period expiration notice. The notice must contain:

- the judgment date;
- the expiration date; and
- a warning that all properties ordered sold under the judgment, unless redeemed, will be deeded to the municipality immediately upon expiration of the redemption period, and that every right or interest of a person in the properties will be forever forfeited to the municipality.

The notice must appear once a week for four consecutive weeks in a newspaper of general circulation distributed in the municipality. If there is no newspaper of general circulation, the notice must be posted in three public places for at least four consecutive weeks. The clerk must also send a copy of the notice by certified mail to:

- each record owner of property against which a foreclosure judgment has been entered; and
- if the property's assessed value is more than \$10,000, to all holders of mortgages or other liens of record on the property.

The notice must be mailed within five days after the first publication. The redemption right expires 30 days after the date of the first notice publication.

Sections enacted 1985.

[Alaska Stat. §§ 29.45.330, .440 \(2019\)](#)

Taxing Authorities, Alaska, Preconditions to Eviction

Possession During Redemption Period

Foreclosure does not affect the former owner's right to possession during the redemption period. If, however, waste is committed by the former owner or by anyone acting under the permission or control of the former owner, the municipality may declare an immediate forfeiture of the right to possession.

Section enacted 1985.

[Alaska Stat. § 29.45.430 \(2019\)](#)

Taxing Authorities, Alaska, Appeals

Pre-transfer Payment of Delinquency

During the publication or posting of the foreclosure list, and up to the time the property is transferred to the municipality, a person may pay the taxes, penalty, interest, and costs. The payment must be noted on the foreclosure list.

Post-transfer Redemption

Properties that have been transferred to the municipality are held by the municipality for at least one year before sale. During that one-year period, a party having an interest in the property may redeem it by paying the lien amount plus penalties, interest, and costs. Only the amount applicable under the judgment and decree must be paid in order to redeem the property.

At least 30 days before the expiration of the redemption period, the clerk must provide notice as set forth under *Public Notice and Posting Requirements*. The redemption right expires 30 days after the date of the first notice publication.

Repurchase by Record Owner

The owner at the time of tax foreclosure of property acquired by a municipality may, within 10 years, but before the sale or contract of sale of the tax-foreclosed property by the municipality, repurchase the property. The municipality must sell the property for the full amount applicable under the judgment and decree, plus the following:

- interest not to exceed 15 percent per year from the date of entry of the foreclosure judgment to the repurchase date;
- delinquent taxes assessed and levied, as though the property had continued in private ownership;
- costs of foreclosure and sale incurred by the municipality; and

- costs of maintaining and managing the property incurred by the municipality, including insurance, repairs, association dues, and management fees, that exceed amounts received by the municipality for the use of the property.

If, however, the municipality adopts an ordinance providing for the retention of the tax-foreclosed property for a public purpose, the right of the record owner to repurchase it ceases.

Receipt of redemption money by the municipality releases the judgment.

Judicial Appeal

Appeal from a judgment and decree of foreclosure, or from a final order in the proceeding, may be taken in a manner provided for appeals in civil actions.

Sections 29.45.340, .390, .400, .410, and .440 enacted 1985; § 29.45.470 amended 1990.

[Alaska Stat. §§ 29.45.340, .390, .400, .410, .440, .470 \(2019\)](#)

Arizona

Lenders, Arizona, Foreclosure Type

Judicial and non-judicial. Mortgages that do not meet the definition of a deed of trust may be foreclosed only by court action.

Section amended 1984.

[Ariz. Rev. Stat. § 33-721 \(2019\)](#)

Lenders, Arizona, Preconditions to Foreclosure

Judicial

No preconditions to judicial foreclosure were located.

Non-judicial

Notice of a sale pursuant to a deed of trust must be:

- recorded in the office of the County Recorder;
- sent by certified mail to all persons who have requested notice; and
- posted and published, as described in more detail in *Public Notice and Posting Requirements* below.

The notice of sale must be substantially in the form provided by statute, and the first paragraph must contain the following statement:

"NOTICE! IF YOU BELIEVE THERE IS A DEFENSE TO THE TRUSTEE SALE OR IF YOU HAVE AN OBJECTION TO THE TRUSTEE SALE, YOU MUST FILE AN ACTION AND OBTAIN A COURT ORDER PURSUANT TO RULE 65, ARIZONA RULES OF CIVIL PROCEDURE, STOPPING THE SALE NO LATER THAN 5:00 P.M. MOUNTAIN STANDARD TIME OF THE LAST BUSINESS DAY BEFORE THE SCHEDULED DATE OF THE SALE, OR YOU MAY HAVE WAIVED ANY DEFENSES OR OBJECTIONS TO THE SALE. UNLESS YOU OBTAIN AN ORDER, THE SALE WILL BE FINAL."

Section amended 2015.

[Ariz. Rev. Stat. § 33-808 \(2019\)](#)

[Lenders, Arizona, Public Notice and Posting Requirements](#)

Judicial

Lis pendens

Notice of lis pendens may be filed by either party to the foreclosure action.

Sale

Notice of the sale must be posted for not less than 15 days successively before the sale date in three public places in the county, one of which must be at or near the courthouse door. A copy of the notice must also be published in a newspaper for three weeks before the day of sale.

Non-judicial

Notice of the sale must be posted at least 20 days before the sale date in a conspicuous place on the trust property to be sold, if posting can be accomplished without a breach of the peace. Notice must also be posted at one of the places provided for posting public notices at any building that serves as a location of the Superior Court of the county where the property is to be sold. In addition to the postings, notice of sale must be published in a newspaper of general circulation in each county in which the trust property to be sold is situated at least once a week for four consecutive weeks. The last publication date may not be less than 10 days before the sale date.

Note that provisions requiring an owner to notify tenants of any notice of a trustee's sale or other foreclosure notices apply only to multifamily properties with fewer than four connected units.

Section 12-1621 amended 1994; § 12-1191 amended 2005; § 33-1331 amended 2013; § 33-808 amended 2015.

[Ariz. Rev. Stat. §§ 12-1191, -1621; 33-808, -1331 \(2019\)](#)

Lenders, Arizona, Preconditions to Eviction

Possession During Redemption Period

If possession is not delivered to the borrower *after* the redemption period has passed, the court will order a writ of possession in favor of the purchaser. Property may be redeemed until the time of the foreclosure sale.

Section 33-727 amended 1990; § 33-726 enacted 1994.

[Ariz. Rev. Stat. §§ 33-726, -727 \(2019\)](#)

Lenders, Arizona, Appeals

Judicial

Appeal

No specific provisions are set out for objections to a foreclosure. As a general rule, a notice of appeal in a civil action must be filed within 30 days from the judgment date.

Sale scheduling

All sales must be by auction conducted between 10 a.m. and 4 p.m. Once notice is given, there are no further conditions on scheduling the sale.

Non-judicial

Appeal

No provisions for appeal or objections were located.

Note that the trustor and all persons to whom the trustee mails a notice of a sale waive all defenses and objections to a sale that are "not raised in an action that results in the issuance of a court order granting relief pursuant to rule 65, Arizona rules of civil procedure, entered before 5:00 p.m. mountain standard time on the last business day" before the scheduled sale date.

Sale scheduling

A sale is held at the time and place designated in the notice of sale.

Section 12-1622 amended 1995; § 33-811 amended 2013; § 33-810 amended 2005; rule amended 2018.

[Ariz. Rev. Stat. §§ 12-1622; 33-810, -811 \(2019\); Ariz. R. Civ. App. P. 9](#)

Taxing Authorities, Arizona, Foreclosure Type

Judicial and non-judicial.

Taxing Authorities, Arizona, Preconditions to Foreclosure

The county treasurer must sell the tax lien that is created when property taxes become delinquent.

Notice of Delinquency

On or before September 1 of each year the county treasurer must send to the last known address of each person or firm that owes delinquent taxes written notice that the taxes are delinquent on the real property assessed in the taxpayer's name.

Notice of Tax Lien Sale

On or before December 31 of each year, the county treasurer must prepare a list of all real property on which taxes for prior tax years are delinquent and an accompanying notice stating that the treasurer will sell the tax lien on each parcel at public auction for taxes, penalties, interest, and

charges on the real property. A copy of the notice of proposed sale must be mailed to the owner of each parcel on the delinquent tax list at the owner's last known address.

Conduct of Sale

The tax lien sale must be held in February on the date specified in the notice and continued from day to day until the lien on each listed parcel has been offered for sale and purchasers offer no more bids. However, if the treasurer is convinced that no more liens can be sold, the tax liens remaining unsold must be assigned to the state, and the treasurer must issue a certificate of purchase to the state.

Judicial Foreclosure of Right to Redeem

Generally, beginning three years after a tax lien sale, but no later than 10 years after the last day of the month in which the lien was acquired, if the lien has not been redeemed, the purchaser (or the state if it is the assignee), may bring an action to foreclose the right to redeem. The action must be brought in the superior court in the county in which the real property is located and must name the county treasurer as a party. If any applicable law or court order prohibits bringing an action to foreclose the right to redeem, this time limit is extended to 12 months after the prohibition is terminated.

At least 30 days before filing the action, but no more than 180 days before the action is or may be commenced, the tax lien purchaser must send notice of intent to file the foreclosure action by certified mail to either:

- the property owner of record, according to the records of the county recorder in the county in which the property is located; or

- all of the following:
 - the property owner, according to the records of the county assessor in the county in which the property is located;

- the property's situs address, if shown on the tax roll and if different from the owner's address; and
- the tax bill mailing address, according to the county treasurer's records, if that address is different from the above addresses.

The notice of intent must also be sent to the treasurer of the county in which the real property is located.

Note that as of July 3, 2015, additional provisions apply to partial payments under § 42-18056(C).

If the court finds the sale is valid and that the tax lien has not been redeemed, it must enter judgment foreclosing the right of the owner to redeem and directing the county treasurer to execute and deliver to the plaintiff, including the state, a deed conveying the property.

Application for Treasurer's Deed by County Board of Supervisors

If a tax lien is not redeemed at any time beginning five years after the lien is assigned to the state, the county board of supervisors acting on behalf of the state may apply for a treasurer's deed to the property.

At least 90 days before the date of delivering a treasurer's deed, the county treasurer must mail a notice to the parcel's owner (as shown on the current tax roll) and any other person identified in the title search as having a legal or equitable interest in the property. The treasurer must send the notice by certified mail to the person's last known address. The notice must state that the board has applied for a treasurer's deed on behalf of the state and must include the last date for redeeming the property.

Sections 42-18101, -18103, -18108, and -18113 enacted 1997; § 42-18112 amended 2019; §§ 42-18261 and -18264 enacted 1998; § 42-18106 amended 2018; § 42-18109 amended 2019; §§ 42-18201 and 42-18202 amended 2015.

[Ariz. Rev. Stat. §§ 42-18101, -18103, -18106, -18108, -18109](#) (as amended by [2019 Ariz. Laws ch. 31](#)), [-18112](#) (as amended by [2019 Ariz. Laws ch. 31](#)), [-18113, -18201, -18202, -18261, -18264 \(2019\)](#)

Taxing Authorities, Arizona, Public Notice and Posting Requirements

Notice of Tax Lien Sale

At least two weeks before the sale date, the county treasurer must post a delinquent property list and a tax lien sale notice near the outer door of his or her office and, at least two weeks, but not more than three weeks, before the sale, publish the list and notice at least one time in a newspaper of general circulation in the county. The newspaper must also post the list and notice from the first publication date through March 1 of the current year on the internet on a web site that posts the legal notices of 10 or more Arizona newspapers.

Notice of Application for Deed by County

The county treasurer must publish notice once a week for two successive weeks in a newspaper of general circulation in the area in which the property is located, or in a newspaper of general circulation in the county, stating that the board of supervisors has applied for a treasurer's deed and noting the last date for redeeming the property.

If the property is in an incorporated city or town, and is readily located and reasonably accessible, and if any notice sent by certified mail has not been delivered, a sign must be placed on the property in a conspicuous place. The sign must:

- state that "this property is subject to foreclosure for delinquent taxes;" and
- give notice of the method and date by which the tax lien may be redeemed.

Notice of Sale of County-Acquired Property

If the property is not redeemed before the date stated in the notice, the county treasurer must execute and deliver to the board of supervisors treasurer's deeds conveying to the state the real properties that were assigned at the tax sale. The board of supervisors may then sell the properties, after first advertising them by:

- publishing the property list and notice of sale in a newspaper of general circulation in the county at least once a week for at least two weeks, but not more than three weeks, before the stated sale date; and
- continuously posting a current list and notice in the board's offices.

Sections 42-18265, -18266, and -18267 enacted 1998; § 42-18109 amended 2019; § 42-18302 amended 2007.

[Ariz. Rev. Stat. §§ 42-18109](#) (as amended by [2019 Ariz. Laws ch. 31](#)), [-18265](#), [-18266](#), [-18267](#), [-18302 \(2019\)](#)

Taxing Authorities, Arizona, Preconditions to Eviction

Action for Possession

If real property that is held by the state by tax deed is improved and occupied adversely to the state's title, the board of supervisors may direct the county attorney to bring an action in the state's name for possession of the property.

Section enacted 1997.

[Ariz. Rev. Stat. § 42-18304 \(2019\)](#)

Taxing Authorities, Arizona, Appeals

Redemptions—Tax Liens

As of July 3, 2015, a tax lien may be *fully* redeemed either:

- within three years after the sale date; or
- after three years, but before delivery of a treasurer's deed to the purchaser or the purchaser's heirs or assigns.

A lien that has been partially redeemed pursuant to § 42-18056(C) must be fully redeemed before delivery of a treasurer's deed to the purchaser.

If the tax lien is not redeemed, the right to redeem may be foreclosed.

Redemption—Judicial Foreclosure

Any person that has a right to redeem may redeem at any time before judgment is entered in the action to foreclose the right to redeem the tax lien, even though the foreclosure action has been commenced. However, if the person who redeems has been served personally or by publication in the action, or if the person became an owner after the action began and redeems after a notice is recorded, judgment will be entered for the plaintiff against the person redeeming for the costs incurred by the plaintiff, including reasonable attorney fees.

After entering judgment in an action, the parties whose rights to redeem the tax lien are foreclosed. They have no further legal or equitable right, title, or interest in the property, subject to the right of appeal and stay of execution as in other actions.

Section 42-18204 amended 2008; § 42-18206 amended 2010; § 42-18152 amended 2015.

[Ariz. Rev. Stat. §§ 42-18152, -18204, -18206 \(2019\)](#)

Arkansas

Lenders, Arkansas, Foreclosure Type

Judicial and non-judicial. Non-judicial procedures do not apply to a mortgage or a deed of trust encumbering "trust property used primarily for agricultural purposes."

Section amended 2009.

Ark. Code § 18-50-116 (LexisNexis 2020)

Lenders, Arkansas, Preconditions to Foreclosure

Judicial

No preconditions to foreclosure were located.

Non-judicial

A beneficiary or mortgagee must mail to the borrower, at least 10 days before initiating a foreclosure, a letter that contains the following:

- a copy of the note and endorsements;
- the note holder's name and the note's physical location;
- specified information regarding loan modification or forbearance assistance; and
- if the default results from failure to make payment, a payment history showing the default date.

The information regarding loan modification or forbearance assistance must include the "applicable telephone number and Internet address, regarding the availability to the grantor, mortgagor, or obligor" of each loan modification or forbearance assistance program offered:

- solely by the beneficiary or the mortgagee; or
- by a government agency, if the beneficiary or mortgagee participates in the agency's program.

A trustee or mortgagee may not sell trust property unless the beneficiary or mortgagee has certified that each borrower who "applied for loan modification or forbearance assistance has been notified" that he or she does not meet the criteria for loan modification or forbearance assistance under an offered program. The notice must be mailed by certified and first-class mail to the borrower at least 10 business days before the sale.

The beneficiary or mortgagee may not delegate these requirements to its attorney or trustee.

Sections amended 2011.

Ark. Code §§ 18-50-103, -104 (LexisNexis 2020)

[Lenders, Arkansas, Public Notice and Posting Requirements](#)

Judicial

Lis pendens

If the party bringing the foreclosure action wishes to provide constructive notice of the action to potential purchasers or mortgagees, a notice of lis pendens must be filed with the recorder of deeds.

Sale

Notice of the sale must be published at least once in a newspaper of general circulation, no less than 10 days before the sale. The mortgagee, trustee, or vendor must publish the notice in a newspaper published and having a general circulation in the county in which the property is situated or, if none is available, in a newspaper of general statewide daily publication.

Non-judicial

Notice of the sale must be published in a newspaper of general circulation once a week for four consecutive weeks prior to the date of sale, with the final publication no more than ten days prior to the sale. Notice must also be posted at the place at the county courthouse where foreclosure sales are customarily advertised and conducted, and by employing a third-party Internet foreclosure sale notice information service provider.

A trustee or mortgagee may not sell the trust property unless, among other things, the mortgagee, trustee, or beneficiary has filed for record a notice of default and intention to sell containing the information required by Ark. Code § 18-50-104(b).

Section 16-59-101 amended 1947; § 18-49-104 amended 1997; § 18-50-105 amended 2001; § 18-50-104 amended 2011.

Ark. Code §§ 16-59-101; 18-49-104; 18-50-104, -105 (LexisNexis 2020)

[Lenders, Arkansas, Preconditions to Eviction](#)

Ejectment Action

A party entitled to possession of property may bring an ejectment action. There is no requirement that a notice to quit be served before an action is brought.

Possession Rights

In a non-judicial foreclosure, a mortgagee's or a trustee's sale terminates all interest in the trust property of all persons to whom notice is given and of any other person claiming through that

person. The trustee's or mortgagee's deed conveys to the purchaser, as of the sale date, "all right, title, and interest in the trust property the mortgagor or grantor had or had the power to convey at the time of the execution of the mortgage or deed of trust," and that acquired after the execution of the mortgage or deed of trust.

The purchaser at a sale is entitled to immediate possession of the property. Possession may be obtained by filing a complaint in the county's circuit court and attaching a copy of the recorded trustee's or mortgagee's deed. Alternatively, the purchaser may bring an action for forcible entry and detainer.

Section 18-60-201 amended 1947; §§ 18-50-108 and 18-50-111 amended 1999; § 18-50-107 amended 2011.

Ark. Code §§ 18-50-107, -108, -111; -60-201 (LexisNexis 2020)

[Lenders, Arkansas, Appeals](#)

Judicial

Appeal

No specific time for objection to a foreclosure is set out in the statutes. As a general rule, a notice of appeal in a civil action must be filed within 30 days from the judgment date.

Sale scheduling

The sale may be no less than 10 days after publication of the notice of sale.

Redemption

In all cases where real property is sold under an order or decree of the circuit court in the foreclosure of mortgages and deeds of trust, the mortgagor or his or her heirs or legal representatives has the right to redeem the property so sold within one year from the date of sale, by the payment of the amount for which the property was sold, together with interest thereon, and the cost of foreclosure and sale.

"The mortgagor may waive the right of redemption in the mortgage or deed of trust so executed and foreclosed."

Non-judicial

Appeal

No provisions relating to objections or appeals were located.

Sale Scheduling

The sale must be held between 9 a.m. and 4 p.m. on any day except a Saturday, Sunday, or legal holiday. Once notice is published, there are no additional waiting periods prior to the sale.

Section 18-49-104 amended 1997; § 18-49-106 amended 1947; § 18-50-107 amended 2011; Rule amended 2006.

Ark. Code §§ 18-49-104, -106; -50-107 (LexisNexis 2020); [Ark. R. App. P. Civil 4](#)

Taxing Authorities, Arkansas, Foreclosure Type

Non-judicial.

Taxing Authorities, Arkansas, Preconditions to Foreclosure

Forfeiture of Land

All lands upon which taxes have not been paid for one year following the date the taxes were due (October 15) are forfeited to the state and transmitted by certification to the Commissioner of State Lands for collection or sale. The Commissioner may accept an electronic certification of tax-delinquent parcels.

No tax-delinquent lands may be sold at the county level. The county collector must hold all tax-delinquent lands in the county for one year after the delinquency date. If the lands are not redeemed by the certification date, which can be no later than July 1 of the following year, the collector must transmit the land to the state by certification. Notice must be provided as set forth in "Public Notice and Posting Requirements" below, indicating all taxes, penalties, interest, and costs due and the name and last known address of the record owner.

Upon receipt of the certification, title to the tax-delinquent lands vests in the state, in care of the Commissioner of State Lands, and becomes subject to sale.

Sale Procedure

General requirements

Tax-delinquent sales generally must be held in the county in which the land is located. If the Commissioner of State Lands determines that sufficient parcels do not exist in one county to justify a sale, the Commissioner may hold a tax-delinquent sale in one location and sell land located in more than one adjoining county. The sales must be conducted on the dates specified in the required notices.

Bidders may bid at the sale or mail their bids to the Commissioner of State Lands before the deadline established in the notice of sale. If no person or entity bids at the scheduled public sale an amount equal to at least the total of the delinquent taxes, penalties, interest, and sale costs, the Commissioner may offer to sell the land at a post-auction private sale. If offered at a post-auction private sale within the first two years following the public sale, the tax-delinquent land must be offered for at least the amount of the delinquent taxes, penalties, interest, and sale costs. If offered two years or more following the public sale, the sale may be negotiated at a price the Commissioner determines to be in the best interest of the state and local taxing units.

After any sale by the Commissioner, including a negotiated sale, the Commissioner must notify the owner and all interested parties (such as mortgagors and lienors) of the right to redeem the land within 10 days (excluding weekends and legal holidays) after the sale date by paying all taxes, penalties, interest, and costs due, including the cost of the notice. The notice must be sent by regular mail to the last known address of the owner and all interested parties. If the land is not redeemed, the Commissioner will issue a limited warranty deed to the purchaser.

Timber, oil, gas, or mineral rights

If a timber, oil, gas, or mineral right is owned or assessed separate from the fee in the land and the taxes due on the right are not paid, the right is subject to the state's tax laws governing forfeiture and sale of tax-delinquent land.

The Commissioner must notify the owner of record by certified mail at his or her last known address if severed mineral interests are forfeited to the state and conveyed to the Commissioner for nonpayment of property taxes.

Section 26-37-314 amended 2003; § 26-37-210 amended 2007; § 26-37-101 amended 2013; § 26-37-202 amended 2017.

Ark. Code §§ 26-37-101, -202, -210, -314 (LexisNexis 2020)

Taxing Authorities, Arkansas, Public Notice and Posting Requirements

Notice of Sale

The Commissioner of State Lands must publish a notice of sale of land upon which the ad valorem property taxes have not been paid, in a newspaper having general circulation in the county in which the land is located. The notice must include:

- the land's assessed value;
- the taxes, interest, penalties, and other costs due on the land;

- the owner's name;
- the land's legal description and parcel number;
- a list of all interested parties; and
- a statement that the land will be sold to the highest successful bidder if the bid is equal to at least the amount of delinquent taxes, penalties, interest, and sale costs.

Failure of the notice to contain this information does not invalidate an auction sale of the land, unless an owner or interested party did not receive a notice that substantially complied with the notice required by § 26-37-301. Only an owner or interested party that did not receive that notice may challenge the publication notice's validity.

Notice of Right to Redeem

General requirements

The county collector in each county must, not less than 30 nor more than 40 days before the land's certification to the state, cause to be published in a newspaper of general circulation in the county:

- a list of real property not previously redeemed;
- the names of the owners of record;
- the taxes, penalties, interest, and costs to be paid to redeem the property;

- the redemption period's expiration date; and
- notice that, unless the property is redeemed before the redemption period expires, the lands will be forfeited to the state.

Section 26-37-102 amended 2019; § 26-37-201 amended 2019.

Ark. Code §§ 26-37-102, -201 (LexisNexis 2020)

Taxing Authorities, Arkansas, Preconditions to Eviction

Ejectment

Title 26, Chapter 37 does not address eviction in the context of tax-delinquency foreclosures. The Code does provide, however, that the action of ejectment, as set forth in Title 18, Chapter 60, may be maintained in all cases in which the plaintiff is legally entitled to possess the premises.

Section enacted 1947.

Ark. Code § 18-60-201 (LexisNexis 2020)

Taxing Authorities, Arkansas, Appeals

Right to Redeem Before and After Sale

General provisions

After receiving tax-delinquent land, the Commissioner of State Lands must notify the owner, at the owner's last known address, by certified mail, of the owner's right to redeem before sale by paying all taxes, penalties, interest, and costs, including the cost of the notice. All interested parties, as identified by the Commissioner, must also be sent such notice by certified mail.

If the notice is returned unclaimed or refused, the Commissioner must mail the notice by regular mail. If the notice by certified mail is returned undelivered for any other reason, the Commissioner must send a second notice at any additional address reasonably identifiable through the examination of the real property records in the office of the circuit clerk in the county where the property is located. The notice must indicate that the tax-delinquent land will be sold if not redeemed before the sale date. The notice must also indicate the sale date, which may be no earlier than one year after the land is certified to the Commissioner, and contain a partial legal description and the parcel number. Only an owner or interested party of tax-delinquent land that did not receive a notice in substantial compliance with the required notice may challenge the notice's validity.

Proof that taxes were paid

At any time before the state has sold the lands, the owners may present a petition to the Commissioner, setting forth evidence of their title (or of those under whom they claim) to the lands, at the time of the sale of the lands to the state. The petition must set forth the evidence of the taxes having been paid on the lands before the sale to the state, for the years for the alleged nonpayment. If the Commissioner finds the facts in the petition to be true and that the taxes on the lands had been paid by the present owners of the lands (or by those under whom they claim the lands) for the years they were sold to the state, and before they were sold to the state, the Commissioner may convey to the owner the state's rights, title, and interest acquired under any sale or other proceedings under the provisions to enforce the payment of overdue taxes.

Reassessment of unimproved land in a municipality

Arkansas laws regarding the reassessment of unimproved land in a municipality have been repealed effective July 22, 2015.

Mineral interests

The Commissioner must retain severed mineral interests indefinitely for redemption, unless he or she determines that a lease is in the state's best interest. The tax-delinquent severed mineral interests may be redeemed at any time in the manner set forth for redeeming tax-delinquent real property.

Contesting the Sale

An action to contest the validity of the conveyance of tax-delinquent property or the validity of a negotiated sale generally must be brought within 90 days after the conveyance date. However, a person suffering a mental incapacity, a minor, or certain persons serving in active duty during time of war during this 90-day period must bring an action within two years after the disability is removed, the minor reaches majority, or the person is released from active duty, as applicable.

An owner or interested party must tender cash or certified funds in an amount equal to all taxes, penalties, interest, and costs charged against the tax-delinquent land, as follows:

- into the registry of the court before filing a complaint or, as of July 22, 2015, any other pleading to set aside a sale; or
- with the Commissioner of State Lands upon the Commissioner's request before asking the Commissioner to set aside a sale.

A deed issued by the Commissioner is not void or voidable on the ground that the county did not strictly comply with the laws governing tax-delinquent land. However, this provision does not prevent a taxpayer from contesting the validity of a deed issued by the Commissioner on the ground that taxes have actually been paid.

Effective July 25, 2015, a judicial action to confirm a tax sale or quiet title to real property located in Arkansas eliminates any additional time to redeem the real property or challenge a tax deed under § 26-37-203 or § 26-37-305.

Section 26-37-314 amended 2003; § 26-37-302 amended 2019; §§ 18-12-609, 26-37-203, 26-37-204 amended 2015; 26-37-301 amended 2019; §§ 26-37-311 and 26-37-312 repealed 2015

Ark. Code §§ 18-12-609; 26-37-203, -204, -301, -302, -314 (LexisNexis 2020)

Lenders, California, Foreclosure Type

Judicial and non-judicial.

Lenders, California, Preconditions to Foreclosure

Judicial

No presale preconditions specific to judicial foreclosure were located.

Notice of sale

Generally, a notice of sale of a real property interest must:

- be in writing;
- state the date, time, and place of the sale;
- describe the interest to be sold; and
- describe the real property.

The notice of sale must advise prospective bidders to refer to specified statutory sections for provisions "governing the terms, conditions, and effect of the sale and the liability of defaulting bidders."

No less than 20 days before the sale date, the notice of sale must be served, mailed, and posted. (See *Public Notice and Posting Requirements* for details regarding publication and postings.) The notice must be served on the judgment debtor personally or by mail.

At the time the notice is posted, it must be served (or service must be attempted) on one occupant

of the real property by leaving the notice with the occupant personally or, in the occupant's absence, with any person of suitable age and discretion found on the real property who is an employee or agent of the occupant or a member of the occupant's household.

No earlier than 30 days after the date of levy, the judgment creditor must determine the names of all persons with recorded liens on the real property on the levy date and must instruct the levying officer to mail notice of sale to each lienholder. The levying officer must mail that notice no less than 20 days before the sale date.

Notice of sale of a real property interest, other than a leasehold estate with an unexpired term of less than two years, may not be given until more than 120 days after the date the notice of levy was served on the judgment debtor.

Non-judicial

Power of sale

If a mortgage contains a power of sale to be exercised after a breach of the secured obligation, the power may not be exercised, except where the mortgage or transfer is made pursuant to an order, judgment, or decree of a court of record, until all of the steps described below are followed.

Notice of default

The trustee, mortgagee, or beneficiary must file for record, in the office of the county recorder for the county in which the property is located, a notice of default. That notice of default must include:

- a statement identifying the mortgage or deed of trust;
- a statement that a breach of the secured obligation has occurred;

- a statement setting forth the nature of each breach; and
- if the default is curable, a statement specified by statute.

The notice of default must also be sent to the borrower. Within 10 business days following the recording of the notice of default, notice must be sent to each person who recorded a request for the notice. Within one month following the recording of the notice of default, the notice must generally be sent to successors in interest, the beneficiary or mortgagee of certain other deeds of trust or mortgages on the property, and the vendee of any contract of sale on the property, among others.

Notice of sale

Three months after the filing of the notice of default, the mortgagee, trustee or other authorized person must give a notice of the sale. The mortgagee, trustee, or other person authorized to record a notice of sale must, at least 20 days before the sale date, send a notice of the sale to:

- each person who recorded a request for the notice; and
- each trustor or mortgagor at his or her last known address.

At least 20 days before the sale date, the notice of sale must generally be sent to successors in interest, the beneficiary or mortgagee of certain other deeds of trust or mortgages on the property, and the vendee of any contract of sale on the property, among others.

See Cal. Civ. Code §§ 2924 and 2924b for additional requirements regarding the notice of default and notice of sale.

A mortgagee, trustee, or other person authorized to take sale may file a notice of sale up to five days before the lapse of the requisite three-month notice period, if the sale date is no earlier than three months and 20 days after the filing of the notice of default. No sale date may be set until approximately 90 days from the date the notice of default is recorded.

Statutory loan modification requirements and foreclosure alternatives

Note that §§ 2924(a)(5), 2923.5, 2923.55, 2923.6, 2923.7, 2924.9, 2924.10, 2924.11, and 2924.18, all of which require mortgagees and homeowners to try to work out delinquencies and otherwise avoid foreclosure, generally apply only to first mortgages that are secured by owner-occupied *residential* property containing no more than four dwelling units.

Sections 701.545, 701.547, and 701.550 enacted 1982; § 2923.5 amended 2018; § 2924.15 amended 2018; § 2924 amended 2019; § 2924b amended 2013; § 701.540 amended 2016.

[Cal. Civ. Code §§ 2923.5, 2924, 2924b, 2924.15; Cal Civ. Pro. Code §§ 701.540, .545, .547, .550 \(2019\)](#)

Lenders, California, Public Notice and Posting Requirements

Judicial

Notice of pendency of action (Lis pendens)

The party bringing a foreclosure action may file a notice of pendency of action in the office of the county recorder in the county in which the property is located.

Notice of sale

The notice of sale must be in writing, and must state:

- the date, time, and place of sale;
- the interest to be sold; and

- a legal description of the real property and its street address or other common designation, if any.

Notice of the sale must be posted in one public place in the city in which the property is to be sold or, if not to be sold in a city, in the county in which the property is to be sold, and in a conspicuous place on the property. At the time notice is posted, notice of sale must be served or service attempted on one occupant of the property.

Notice of sale must also be published in a newspaper of general circulation published in the city in which the property is situated if the property is situated in a city or, if not, in a newspaper of general circulation published in the judicial district in which the property is situated. The first publication must be at least 20 days before the sale date. No more than 30 days after the date of levy, the mortgagee must mail notice of sale to each lienholder on the property. Notice must be mailed not less than 20 days before the sale date. Notice of the sale may not be given until the expiration of 120 days after the date notice of levy was served on the mortgagor.

Non-judicial

Notice of sale

Notice of the sale must be:

- posted at least 20 days before the sale date in one public place in the city or the public notice district in which the property is to be sold;
- published once a week for three consecutive weeks in a newspaper of general circulation; and
- posted in a conspicuous place on the property to be sold at least 20 days before the sale date, where possible and where not restricted for any reason.

The first newspaper publication must be at least 20 days before the sale date. If no newspaper of general circulation is published in the city or public-notice district in which the property is located, it must be published in a newspaper of general circulation published in the county seat in the county in which the property is located. If no newspaper of general circulation is published in the city, judicial district, or county, it must be published in a newspaper of general circulation published in the county that is contiguous to the county in which the property is located and has, "by comparison with all similarly contiguous counties, the highest population." See Cal. Civ. Code § 2924f for detailed provisions regarding the required publication and postings summarized above.

Statutory provisions that require a notice of sale to contain language notifying potential bidders of specified risks involved in bidding on property at a trustee's sale and notifying property owners of how to obtain information regarding a postponement of the sale, apply only to a deed of trust or mortgage secured by real property with one to four single-family residences. A mortgagee, beneficiary, trustee, or authorized agent must make a good faith effort to provide up-to-date information regarding sale dates and postponements. The information must be available free of charge and may be made available on an Internet website, a telephone recording, or by any other means that "allows 24 hours a day, seven days a week, no-cost access to updated information."

If a property contains five or more multifamily units and a public entity is a party to a regulatory agreement or recorded deed restriction on the property, the public entity may, by written notice to the trustee, postpone the sale date by no more than 60 days. This postponement period expires 180 days after the notice of default is filed.

The notice of sale must also be recorded with the county recorder of the county in which the property is located at least 14 days before the sale date.

Notice to resident on property

Upon posting a notice of sale, a trustee or authorized agent must also post and mail a notice addressed to the "Resident of property subject to foreclosure sale." The notice must state the following:

Foreclosure process has begun on this property, which may affect your right to continue to live in this property. Twenty days or more after the date of this notice, this property may be sold at foreclosure. If you are renting this property, the new property owner may either give you a new lease or rental agreement or provide you with a 90-day eviction notice. You may have a right to stay in your home for longer than 90 days. If you have a fixed-term lease, the new owner must honor the lease unless the new owner will occupy the property as a primary

residence or in other limited circumstances. Also, in some cases and in some cities with a “just cause for eviction” law, you may not have to move at all. All rights and obligations under your lease or tenancy, including your obligation to pay rent, will continue after the foreclosure sale. You may wish to contact a lawyer or your local legal aid or housing counseling agency to discuss any rights you may have.

Although this requirement applies only to loans secured by residential real property, it applies only if the billing address for the mortgage note is different than the property address, so it primarily applies to residential property that is not owner-occupied. The requirement is effective until December 31, 2019, unless extended.

Section 701.545 enacted 1982; § 405.2 enacted 1992; § 2924.8 amended 2013, repealed effective Jan. 1, 2019; §§ 701.540 and 2924f amended 2016.

[Cal. Civ. Code §§ 2924.8, 2924f; Cal. Civ. Proc. Code §§ 405.2; 701.540, .545 \(2019\)](#)

Lenders, California, Preconditions to Eviction

An action to recover real property may be brought after foreclosure or sale pursuant to a trust deed. There is no time limitation or notice to quit requirement.

Section 744 enacted 1872.

[Cal. Civ. Proc. Code § 744 \(2019\)](#)

Lenders, California, Appeals

Judicial

Appeal

Generally, appeals must be filed within the earliest of 60 days of the service or filing of a notice of entry of judgment, or 180 days after entry of judgment.

Set aside sales

Except as provided below, the sale of property at a foreclosure sale is absolute and must not be set aside for any reason. If the judgment is reversed, vacated, or otherwise set aside, the judgment debtor may recover from the judgment creditor the sale proceeds, with interest, to the extent they were applied to satisfy the judgment.

If the sale was improper because of irregularities in the proceedings, because the property sold was not subject to execution, or for any other reason, the judgment debtor may bring an action within 90 days after the sale date to set aside the sale if the purchaser at the sale is the judgment creditor. The judgment debtor may recover damages caused by the impropriety.

This provision does not "affect, limit, or eliminate" a judgment debtor's equitable right to redeem.

Sale scheduling

Notice of the sale may not be given until 120 days after service of the notice of the levy on the mortgagor. The sale must be held at the date, time, and place specified in the notice of sale, which must be in the county in which the property is situated and between 9 a.m. and 5 p.m.

Non-judicial

Appeal

No provisions for post-sale objections were located.

Payment of amount due

Subject to certain conditions, the trustor or the mortgagor may pay to the beneficiary or the mortgagee the entire amount due, and all proceedings will be dismissed or discontinued.

Sale scheduling

Sales must be by public auction in the county in which the property is located, and must be held between 9 a.m. and 5 p.m. on any business day, Monday through Friday. No sale date may be set until "approximately 90 days from the date" the notice of default "may be recorded." Any postponement must be announced at the time and location specified in the notice of sale.

Sections 701.545, 701.570, and 701.580 enacted 1982; § 2924g amended 2005; § 701.680 amended 2014; § 2924c amended 2017; Rule amended 2017.

[Cal. Civ. Code §§ 2924c, 2924g; Cal Civ. Proc. Code §§ 701.545, .570, .580, .680 \(2019\); Cal. Rules of Court 8.104](#)

Taxing Authorities, California, Foreclosure Type

Non-judicial.

Taxing Authorities, California, Preconditions to Foreclosure

Delinquency

At 12:01 a.m. on July 1 of each year, real property taxes that have not been paid are in default by operation of law.

Power and Intent to Sell

Annually, on or before June 8 of each year, the tax collector must publish a notice of power and intent to sell all property that will be tax defaulted for:

- generally, five years or more on the date specified; or
- three years or more on the date specified for *nonresidential commercial property* and certain residential real property that could provide housing for low-income persons.

For nonresidential commercial property, three years or more after the property has become tax defaulted, the tax collector has the power and must attempt to sell tax-defaulted property that has not been redeemed. A county may elect to have the five-year time period apply to tax-defaulted nonresidential commercial property. In this context, "nonresidential commercial property" means all property *except*:

- a "constructed single-family or multifamily unit that is intended to be used primarily as a permanent residence, is used primarily as a permanent residence, or that is zoned as a residence, and the land on which that unit is constructed"; and
- real property that is used and zoned for producing commercial agricultural commodities.

If the intended sale is of nonresidential commercial property that has been tax-defaulted for fewer than five years, the tax collector must also mail notice to the parties specified Cal. Civ. Code § 2924b(c)(2) and (3) and any beneficiary of a deed of trust or any mortgagee of a mortgage recorded against the property (and any assignees or vendees).

The tax collector must publish the list of tax-defaulted properties and a notice of power and intent to sell them, as described in *Public Notice and Posting Requirements*.

Notice of Default and Power to Sell

Not less than 21 days nor more than 35 days before July 1, the collector must send by registered mail to the last assessee of the tax-defaulted property at his or her last known address a notice of default and power to sell the property. The controller must also provide notice of power of sale to the Controller as described in *Public Notice and Posting Requirements*.

The collector must attempt to sell the property within four years of the time in which the property becomes subject to the power of sale, and at least once every six years thereafter if no suitable bids are received.

Notice of Sale

Not less than 45, nor more than 120, days before a proposed sale at public auction, the collector must forward notice by certified mail, return receipt requested, to the last known mailing address of all parties with an interest in the property. The notice must specify:

- the date, time and place of the proposed sale;
- the amount required to redeem the property;
- the fact that the right of redemption expires on the last business day before the proposed sale date; and
- specified information concerning interested parties' rights to claim proceeds from the sale.

Note that the personal-contact requirements of Cal. Rev. & Tax Code § 3704.7 apply only to property that is the "primary residence of the last known assessee."

Sale requirements

If the property is not redeemed before the close of business on the last business day before the public auction, the collector must sell the property to the highest bidder. The tax collector may postpone the tax sale under certain specified conditions.

Sections 3366 and 4101 amended 1984; § 3706 amended 1986; § 3365 amended 2018; § 3436 amended 1992; § 3701 amended 2018; §§ 3361 and 3692 enacted 2004; § 3706.1 amended 2005; § 3691 amended 2018; § 3704.7 amended 2018.

[Cal. Rev. & Tax Code §§ 3361, 3365, 3366, 3436, 3691, 3692, 3701, 3704.7, 3706, 3706.1, 4101 \(2019\)](#)

Taxing Authorities, California, Public Notice and Posting Requirements

Public Notice of Impending Default

Annually, on or before June 8, the tax collector must publish a notice of impending default for failure to pay real property taxes for those properties for which taxes will not have been fully paid by June 30. The notice must be published three times on no less than five-day intervals in a newspaper of general circulation. If no newspaper of general circulation is available, the notice must be posted in three public places in the county. If the tax collector sends reminder notices before the end of the prior fiscal year and annually sends a redemption notice of prior taxes due, the notice will include only properties that are more than three years delinquent. The notice must be in the form of an affidavit and must show:

- the amount due that will be in default;
- when the default will occur;
- that the real property may be redeemed, including specified details regarding redemption;
- that tax-defaulted real property will be sold unless it is redeemed; and
- that a publication of a detailed listing of all tax-defaulted real property will be initiated on or before September 8th, unless the property has been redeemed.

Affidavit of Tax Default

Annually, on or before September 8, the tax collector must publish an affidavit that the property is in default, together with a list of the properties. The affidavit must be published three times on no less than five-day intervals in a newspaper of general circulation. However, in any county that mails delinquent notices to the assesses of record before June 30, the tax collector must publish the affidavit and list on or before September 8 of the year following the default date. If the collector sends reminder notices before the end of the fiscal year and annually sends a redemption notice of

prior-years' due taxes, this delinquent notice will include only those properties that have been tax-delinquent for three or more years. The notice must show:

- the affidavit of tax default;
- that the property may be redeemed by paying the amount of defaulted taxes together with penalties and fees or under an installment plan of redemption;
- the official who will furnish all redemption information;
- the assessee's name;
- a description of the property; and
- the total amount necessary to redeem the property.

If no newspaper of general circulation is published in the county, the publication must be made by posting it in three public places in the county.

Public Notice of Power and Intent to Sell

Annually, on or before June 8 and in the case of nonresidential commercial property or certain residential property that could provide housing to low-income persons, the tax collector must publish a notice of power and intent to sell all property that will be tax defaulted for three or more years. The notice must be published three times on no less than five-day intervals in a newspaper of general circulation. If no newspaper of general circulation is available, notice must be posted in three public places in the county. The notice must contain:

- the notice date;

- a statement that, in the case of nonresidential commercial property or certain residential property that could provide housing to low-income persons, three years or more have elapsed since the property became in tax default;
- a statement that, unless redeemed in full or by installment plan, the property will be sold;
- a statement that the power to sell the property arises at 12:01 a.m. on July 1;
- a statement that, if sold, the right to redeem the property will terminate; and
- additional specified identifying and redemption information.

The collector must file a copy of the publication and an affidavit of publication with the county recorder.

Public Notice of Intended Sale

The collector must publish the notice of intended sale weekly for three consecutive weeks in a newspaper of general circulation published in the public-notice district in which the property is located. If there is no such newspaper published in the district, the notice must be posted in three public places in the county seat. The publication must be started no less than 21 days before the sale date. The notice must include:

- the date, time, and place of the intended sale;
- the locations of computer workstations at which the public may obtain information about the public auction and submit bids, if conducted via the Internet;

- a property description;
- the minimum acceptable bid;
- specified statements regarding the right of redemption;
- a statement regarding excess proceeds;
- a statement that if the property remains unsold after the sale, the date, time, and place of a subsequent sale; and
- any deposit required to submit a bid.

Alternative publication methods may be enacted in each county in which the tax collector or board of supervisors finds such methods to be necessary to afford adequate notice.

Section 6063 amended 1959; § 3353 amended 1967; §§ 3363 and 3373 enacted 1967; § 3364 amended 1973; § 3374 amended 1975; §§ 3351 and 3352 amended 1984; § 3371 amended 2003; § 3704 amended 2004; § 3361 enacted 2004; §§ 3362 and 3372 amended 2007; §§ 3381 and 3702 amended 2016.

[Cal. Rev. & Tax Code §§ 3351, 3352, 3353, 3361, 3362, 3363, 3364, 3371, 3372, 3373, 3374, 3381, 3702, 3704; Cal. Govt. Code § 6063 \(2019\)](#)

Taxing Authorities, California, Preconditions to Eviction

The purchaser at a tax sale may bring suit to quiet title to all or any portion of the property and prosecute it to final judgment.

Sections amended 1985.

[Cal. Rev. & Tax Code §§ 3727, 3950 \(2019\)](#)

Taxing Authorities, California, Appeals

Limitation of Action

A person may bring a proceeding based on an alleged invalidity or irregularity of any tax-default proceedings only if both:

- the person has first petitioned the board of supervisors pursuant to § 3731 within one year after the tax collector's deed's execution date; and
- the proceeding is brought within one year of the date the board of supervisors determines that the tax deed sold should not be rescinded.

A person may bring a proceeding pursuant to § 3725 only if he or she first petitions the board of supervisors to rescind the sale of a tax deed pursuant to § 3731.

Redemption Rights

The right of redemption terminates at the close of business on the last business day before the commencement date of the tax sale. "The commencement of the tax sale constitutes the actual sale date regardless of auction conclusion." A "taxpayer loses all rights during the auction period for failure to redeem the property by the final redemption date."

If is a credit transaction and the tax collector does not receive full payment on or before the date upon which the it is required pursuant to § 3693.1, the right of redemption is revived on the next business day following that date. The right of redemption is also revived if the property is not sold.

Deed as Evidence

Except as against actual fraud, a duly acknowledged or proved deed is conclusive evidence of the regularity of all proceedings from the assessor's assessment to the deed's execution.

Rescinded Sale

If a tax deed is recorded and it is determined that the property should not have been sold, the board of supervisors may rescind the sale, with the written consent of the county legal adviser and the purchaser (except a bona fide purchaser for value), under the following circumstances:

- the property has not been transferred or conveyed by the purchaser at the tax sale to a bona fide purchaser for value; or
- the property has not become subject to a bona fide encumbrance for value after the tax deed was recorded.

If the purchaser's (or his or her successor's) written consent is not obtained, the board of supervisors may rescind the sale pursuant to the circumstances specified above, only if a hearing is scheduled and a notice is provided to the purchaser. The tax collector must send the notice, no less than 45 days before the hearing date to the purchaser (or a successor in interest) by certified mail with return receipt requested. This notice applies only to sales that are completed on or after January 1, 2010.

Defenses

A defense based on the alleged invalidity or irregularity of any proceeding instituted under chapter 7 may be maintained only in a proceeding brought within the later of:

- one year after the execution date of the tax collector's deed; or

- one year of the date the board of supervisors determines that a tax deed should not be rescinded pursuant to § 3731.

Section 3711 amended 1939; § 3725 amended 2012; § 3707 amended 2018; § 3731 amended 2011; § 3726 amended 2015.

[Cal. Rev. & Tax Code §§ 3707, 3711, 3725, 3726, 3731 \(2019\)](#)

Colorado

Lenders, Colorado, Foreclosure Type

Court proceedings may be required in all foreclosures; however, there are different procedures for foreclosure of mortgages and for sale of property pursuant to a deed of trust. A deed of trust that names a person other than a public trustee as trustee is generally treated as a mortgage and must be foreclosed as mortgages are foreclosed in and through the courts.

Section enacted 1990.

Colo. Rev. Stat. § 38-39-101 (LexisNexis 2019)

Lenders, Colorado, Preconditions to Foreclosure

Deed of Trust

Election to foreclose

A note's holder who declares a violation of a deed of trust's covenant and who elects to publish all or part of the property for sale, must file the following with the public trustee of the county in which the property is located:

- a notice of election and demand, signed and acknowledged by the holder or his or her attorney;

- either (1) the original note and any original endorsement or assignment; (2) either a corporate surety bond in the amount of one and one-half times the note's face amount or a copy of the note and a certification or statement that the copy is true and correct, among other things; or (3) a certified copy of a monetary judgment;
- either (1) the original recorded deed of trust and any original recorded modifications or partial releases; or (2) either a certified copy of the recorded deed of trust and modifications or releases or a copy of the recorded deed of trust and modifications or releases and a certification or statement that the copy is true and correct, among other things;
- a combined notice, which may be omitted with the public trustee's prior approval;
- a mailing list;
- if there is a loan servicer that is not the holder, a statement identifying, to the best of the holder's knowledge, the loan servicer's name;
- any affidavit recorded pursuant to § 38-35-109(5);
- a statement executed by the holder (or the holder's attorney) identifying, to the person's best knowledge, the current owner's name and address; and
- a separate document notifying the public trustee that the property requires posting.

Inapplicable residential provisions

The hotline notice required by § 38-38-102.5 applies only to residential mortgage loans. Similarly, the statutory provisions related to single point of contact (§ 38-38-103.1) and dual tracking (§ 38-38-103.2) apply only to a borrower, which is defined as a person liable under an "evidence of debt constituting a residential mortgage loan."

Combined notice

The public trustee must mail, no more than 20 calendar days after the recording of the notice of election and demand, a combined notice to the persons set forth in the mailing list. No more than 60 calendar days nor less than 45 calendar days before the first scheduled sale date, the public trustee must mail a combined notice to the persons included in the most recent amended mailing list. If there is no amended mailing list, the public trustee must mail a combined notice to the persons included in the mailing list. The "mailing list" contains the names and addresses of:

- the original grantor;
- any person known or believed by the note's holder to be personally liable under the evidence of debt secured by the deed of trust;
- the property's occupant, addressed to "occupant" at the property's address; and
- in a public trustee sale, any lessee with an unrecorded possessory interest in the property, "to the extent that the holder of the evidence of debt desires to terminate the possessory interest with the foreclosure."

The sheriff must also mail the combined notice to the persons in the mailing list no less than 16 nor more than 30 calendar days after the note's holder delivers to the sheriff the mailing list and the decree of foreclosure or a writ of execution directing the sheriff to sell property.

See *Public Notice and Posting Requirements* for details regarding the publication of this combined notice.

Court order mandatory

The lender must obtain a court order authorizing the sale and provide that order to the Public Trustee no later than noon on the second business day before the sale; however, no hearing will be scheduled if the borrower has not filed a response to the notice of sale.

Mortgage

No specific preconditions to foreclosure were located.

An action must be brought within 15 years, the date on which the mortgage or deed of trust ceases to be a lien.

Sections 38-39-101 and 38-39-205 enacted 1990; § 38-38-102.5 amended 2019; § 38-38-105 amended 2014; §§ 38-38-103.1 and 38-38-103.2 enacted 2014; §§ 38-38-101 and 38-38-103 amended 2018.

Colo. Rev. Stat. §§ 38-38-101, -102.5, -103, -103.1, -103.2, -105; 38-39-101, -205 (LexisNexis 2019)

[Lenders, Colorado, Public Notice and Posting Requirements](#)

Mortgage

Lis pendens

A party to a foreclosure action may file a notice of lis pendens with the county clerk and county recorder. Notice may be filed after the party files a pleading in the action.

Deed of Trust

Recording notice of election and demand

If the instrument is a deed of trust, notice of election to foreclose and demand must be filed with the Public Trustee in the county in which the property is located before any sale. The Public Trustee must record the notice and demand with the County Recorder and County Clerk within 10 business days. Notice to the borrower of the pending sale must be mailed by the Public Trustee no more than 20 days after notice is recorded.

Publication of combined notice

If the instrument is certain deed of trusts or a mortgage, notice of the sale must be published not more than 60 calendar days nor less than 45 calendar days before the first scheduled sale date, unless a longer publication period is specified in the deed of trust or other lien being foreclosed. The notice must be published once each week for five consecutive weeks. Certain specified information must not be included in the published notice. Notice must also be mailed not more than 60 calendar days nor less than 45 calendar days before the sale to the parties designated by statute to receive notice.

Section 38-38-102 amended 2009; § 38-35-110 amended 2014; §§ 38-38-101 and 38-38-103 amended 2018.

Colo. Rev. Stat. §§ 38-35-110; 38-38-101, -102, -103 (LexisNexis 2019)

[Lenders, Colorado, Preconditions to Eviction](#)

An unlawful detainer action may be brought against a person who remains in possession after a Public Trustee's or foreclosure sale after the person entitled to possession has "duly demanded" possession.

Annotations to Colo. Rev. Stat. § 38-38-302 indicate that the owner has possessory rights until the redemption period expires.

Section 13-40-104 amended 2019; § 38-38-302 amended 2018.

Colo. Rev. Stat. §§ 13-40-104; 38-38-302 (LexisNexis 2019) (annotations)

[Lenders, Colorado, Appeals](#)

Appeal

No specific provisions were located. As a general rule, a notice of appeal in a civil action must be filed within 49 days from the date of the entry of judgment.

No action may be brought to question or to set aside the foreclosure of a deed of trust or mortgage, unless it is commenced within seven years after the "date of the vesting of title pursuant to such foreclosure."

Sale scheduling

If the instrument is a deed of trust:

- for a sale by a public trustee of property that is *not agricultural property*, the sale must be held no less than 110 calendar days nor more than 125 calendar days after the date the notice of election and demand was recorded; and
- for a sale by a public trustee of property that is entirely *agricultural property*, the sale must be held no less than 215 calendar days nor more than 230 calendar days after the date the notice of election and demand was recorded.

If the instrument is a mortgage:

- for a sale by the sheriff of property that is *not agricultural property*, the sale must be held no less than 110 calendar days after the date the lis pendens was recorded; and
- for a sale by the sheriff of property that is entirely *agricultural property*, the sale must be held no less than 215 calendar days after the date the lis pendens was recorded.

In this context, "agricultural property" means property, *none* of which, on the date the deed of trust, the notice of election and demand, or the lis pendens was recorded, is:

- platted as a subdivision;
- located within an incorporated town, city, or "city and county"; or
- valued and assessed as other than agricultural property.

The officer, for any reason he or she deems to be good cause or upon the note holder's written request, may continue the sale to a later date by:

- making, at the time and place designated for the sale, an oral announcement of the time and place of the continuance; or
- by posting or providing a notice of the continuance at the time and place designated for the sale.

Generally, a sale may not be continued to a date later than 12 months from the date originally designated in the combined notice.

Statutory section 38-39-208 enacted 1990; §§ 38-38-100.3 and 38-38-309 amended 2018; § 38-38-108 amended 2016; rule amended 2011.

Colo. Rev. Stat. §§ 38-38-100.3, -108, -109; 38-39-208 (LexisNexis 2019); Colo. R. App. P. 4

[Taxing Authorities, Colorado, Foreclosure Type](#)

Non-judicial.

[Taxing Authorities, Colorado, Preconditions to Foreclosure](#)

[Notice of Tax Lien and Sale](#)

No later than September 1 of each year, the county treasurer for each county must send a notice by mail to the last-known address of each person whose taxes for the previous year are due and unpaid. The notice must:

- indicate the delinquent amount; and
- state that if the delinquency is not paid by the date specified in the notice, which may not be less than 15 days from the mailing date, the treasurer will advertise and sell a tax lien on the property at public auction for the delinquent taxes, interest, and applicable fees.

List of Tax Liens

The treasurer must make a list of all property with tax liens subject to sale, describing the property as it is described on the tax roll. The list must be published according to the *Public Notice and Posting Requirements*, below. The treasurer must make an affidavit attesting to the posting of the list and notice, which affidavit must be deposited with the county clerk and recorder to be entered in the permanent county records. In addition, the publisher or printer who publishes the list and notice must, immediately after the last posting, transmit to the treasurer an affidavit of publication.

Sale of Tax Lien

General provisions

When the taxes levied for the preceding year or years on any property remain unpaid, the tax liens on the property will be offered at public auction and sold to the person who pays the taxes, delinquent interest, and fees then due, or who pays the largest amount in excess thereof. Real property for which a tax lien is sold may be redeemed in the manner provided by law.

On the day designated in the notice of sale, the treasurer must bring the public auction, continuing the auction each weekday until the tax liens on each parcel are sold. The public auction must be held at the treasurer's office, at another location in the county designated by the treasurer, or via the Internet or another electronic medium. Internet or other electronic-medium auctions must

allow members of the public to submit bids by computer and permit the treasurer to accept bids for as long as the treasurer deems necessary.

Mineral interests

Sales of tax liens for delinquent taxes due on severed mineral interests generally take place at the same place and time and under the same circumstances as other tax liens. However, if the surface estate ownership is "coterminous with the severed mineral interest," the surface owner:

- has a right of first refusal to purchase the tax lien on the severed mineral interest;
- may pay all delinquent taxes due and owing for the severed mineral interest (instead of the proceeds that would be collected from a tax sale of a tax lien on the severed mineral interest).

The treasurer must notify the surface owner, by mail, at his or her last-known address, of this right of refusal at least 10 days before the sale of a tax lien on the severed mineral interest. The surface owner has until two days before the sale to exercise the right of first refusal. If the surface owner does not exercise the first refusal right, the tax lien on the severed mineral interest will be sold.

Notice of Purchase

Before any purchaser of a tax lien is entitled to a deed for the property, the buyer must make a request to the treasurer, who must then serve, by personal service or registered or certified mail, not more than five nor less than three months before the deed is issued, a notice of the purchase on:

- every person in actual possession or occupancy of the property;
- the person in whose name the property was taxed; and

- all persons with a recorded interest in or title to the property.

The notice must state:

- when the applicant purchased the tax lien;
- in whose name the property was taxed;
- the property description;
- for what years taxes were delinquent; and
- when the redemption period will expire or when the deed will be issued.

Section 39-11-104 enacted 1964; § 39-11-150 amended 1985; § 39-11-103 amended 1994; § 39-11-128 amended 1996; §§ 39-11-108 and -115 amended 2005; § 39-11-101 amended 2007; § 39-1-107 amended 2016.

Colo. Rev. Stat. §§ 39-1-107; -11-101, -103, -104, -108, -115, -128, -150 (LexisNexis 2019)

[Taxing Authorities, Colorado, Public Notice and Posting Requirements](#)

Public Lists

No later than January 15 of each year, each county treasurer must deliver to the county clerk and recorder a list of all tax certificates issued and held in the county's name and a list of all property the county acquired by tax deed. A copy of these lists must be posted in a conspicuous place in the courthouse for not less than 30 days.

Notice of Sale

The notice of sale at public auction must contain:

- the property description; and
- the date, time, and place of the tax lien sale, including the electronic address if the public auction is conducted by Internet or another electronic medium.

If the auction is conducted electronically, the notice must include:

- the location of computer workstations available to the public;
- information regarding how to obtain instructions on accessing the public auction and submitting bids; and
- a statement that the bidding rules will be posted on the Internet (or other electronic medium used to conduct the public auction) at least two weeks before the sale date.

This notice must be published in a newspaper of general circulation in the county for three consecutive weeks, with the first publication occurring at least four weeks before the sale date. The treasurer must post a similar written or printed notice in a conspicuous place in the treasurer's office for not less than four weeks before the sale date. If no newspaper is published in the county, four weeks' notice on or near the outer door of the treasurer's office is sufficient.

Notice of Purchase

After a purchaser of a tax lien at public auction requests a property deed, the notice of purchase served on the occupant, owner, and others with an interest in the property must be published three

times, at intervals of one week, in a daily, weekly, or semiweekly newspaper published in the county. The notice must be published no more than five months nor less than three months before the date the tax deed may issue. If no such newspaper is published in the county, notice must be published in a Colorado newspaper that is published in the county seat nearest the county in which the property is located.

Section 29-11-105 enacted 1964; § 29-11-139 amended 1993; § 29-11-128 amended 1996; § 29-11-102 amended 2005.

Colo. Rev. Stat. §§ 39-11-102, -105, -128, -139 (LexisNexis 2019)

Taxing Authorities, Colorado, Preconditions to Eviction

Before a purchaser of a tax lien is entitled to a deed to the property, the treasurer must serve, by personal service or registered or certified mail, not more than five nor less than three months before the deed is issued, a notice of the purchase on every person in actual possession or occupancy of the property. The notice must state:

- when the applicant purchased the tax lien;
- in whose name the property was taxed;
- the property description;
- for what years the taxes were delinquent; and
- when the redemption period will expire or when the deed will be issued.

The tax lien article is otherwise silent as to eviction, but ejection actions generally are covered by Title 13, Article 40.

Section amended 1996.

Colo. Rev. Stat. § 39-11-128 (LexisNexis 2019)

Taxing Authorities, Colorado, Appeals

Timing of Sale

The public auction of tax liens on lands upon which taxes remain delinquent must begin on or before the second Monday in December of each year. If the tax lien cannot be duly advertised and offered for sale at public auction on or before the second Monday of December, the treasurer must hold the public auction on a subsequent day, allowing time for the required publication of notice.

Redemption Rights

Real property for which a tax lien is sold may be redeemed in the manner provided by law.

Civil Action

General provisions

An action for the recovery of land for which a tax deed was issued under the provisions of Article 11 must be brought within five years after the execution and delivery of the deed.

Mineral interests

An action for the recovery of a severed mineral interest for which a tax deed was issued must be brought within five years after the execution and delivery of the deed.

Section 39-11-130 amended 2017; §§39-11-150, and 39-12-101 amended 1985; §§ 39-11-109 and 39-11-110 amended 2005.

Colo. Rev. Stat. §§ 39-11-109, -110, -130, -150; -12-101 (LexisNexis 2019)

Connecticut

Lenders, Connecticut, Foreclosure Type

Judicial only (either strict foreclosure or foreclosure by decree of sale).

Lenders, Connecticut, Preconditions to Foreclosure

Service of process

Generally, the foreclosure process begins when a foreclosure complaint is served on the borrower as provided for all civil actions. A mortgage foreclosure is a bar to any further action against the persons who are liable for payment and are made parties to the foreclosure. It is also a bar to any further action against certain persons upon whom service of process could have been made in the state at the beginning of the foreclosure proceedings.

Applicability of certain notice provisions

The mandatory notice of statutory protections and availability of foreclosure mediation that is required before foreclosure of a mortgage on residential property does not extend to commercial loan foreclosures. Similarly, the expedited foreclosure provisions that apply to vacant property are available only for:

- loans secured by a one- to four-family dwelling that the mortgagor occupies as his or her primary residence; or
- certain loans secured by property owned by a religious organization.

Railroad company mortgages

The statutory provisions concerning the foreclosure of mortgages of railroad companies apply to mortgages by companies doing a light, heat, gas, power, water, telephone, or natural gas transmission business. The railroad company foreclosure provisions require a railroad mortgage to be foreclosed in the same manner as "ordinary mortgages of real estate." Upon default, the creditor may bring the complaint to the superior court.

Section 16-219 amended 1978; §§ 49-1 and 49-5 amended 1979; § 16-218 amended 1985; § 8-265cc amended 2019; § 8-265see amended 2012; § 49-31k amended 2015; §§ 49-31e and 49-31l amended 2016.

[Conn. Gen. Stat. §§ 49-1, -5, -31e; 16-218, -219 \(2019\)](#); see also [Conn. Gen. Stat. §§ 49-31l, -31k; 8-265cc, -265see \(2019 & Supp. 2020\)](#) (regarding applicability of certain residential property notices)

Lenders, Connecticut, Public Notice and Posting Requirements

No relevant provisions were located.

Lenders, Connecticut, Preconditions to Eviction

An action ordering a person to quit possession of property may be brought against "one [who] originally had the right or privilege to occupy such premises but such right or privilege has terminated . . ." Written notice to quit must be served before the action is commenced.

Section 47a-23 amended 2004.

[Conn. Gen. Stat. § 47a-23 \(2019\)](#)

Lenders, Connecticut, Appeals

Appeal

No specific provisions relating to appeals from foreclosures were located. As a general rule, an appeal must be filed within 20 days of the date of the notice of judgment.

Sale scheduling

A sale is ordered by the court only on motion of one of the parties and if the judgment is not a judgment of strict foreclosure. No specific provisions relating to scheduling the sale were located.

Opening a judgment

A judgment foreclosing real estate by strict foreclosure generally may, at the court's discretion and upon the written motion of any interested person, be opened and modified, unless the title has become absolute in any encumbrancer. However, the judgment may be opened after title has become absolute upon agreement of each party to the foreclosure action who filed an appearance in the action and any person who acquired an interest in the real estate after title became absolute, provided:

- the judgment may not be opened after the later of (a) more than four months after the court entered the judgment or (b) more than 30 days after title became absolute; and
- each party's rights and interests, regardless of whether the party filed an appearance, and the rights of any person who acquired an interest in the real estate after title became absolute in any encumbrancer, are restored to the status that existed on the date the court entered the judgment.

The person who filed the written motion to open the judgment must record a certified copy of the court's order to open the judgment.

Section 49-15 amended 2009; § 49-24 amended 2016; rule amended 2017.

[Conn. Gen. Stat. §§ 49-15, -24 \(2019\)](#); [Conn. R. App. P. 63-1](#)

Taxing Authorities, Connecticut, Foreclosure Type

Judicial.

Taxing Authorities, Connecticut, Preconditions to Foreclosure

Tax Liens

Each person's interest in real estate that has been legally set in the tax assessment list is subject to a lien for the taxes assessed against that property. The lien exists from October 1 (or other assessment date in the year previous to that in which the tax became due) until two years after that tax or first installment became due. The lien may be enforced by levy and sale of the real estate.

The collector must notify the owner of the intent to file a lien, by mail, not later than 15 days before filing. However, failure to notify the owner of the intent to file a lien does not affect the lien's validity.

Continuing Liens

A municipality's tax collector may elect to continue a tax lien against real estate to secure payment of the tax assessed by the municipality, plus legal interest, fees, and charges, by recording a certificate in the town clerk's office of the town in which the real estate is located. The certificate must contain the following information:

- the name of the person against whom the tax appears in the rate bill;
- the real estate's description;
- the principal tax amount due, any interest, and any fees and other charges secured by the lien;
- the date or dates when the principal became due; and
- a statement giving notice of the intention to file a lien against the proceeds of any insurance policy if loss or damage to the property occurs.

Each lien continued by certificate remains subject to foreclosure at any time, but becomes invalid 15 years from the certificate's recording date. After 15 years, the town clerk must discharge the lien by noting in the margin or the record the words, "Discharged by operation of law."

Judicial Foreclosure

A municipality's tax collector may bring suit to foreclose an undischarged tax lien. The court may limit the time for redemption, order the sale of the real estate, and determine the relative amount of the undivided interest of each municipality in real estate obtained by absolute foreclosure, if two or more municipalities are parties to one foreclosure action. In addition, a municipality's tax collector may bring an action in rem to foreclose a tax lien on real estate, if:

- the real estate's fair market value is less than the total amount due; and
- the fair market value is not more than \$100,000.

No judgment may be rendered in that proceeding to recover a personal judgment against the property's owner.

Summary Foreclosure Process

The tax collector may, not more than twice each year, file in the office of the clerk of the superior court for the judicial district in which the property is situated, a petition for the foreclosure of any tax lien. The tax collector may include in one petition any number of properties. The petition must be addressed to the court, and contain the following:

- a list of the parcels to be foreclosed;
- a description sufficient to identify each parcel;

- the owner's name and address;
- the principal tax due;
- the amount of tax, with interest, fees, and other charges, that is secured by the lien;
- the date on which the principal became due;
- the name and address of each holder of any interest in, or encumbrance on, the liened property and the nature and amount thereof; and
- the last day on which the property may be redeemed, which must be the last day of the fourth month after the month in which the list is filed in court.

The petition must be verified by the tax collector's oath that the information is true to the best of his or her knowledge and belief.

If an appraisal shows that the fair market value of any parcel listed in the petition is greater than the total amount due on the tax lien, but the amount of the lien is greater than \$100,000, the clerk must write "Withdrawn" next to that property on the list. That property may not be within the scope of the proceeding.

When the list has been so marked, the clerk must immediately give notice in writing to the tax collector. *See Public Notice and Posting Requirements.* Before the notice is published, the tax collector must also send a notice of the pendency of the summary foreclosure action, by registered or certified mail, postage prepaid, to the owner or owners of each of property and the holder of any encumbrance thereon or interest therein.

Section 12-181 enacted 1949; § 12-186 amended 1978; § 12-174 amended 2009; § 12-173 amended 2000; §§ 12-182, 12-183, and 12-185 amended 2002; § 12-172 amended 2007.

[Conn. Gen. Stat. §§ 12-172, -173, -174, -181, -182, -183, -185, -186 \(2019\)](#)

Taxing Authorities, Connecticut, Public Notice and Posting Requirements

Notice of Pending Petition for Foreclosure

When the list of properties subject to summary foreclosure has been marked, the clerk must immediately give written notice to the tax collector of that fact. The tax collector must, within one week of receipt of the notice, publish the petition at least once in a newspaper with a general circulation in the municipality in which the listed properties are located.

The tax collector must, on or before the publication date, file a copy of the notice in the office of the town clerk of the town in which the property is located. That filing has the same force and effect as filing a notice of lis pendens. The tax collector must also, within the same period of time, post a copy of the notice in some conspicuous place in the office of the town clerk and in his or her own office.

Not less than one week before the last day of redemption, the tax collector must file with the clerk of the court a return under oath with respect to his compliance with the publication and notice requirements.

Section 12-190 enacted 1949; § 12-186 amended 1978.

[Conn. Gen. Stat. §§ 12-186, -190 \(2019\)](#)

Taxing Authorities, Connecticut, Preconditions to Eviction

Possession Rights

When a redemption period expires, the court must make a final judgment of the tax lien foreclosure on any properties not withdrawn or redeemed and direct that possession of the properties be given to the municipality with the lien. At that time, all persons with any right, title or interest in or to the

property are forever barred and foreclosed of their rights. The tax collector must sign and file in the town clerk's office a separate foreclosure certificate as to each property, stating that the property was foreclosed for unpaid taxes and that title and possession are exclusive in the municipality.

Section amended 1978.

[Conn. Gen. Stat. § 12-191 \(2019\)](#)

Taxing Authorities, Connecticut, Appeals

Filing a Defense

The owner or any person with an interest in or encumbrance on any property may, at any time at least three months before the last day of the redemption period, file in the office of the clerk of court a bona fide defense to the proceeding in respect to his or her property. If the court is satisfied that the defense is bona fide, it must direct the clerk to write, opposite the description of the property in the list, the word "Withdrawn," and the property will no longer be within the scope of the proceeding.

Redemption

A person with title to or interest in property on the delinquent list may redeem the parcel by paying the amount due for tax liens, plus interest, lien fees, and other charges. The payment must be made during the redemption period, which ends the last day of the fourth month after the month in which the tax lien list is filed in court. Upon redemption, the person redeeming is entitled to a certificate, signed by the municipality's tax collector, indicating that the property has been redeemed. The certificate must be filed for record with the town clerk and the clerk of the court.

Sections enacted 1949.

[Conn. Gen. Stat. §§ 12-187, -189 \(2019\)](#)

Delaware

Lenders, Delaware, Foreclosure Type

Judicial foreclosure (*scire facias*) only.

Lenders, Delaware, Preconditions to Foreclosure

Default

An action to foreclose may be brought "at any time after the last day whereon the mortgage money ought to have been paid or other conditions performed . . ."

Parties to action and burden

The following must be parties to the foreclosure action:

- the mortgagor (and the mortgagor's heirs, executors, administrators, or successors);
- record owners acquiring title subject to the mortgage being foreclosed; and
- persons with a recorded equitable or legal interest.

Note that the mortgagor must show cause why the mortgaged premises ought *not* be seized and taken in execution for payment of the mortgage or to satisfy the damages.

Notice of public sale

Public notice of the sale of land under execution must be given as described in *Public Notice and Posting Requirements*. The notice must also be delivered at least 10 days before the sale date to the defendant, or left at the defendant's usual place of abode, if in the county. If the defendant does not reside in the county, notice must be served on the tenant. If there is no tenant, notice must be "left at the mansion house or other public place on the premises."

Section 5061 amended 2011; § 4973 amended 1996.

[Del. Code tit. 10, § 5061, 4973 \(2020\)](#)

Lenders, Delaware, Public Notice and Posting Requirements

Notice of sale postings

Public notice of the sale must be posted at least 10 days before the sale date, in 10 of the most public places of the county in which the premises are located. The notice must include:

- the time and place of sale;
- the property to be sold; and
- where that property is located.

Notice of sale publication

One of the advertisements must be posted in the hundred in which the premises are located, and at least one in each of the hundreds that immediately adjoin the hundred. Notice of the sale must also be advertised for two weeks before the sale in:

- a newspaper of general circulation published in the county in which the property is located; and
- a newspaper of general or limited circulation published nearest to the place in which the property is located.

If only one newspaper is published in the county, the sheriff may select a newspaper in one of the other counties. If there is no newspaper in the county, the sheriff may select two newspapers in other counties.

Section 4973 amended 1996.

[Del. Code tit. 10, § 4973 \(2020\)](#)

Lenders, Delaware, Preconditions to Eviction

Summary proceedings may be brought against a tenant who holds-over for more than five days after a foreclosure sale.

Section 5702 amended 2013.

[Del. Code tit. 25, § 5702 \(2020\)](#)

Lenders, Delaware, Appeals

Appeal

No specific provisions for appeal from a foreclosure were located. As a general rule, an appeal must be filed within 30 days of the date of the entry of a judgment, order or decree from which the appeal is taken in a civil case.

Sale scheduling

There are no additional restrictions on scheduling the sale of the property.

History unknown.

[Del. Sup. Ct. R 6](#)

Taxing Authorities, Delaware, Foreclosure Type

Judicial.

Taxing Authorities, Delaware, Preconditions to Foreclosure

Uncollected Tax List

Each year, each county's tax officer must make a list of uncollected taxes and present it to the county government as part of a settlement process. To prepare the list, the county government and tax collectors must determine what taxes have been assessed, what taxes have been paid, and what taxes have not been paid and cannot be collected.

County Provisions

Delaware's statutes contain several provisions that apply only to certain counties. For example, [Del. Code tit. 9, §§ 8610, 8705\(a\), 8708, and 8709](#) and [subchapter III](#) apply to taxes assessed against real estate by New Castle County. Similarly, [§§ 8705\(b\)](#) and [8710](#) and [subchapter IV](#) address Sussex and Kent County liens.

Monition

The tax collector may collect delinquent real estate taxes using the "monition method." Monition is an old common-law writ that commands or warns the defendant to do a particular act, such as pay money. Before monition may be used, the tax or assessment sought to be collected must constitute a lien against the property. By statute, the lien arises at the time it is assessed.

First Request for Writ

To obtain the writ of monition, the tax collector first files a "praecipe" (essentially, a request for the clerk to issue a writ) with the office of the Prothonotary of the Superior Court in the county in which the property is located. The Prothonotary will make an entry in a special judgment docket of the

Superior Court against the property described in the praecipe. The entry must include the following information:

- the name of the person in whose name the taxes were assessed;
- the property description as it appears in the assessment roll;
- the years for which the taxes are due;
- the date the praecipe was filed; and
- “the amount of the judgment, the same being the amount set forth in the praecipe.”

Second Request for Writ

After the information from the praecipe is entered into the special judgment docket, the collector must file a second praecipe, this time a “praecipe for monition.” The Prothonotary will issue a “monition” to the Sheriff of the county in which the property is located. The monition must state the same information about the delinquent taxes as was entered into the special judgment docket. For a statutory form for the monition, see [Del. Code tit. 9, § 8723](#). The monition must state that, if the judgment for the taxes or assessment stated is not paid within 20 days, or if evidence proving the taxes have been paid is not filed with the Prothonotary within 20 days, the tax collector may sell the property. The sheriff must also post the monition on the property.

Writ to Conduct Sale

If 20 days pass and payment or proof of payment is not made, the tax collector may ask the Prothonotary for a “writ of venditioni exponas,” ordering the Sheriff to conduct the sale. The property described in the writ must match the property described in the assessment rolls and by metes and bounds, if possible. A statutory form of notice is provided. See [Del. Code tit. 9, § 8725](#).

Section 8611 amended 1953; § 8705 amended 1986; §§ 8610 and 8723 amended 1997; § 8732 amended 2000; § 8722 amended 2006.

[Del. Code tit. 9, §§ 8610, 8611, 8705, 8722, 8723, 8732 \(2020\)](#)

Taxing Authorities, Delaware, Public Notice and Posting Requirements

Monition Posting

If the sheriff is selling property using the monition method, the monition must be posted on the property in a prominent place. Posting of the notice constitutes notice to the owner and all persons with an interest in the property.

General Posting Requirements

It is not clear from the state's delinquent-tax statutes whether any other notice, such as one providing details as to when and where the sale will occur, is required. For general provisions applicable to execution sales, see [Del. Code tit. 10, §§ 4971–4987](#). Pursuant to those provisions, public notice must be provided by posted advertisement at least 10 days before the sale, and the notice must be posted in “ten of the most public places of the county where the premises are located.” The notice must set forth the day, hour, and place of the sale, and must state what land is to be sold and where it is. The taxpayer must receive a copy of the advertisement at least 10 days before the sale. The copy may be left at the taxpayer’s home, if the taxpayer lives in the county. If the taxpayer does not live in the county, the copy must be served on the tenant or left in a public place on the premises. The notice of sale also must be published for two weeks before the time of sale in a newspaper of general circulation within the county as well as a newspaper of general or limited circulation published nearest to the property. The advertisement may run up to three times per week.

Sale Requirements

The sheriff’s sale generally must be conducted either on the premises being sold, the county courthouse, at the Sussex County Sheriff’s Office, or any public building in the county seat in the county where the premises are located. In Kent County, sales may also be conducted in any

building in which the Sheriff's Office is located. "Provided that the notice of the public sale so indicates, the county governing body may require that bidders at a sheriff sale, prior to any bid, certify to the county governing body that such bidder, either directly or through any affiliated entities, does not own any interest in any real property in such county that (i) has amounts past due identified in § 2901(a) of Title 25, in excess of \$1,000, or (ii) has been vacant for at least 18 consecutive months and such property is not subject to a valid building permit or a pending land use application."

The county's chief financial officer may approve or disapprove the final bid at the Sheriff's sale. To exercise that discretion, however, the notice of the public sale must state that the sale is "subject to the approval of the Department of Finance or the chief county financial officer." If the official does not approve the sale, the property must be offered for sale again.

Section 8724 amended 1953; § 4973 amended 1996; § 8726 amended 2017; § 4974 amended 2011.

[Del. Code tit. 9, §§ 8724, 8726; Del. Code tit. 10, §§ 4973, 4974 \(2020\)](#)

Taxing Authorities, Delaware, Preconditions to Eviction

Delaware's statutes relating to execution sales do not specifically address eviction issues. For provisions generally relating to summary proceedings against a tenant, see [Del. Code tit. 25, §§ 5701–5718](#). Note, however, that if the general provisions relating to execution sales apply to tax sales, the purchaser will be entitled to rent if a tenant occupies the premises after the execution sale. The rent may be recovered through a civil action, subject to the defenses the tenant held against the taxpayer.

Section amended 1996.

[Del. Code tit. 10, § 4978 \(2020\)](#)

Taxing Authorities, Delaware, Appeals

Redemption

The owner of real estate sold at a tax sale may redeem at any time within 60 days from the date the court approves the sale.

Superior Court Inquiry

After a sale under a writ of *venditioni exponas*, the Superior Court may inquire into the regularity of the sale and either approve it or set it aside.

Sections amended 2000.

[Del. Code tit. 9, §§ 8729, 8731 \(2020\)](#)

District of Columbia

Lenders, District Of Columbia, Foreclosure Type

Non-judicial only.

Lenders, District Of Columbia, Preconditions to Foreclosure

If the time of giving a notice of sale is not set out in the mortgage or deed of trust or left to the mortgagee's or trustee's discretion, any person interested in the sale may apply to the court to fix the sale's terms and to determine what notice of sale must be given.

A foreclosure sale under a power of sale contained in a deed of trust or mortgage may not take place unless the holder of the note gives written notice of the intention to foreclose, by certified mail, postage prepaid, return receipt requested, and by first-class mail to:

- the borrower; and
- if different from the borrower, to the person who holds record title to the encumbered real property.

A copy of the notice must also be sent to the Mayor at least 30 days before the sale date.

Section amended 2011.

[D.C. Code § 42-815 \(2020\)](#)

Lenders, District Of Columbia, Public Notice and Posting Requirements

Written notice of a sale must be sent to the Mayor of the District of Columbia, or his designated agent, at least 30 days before the sale. The 30-day period begins when the Mayor receives the notice, and the Mayor must provide written acknowledgement of the receipt.

Section amended 2011.

[D.C. Code § 42-815 \(2020\)](#)

Lenders, District Of Columbia, Preconditions to Eviction

A complaint for forcible entry and detainer may be brought against a defendant who "detains possession of real property without right, or after his right to possession has ceased."

During a period of time for which the Mayor has declared a public health emergency [§ 7-2304.01](#), and for 60 days thereafter, the person aggrieved may not file such a complaint.

Section amended 2020.

[D.C. Code § 16-1501 \(2020\)](#)

Lenders, District Of Columbia, Appeals

Appeal

No specifically relevant provisions were located.

Sale scheduling

If the time or manner of a sale is not set out in the mortgage or deed of trust or left to the mortgagee's or trustee's discretion, any person interested in the sale may apply to the court for an order setting the terms of the sale.

Section 42-815 amended 2011.

[D.C. Code § 42-815 \(2020\)](#)

Taxing Authorities, District Of Columbia, Foreclosure Type

Non-judicial auction, followed, after a six-month waiting period, by judicial foreclosure of the taxpayer's right to redeem.

Taxing Authorities, District Of Columbia, Preconditions to Foreclosure

Overview

Foreclosure of a real estate tax lien has two distinct parts. First, the District sells the property and issues a certificate of sale to the purchaser. Second, after a waiting period, the purchaser must bring an action to foreclose on the taxpayer's right to redeem the property. After a judgment is entered in the foreclosure action, the purchaser will be entitled to a deed in fee simple, subject to residential tenants' rights.

Notice to Taxing Agencies (§ 47-1340)

Before a tax sale occurs, the District must determine whether the taxpayer owes other taxes. To determine this, the District must send a notice of the intended sale to all taxing authorities within the District, which must certify whether additional taxes are owed. Those amounts are added to the amount due. The notice to the District taxing authorities generally must be sent at least 60 days before the Notice of Delinquency and the post-sale notice are sent to the taxpayer. The taxing authorities generally must respond within 30 days.

Notice of Delinquency (§ 47-1341(a))

The Mayor must send a Notice of Tax Delinquency by first-class mail to the last record owner of the property at that person's last mailing address. If the premises address is different from the record owner's address, the Mayor must send a duplicate copy of the notice to the premises, addressed to "Property Owner."

The notice must be substantively in the form set forth in D.C. Code § 47-1341(a)(2).

Final Notice of Delinquency (§ 47-1341(b))

At least two weeks before property is offered at a tax sale, the Mayor must send a final notice of delinquency by first-class mail to the person who last appears as the property's owner on the tax roll, at the last address shown. If the premises address is different from the record owner's address, the District must send a duplicate copy of the notice to the premises, addressed to "Property Owner." The notice must be in substantively in the form set forth in § 47-1341(b-1)(2).

Conduct of Sale (§ 47-1346)

The Mayor must hold the sale on the date and at the place stated in the public notice. If the sale cannot be completed on that date, the Mayor must continue the sale, as the Mayor determines and announces to the potential purchasers at the sale, until all real property included in the public notice is sold.

Sales are at public auction to the purchaser who makes the highest bid. Unless otherwise provided, a real property may not be sold for less than the tax amount.

Certificate of Sale (§§ 47-1347, -1348)

The purchaser at a tax sale has five days in which to pay the sale price to the District. Once the sale price is paid, the Mayor will issue a certificate of sale to the purchaser. To obtain a deed, the purchaser must bring an action to foreclose the taxpayer's right to redeem. This action cannot be filed for six months after the sale, but must be brought within one year. If the action to foreclose is not brought within one year, the certificate will be void.

Notice of Action (§ 47-1372)

The plaintiff must send written notice of the action to:

- all persons with recorded interest, claim, or lien, who have not been made a defendant in the action;
- if the real property is the common areas owned by or legally dedicated to a homeowners association, to the homeowners association governing the real property;
- each commercial tenant whose identity is known to the plaintiff; and
- a purchaser of the real property (or an assignee of a certificate of sale), if the purchaser has recorded the certificate of sale and any assignee has recorded the assignment, provided certain specified conditions are met.

This notice must be sent by certified mail, postage prepaid, return receipt requested, and accompanied by a copy of the summons and complaint.

The plaintiff must also send written notice of the action to any commercial tenant whose occupancy of the real property is "reasonably ascertainable by the plaintiff," whether or not the commercial tenant's identity is known. This notice must be sent by first-class mail, postage prepaid, addressed to the commercial tenant by name, if known to the plaintiff, or addressed to "occupant" if the commercial tenant's identity is not known.

Service of Process (§ 47-1374)

Generally, notice to a defendant may be made in any manner that results in actual notice of the pending action.

Post-Foreclosure Notices

After entry of a judgment foreclosing the right of redemption and at least 30 days before taking possession of the real property, the plaintiff must give any commercial tenant written notice of the plaintiff's intention to possess the real property and that the commercial tenant must vacate within 30 days after the notice.

Post-Sale Notice (§ 47-1372)

The Mayor must also send by first-class mail a notice of sale within 30 days after the tax sale date, to the owner at his or her last known address. If the premises address is different from the record owner's address, the District must send a duplicate copy of the notice to the premises, addressed to "Property Owner." The notice must be in substantively the form set forth in § 47-1353.01(b).

Section 47-1347 amended 2003; §§ 47-1340, 47-1346, 47-1348, 47-1372, and 47-1374 amended 2015; §§ 47-1341 and 47-1353.01 amended 2016.

[D.C. Code §§ 47-1340, -1341, -1346, -1347, -1348, -1353.01, -1372, -1374 \(2020\)](#)

Taxing Authorities, District Of Columbia, Public Notice and Posting Requirements

Public Notice of Sale

At any time after 30 days from mailing the notice of delinquency, the Mayor must simultaneously:

- advertise public notice of the sale at least once in at least two newspapers of general circulation within the District that are published at least every two weeks; and
- post the list of real property in the public notice on the Office of Tax and Revenue's website.

The notice must state "with substantial accuracy":

- the description of the property to be sold;
- the last record owner's name; and
- the amount of all taxes due.

The amount of costs also may be included in the advertisement.

Publishing Notice of Action to Foreclose

When the purchaser files the action to foreclose on the taxpayer's right to redeem, the purchaser must publish notice to all defendants, at the time the summons is issued, to inform them of their right to redeem. Except as provided in § 47-1382.01, a final judgment in the action to foreclose the right of redemption will trigger the execution and delivery of a deed in fee simple, subject to the rights of residential tenants, ground leases, and other specified encumbrances. Once the purchaser has a deed, the purchaser will have the right to possess the property, subject to the rights of residential tenants.

Posting Notice of Action to Foreclose

In addition to mailing notices of an action, a plaintiff must provide notice of the action by posting a copy of the summons on the real property where it may be conveniently read.

For additional information about the tax sale, see the [website](#) for the District's Office of Tax and Revenue.

Sections 47-1375 and 47-1383 enacted 2001; § 47-1342 amended 2016; § 47-1382 amended 2018.

[D.C. Code §§ 47-1342, -1375, -1382, -1383 \(2020\)](#)

Taxing Authorities, District Of Columbia, Preconditions to Eviction

Possession Rights

The owner of a real property sold at a tax sale has the right, during the redemption period, to continue to possess the real property until the redemption right has been finally foreclosed. However, a purchaser may apply to the Superior Court for the appointment of a receiver.

If the property is vacant or abandoned and a certificate of sale has been issued in the District's name, the District, subject to certain statutory requirements, has the right of immediate possession of the real property from the date of the tax sale without the necessity of receivership proceedings.

Residential Tenants

A tax sale may not be grounds for evicting residential tenants. Instead, the purchaser's fee simple deed, obtained through a final judgment of foreclosure on the right to redeem, is subject to the rights of residential tenants. Note, however, that the deed is not subject to the rights of life tenants and remaindermen, tenants with leases exceeding 30 years, or holders of ground leases exceeding 30 years. Instead, those tenants must be included as defendants in the action to foreclose the right to redeem, and their rights seem to be extinguished when the judgment of foreclosure is final.

Commercial Tenants

After entry of a judgment foreclosing the right of redemption and at least 30 days before taking possession of the real property, the plaintiff must give any commercial tenant of the real property written notice of the plaintiff's intention to possess the real property and that the commercial tenant must vacate within 30 days after the notice.

Writ of Possession

During the 30-day period immediately following entry of the judgment foreclosing the right of redemption, the plaintiff may apply for and obtain, but may not execute, a writ of possession of the real property.

Subject to the rights of tenants under residential leases described in § 47-1382(a), a person who acquires a deed to real property under chapter 47-13A is "entitled to issuance of a writ of possession of the real property as if the person had obtained a judgment awarding possession of the real property."

Section 47-1383 amended 2001; §§ 47-1363, 47-1371, 47-1372, and 47-1382 amended 2018.

[D.C. Code §§ 47-1363, -1371, -1372, -1382, -1383 \(2020\)](#)

Taxing Authorities, District Of Columbia, Appeals

Right of Redemption

Generally, an owner or other person who has an interest in the real property sold by the Mayor may redeem the real property at any time until the foreclosure of the right of redemption is final.

Preventing a Sale

The only way to prevent a sale is to pay the amount due. The statute generally provides that the Mayor's failure to mail the notice of delinquency, or to state in the notice the amount of taxes due, will not prevent or stay the proceedings or invalidate the sale. Similarly, the failure to include the tax amount in the published notice of sale will not prevent or stay the sale. Nor will the presence on the real property of the taxpayer's personal property affect the District's power to sell the real property.

Setting Aside a Sale

Generally, a sale may not be set aside unless the taxpayer redeems the property. However, the taxpayer may attack the validity of the taxes assessed, the validity of the proceedings to sell the

property, or the validity of the sale itself by pleading those matters as affirmative defenses in the answer to the foreclosure complaint.

If the purchaser fails to pay the amount required within 30 days of the final judgment, the final judgment may be vacated as void by the Superior Court on the motion of any party. (Note that if the purchaser fails to pay the amount required within one year from the date of the final judgment or by October 1, 2019, whichever is later, the final judgment shall be vacated as void without need for a motion to the Superior Court.) Additionally, if a purchaser fails to record the deed in the Recorder of Deeds within 30 days of the execution of the deed, the final judgment may be vacated as void by the Superior Court on the motion of any party. If a final judgment is so vacated, any deed and the certificate of sale are void and all money paid by the purchaser to the Mayor is forfeited, except as provided in § 47-1354(c).

Reopening a Judgment

A judgment of foreclosure may be reopened, upon filing of an application within 90 days of the judgment, on the grounds of lack of jurisdiction or fraud in the action to foreclose. Fraud in the underlying sale must be alleged as an affirmative defense and is not statutory grounds for opening the foreclosure judgment.

Evidence

The certificate of sale is presumptive evidence of:

- the truth of the statements in the certificate;
- the purchaser's interest in the real property;
- the regularity and validity of all proceedings regarding the taxes for which the real property was sold; and

- the sale of the property.

Sections 47-1344, 47-1351, 47-1360, 47-1376, and 47-1379 enacted 2001; § 47-1380 amended 2015; § 47-1341 amended 2016; § 47-1382 amended 2018.

[D.C. Code §§ 47-1341, -1342, -1344, -1351, -1360, -1376, -1379, -1380, 1382 \(2020\)](#)

Florida

Lenders, Florida, Foreclosure Type

Judicial only.

Lenders, Florida, Preconditions to Foreclosure

No preconditions were located, other than those set forth in *Public Notice and Posting Requirements*.

Lenders, Florida, Public Notice and Posting Requirements

Notice of lis pendens must be recorded in the official records of the county in which the property is located. If a legal advertisement, publication, or notice is required, it is the responsibility of the petitioner to place the advertisement, publication, or notice. For counties with a population of more than 1 million, the notice must be published in a newspaper that has been "entered as a periodical matter at a post office" in the county in which the newspaper is published, is published a minimum of 5 days a week, and has been in existence and so published for one year.

No provisions setting out when published notice is required were located.

Section 702.035 amended 2007; § 48.23 amended 2019.

[Fla. Stat. §§ 48.23, 702.035 \(2019\)](#)

Lenders, Florida, Preconditions to Eviction

An unlawful detainer action may be brought against a person who continues in possession of real property after the expiration of the person's right to possession. Notice to quit is not required.

Section 82.04 amended 2018.

[Fla. Stat. § 82.04 \(2019\)](#)

Lenders, Florida, Appeals

Appeals

As a general rule, appeals must be filed within 30 days of the order to be reviewed.

If a party seeks to set aside, invalidate, or challenge the validity of a final foreclosure judgment or to establish or reestablish a lien in abrogation of a final foreclosure judgment, the court must treat the request as a claim for monetary damages and "may not grant relief that adversely affects the quality or character" of the property's title if:

- the party seeking relief from the final judgment was properly served in the foreclosure lawsuit;
- the final judgment was entered as to the property;
- all applicable appeals periods have run as to the final foreclosure judgment, with no appeals having been taken or finally resolved; and
- the property has been acquired for value by a person not affiliated with the lender or the owner, at a time in which no lis pendens to set aside, invalidate, or challenge the foreclosure appears in the county's official records.

(Note that the statute does not specify whether all or only one of these conditions must be satisfied, but the context implies that all must be met.)

This provision does not limit a person's right to pursue any other relief to which that person may be entitled, as long as it "does not adversely affect the ownership of the title to the property as vested in the unaffiliated purchaser for value."

Sale scheduling

No relevant provisions were located.

Section enacted 2013; rule amended 2018.

[Fla. Stat. § 702.036 \(2019\); Fla. R. App. P. 9.110](#)

Taxing Authorities, Florida, Foreclosure Type

Non-judicial sale of tax certificates.

Taxing Authorities, Florida, Preconditions to Foreclosure

General Provisions

The tax collector has the authority and obligation to collect delinquent taxes, interest, and costs by selling tax certificates on real property. The tax collector may perform those duties by using "contracted services or products or by electronic means."

Taxes generally are due and payable on November 1 of each year. Taxes become delinquent on the later of April 1 following the year in which they are assessed or immediately after 60 days have expired from the mailing of the original tax notice.

Notices of Delinquency

A tax notice must be mailed by April 30 to each taxpayer whose payment has not been received. That notice must state that if the taxes on the property are not paid, a tax certificate will be sold for the delinquent taxes, and the property might be sold at a later date. That notice may be sent by

electronic transmission with the property owner's express consent. If the electronic transmission is returned as undeliverable, a second notice must be sent.

If the taxes on subsurface rights have become delinquent and a tax certificate is to be sold, the notice of the delinquency must be by first-class mail to the owner of the fee to which the subsurface rights are attached. On the day of the tax sale, the fee owner may purchase the tax certificate "at the maximum rate of interest provided by law" before bids are accepted for the certificate's sale.

Upon written request by any taxpayer age 60 or over, the tax collector must send the tax notice to a third party designated by the taxpayer and send a duplicate copy to the taxpayer. Upon written request by a mortgagee stating that it is the trustee of an escrow account for ad valorem taxes due on the property, the tax collector must send the notice to the trustee and send a duplicate to the property owner. And, upon written request by a vendee of a recorded or unrecorded contract for deed, the tax collector must send a duplicate notice to the vendee. Notices must be sent electronically or by postal mail, but electronic transmission may be used only with the express consent of the person requesting the notice. If the electronic transmission is returned as undeliverable, a second notice must be sent.

Sale of Tax Certificates

Generally, on or before the later of June 1 or the 60th day after the delinquency date, the tax collector must advertise the tax certificate sale, in the form prescribed by the Department of Revenue, once per week for three weeks, and must sell tax certificates on all real property having delinquent taxes. Delinquent taxes may be paid after the delinquency date, but before the sale of the tax certificate, by paying all costs, advertising charges, and interest.

The tax collector starts the sale on the day designated in the notice of sale of tax certificates on lands on which taxes have not been paid and continues the sale from day to day until all certificates are sold. The sale may be conducted by electronic means. If there are no bidders, the certificate must be issued to the county. Delinquent real property taxes of all governmental units due on a parcel in any one year must be combined into one certificate.

A tax certificate holder may not directly, through an agent, or otherwise initiate contact with the property owner to encourage or demand payment until two years have elapsed since April 1 of the year the certificate was issued.

A person may redeem a tax certificate at any time after the certificate is issued and before a tax deed is issued, unless full payment for a tax deed is made to the clerk of the court, including documentary stamps and recording fees. The person redeeming a tax certificate must pay the face amount plus interest, costs, and charges. A portion of a certificate may be redeemed only if that portion can be "ascertained by legal description" and if the portion to be redeemed is "evidenced by a contract for sale or recorded deed."

A person may purchase a county-held tax certificate at any time after the tax certificate is issued and before a tax deed application is made. The person purchasing a county-held tax certificate must pay "the face amount plus all interest, costs, and charges or, subject to s. 197.472(4), the part described in the tax certificate."

A tax certificate is null and void and must be cancelled by the tax collector seven years from the date of issuance (i.e., the first day the tax certificate sale is advertised), if a tax deed has not been applied for and no other administrative or legal proceeding, including a bankruptcy, has existed of record.

A tax certificate holder may obtain a tax deed by following the procedure described in *Public Notice and Posting Requirements*.

Notice to owner upon application for tax deed

The clerk of the circuit court must notify, by certified mail with return receipt requested or by registered mail if the notice is to be sent outside the continental United States, the persons listed in the tax collector's statement that a tax deed application has been made. The notice must be mailed at least 20 days before the sale date. If no address is listed in the tax collector's statement, no notice is required.

The sheriff of the county in which the legal titleholder resides must, at least 20 days before the sale date, notify the record legal titleholder of the property on which the tax certificate is outstanding. The notice must be served as for service of process. If the sheriff is unable to make service, he or she must post a copy of the notice in a conspicuous place at the legal titleholder's last known address.

The clerk must also notify by certified mail with return receipt requested, or by registered mail if the notice is to be sent outside the continental United States, the persons listed in the tax collector's statement that application for a tax deed has been made. That notice must be mailed at least 20 days before the sale date. If no address is listed in the tax collector's statement, then no notice is required.

Tolling of proceeding

An intervening bankruptcy tolls the expiration period of a tax certificate and any proceeding or process under chapter 197.

Section 197.333 enacted 1985; § 197.522 amended 2018; §§ 95.051, 197.332, 197.343, 197.344, 197.402, and 197.482 amended 2011; § 197.4725 enacted 2011; §§ 197.432 and 197.472 amended 2014.

[Fla. Stat. §§ 95.051; 197.332, .333, .343, .344, .402, .432, .472, .4725, .482, .522 \(2019\)](#)

Taxing Authorities, Florida, Public Notice and Posting Requirements

Advertisement of Real Property with Delinquent Taxes

Except for certain homestead property, on or before the later of June 1 or the 60th day after the delinquency date, the tax collector must advertise once each week for three weeks and sell tax certificates on all real property having delinquent taxes.

Application for Tax Deed

A tax certificateholder may file the certificate and an application for a tax deed with the tax collector of the county in which property is located at any time after two years have elapsed since April 1 of the year the certificates were issued, but before the certificate is cancelled. At application, the certificate holder must pay all amounts required for redemption or purchase of all other outstanding tax certificates covering the land, any omitted taxes, and any delinquent taxes, plus interest on each of those amounts, and current taxes that are due.

The certificate holder must also pay the costs required to bring the property to sale as provided in §§ 197.532 and 197.542, including property information searches, and mailing costs, as well as the costs of resale, if applicable. If the certificate holder fails to pay the costs to bring the property to sale within 30 days after notice from the clerk, the tax collector must cancel the tax deed application. All taxes and costs associated with a cancelled tax deed application earn interest at the bid rate of the certificate on which the tax deed application was based. If the certificate holder fails to pay the costs of resale, if applicable, within 30 days after notice, the clerk will enter the land on a list entitled "lands available for taxes."

The certificate holder must also pay any resale costs. If the certificate holder fails to pay such costs within 30 days after notice, the clerk will enter the land on a list entitled "lands available for taxes."

For county-held certificates, the county must, two years after April 1 of the year of the certificate's issuance, apply for a tax deed on property valued at \$5000 or more.

Notices of Tax Deed Applications

Upon receipt of a tax deed application from the tax collector, the clerk must record a notice of tax deed application in the official records, which constitutes notice of the pendency of a tax deed application with respect to the property and remains effective for one year from the date of recording. A person acquiring an interest in the property after the application notice has been recorded is deemed to be on notice of the pending tax deed sale and no additional notice is required.

Upon receipt of an application for a tax deed and after charges have been paid, the clerk of the circuit court must publish a notice once each week for four consecutive weeks in a newspaper in a form prescribed by the Department of Revenue. A tax deed sale may not be held until 30 days after the first publication of the notice.

The clerk must also send to the following persons notice at least 20 days before the sale date, by certified mail, return receipt requested, or by registered mail if the notice is sent outside the continental United States, that an application for a tax deed has been made:

- any legal titleholder of record if the owner's address appears on the record conveying the property to the owner, or, if the legal titleholder is the same as the person to whom the property was assessed on the tax roll for the year the property was last assessed, then the notice must be mailed to the address appearing on the latest assessment roll;
- any lienholder of record, if an address appears on the recorded lien or, if the lienholder is a financial institution and it has designated an address with the Department of State, then notice must be sent to the address on file with the Department;
- any mortgagee of record, if an address appears on the recorded mortgage or, if the mortgagee has designated an address with the Department of State, then the notice must be sent to the address on file with the Department;
- any vendee of a recorded contract for deed, if an address appears on the recorded contract, or if not recorded, any vendee who has applied to receive notice;
- any other lienholder who has applied to the tax collector to receive notice, if an address is supplied;
- any person to whom the property was assessed on the tax roll for the year in which the property was last assessed;
- any lienholder of record who has recorded a lien against a mobile home located on the property described in the tax certificate if an address appears; and
- subject to some exceptions, any legal titleholder of record of property that is contiguous to the property described in the tax certificate, if the described property is either submerged land or common elements of a subdivision and the contiguous property titleholder's address appears on the record conveying the land to that legal titleholder.

The notice must state that there are unpaid taxes on the property and that it will be sold at public auction unless the delinquent taxes are paid. The failure of anyone to receive the notice does not affect the validity of the tax deed issued pursuant to the notice.

In addition, the sheriff of the county in which the legal titleholder resides, at least 20 days before the sale date, must serve a copy of the original notice on the titleholder of record. If the sheriff cannot make this service, he or she must post a copy of the notice in a conspicuous place at the legal titleholder's last known address.

If the legal titleholder does not reside in the county in which the property to be sold is located, the sheriff must post a copy of the notice in a conspicuous place on the property to be sold.

The Sale

The clerk of the circuit court advertises and administers the sale of the property at public auction and receives statutory fees for issuing the deed and sale. Electronic tax deed sales may be conducted.

Section 197.512 amended 2001; § 197.542 amended 2014; § 197.402 amended 2011; §§ 197.502 and 197.522 amended 2018.

[Fla. Stat. §§ 197.402, .502, .512, .522, .542 \(2019\)](#)

Taxing Authorities, Florida, Preconditions to Eviction

Possession Rights

Any person or entity that is the grantee of a tax deed is entitled to immediate possession of the lands described in the deed.

Writ of Assistance

If a possession demand is refused, the purchaser may apply to the circuit court for a writ of assistance upon five days' notice directed to the person refusing to deliver possession. Upon service of any responsive pleadings, the matter proceeds as in chancery court. If the court finds in

the applicant's favor, the court must issue an order directing the sheriff to put the grantee in possession.

Section amended 1985.

[Fla. Stat. § 197.562 \(2019\)](#)

Taxing Authorities, Florida, Appeals

Taxpayer's Written Demand

If a tax collector sells tax certificates on land upon which the taxes have been paid, upon written demand by the aggrieved taxpayer, the tax collector must initiate an action to cancel any improperly issued tax certificate or deed. If the tax collector fails to act within a reasonable time, his or her office is liable for all legitimate expenses that the aggrieved taxpayer spends clearing his or her title, including a reasonable attorney's fee.

Invalid Conveyances

A sale or conveyance of real property for nonpayment of taxes will not be held invalid except upon proof that:

- the property was not subject to taxation; or
- the property was redeemed before the clerk of court receives full payment for a deed based upon a certificate issued for nonpayment of taxes, including recording fees and documentary stamps.

No court may issue an order in an action brought by or on behalf of a landowner to enjoin a tax sale or to set aside or cancel a tax certificate held by a county until the owner pays to the county tax collector the full amount of the taxes that could lawfully have been assessed against the property for the period covered by the complained-of assessment. The court must determine the amount of tax to be paid.

Refunds

If a party successfully challenges a tax deed's validity, but the taxes for which the tax deed was sold were not paid before the tax deed was issued, that party must pay the following amounts to the party against whom the judgment or decree is entered:

- the amount paid for the tax deed and all taxes paid on the land, together with 12 percent interest per year from the date the tax deed was issued;
- all legal expenses in obtaining the tax deed, including publication of notice and clerk's fees; and
- the fair cash value of all maintenance and permanent improvements the tax deed holders made.

In an action to challenge a tax deed's validity of a tax deed, the prevailing party is entitled to all reasonable litigation expenses, including attorney's fees. The court determines the amount of the expenses for which a party will be reimbursed. The tax deed holder has a prior lien for the payment of the expenses that must be reimbursed to that person.

Section 197.446 amended 1985; §§ 197.122, 197.442, and 197.602 amended 2011.

[Fla. Stat. §§ 197.122, .442, .446, .602 \(2019\)](#)

Georgia

Lenders, Georgia, Foreclosure Type

Judicial and non-judicial.

Lenders, Georgia, Preconditions to Foreclosure

Judicial

Petition

Foreclosure proceedings are commenced by filing a petition with the court, which then issues a rule directing payment into the court of the principal, interest, and costs. The rule is published twice a month or served on the debtor or his or her representative at least 30 days before the date the money is to be paid into the court.

Location of foreclosure

If mortgaged *commercial* property consists of a single tract divided by a county line, the mortgage may be foreclosed on the entire tract in either of the counties in which part of it is located. (By contrast, if the mortgagor *resides* on the land, the mortgage must be foreclosed in the county in which he or she resides.)

Non-judicial

Notice of sale

Generally, a sale of real estate under a power of sale is not valid unless:

- the sale is advertised and conducted at the time and place and in the usual manner of sheriff's sales in the county in which all or part of the real estate is located; and
- notice of the sale was given no later than 30 days before the date of the proposed foreclosure. Note that § 44-14-162.3(a), which previously provided that the notice requirement contained in § 44-14-162.2 applied only to the exercise of a power of sale of property to be used as the debtor's *dwelling*, has been deleted effective July 1, 2012.

The security instrument (or an assignment) vesting a title interest with the secured creditor must be filed before the sale.

Deed content regarding notice

All deeds under a power of sale must contain recitals that set forth facts regarding either the giving of the notice required by § 44-14-162.2. Note that the provision that previously limited this requirement to residential property has been deleted effective July 1, 2012.

Section 44-14-180 amended 1933; §§ 44-14-162 and -162.2 amended 2008; §§ 44-14-162.3 and 44-14-162.4 amended 2012.

Ga. Code §§ 44-14-162, 162.2, -162.3, -162.4, -180 (LexisNexis 2020)

Lenders, Georgia, Public Notice and Posting Requirements

Judicial

Lis pendens

Commencement of the foreclosure action will not operate as lis pendens unless notice of the action is filed in the office of the clerk of the superior court.

Notice

Notice of the rule directing payment is either published twice a month or served on the debtor or the debtor's representative.

Non-judicial

The sale must be advertised by publishing notice weekly for four weeks in the legal newspaper for the county. If no newspaper is so designated for the relevant county, then the sale must be published in the nearest newspaper with the largest general circulation in the county. The advertisement:

- must give a full and complete description of the property;
- must identify the names of the plaintiff, the defendant, and any person who may be in the possession of the property;
- must include the property's legal description; and
- may include the property's street address, if available.

If the debtor has transferred or conveyed the property to a new owner and the secured creditor has approved an assumption of the debt by the new owner, the advertisement must include a recital of that fact and the new owner's name.

The security instrument (or its assignment) must be filed before the time of sale.

Section 44-14-180 amended 1933; § 44-14-610 amended 1982; § 9-13-140 amended 1999; § 44-14-162 amended 2008.

Ga. Code §§ 9-13-140; 44-14-162, -181, -610 (LexisNexis 2020)

Lenders, Georgia, Preconditions to Eviction

A county sheriff has the authority to eject a person who does not have a good faith claim to possess property on the affidavit of a person who does have such a good faith claim.

A sheriff or other officer who sells real estate must place the purchaser or his or her agent or attorney in possession of the real estate. The officer may dispossess the defendant or his or her heirs, tenants, lessees, vendees, or assignees. However, the officer may not dispossess other persons claiming under an independent title.

If the purchaser of real estate at a sheriff's sale fails to apply for possession "until the next term of the superior court after the sale has taken place or until the officer making the sale has gone out of office, the possession may be obtained only under an order of the superior court."

Sections amended 1933.

Ga. Code §§ 9-13-175, -176; 44-11-30 (LexisNexis 2020)

Lenders, Georgia, Appeals

Appeal

As a general rule, civil appeals must be filed within 30 days of the entry of final judgment.

Hearings regarding sales under power of sale

If real estate is sold on foreclosure without legal process and under a power of sale, and the sale does not bring the amount of the secured debt, no action may be taken to obtain a deficiency judgment unless the foreclosing person:

- reports the sale to the superior court of the county in which the land is located for confirmation and approval; and
- obtains an order of confirmation and approval.

The court may not confirm the sale unless it is satisfied that the property "brought its true market value" in the sale. A notice of the hearing must be given to the debtor at least five days before the sale. At the hearing the court must also determine the legality of the notice, advertisement, and regularity of the sale and may order a resale of the property for good cause.

Vacation of certain judgments before sale

When a court renders a judgment on an obligation secured by a deed, the court may vacate and set aside the judgment at any time before the sale of the property, upon motion by either party.

Defendant bound by sale under void process

If property is sold under a void process and the proceeds are applied to valid liens against the defendant (or if the defendant receives the benefit), he or she is bound by the sale if he or she is present and does not object to the sale.

Execution sale set aside

If a court "is satisfied that a sale made under process is infected with fraud, irregularity, or error to the injury of either party," the court may set aside the sale.

Sale scheduling

Public sales must be between the hours of 10 a.m. and 4:00 p.m. on the sale date. The sheriff or other officer selling property at a public sale may continue the sale from day to day until the sale is completed, provided he or she has given notice of the intended continuance in the sale's advertisement.

Sections 44-14-163, 9-13-162, 9-13-171, and 9-13-172 amended 1933; § 9-13-160 amended 1979; § 5-6-38 amended 1988; § 9-13-161 amended 1993.

Ga. Code §§ 5-6-38; 9-13-160, -162, -171, -172; 44-14-161, -163 (LexisNexis 2020)

[Taxing Authorities, Georgia, Foreclosure Type](#)

Judicial and non-judicial.

[Taxing Authorities, Georgia, Preconditions to Foreclosure](#)

Non-judicial Foreclosure

Notice of delinquency

As soon as the day for payment of taxes has arrived, the tax collector or tax commissioner must give written notice to the taxpayer that a delinquency exists, and that, unless paid, an execution will be issued. The tax collector or commissioner must issue executions for nonpayment of taxes at any time after 30 days have elapsed since giving such notice.

Effective January 1, 2016, whenever technologically feasible, the tax collector or tax commissioner, at the time delinquent notices are mailed, must also mail the bills or notices to any new owner that appears in the records of the county board of tax assessors. In the tax commissioner's discretion, a taxpayer will have the option of receiving tax bills or subsequent delinquent notices via electronic transmission in lieu of, or in addition to, receiving a paper bill by first-class mail.

Notice of levy

When the sheriff levies on real property for taxes, he or she must, before advertising the property for sale, give the property owner, and the record owner of each security and mortgage affecting the property, 20 days' written notice of the levy. The notice must be delivered either in person or by registered mail, certified mail, or statutory overnight delivery, with return receipt requested.

Notice of sale

In any sale under a tax execution, the defendant must be given 10 days' written notice of the sale by registered or certified mail or statutory overnight delivery to his or her last known address as listed in the records of the county tax commissioner, municipal officer, or state officer issuing the execution.

Conduct of sale

Once the tax collector or commissioner places the executions in the hands of the county's levying officer, the officer is allowed no longer than 90 days from that time within which to make final settlement with the collector or commissioner.

The sale must be held at the courthouse in the county where the levy was made on the first Tuesday each month, between the hours of 10:00 a.m. and 4:00 p.m. on the date fixed for the sale. By order of the county superior court's presiding judge, published in the county's official newspaper, all sales of property under execution within the county may be held at some other place when, in the judge's opinion, holding sales before the courthouse door would create undue traffic hazard or unnecessarily endanger the person or property of persons using the public streets.

A sale for taxes due may also be conducted by the tax commissioner or tax collector and may be held in the office of the tax commissioner or tax collector or at such other location as may be identified in the notice required by § 48-4-1. Such notice must also be posted in a conspicuous location in the appropriate courthouse.

The governing authority of any county may purchase and hold real property offered for sale under a tax execution, provided it may bid only if other bids do not cover the amount of tax execution(s) and costs.

Notice of foreclosure of right to redeem

After 12 months from the sale date, the purchaser at the sale may terminate, foreclose, divest, and forever bar the right to redeem the property by causing a notice of the foreclosure to be served on the following persons who reside in the county in which the property is located:

- the defendant in the execution order or by virtue of which the sale was held;
- any occupant of the property; and
- all persons of record in the county in which the property is located that have any right, title or interest in or lien on the property.

The notice must also be sent by registered or certified mail or statutory overnight delivery to each of the above persons who reside outside the county in which the property is located, if that person's address is reasonably ascertainable.

The purchaser must deliver the notice and copies thereof with a list of the persons to be served to the sheriff not less than 45 days before the time set in the notice for expiration of the right to redeem. Within 15 days after delivery, the sheriff must serve a copy personally upon each person on the list who resides in the county. Leaving a copy of the notice at the residence of a person required to be served is sufficient service.

Judicial in Rem Tax Foreclosure

Governmental entities may proceed with judicial in rem tax foreclosures for delinquent taxes by enacting an ordinance or resolution of the governing authority of the county in which the property is located. If the county does not so act, a municipality in the county may, by enacting its own ordinance or resolution, authorize the use of judicial foreclosures for delinquent municipal taxes. The resolution or ordinance must set forth criteria for selection of properties subject to judicial in rem tax foreclosures. The proceedings must be in accordance with Ga. Code ch. 48-4.

After an ad valorem tax lien has become payable and is past due, a tax commissioner or other tax collector may commence an in rem tax foreclosure after the expiration of the 12-month period following the date the taxes initially became delinquent by filing a petition in the superior court of the county in which the property is located.

Notice of petition

The tax collector must mail copies of the petition by certified mail or statutory overnight delivery, return receipt requested, to all interested parties whose identity and address are reasonably ascertainable. Copies must also be sent by first-class mail to the property address to the attention of any occupants and posted on the property.

Court proceedings

The tax collector must request that a judicial hearing on the petition occur not earlier than 30 days following the filing of the petition. Any interested person may appear at the hearing and contest the tax delinquency or the adequacy of the proceedings. If the court determines the information set forth in the petition is accurate, the court must render judgment and order the sale of the property described in the petition.

Conduct of sale

The sale may not occur earlier than 45 days following issuance of the court's order of sale. The sale must be held at the courthouse in the county on the first Tuesday each month, between the hours of 10:00 a.m. and 4:00 p.m. on the date fixed for the sale. By order of the presiding judge of the county superior court, published in the county's official newspaper, all sales of property under execution within the county may be held at some other place when, in the judge's opinion, holding sales before the courthouse door would create undue traffic hazard or unnecessarily endanger the person or property of persons using the public streets.

The minimum bid price for sale of the property is the redemption amount. If the property is not redeemed, then within 90 days following the sale date, the tax collector must cause to be executed and delivered to the foreclosure sale purchaser a deed for the property.

Section 48-4-3 amended 1978; § 48-4-20 amended 1988; § 9-13-161 amended 1993; § 48-4-81 amended 1995; §§ 48-4-46 and 48-4-79 amended 1999; § 48-4-45 amended 2000; § 48-4-76 amended 2004; § 48-4-1 amended 2019; §§ 48-3-9 and 48-4-78 amended 2010; § 48-3-3 amended 2017.

Georgia Code §§ 9-13-161; 48-3-3, -9; 48-4-1, -3, -20, -45, -46, -76, -78, -79, -81 (LexisNexis 2020)

[Taxing Authorities, Georgia, Public Notice and Posting Requirements](#)

Non-judicial Foreclosure

Notice of sale

The sheriff must publish notice of all land sales he or she executed at least once a week for four weeks in the legal organ for the county, or if there is no newspaper so designated, in the nearest newspaper having the largest circulation in the county. If contracts for publication cannot be made with newspapers at the statutorily specified rates, the sale advertisement must be posted at the courthouse and in a public place in each militia district in the county for the length of time required for newspaper advertising.

Notice of foreclosure of right to redeem

Notice of foreclosure of the right to redeem must be published in the newspaper in which the sheriff's advertisements for the county are published in the county in which the property is located once a week for four consecutive weeks in the six-month period immediately before the week of the redemption deadline date specified in the notice.

If the sheriff is unable to effect service on any person required to be served, the purchaser at the execution sale must publish the notice once a week for two consecutive weeks in the newspaper in which the sheriff's advertisements for the county are published, unless the notice is being published as above.

Judicial in Rem Tax Foreclosure

Notice of petition

Within 30 days of filing the petition in an in rem tax foreclosure action, the tax collector must publish a notice of the filing on two separate dates in the official newspaper of the county in which the property is located.

Notice of sale

The sheriff must publish notice of all sales of land by the sheriff at least once a week for four weeks in the legal organ for the county, or if there is no newspaper so designated, in the nearest newspaper having the largest circulation in the county. If contracts for publication cannot be made with newspapers at the statutorily specified rates, the sale advertisement must be posted at the

courthouse and in a public place in each militia district in the county for the length of time required for newspaper advertising.

Sections 9-13-141 and -144 amended 1933; § 48-4-46 amended 1999; § 48-4-45 amended 2000; § 48-4-78 amended 2010; § 48-4-1 amended 2019.

Georgia Code §§ 9-13-140, -141, -144; 48-4-1, -45, -46, -78 (LexisNexis 2020)

Taxing Authorities, Georgia, Preconditions to Eviction

Possession Rights

The officer selling property at a tax sale has the authority to put purchasers in possession of land sold under a tax levy as in other cases.

Applications for Possession

When a sheriff or officer sells real estate under an execution, or otherwise, it is his or her duty, upon application, to place the purchaser (or his or her agent or attorney) in possession of the real estate. However, if the purchaser fails to make application for possession until the next term of the superior court after the sale has taken place or until the officer making the sale is no longer in office, possession may be obtained only under court order.

Sections 9-13-175 and -176 amended 1933; § 48-4-7 amended 1978.

Georgia Code §§ 9-13-175, -176; 48-4-7 (LexisNexis 2020)

Taxing Authorities, Georgia, Appeals

Non-judicial Foreclosure

Redemption

The redemption period for real property sold under a tax execution is any time within 12 months from the sale date and any time after the sale until the right to redeem is foreclosed by giving of notice of foreclosure of right to redeem.

Action to cancel tax deed

After notice to foreclose right to redeem has been given, no action may be filed, allowed, or maintained to set aside, cancel, or in any way invalidate the tax deed or the title conveyed by the deed until the plaintiff pays or tenders to the grantee the full amount of the redemption price for the property. This condition does not apply if it clearly appears that the underlying tax was not due at the time of the sale or the service of notice was not given.

Judicial in Rem Tax Foreclosure

Pre-sale redemption

At any time up to the moment of the sale, any interested party may redeem the property from the sale by paying the redemption amount made to the petitioner, following which the petitioner must file for dismissal of the judicial proceedings.

Post-sale redemption

From and after the moment of the sale, the owner may redeem within the 60-day period following the date of sale by payment to the court of the minimum bid price of the sale.

Sections 48-4-41 and -47 amended 1978; § 48-4-80 amended 1999; § 48-4-40 amended 2016.

Georgia Code §§ 48-4-40, -41, -47, -80 (LexisNexis 2020)

Guam

Lenders, Guam, Foreclosure Type

Judicial only.

Lenders, Guam, Preconditions to Foreclosure

No prerequisites to beginning a foreclosure action were located. A foreclosure action is commenced by service of a complaint on the borrower.

Statutory history unknown.

[7 Guam Code Ann. § 24102 \(2020\)](#)

Lenders, Guam, Public Notice and Posting Requirements

Notice describing the property to be sold must be posted for 20 days, in three public places in the city, town, or village in which the property is to be sold. During the same time period, notice must be published once per week in a newspaper of general circulation. Notice also must be posted in a conspicuous place on the property to be sold at least 20 days before the sale date.

Statutory history unknown.

[7 Guam Code Ann, § 23113 \(2020\)](#)

Lenders, Guam, Preconditions to Eviction

Possession Rights

Until the redemption period expires, the person who is in possession of the property at the time of sale (or who is entitled to possession afterwards) may continue to use the property in the same manner in which it was previously used while he or she occupies the property.

Refusal to Leave

An unlawful detainer action may be brought against a person who refuses to leave property after a foreclosure sale.

Statutory history unknown.

[7 Guam Code Ann. § 23129; 21 Guam Code Ann. § 21104 \(2020\)](#)

Lenders, Guam, Appeals

Appeal

No specific provisions for appeal from a foreclosure were located. As a general rule, civil appeals must be filed within 30 days of the date of entry of the final judgment.

Sale scheduling

Sales must be held between 9 a.m. and 5 p.m. No additional provisions regarding the scheduling of sales were located.

Redemption

The judgment debtor may redeem the property from the purchaser any time within 12 months after the sale.

Statutory and rule history unknown.

[7 Guam Code Ann. § 23115, 23124 \(2020\); Guam R. App. P. 4](#)

Taxing Authorities, Guam, Foreclosure Type

Non-judicial foreclosure of tax liens.

Taxing Authorities, Guam, Preconditions to Foreclosure

Publication of Delinquency List

Not less than 21, nor more than 28, days after the first publication of the delinquency list and notice, at the time specified in the publication, the property, by operation of law and the declaration of the tax collector, is deemed sold to the government of Guam. Until that time the owner of any interest in the property may pay the amount due.

Sale at Public Auction

Once the redemption period expires, the government, by acknowledgement before the Guam Tax Commissioner, or any officer authorized to take the acknowledgement, may sell the property at public auction.

Section 24811 enacted 1985; § 24803 amended 2018.

[11 Guam Code Ann. §§ 24803, 24811 \(2020\)](#)

Taxing Authorities, Guam, Public Notice and Posting Requirements

Notice of Delinquency

On or before June 8, the tax collector must publish the following:

- a list of property on which taxes are delinquent; and
- a notice specifying that unless the taxes, penalties, and costs are paid, the property will be sold by operation of law to the government of Guam and stating the date and place where the sale will occur.

The list and notice must be posted in one public place in every village in Guam and published at least once in a daily newspaper of general circulation.

Notice of Pending Deeding

If any tax-delinquent property sold to the government by operation of law is not redeemed within one year after the date of sale to the government, the tax collector must deed the property to the government. Before doing so, the tax collector must give 90 days' notice to the listed owner or, if the owner is deceased, to his personal representative or, if no personal representative, to all known heirs. This notice must indicate the termination of the redemption right and be given:

- by placing the notice in a public area in each municipality;
- by advertising in the media; and
- by certified mail, indicating the termination of the redemption right.

Section 24809 amended 1985; § 24802 amended 1997; history of § 24801 unknown.

[11 Guam Code Ann. §§ 24801, 24802, 24809 \(2020\)](#)

Taxing Authorities, Guam, Preconditions to Eviction

There are no applicable provisions under the tax foreclosure laws, but see [21 Guam Code Ann. § 21101 et seq. \(2020\)](#) for provisions related to eviction in general.

Taxing Authorities, Guam, Appeals

Redemption

The property may be redeemed within one year after the automatic sale to the government. If not redeemed, the property may be sold by the government or deeded to the government. Within one year after sale, the person who owned the property may redeem the property by paying the

amount the purchaser paid to the government plus interest. Thereafter, that person has no further redemption rights or interest whatsoever in the property.

Invalidity or Irregularity Proceedings

A proceeding based on any alleged invalidity or irregularity of any deed to the government or private purchaser for taxes or assessments, or any proceedings leading up to the execution of the deed, must be commenced within six months after the date the deed is executed.

Sections 24811 and 24812 enacted 1985; history of § 24816 unknown.

[11 Guam Code Ann. §§ 24811, 24812, 24816 \(2020\)](#)

Hawaii

Lenders, Hawaii, Foreclosure Type

Judicial and non-judicial.

Lenders, Hawaii, Preconditions to Foreclosure

Judicial

No specific preconditions, other than public notice requirements were located. A mortgage foreclosure proceeding is conducted in the manner of a civil action in the circuit court. Note that all mortgage creditors whose names are or can be discovered by the party foreclosing a mortgage must be made parties to the action.

Non-judicial

Power of sale and default

A creditor may pursue a non-judicial foreclosure if the mortgage contains a power of sale and the loan is in default.

Public information before loan

All financial institutions, entities, organizations, and persons intending to use a power of sale foreclosure must provide the public information notice required by § 667-41(b) to the public upon request and to loan applicants. This notice must, among other things, inform the public, loan applicants, and others that, if the borrower defaults, the mortgagee may pursue either a judicial or nonjudicial foreclosure.

Notice of default and intention to foreclose

Notice of default and intention to foreclose must be sent to the mortgagor, the borrower, and any guarantor. The notice of default and intention to foreclose must include:

- the mortgagee's name and address;
- the identity and address of the mortgagors, borrowers, and guarantors;
- the mortgaged property's address or a description of its location, tax map key number, and other specified identifying information;
- a description of the default and delinquent amount;
- the action required to cure the default;
- the date by which the default must be cured, which date must be at least 60 days after the date of the notice of default and intention to foreclose;

- a statement that if the default is not cured by the deadline date, the entire unpaid balance will become due, that the mortgagee intends to conduct a power of sale foreclosure to sell the mortgaged property at a public sale without court action, and that the mortgagee or any other person may acquire the mortgaged property at the public sale;
- a statement that if the default is not cured, the mortgagee may publish the public notice of the public sale in a newspaper of general circulation or on a state website;
- information regarding the attorney representing the foreclosing mortgagee; and
- a specific warning, in capital letters, regarding the default, the sale, and the mortgagor's legal rights.

Notice of sale

A copy of the public notice of the public sale of the mortgaged property must be mailed or delivered to the mortgagor and the borrower at their respective last known addresses.

Dispute resolution provisions not applicable

Hawaii's dispute resolution provisions, effective October 1, 2011, through September 30, 2014, applied only to specified nonjudicial foreclosures conducted by power of sale of *residential* real property that was occupied by mortgagors who are owner-occupants.

Section 667-2 amended 1972; §§ 667-22, 667-27, 667-41, and 667-71 amended 2012; § 667-1 amended 2019; former § 667-1 redesignated in 2012 as § 667-1.5.

[Haw. Rev. Stat. §§ 667-1, -1.5, -2, -22, -27, -41, -71 \(2019\)](#)

Lenders, Hawaii, Public Notice and Posting Requirements

Judicial

Lis pendens

The party who brings a foreclosure action may file notice of lis pendens in the bureau of conveyances when the foreclosure action is filed. After filing, any party to the action may file notice.

Recording the foreclosure notice

A foreclosing mortgagee may record a copy of the foreclosure notice in a manner similar to the recording of notices of pendency of action. The recorded notice has the same effect as a notice of pendency of action.

Publication of notice of public sale (§ 667-20)

As of June 28, 2014, the foreclosing mortgagee in a foreclosure by action must publish the public notice of the public sale as follows:

- publish it in "the classified section of a newspaper that is published at least weekly and having a general circulation in the county in which the mortgaged property or unit is located" at least once each week for three consecutive weeks, and the public sale may occur no sooner than 14 days after the publication date of the third public notice advertisement; or
- publish it at least 28 days before the public sale date on a "state website at the discretion of the agency that maintains the website," provided that the public notice must also be published as required above at least once no fewer than 14 days before the public sale.

Notice of a postponement or cancellation of a public sale must be announced at the date, time, and place of the scheduled public sale and provided to the parties, prior or junior creditors with a preexisting recorded lien on the property, and any prospective bidder who requested notice. A new public notice must be published once in the format described above. Every fourth postponement, the commissioner must follow all of the public notice requirements set forth in § 667-20.

Non-judicial

Notice of default and intention to foreclose

A notice of default and intention to foreclose must be sent to:

- creditors with a recorded lien;
- mortgagees who have filed requests for notice;
- the state Director of Taxation; and
- the county Director of Finance.

The notice of default and intention to foreclose must include a copy of specified mortgage documents, specific statements, contact information for local approved housing counselors, and budget and credit counselors.

Before the deadline date in the notice of default and intention to foreclose, the notice may be recorded. The recorded notice of default and intention to foreclose has the same effect as a notice of pendency of action.

When the mortgage contains a power of sale and the mortgagee desires to foreclose under the power of sale upon breach, the mortgagee must be represented by a licensed attorney who must give notice of the mortgagee's intention to foreclose the mortgage and of the sale of the mortgaged property as follows:

- by serving, not less than 21 days before the sale date, written notice of intent to foreclose generally on all persons entitled to notice in the same manner as service of a civil complaint; and
- by publication.

Public notice of sale

A copy of the public notice of the public sale of the mortgaged property must be mailed or delivered to any prior or junior creditors having a recorded lien on the property, the state Director of Taxation, the county director of finance of the county where the mortgaged property is located, and any other person who has recorded a request to receive notice. The notice must also be filed with the department of commerce and consumer affairs.

Effective June 28, 2014, notice must also be posted on the mortgaged property at least 21 days before the sale date and published in a "newspaper that is published at least weekly and having a general circulation in the county in which the mortgaged property is located." The public notice must be published once each week for three consecutive weeks. The public sale may occur no sooner than 14 days after the publication date of the third public notice or, if the notice is also published on a state website, no sooner than 14 days after the date the notice is published in the newspaper.

The public notice of sale must include:

- the date, time, and place of the public sale;
- the unpaid amount owed to the mortgagee under the mortgage agreement;
- a description of the mortgaged property;

- the names of the mortgagor, the borrower, the foreclosing mortgagee, and any prior or junior creditors with a recorded lien on the mortgaged property before the notice of default and intention to foreclose was recorded;
- information regarding the person conducting the public sale; and
- the terms and conditions of the public sale.

Section 651-43 amended 1955; § 634-51 amended 2013; §§ 667-22 and 667-27 amended 2012; § 667-20 enacted 2012; previously applicable §§ 667-5, 667-6, 667-7, and 667-26 repealed 2012; § 667-20.1 enacted 2013.

[Haw. Rev. Stat. §§ 634-51; 651-43; 667-20, -20.1, -22, -27 \(2019\)](#)

Lenders, Hawaii, Preconditions to Eviction

Possession Rights

When both the affidavit and the conveyance document are recorded, the purchaser is entitled to "immediate and exclusive possession of the mortgaged property."

Eviction or ejection

A person who remains in possession after a foreclosure sale is considered a tenant at sufferance subject to eviction or ejection. The purchaser of the property may bring an action in the nature of summary possession, ejection, or trespass or any other appropriate action to obtain a writ of possession, a writ of assistance, or any other relief.

Section amended 2012.

[Haw Rev. Stat. § 667-33 \(2019\)](#)

Lenders, Hawaii, Appeals

Appeal

Section 667-35, which previously provided that an appeal may be filed within 30 days of the recording of the affidavit of default, is repealed effective May 5, 2011.

An appeal may be taken from a judgment entered on a decree of foreclosure, or from an order confirming a sale, within 30 days of the entry of judgment or the issuance of the order.

Scheduling of sales

The sale must occur at least 60 days after the public notice of the sale is distributed or at least 14 days after the publication date of the third public notice advertisement, whichever is later.

The foreclosing mortgagee may postpone or cancel the public sale. Notice of the postponement or cancellation must be announced at the date, time, and place of the last scheduled public sale and provided to any other person who is entitled to receive the notice of default.

Sections 667-25 and 667-28 amended 2012; § 667-51 enacted 2003; previously applicable § 667-35 repealed 2011.

[Haw. Rev. Stat. §§ 667-25, -28, -51 \(2019\)](#)

Taxing Authorities, Hawaii, Foreclosure Type

Note that [Article VIII, § 3](#) of the Hawaii Constitution provides that "all functions, powers and duties relating to the taxation of real property shall be exercised exclusively by the counties, with the exception of the county of Kalawao." Thus, the specific procedures for imposing property tax liens and collecting property taxes through foreclosure and other means are governed by the codes of the various counties. *See, e.g.,* Hawai'i County Code ch. 19 (1-11-2016).

Taxing Authorities, Hawaii, Preconditions to Foreclosure

County Provisions

[Article VIII, § 3](#) of the Hawaii Constitution provides that "all functions, powers and duties relating to the taxation of real property shall be exercised exclusively by the counties, with the exception of the county of Kalawao." Thus, the specific procedures for imposing property tax liens and collecting property taxes through foreclosure and other means are governed by the codes of the various counties. See, e.g., Hawai'i County Code ch. 19 (1-11-2016).

Delinquency

Every real property tax lien attaches as of July 1 in each tax year and continues for six years.

Proceedings

Tax liens may be enforced by action in the circuit court of the judicial circuit in which the property is located. The proceedings must be conducted in the same manner and form as ordinary foreclosure proceedings. If the owners are not in the state, cannot be served within the state, or are unknown, the court may grant an order that service may be made in the manner provided for civil actions. In that case, it is not necessary to obtain a judgment and have an execution issued and returned unsatisfied before foreclosing the lien for taxes.

Sale Without Suit

The tax collector may sell real property on which a tax lien exists without bringing a suit. If the lien has existed for three years, the tax collector may sell the property at public auction to the highest bidder to satisfy the lien, and interest, penalties, costs, and expenses. The sale must be held at "any public place proper for sales on execution." The tax collector must give public notice, as described in *Public Notice and Posting Requirements*.

Notice of Proposed Sale

If the owner's address is known or can be ascertained by due diligence, the tax collector must send to each owner notice of the proposed sale by registered mail, with request for return receipt. If the owner's address is unknown, the tax collector must send notice to the owner at the owner's last known address, as shown on the taxation department's records. The notice must be mailed at least 45 days before the date set for the sale and must be posted as described in *Public Notice and Posting Requirements*.

If the land has been registered in the land court, the tax collector must also send by registered mail a notice of the proposed sale to any person holding a mortgage or other registered lien, at the person's last address as shown by the office of the registrar's records. The notice must be deposited in the mail at least 45 days before the sale date.

The notice must contain:

- the names of the persons assessed;
- the present owners' names;
- the "character and amount" of the tax;
- the tax years, with interest, penalties, costs, expenses, and charges accrued or to accrue to the sale date;
- a brief property description;
- the time and place of sale; and
- a warning that unless the tax, with all interest, penalties, costs, expenses, and charges, is paid before the time of sale, the property advertised for sale will be sold.

Section 246-57 amended 1976; § 246-58 amended 1985; §§ 246-55 and -56 amended 1998; Chapter 246 repealed 2016.

Haw. Rev. Stat. §§ 246-55, -56, -57, -58 (all repealed by [2016 Haw. Laws ch. 52](#))

Taxing Authorities, Hawaii, Public Notice and Posting Requirements

County Provisions

[Article VIII, § 3](#) of the Hawaii Constitution provides that “all functions, powers and duties relating to the taxation of real property shall be exercised exclusively by the counties, with the exception of the county of Kalawao.” Thus, the specific procedures for imposing property tax liens and collecting property taxes through foreclosure and other means are governed by the codes of the various counties. *See, e.g.*, Hawai'i County Code ch. 19 (1-11-2016).

Service by Publication

Tax liens may be enforced by action in the circuit court of the judicial circuit in which the property is located. If the owners are not in the state, cannot be served within the state, or are unknown, the court may grant an order that service may be by publication in the manner provided for civil actions.

Notice of Sale

Notice of a tax sale must be given at least once a week for at least four successive weeks immediately before the sale. The notice must be statewide and in the taxation district in which the property is located. The notice must be posted in at least three conspicuous places within the taxation district. If the land is improved, one of the three postings must be on the land.

The tax collector may include in one notice of sale advertisement notice of foreclosure of more than one parcel, whether or not the parcels are owned by the same person or the liens are for the same tax years.

Section 246-58 amended 1985; § 246-56 amended 1998; Chapter 246 repealed 2016.

Haw. Rev. Stat. §§ 246-56, -58 (all repealed by [2016 Haw. Laws ch. 52](#))

Taxing Authorities, Hawaii, Preconditions to Eviction

No specifically relevant provisions were located. However, note that [Article VIII, § 3](#) of the Hawaii Constitution provides that “all functions, powers and duties relating to the taxation of real property shall be exercised exclusively by the counties, with the exception of the county of Kalawao.” Thus, the procedures for imposing property tax liens and collecting property taxes through foreclosure and other means are governed by the codes of the various counties. *See, e.g.*, Hawai‘i County Code ch. 19 (1-11-2016).

Taxing Authorities, Hawaii, Appeals

County Provisions

[Article VIII, § 3](#) of the Hawaii Constitution provides that “all functions, powers and duties relating to the taxation of real property shall be exercised exclusively by the counties, with the exception of the county of Kalawao.” Thus, the specific procedures for imposing property tax liens and collecting property taxes through foreclosure and other means are governed by the codes of the various counties. *See, e.g.*, Hawai‘i County Code ch. 19 (1-11-2016).

Redemption

The taxpayer may redeem the property sold within one year from the sale date. If the deed has not recorded within 60 days after the sale, then the redemption period is one year from the recording date of the deed.

Tax Deed as Evidence

The tax deed is prima facie evidence that:

- the property was duly assessed for taxes in the years and to the persons stated in the deed;
- the property was subject on the sale date to a lien for real property taxes, penalties, and interest in the amount and for the years stated in the deed;
- the taxes, penalties, and interest were due and unpaid on the sale date;
- costs, expenses, and charges had accrued at the sale date in the amount stated in the deed;
- the person who executed the deed was the proper officer;
- the public auction was at a proper time and place and conducted by the proper officer;
- the sale, including notice, complied with relevant laws; and
- the grantee was the person entitled to receive the conveyance.

Section 246-62 amended 1955; § 246-60 amended 1985; Chapter 246 repealed 2016.

Haw. Rev. Stat. §§ 246-60, -62 (all repealed by [2016 Haw. Laws ch. 52](#))

Idaho

Lenders, Idaho, Foreclosure Type

Judicial (typically, mortgages) and non-judicial (trust deeds).

Note that in the context of foreclosing trust deeds, only the following real property may be transferred in trust:

- real property located within an incorporated city or village at the time of the transfer;
- real property not exceeding 80 acres, regardless of its location, provided the property is not principally used for agricultural purposes; or
- real property of 40 acres or less, regardless of its use or location.

Section 45-1505 amended 2009; § 45-1502 amended 2016.

[Idaho Code §§ 45-1502, -1505 \(2019\)](#)

Lenders, Idaho, Preconditions to Foreclosure

Judicial

Trust deed

If an obligation secured by a trust deed is breached, the beneficiary may not bring a judicial action to enforce the obligation unless:

- the trust deed has been foreclosed by advertisement and sale, and the judicial action is brought pursuant to [Idaho Code § 45-1512](#);
- the action is for foreclosure of a mortgage on real property;
- the beneficiary's property interest is "substantially valueless;" or
- the action is one excluded from the meaning of "action" pursuant to Idaho Code § 6-101(3).

Mortgage

An action to foreclose a mortgage on real property must be brought within five years from the maturity date of the obligation or indebtedness secured by the mortgage. If the obligation or indebtedness does not state a maturity date, the date the cause of action accrues is deemed the maturity date.

Non-judicial

Trust deed

A trustee may foreclose a trust deed by advertisement and sale if:

- the trust deed, any assignments, and any appointment of a successor trustee are recorded;
- the grantor or other person owing an obligation defaults on any provision in the deed that authorizes sale in the event of default;
- the notice requirements described below are met; and
- no action, suit, or proceeding has been instituted to recover the debt, or any such action or proceeding has been dismissed.

Notice of the default must be mailed to "any individual who owns an interest in property" that is the subject of the foreclosure action. After the notice of default is recorded, notice of the sale must be sent to the mortgagor by registered or certified mail, return receipt requested. The notice must be sent at least 120 days before the sale of the property. At least three good faith attempts must be made to serve a copy of the notice of sale on an adult occupant of the property in the manner in which a summons is served. The attempts must be made on different days over a period of not less

than seven days, and each attempt must be made at least 30 days before the sale date. A copy of the notice of sale must be posted in a conspicuous place on the property when each attempt is made, unless the copy of the notice of sale previously posted remains conspicuously posted. If personal service is made and a copy of the notice is posted, no further attempt at personal service and no further posting shall be required. If the adult occupant personally served is a person to whom the notice of sale was required to be mailed and was mailed, no posting of the notice of sale is required.

An affidavit of mailing notice of sale and an affidavit of posting, if required, and publication of notice of sale must be recorded at least 20 days before the sale date.

Sections § 45-1503 and 6-101 amended 1993; § 5-214A amended 1999; § 45-1505 amended 2009; § 45-1506 amended 2016.

[Idaho Code §§ 5-214A; 6-101\(3\); 45-1503, -1505, -1506 \(2019\)](#)

Lenders, Idaho, Public Notice and Posting Requirements

Judicial

Trust deed

Notice of the sale must be posted for 20 days in three public places in the precinct or city where the property is situated, and also where the property is to be sold. Notice of the sale must also be published once a week at the same time notice is posted, in a newspaper published in the county.

Mortgage

Upon the sheriff's return of an execution, the clerk of the district court must file the execution as in other cases and must record the execution and return as in other real property sales.

Non-judicial

Trust deed

A copy of the notice of sale must be published in a newspaper of general circulation in each of the counties in which the property is situated once a week for four successive weeks, with the last publication to be at least 30 days before the sale date.

The trustee for the trustee's sale may not have a financial interest in a newspaper publishing the notice or otherwise profit from the publication.

Section 6-106 amended 1919; § 45-1506 amended 2016.

[Idaho Code §§ 6-106; 45-1506 \(2019\)](#)

Lenders, Idaho, Preconditions to Eviction

Possession Rights

Trust deed

The purchaser at a trustee's sale is entitled to possession of the property on the tenth day following the sale. Any persons remaining in possession after that 10-day period pursuant to any interest (except one prior to the trust deed) is deemed to be a tenant at sufferance.

Mortgage

A mortgage is not a conveyance. Therefore, the mortgage owner may not recover possession of the real property without a foreclosure sale.

Section 6-104 amended 1919; § 45-1506 amended 2016.

[Idaho Code §§ 6-104; 45-1506 \(2019\)](#)

Lenders, Idaho, Appeals

Judicial

Appeal

No provisions relating to appeals were located. As a general rule, appeals must be filed within 42 days of the filing of the judgment.

Sale scheduling

Sales must be held between 9 a.m. and 5 p.m. No further restrictions on the scheduling of the sale were located.

Redemption

A judgment debtor or redemptioner may redeem the property from the purchaser as follows:

- within one year after the sale, if the real property consisted of more than 20 acres; and
- within six months after the sale, if the real property consisted of 20 acres or less.

Non-judicial

Appeal

No provisions relating to appeal were located.

Sale scheduling

Unless postponed, the sale is held at the time and place set out in the notice of sale.

Redemption

Sales of real estate under judgments of foreclosure of mortgages and liens are subject to redemption as in the case of sales under execution.

Section 11-304 amended 2018; § 11-402 amended 1982; § 6-101 amended 1993; § 45-1506 amended 2016; rule amended 2011.

[Idaho Code §§ 6-101; 11-304, -402; 45-1506 \(2019\); Idaho App. R. 14](#)
[Taxing Authorities, Idaho, Foreclosure Type](#)

Non-judicial foreclosure of tax liens.

[Taxing Authorities, Idaho, Preconditions to Foreclosure](#)

Delinquency

To avoid delinquency, total payment must be made in full to the county tax collector by the due date. Any tax delinquency has the force and effect of a sale to the county tax collector as grantee in trust for the county. A payment on a delinquency is, in effect, a partial redemption of the property from this tax "sale." A delinquency on property taxes constitutes a perpetual lien in favor of the county for all property taxes, late charges, and interest on the property and entitles the county to a tax deed if the property remains unredeemed for three years after the delinquency.

Notice of Pending Issue of Tax Deed

If real property on which there is a delinquency is not redeemed within three years from the delinquency date, the county tax collector must make, in favor of the county, a tax deed for the property. However, the county is not entitled to a tax deed until:

- a notice of pending issue of tax deed has been given; and
- an affidavit of compliance has been recorded.

The county tax collector must serve written notice of pending issue of tax deed on the record owner(s) and parties in interest of record by serving, at their last known address, a copy of the notice by certified mail, return receipt demanded, no more than five months nor less than two months before the time the tax deed is to be issued. If the notice is returned undelivered after attempting to locate and serve the record owner(s) and parties in interest, the notice must be published. (See "Public Notice and Posting Requirements.")

The notice must contain:

- the name and last known address of the record owner(s);
- an accurate description of the property and information to assist in ascertaining the property's location;
- the year for which the delinquent property tax was assessed;
- an itemized statement detailing the delinquency, costs, and fees;
- the date the delinquency occurred;
- details regarding when, where, and by whom the tax deed will issue; and
- a statement that the record owner or any party in interest will have "adequate opportunity to be heard, to confront and cross-examine any evidence or witness against the record

owner or owners, and obtain and present evidence on behalf of the record owner or owners or any party in interest"; and

- notice of to whom inquiries and objections must be directed and by what date the inquiries and objections must be received.

A party in interest may file a written request for notice in the office of the county tax collector.

Sections enacted 1996.

[Idaho Code §§ 63-1001, -1003, -1005 \(2018\)](#)

Taxing Authorities, Idaho, Public Notice and Posting Requirements

Notice of Pending Issue of Tax Deed

If real property on which there is a tax delinquency has not been redeemed within three years from the delinquency date, the county tax collector must make a tax deed for the property in favor of the county, provided a notice of pending issue of tax deed has been given. If service of that notice is returned undelivered, a summary of the notice must be published in a newspaper having general circulation in the county in which the property is located at least once a week for four consecutive weeks, with the last publication no more than two months nor less than 14 days before the time set for the tax deed to issue.

Recording of Affidavit of Compliance

Not less than five working days before the date on which the tax deed will be issued, the tax collector must make an affidavit of compliance with the notice requirements. That affidavit must be recorded in the county recorder's office.

Section enacted 1996.

[Idaho Code § 63-1005 \(2018\)](#)

Taxing Authorities, Idaho, Preconditions to Eviction

No provisions specifically applicable to tax foreclosures were located. However, see [Idaho Code § 6-301 et seq.](#) (as amended by [2020 Idaho Laws ch. 340 \(H.B. 461\)](#)) for provisions that apply to eviction in general.

Taxing Authorities, Idaho, Appeals

Redemption

After a tax deed is issued, the property may be redeemed only by the record owners or a party in interest up to the time the county commissioners have entered into a contract for sale or the property has been transferred by county deed. If payment is made, the county tax collector will issue a redemption deed, and the county's rights, title, and interest terminates. The right to redeem expires 14 months from the date the tax deed is issued to the county, if the county commissioners have not extinguished the redemption right by contract of sale or transfer by county deed during the redemption period. If a tax deed is issued and payment is not received within 14 months of the date the tax deed was issued, then the tax deed to the county is "presumptive evidence of the regularity of all proceedings prior thereto," and fee simple title rests in the county.

Civil Actions

No action may be brought to contest any delinquency, assessment, or the proceedings upon which the tax deed has been issued after the taxing agency has sold the property and the purchaser (or his successors in interest) have paid all property taxes assessed on the property for one year.

Tax Deed as Evidence

A tax deed is prima facie evidence of several facts, including, among others, that:

- the property taxes were not paid;
- the delinquency took effect at the proper time;

- the property was not redeemed; and
- the person who executed the deed was the proper officer.

Hearing of Objections and Appeal

If a record owner or party of interest upon whom notice is served, or who has actual knowledge of the notice, appears or answers at the date specified in the notice, the county commissioners must hear evidence and witnesses and make a final written decision. The commissioners must send that decision, by registered or certified mail, to all parties affected. If the commissioners find that the tax collector has conformed to the notice requirements and that a delinquency was owing and had not been paid, they must immediately direct the tax collector to issue a tax deed in favor of the county.

Appeal of Commissioners' Decision

Any person aggrieved by a final decision of the county commissioners concerning the issuance of a tax deed may have that decision reviewed by the district court of the district in which the county is located by filing a petition within 30 days after receipt of the commissioners' decision.

Sections 63-1006 and 63-1008 enacted 1996; § 63-1011 amended 2001; § 63-1007 amended 2014.

[Idaho Code §§ 63-1006, -1007, -1008, -1011 \(2018\)](#)

Illinois

Lenders, Illinois, Foreclosure Type

Judicial.

Illinois statutes list the following methods of terminating a mortgagor's interest in real estate:

- a deed in lieu of foreclosure, which is subject to any other claims affecting the real estate;
- a consent foreclosure, with or without objections;
- a common law strict foreclosure; and
- a judicial foreclosure.

Illinois real estate may not be sold by virtue of a power of sale in any document.

Sections 15-1403 and 15-1405 enacted 1986; § 15-1404 enacted 1988; §§ 15-1401 and 15-1402 enacted 1990.

[735 Ill. Comp. Stat. 5/15-1401, -1402, -1403, -1404, -1405 \(2020\)](#)

Lenders, Illinois, Preconditions to Foreclosure

Judicial

Complaint

A foreclosure complaint need contain only those statements and requests (as set forth in § 15-1504) that may be appropriate for the relief sought. A complaint may be filed as a counterclaim or joined with other counts or may include additional matters. The service of pleadings must be in accordance Article II of the Illinois Code of Civil Procedure, other applicable statutes, and the applicable Illinois Supreme Court Rules.

Necessary Parties

Only the mortgagor and other persons, except guarantors, who owe payments or a performance secured by the mortgage and against whom personal liability is asserted are necessary parties as defendants in a foreclosure action. However, any disposition of the mortgaged real estate is subject to the interests of all other persons not made a party.

Residential notices generally not applicable

The statutory notice that must be attached to the summons and that sets forth a homeowner's right to remain in possession of foreclosed premises, and a residential mortgagor's redemption and reinstatement rights, applies only to *residential* mortgages. However, certain agricultural property is included in the definition of "residential property." "Residential property" includes any real estate, except a single tract of agricultural real estate consisting of *more than 40 acres*, that is improved with a single family residence or residential condominium units or a multiple dwelling structure containing single family dwelling units for six or fewer families, provided the residence is occupied as a principal residence by the mortgagor or beneficiary (or other related parties). If a mortgagor is a corporation, the property may be residential property if it is occupied as a residence by persons owning collectively at least 50 percent of the shares of the corporation's voting stock (or his or her spouse or descendants). The use of a portion of residential real estate for non-residential purposes does not affect the characterization of the real estate as residential real estate.

Payoff demands

Upon the mortgagor's written demand, a mortgagee must prepare and deliver a payoff demand statement, containing an accurate statement of the total outstanding balance of the mortgagor's obligation that would be required to satisfy it in full. The statement must be delivered within 10 business days after receipt of the demand.

Notice of sale

The mortgagee must give public notice of the sale. The notice must include:

- the name, address and telephone number of the person to contact for information regarding the real estate;

- the real estate's address, common description, and legal description;
- a description of the property's improvements;
- any times when the real estate may be inspected before sale;
- the time, place, and terms of the sale;
- the case title, case number, and court;
- a statutory statement that is required for certain condominium units and common interest community units; and
- any other court-ordered information.

The notice of sale must be published (*see Public Notice and Posting Requirements* for publication details) and given to all parties in the action who have appeared and have not been found to be in default for failure to plead. The notice must be given in the manner provided in the applicable rules of court for service of papers other than process and complaint, not more than 45 days nor less than seven days before the sale date. The notice must also be filed with the clerk of court, together with a certificate of counsel or other proof that notice has been served.

The notice of sale may be given before the expiration of any reinstatement or redemption period.

Consent Foreclosure

No Objection

For the court's judgment satisfying a mortgage by consent foreclosure to vest absolute title in the mortgagee free and clear of all claims, liens (except liens of the United States of America), and interests, the following must occur at any time before sale:

- the mortgagee must offer to waive its rights to a personal deficiency judgment;
- that offer must be made either in the foreclosure complaint or by motion upon notice to all parties not in default;
- all interested mortgagors, by answer to the complaint, must expressly consent to the entry of the judgment;
- no other party may object to the entry of the judgment; and
- the mortgagee must give notice to all parties who have not previously been found in default for failure to appear, answer, or otherwise plead.

Objection

If an interested party other than a mortgagor objects to the entry of a judgment by consent, the court, after hearing, must enter an order providing either that for good cause shown, the judgment by consent is not allowed or, if good cause was not shown, the court may proceed as provided by § 15-1402(b).

Sections 15-1402 and 15-1501 enacted 1994; §§ 15-1504.5 amended 2017; § 15-1505.5 enacted 2008; § 15-1507 amended 2018; § 15-1107 enacted 2009; §§ 15-1219 and 15-1504 amended 2012.

[735 Ill. Comp. Stat. 5/15-1107, -1219, -1504, -1504.5, -1505.5, -1507 \(2020\)](#)

Lenders, Illinois, Public Notice and Posting Requirements

Notice of foreclosure

A recorded notice of foreclosure is constructive notice of the foreclosure to every person claiming an interest in or a lien on the mortgaged real estate, whose interest or lien was not recorded before the recording of the notice. The notice of foreclosure must include:

- the plaintiffs' names and the case number;
- the court in which the action was brought;
- the names of title holders of record;
- the property's legal description and a common address or description of its location; and
- an identification of the mortgage to be foreclosed.

Notice of sale

Notice of sale must be published at least three consecutive calendar weeks, once in each week. The first notice must be published not more than 45 days before the sale, and the last notice must be published not less than seven days before the sale. Notice must be published by advertisements in a newspaper circulated to the general public in the county in which the real estate is located, in the section of that newspaper where legal notices are commonly placed, with separate advertisements in the section of such a newspaper (which may be the same newspaper) in which real estate other than real estate being sold as part of legal proceedings is commonly advertised to the general public. In counties with a population of more than three million, the latter advertisement must be published in a different newspaper which newspaper must be published in the township in which the property is located.

Notice must also be published in such other publications as may be ordered by the court.

Notice must also be given to all parties in the action who have appeared and have not been found to be in default for failure to plead. Such notice may be made by mail, not more than 45 days nor

less than seven days before the sale date. Notice of the sale may be made before the expiration of any redemption or reinstatement period.

Notice by holder or purchaser to occupants of dwelling units

The holder of the certificate of sale or deed issued pursuant to that certificate or, if no certificate or deed was issued, the purchaser, generally must:

- following the judicial sale, but no later than 21 days after the confirmation of sale, make a good faith effort to determine the identities and addresses of all occupants of dwelling units in the mortgaged real estate; and
- following the order confirming sale, but no later than 21 days after that order, notify all known occupants of dwelling units of the mortgaged real estate that the holder or purchaser has acquired the mortgaged real estate.

The notice must:

- be in writing;
- identify the occupant;
- inform the occupant that the mortgaged real estate is the subject of a foreclosure and that control of the mortgaged real estate has changed;
- provide the name, address, and telephone number of an individual or entity that the occupants may contact with concerns or to request repairs;

- include a statement that the notice is not a notice to vacate and that the occupant may wish to contact a lawyer or legal aid or housing counseling agency;
- include the case name, number, and court; and
- if applicable, provide instructions regarding the payment method for future rent.

The notice must be served by:

- delivering it to the occupant;
- leaving it with a person at least 13 years of age who is residing on or in possession of the premises; or
- sending a copy of the notice to the known occupant by first-class mail.

Within 21 days of the confirmation of sale, the holder or purchaser generally must post a written notice on the primary entrance of each dwelling unit subject to the foreclosure. The notice must:

- inform the occupant that the dwelling unit is the subject of a foreclosure action and that control of the mortgaged real estate has changed;
- include the statement: "This is NOT a notice to vacate the premises."; and
- provide the name, address, and telephone number of the individual or entity that occupants may contact with concerns or to request repairs.

Section 15-1503 amended 2019; § 15-1507 amended 2018; § 15-1508.5 amended 2013.

Lenders, Illinois, Preconditions to Eviction

Possession rights

An order confirming a sale must include an award to the purchaser of possession of the mortgaged real estate, as of the date 30 days after the entry of the order, against the parties to the foreclosure whose interests have been terminated. See §§ 15-1701 through -1706 for other provisions related to the parties' possession rights at various stages of the action, as they apply in differing circumstances and to different types of real estate. Generally, before an entry of a foreclosure judgment for real estate *other than* residential real estate, if the mortgagee is so authorized by the mortgage or another written document and if the court is satisfied that there is a reasonable probability that the mortgagee will prevail on a final hearing, the court may place the mortgagee in possession of the real estate, upon request. However, if the mortgagor objects and shows good cause, the court must allow the mortgagor to remain in possession.

At any time during the pendency of the foreclosure and up to 90 days after the date of the order confirming the sale, the following may file a supplemental petition for possession against a person not personally named as a party to the foreclosure:

- a mortgagee-in-possession of mortgaged real estate under § 15-1703;
- a receiver appointed under § 15-1704;
- a holder of the certificate of sale or deed; or
- the purchaser.

This provision does not apply to a lessee with a bona fide lease of a dwelling unit in residential real estate in foreclosure.

Eviction action

An eviction proceeding may be brought against a person unlawfully in possession of real property.

Section 9-101 added 1982; §15-1701 amended 2017; § 15-1508 amended 2017.

[735 Ill. Comp. Stat. 5/9-101; /15-1508, -1701 \(2020\)](#)

Lenders, Illinois, Appeals

Confirmation hearing

The court may, on motion, conduct a hearing to confirm the foreclosure sale. The sale will be confirmed unless the court finds that the required notice was not given, the terms of the sale were unconscionable, the sale was conducted fraudulently, or justice was not otherwise done.

Counterclaims

A party may assert its interest by counterclaim, and that counterclaim may, at that party's option, take the place of an answer to the complaint.

Claims barred

The vesting of a title by a consent foreclosure pursuant to § 15-1402 or by a deed pursuant to § 15-1509(b), unless otherwise specified in the foreclosure judgment, bars all claims of:

- parties to the foreclosure; and
- any nonrecord claimant who is given notice of the foreclosure.

A person seeking relief from any judgment or order entered in the foreclosure may claim only an interest in the sale proceeds.

Redemption

Generally, for property that is not residential real estate, the redemption period ends on the later of:

- the date six months from the date all mortgagors have been served with a summons, served by publication, or have otherwise submitted to the court's jurisdiction; or
- the date three months from the entry of a foreclosure judgment.

However, the redemption period ends at the later of the expiration of any reinstatement period or the date 60 days after the date the foreclosure judgment was entered, if the court finds that:

- the mortgaged real estate's value is less than 90 percent of the amount required to redeem; and
- the mortgagee waives any rights to a personal judgment for a deficiency.

The redemption period ends 30 days after the foreclosure judgment date if the court finds that the mortgaged real estate has been abandoned.

Sale scheduling

No specific requirements regarding the scheduling of the sale were found.

Sections 15-1509 and 15-1603 added 1990; § 15-1504 amended 2012; § 15-1508 amended 2017.

[735 Ill. Comp. Stat. 5/15-1504, -1508, -1509, -1603 \(2020\)](#)

Taxing Authorities, Illinois, Foreclosure Type

Judicial.

Taxing Authorities, Illinois, Preconditions to Foreclosure

Tax Liens

Except as otherwise provided (such as in counties that adopt accelerated billing), all property upon which the first installment of taxes remains unpaid on the later of (a) June 1 of each year or (b) the day after the date set forth on the real estate tax bill as the first installment due date is deemed delinquent. All property upon which the second installment remains unpaid on the later of (a) September 1 of each year or (b) the day after the date set forth on the real estate tax bill as the second installment due date is also deemed delinquent.

The county board of each county may by resolution or ordinance require the county auditor to prepare or adopt a delinquent property tax ledger system, in which all delinquent taxes due on properties in the county are listed. The resolution or ordinance must also provide that the county clerk will maintain a Property Tax Docket that lists all court proceedings affecting general property taxes levied on any property.

An Illinois resident who is a member of the Illinois National Guard or a reserve component of the armed forces of the United States, who has an ownership interest in taxed property, who is called to active duty for deployment outside the continental United States, and who is on active duty on the due date of any installment of taxes due, is not deemed delinquent in the payment of an installment due during that time. No interest accrues or the payment or penalty is charged until 180 days after he or she returns from active duty if the reservist or guardsperson:

- makes a reasonable effort to notify the county clerk and the county collector of his or her activation to active duty;

- notifies the county clerk and the county collector within 180 days after his or her deactivation; and
- provides verification of the date of his or her deactivation.

The taxes on property, together with all penalties, interest, and costs that may accrue, are a prior and first lien on the property, superior to all other liens and encumbrances, as of January 1 in the year in which the taxes are levied until the taxes are paid, or until the property is sold. If, based on such delinquent taxes or special assessments, the county applies for and the court renders judgment against the property, the county collector must, after publishing a notice (*see Public Notice and Posting Requirements*) proceed to offer the property for sale.

Notice of Sale

Not less than 15 days before the date of application for judgment and sale of delinquent properties, the county collector must mail, by registered or certified mail, a notice of the application for judgment and sale to the person in whose name the taxes were last assessed or the current owner of record. The notice must include the intended dates of application for judgment and sale and commencement of the sale, and a description of the properties. The county collector must present proof of the mailing to the court along with the application for judgment.

In counties with less than three million inhabitants, a copy of this notice must also be mailed by the county collector by registered or certified mail to any lienholder of record who annually requests a copy of the notice.

Tax Sale Procedures

The collector must, on the day and in the place specified in the notice and between the hours of 9:00 a.m. and 4:00 p.m. (or later at the collector's discretion) offer for sale, separately and in consecutive order, all listed properties on which taxes, special assessments, interest, or costs have not been paid. In any county with three million or more inhabitants, the offer for sale must be made between 8:00 a.m. and 8:00 p.m. The sale must be continued from day to day until all properties on the delinquent list have been offered for sale. As of January 1, 2013, either:

- the collector must use an automated bidding system that is programmed to accept the lowest redemption price bid by an eligible tax purchaser; or
- all tax sales must be digitally recorded with video and audio.

All bidders are required to attend the sale personally, and all hardware and software must be certified.

Forfeiture to State

Every property offered at public sale that is not sold is forfeited to the State of Illinois. If the court, county clerk, and county treasurer certify that the taxes and special assessments on any such forfeited property equal or exceed the property's actual value, the county collector must offer the property for sale to the highest bidder, after first giving 10 days' notice of the time and place of sale in counties with less than 10,000 inhabitants. The notice must include a description of the property to be offered (*see Public Notice and Posting Requirements*). In all other counties, 30 days' notice is required. A certificate of purchase will be issued to the purchaser at this type of sale, as in other cases.

When the taxes on property that has been forfeited to the state have not been paid for two or more years, the circuit court may foreclose the lien. The property may be sold under court order by the person having authority to receive county taxes, with notice to interested parties and the right of redemption from the sale. In any action to foreclose the lien for delinquent taxes, service of process must be made on all owners, interested parties, and occupants of the property against which the tax liens are sought to be foreclosed.

The county board of the county in which the property is located may bid or apply to purchase the property in the name of the county.

Notice of Expiration of Redemption Period

A purchaser or assignee is not entitled to a tax deed to property sold unless, not less than three months nor more than six months before the redemption period expires, he or she gives notice of the sale and the expiration date of the redemption period to the owners, occupants, and parties interested in the property, including any mortgagee of record. In counties with 3,000,000 or more

inhabitants, the notice must also state the address, room number, and time at which the matter is set for hearing.

The notice must be given by publication (*see Public Notice and Posting Requirements*) and be served by a sheriff of the county in which the property is located. In counties of 3,000,000 or more inhabitants, where a taxing district is a petitioner for tax deed, the notice may be served by a special process server. The same notice must be served on:

- all other owners and parties interested in the property, if upon diligent inquiry, they can be found in the county; and
- on the property's occupants.

If the property has more than four dwellings or other rental units, and has a managing agent or a party who collects rents, that person is deemed the occupant and must be served with the notice instead of the individual units' occupants. If economic or recreational activities are carried out on the property, the person directing the activities is deemed the occupant.

If any owner or interested party, upon diligent inquiry and effort, cannot be found or served with the notice, service of notice on the tenant, occupant, or person in possession is deemed service on the owners or parties interested. If any owner or interested party cannot be found or served with notice in the county, then the person making the service must send a copy of the notice by registered or certified mail, return receipt requested, to that party at his or her residence.

Scavenger Tax Sale

Pursuant to Illinois law, the treasurer's office must conduct two types of tax sales: the annual tax sale (described above); and the biennial scavenger sale. The scavenger sale, which is conducted in odd-numbered years, generally offers taxes on properties that have delinquencies in two or more years that were not purchased at the annual tax sales. *See 35 Ill. Comp. Stat. 21-260 et seq.* for details regarding the procedure for the biennial scavenger sale. Generally, upon the county collector's Scavenger Sale Application, the court enters judgment for the general taxes, special taxes, special assessments, interest, penalties, and costs as are included in the scavenger sale advertisement and appear to be due. It then orders the county collector to sell those properties at public sale to the highest bidder for cash, even if the bid is less than the full amount for which judgment has been entered.

Sections 21-10, 21-75, 21-80, and 21-85 amended 1994; § 21-90 amended 1995; § 21-135 amended 2004; § 21-260 amended 2008; §§ 21-205 and 21-225 amended 2012; § 21-15 amended 2013.

[35 Ill. Comp. Stat. 200/21-10, -15, -75, -80, -85, -90, -135, -205, -225, -260 \(2020\)](#)

Taxing Authorities, Illinois, Public Notice and Posting Requirements

Notice of Intended Application for Judgment and Sale

At any time after taxes become delinquent, the collector must publish an advertisement giving notice of the intended application for judgment and sale of the properties for which, effective August 9, 2013, "all or a part of the general taxes for each of 3 or more years, including the current tax year, are delinquent" as of the advertisement's date. The advertisement may include the street address on file with the county collector and must include the PIN number of each delinquent property.

The advertisement must be in a newspaper published in the township or district in which the properties are located. If there is no such newspaper, the notice must be published in some newspaper in the same county, to be selected by the county collector. When the property is in a city with more than 1,000,000 inhabitants, the advertisement may be in any newspaper published in the same county. When the property is in an incorporated town that has superseded a civil township, the advertisement must be in a newspaper published in the incorporated town or, if there is no such newspaper, in a newspaper published in the county.

The advertisement must be published once at least 10 days before the day on which judgment will be applied for. It must contain:

- a list of the delinquent properties upon which the taxes remain due and unpaid;
- the owners' names, if known;
- the total amount due; and

- the years for which the taxes are due.

In counties of less than three million inhabitants, the advertisement must include notice of the registration requirement for persons bidding at the sale. The collector must also include notice that he or she will apply to the circuit court on a specified day for judgment against the properties for the taxes and costs, and for an order to sell the properties for the satisfaction of the amount due.

The collector must also give notice of a date within the next five business days after the date of application for judgment on which all the properties will be exposed to public sale at a location within the county designated by the county collector, for the amount of taxes and costs due. The advertisement published according to the requirements set forth above is deemed to be sufficient notice of the intended application for judgment *and* of the sale of properties under the order of the court.

At least 10 days before any tax sale, the county collector may post on his or her website a list of all properties that are eligible to be sold at the sale. The list must include the street address, if available, and must include the property's PIN number. The list may not include the property owner's name.

Notice of Expiration of Redemption Period

The purchaser or his or her assignee must give notice of the expiration of the redemption period by causing it to be published in a newspaper as set forth in § 22-20.

Section 21-120 amended 1995; § 21-110 amended 2012; § 21-115 amended 2019; § 22-15 amended 2008; § 21-118 enacted 2011; § 21-145 amended 2013.

[35 Ill. Comp. Stat. 200/21-110, -115, -118, -120, -145; /22-15 \(2020\)](#)

Taxing Authorities, Illinois, Preconditions to Eviction

No specifically relevant provisions were located. However, generally, an action for forcible entry and detainer may be brought against a person unlawfully in possession of real property.

Section added 1982.

[735 Ill. Comp. Stat. 5/9-101 \(2020\)](#)

Taxing Authorities, Illinois, Appeals

Payment of Delinquent Tax Before Sale

A "person owning or claiming properties upon which application for judgment is applied for and any lienholder of record" may pay the taxes and costs due (in counties with a population of three million or more, the taxes, special assessments, interest, and costs due must be paid) to the county collector at "any time on or before the business day immediately preceding the day the taxes are sold." The collector must accept those payments.

Redemption

Generally, an owner or person interested in property has a right to redeem any time before the expiration of two years from the date of sale. However, the following property may be redeemed at any time before the expiration of six months from the date of sale, if the property was for each of two or more years delinquent or forfeited for all or part of the general taxes due:

- vacant non-farm property;
- property containing seven or more residential units; or
- property that is commercial or industrial.

If the property had at least one and not more than six dwelling units, it may be redeemed at any time on or before the expiration of two years and six months from the sale date.

Section 21-355 sets out in detail the amount that must be paid to redeem, and § 21-370 covers the particulars of redeeming forfeited property.

Redemption Under Protest

A person redeeming who desires to preserve his or her right to defend against the petition for a tax deed, must accompany the deposit for redemption with a writing, using substantially the statutory form, indicating that he or she is redeeming under protest. The court will not consider any grounds for objection not specified at the time of the redemption under protest. The specified grounds for the objections are "limited to those defenses as would provide sufficient basis to deny entry of an order for issuance of a tax deed."

Deposits

In an appeal from a judgment, if the party, when filing notice of appeal, deposits with the county collector an amount equal to the judgment and costs, the collector may not sell the property until the court has disposed of the appeal.

Appeal Procedure

Once a tax deed has been issued, it is incontestable unless the order granting the deed is appealed in the same manner and to the same extent as applies to final orders and judgments in other civil proceedings.

Deed as Evidence

Tax deeds are prima facie evidence of the following facts in all controversies and suits related to rights of the tax deed grantee and his or her heirs or assigns:

- the property was subject to taxation and listed as required by law;

- the taxes or special assessments were not paid at any time before the sale;
- the property was advertised for sale as required by law;
- the property was sold for taxes or special assessments as stated in the deed;
- the sale was conducted as required by law;
- the property was not redeemed; and
- the grantee was the purchaser or his or her assignee.

Objection Presented as Defense

An order for the sale of property for delinquent taxes generally estops all parties from raising any objections to the order or to a tax title based on the order, if the objection:

- existed at or before the court rendered the order; and
- could have been presented as a defense to the application for the order.

The order is "conclusive evidence of its regularity and validity in all collateral proceedings" unless:

- the taxes were paid before the sale; or

- the property was exempt from general taxes.

Sections 21-190, 350, -370, and -380 amended 1994; § 22-75 amended 1995; § 21-345 amended 1999; § 21-165 amended 2012; § 22-45 amended 2008; § 21-355 amended 2015.

[35 Ill. Comp. Stat. 200/21-165, -190, -345, -350, -355, -370, -380; /22-45, -75 \(2020\)](#)

Indiana

Lenders, Indiana, Foreclosure Type

Judicial.

Lenders, Indiana, Preconditions to Foreclosure

Default

Generally, if a mortgagor defaults in the performance of any condition contained in a mortgage, the mortgagee (or its assigns) may foreclose the mortgage in the circuit court of any county in which the real estate is located.

Mutually exclusive actions

A plaintiff may not foreclose its mortgage:

- while the plaintiff is prosecuting any other action for the same debt; or
- while the plaintiff is "seeking to obtain execution of any judgment in any other action."

Also, a plaintiff may not prosecute any other action for the same matter while the plaintiff is foreclosing its mortgage or prosecuting a foreclosure judgment.

Time for execution of judgment

In a real estate mortgage foreclosure proceeding, the process generally may not occur for executing a judgment or a decree of sale until three months after the complaint was filed.

Upon receiving a certified judgment, the sheriff must sell the mortgaged premises at public auction, after meeting the required service and advertisement requirements.

Notice of sale

The notice of sale must be published, posted, and served on the owner. (*See Public Notice and Posting Requirements* for details regarding the required publication and postings.) At the time of publishing the first advertisement, the sheriff must also serve a copy of the written or printed notice of sale on each owner. The service must be made as provided in the Indiana Rules of Trial Procedure governing service of process upon a person.

The notice must contain a statement of the location of each property by street address, if any, or by another common description of the property other than legal description.

Necessary defendants

In a suit brought in an Indiana court to foreclose a mortgage or other lien on real estate located in the state, if the plaintiff is required to make a person a party to the suit, the plaintiff may list the person as a defendant by the name in which the person's lien or claim appears on the county's public records. Service of summons or notice by publication to the person is sufficient to make the court's judgment binding on the person.

Chapter 32-30-10.5 requirements not applicable

Note that the requirements set forth in chapter 32-30-10.5, including the notice requirements of § 32-30-10.5-8, apply only to a loan or a consumer credit sale that "is or will be used by the debtor

primarily for personal, family, or household purposes" and that is secured by a mortgage or other equivalent consensual security interest that "constitutes a first lien on a dwelling or on residential real estate upon which a dwelling is constructed or intended to be constructed."

Section 32-29-9-1 enacted 2002; § 32-30-10-10 amended 2009; § 32-30-10.5-5 amended 2012; § 32-29-7-3 amended 2015; § 32-30-10-3 amended 2016.

[Ind. Code §§ 32-29-7-3; 32-29-9-1; 32-30-10-3, -10 \(2019\)](#)

Lenders, Indiana, Public Notice and Posting Requirements

Notice of sale

The sheriff must advertise a sale of foreclosed property for at least 20 days successively before the sale date. The advertisement must be made by:

- posting written or printed notices of the sale in three public places in the township in which the real estate is located;
- posting an advertisement at the door of the county courthouse of each county in which the real estate is located; and
- advertising the sale once each week for three successive weeks in a general circulation newspaper published in the county in which the property is located.

The advertisement must include a statement of the date, time, and place of the sale and a description of the location of the property.

The sheriff must publish the advertisement in at least one newspaper published and circulated in each county in which the real estate is located. The first publication must be at least 30 days before the sale date. If the sheriff is unable to publish a notice within the county, the sheriff may dispense with publication. In that case, the sheriff must state that he or she was not able to publish the notice and explain why the publication was not possible.

Section 34-55-6-9 added 1998; § 32-29-7-3 amended 2015.

[Ind. Code §§ 32-29-7-3; 34-55-6-9 \(2019\)](#)

Lenders, Indiana, Preconditions to Eviction

A person entitled to possession of real property may bring an action for ejectment or recovery of possession against a person who unlawfully retains possession of the property. Notice to quit is not required.

At the time of filing a complaint or at any time before judgment, a plaintiff may file with the clerk of the court an affidavit, stating, among other things, that the plaintiff is entitled to possess the property. Upon the filing of the affidavit, the clerk will issue an order directing the defendant to appear at a specified time to controvert the affidavit or to show cause why the judge should not remove the defendant from the property and put the plaintiff in possession.

Sections enacted 2002.

[Ind. Code §§ 32-30-3-1, -2 \(2019\)](#)

Lenders, Indiana, Appeals

Appeal

There are no special provisions for an appeal from a foreclosure sale. Generally, an appeal must be filed within 30 days of the entry of a civil judgment.

Sale scheduling

Upon receiving a certified judgment, the sheriff must sell the mortgaged premises at public auction at a sale scheduled for:

- a date no later than 60 days after the date under Ind. Code § 32-30-10.6-5 for certain abandoned property, and a date no more than 120 days after the date the clerk certifies judgment and decree to the sheriff for all other cases; and
- a time between the hours of 10 a.m. and 4 p.m. on any weekday except Sunday.

If the court orders that the sheriff use the services of a particular auctioneer requested by the creditors, the sheriff must engage that auctioneer within 14 days of the court's order.

Payment before or after final judgment

If any interest or principal installment is due, but "no other installments are due," and the defendant pays the court that principal and interest, with costs, at any time *before* final judgment, the court will dismiss the complaint. If the defendant pays the court the principal and interest due *after* the final judgment, the court will stay the proceedings on the final judgment. The court may remove the stay upon a subsequent default in the payment of principal or interest after it is due.

Redemption

Before the sale, any owner or part-owner may redeem the real estate.

Sections 32-29-7-7 and 32-30-10-11 enacted 2002; §§ 32-30-10-9 and 32-29-7-4 amended 2005; § 32-29-7-3 amended 2015; history of rule 9 unknown.

[Ind. Code §§ 32-29-7-3, -4, -7; 32-30-10-9, -11 \(2019\); Ind. R. App. P. 9](#)

Taxing Authorities, Indiana, Foreclosure Type

Judicial.

Taxing Authorities, Indiana, Preconditions to Foreclosure

Delinquent List (§§ 6-1.1-24-1, -1.2)

On or after January 1 of each calendar year in which a tax sale will be held and no later than 51 days after the first tax payment due date in that calendar year, the county treasurer must certify to the county auditor a list of real property on which any certified property taxes or special assessments are delinquent from the "prior year's spring installment or before," if the delinquent property taxes, special assessments, penalties, fees, or interest due are greater than \$25. The county auditor must maintain a list of all real property eligible for sale. No more than 15 days after the county treasurer's certification, the auditor must send by certified mail, return-receipt requested, a copy of the list to each mortgagee and purchaser under a recorded installment land contract who requests by certified mail a copy of the list.

The county auditor must remove a tract from the list before the tax sale if the county treasurer and the taxpayer agree to a mutually satisfactory, written arrangement for paying the delinquent taxes. The arrangement must be signed by the taxpayer and require payment of the delinquent taxes within one year from the agreement's execution. The county treasurer must also provide a copy of the written agreement to the county auditor. If the taxpayer fails to make a payment under the arrangement:

- the agreement is void, and the auditor must place the tract on the list eligible for sale at a tax sale; and
- the county treasurer and the taxpayer may enter into a subsequent arrangement to avoid penalties.

Notice of Tax Sale (§ 6-1.1-24-4)

Except for vacant or abandoned real property that is on the list the county auditor prepared pursuant to § 6-1.1-24-1.5, the county auditor must prepare a notice of tax sale, and, not less than 21 days before the earliest date on which application for judgment and order of sale may be made, send it by certified mail, return-receipt requested, and by first-class mail to:

- the record owner of property with a single owner; or
- at least one of the owners of real property with multiple owners.

It must be sent to the last address of the owner in the county auditor's transfer books on the date that the tax sale list is certified. If both notices are returned, the county auditor must take an additional reasonable step to notify the property owner, if practical.

Proof of the mailing must be submitted to the court along with the application for judgment and order for sale. Failure of the owner to receive or accept the notice does not affect the validity of the judgment or sale.

The notice must include, among other information, the following statements:

- that the county auditor and county treasurer will apply on or after a designated date for (a) a court judgment against the property for an amount not less than the amount specified in the notice and (b) an order to sell the property at public auction to the highest bidder, subject to the right of redemption, which will expire on the specified date;
- that any defense to the application for judgment must be filed with the court and served on the auditor and treasurer before the date designated as the earliest date on which the application for judgment may be filed; and
- a statement that the court will set a date for a hearing at least seven days before the advertised sale date and that the court will determine any defenses at the hearing.

Vacant of Abandoned Property

If the appropriate local governmental executive plans to certify a property vacant or abandoned, and a notice was not sent as permitted by Ind. Code ch. 36-7-37, the executive must send a notice to the record owner and to "any person with a substantial property interest of public record in the real property." The notice must:

- be sent at least 120 days before the certification date;

- contain the information required by statute; and
- not include more than one "item of real property listed to be sold" in one description, except if more than one real property item is owned by one person, all of the real property owned by that person may be included in one notice.

A single notice may be used to notify joint owners of record at "the last address of the joint owners for the property sold," as indicated in the county auditor's records.

This notice is considered sufficient if it is mailed by certified mail, return-receipt requested, to the following as of the date the tax sale list is certified:

- all record owners at the property owners' last address, as indicated in the county auditor's records; and
- any person "with a substantial property interest of public record at the address for the person included in the public record that indicates the interest."

The notice is not required for persons in possession not shown in the public records.

Notice of Hearing

No less than seven days before the hearing, the court must provide notice of the hearing's date, time, and place to any person filing a defense to the application for judgment and order of sale.

Hearing on Application and Judgment and Order for Sale

No later than 15 days before the advertised date of the tax sale, the court must examine the list of real property for sale. No later than seven days before the date of sale, the court must conduct a hearing to hear any defense offered by any person interested in any of the properties and determine the matter in summary manner, without pleadings.

No later than three days before the sale, the court must enter judgment for those taxes, special assessments, penalties, and costs that appear to be due. The judgment is deemed a judgment against each real property tract. The court must also direct the clerk to prepare and enter an order for the sale of the property against which judgment is entered.

Conduct of Sale (§§ 6-1.1-24-5, -9)

The sale must be held at the time and place stated in the notice of sale. The required public auction may be conducted by electronic means, at the county treasurer's option. The treasurer must provide access to an electronic sale by providing computer terminals open to the public at the designated location.

Immediately after the tax sale purchaser pays the bid, the county auditor must deliver a certificate of sale to the purchaser. Issuance of the certificate of sale creates a lien on the property in favor of the purchaser for the amount paid. The certificate is assignable.

Notice of Purchase (§ 6-1.1-25-4.5)

The purchaser of property at a tax sale is entitled to a tax deed if:

- the redemption period has expired without the property being redeemed; and
- if not later than six months after the sale (reduced from nine months as of July 1, 2014), the purchaser or the purchaser's assignee, or the county auditor if he has agreed with the county treasurer to provide such notice, gives notice of the sale to the owner of record at the time of the sale and any person with a substantial property interest of public record in the real property.

That notice must be given by certified mail, return-receipt requested.

Notice of Petition for Tax Deed (§ 6-1.1-25-4.6)

After expiration of the redemption period, but no later than six months after its expiration, the purchaser, his or her assignee, or the county auditor (if he or she has agreed to perform the duty) may file a petition in the same court in which the judgment of sale was entered, asking the court to direct the county auditor to issue a tax deed if the property is not redeemed. Notice of the filing of the petition must be given in the same manner and to the same persons as required for the notice of purchase.

Property Containing Hazardous Waste (§§ 6-1.1-25-4.1, -4.8)

See Ind. Code § 6-1.1-25-4.1 for provisions that apply to obtaining title to and eliminating hazardous conditions from property containing hazardous waste or other environmental hazards.

Note that the county auditor must provide notice to each person with a substantial recorded interest in property that was not offered for sale pursuant to § 6-1.1-24-4.7(j).

Serial Tax Delinquencies (§§ 6-1.1-24.5-2, -4)

Effective July 1, 2015, Indiana law addresses serial tax delinquencies, which may apply if ten or more real property items are owned by one person or by affiliated persons and those properties were acquired in a previous tax sale. See § 6-1.1-24.5-4 for details regarding notices related to petitions for a determination of serial tax delinquency.

Section 6-1.1-24-8 amended 2007; §§ 6-1.1-24-1, 6-1.1-24-1.2, 6-1.1-24-2.3, 6-1.1-24-4, 6-1.1-24-5, 6-1.1-24-9, 6-1.1-25-4.1, and 6-1.1-25-4.5 amended 2015; 6-1.1-24.5-4 amended 2016; § 6-1.1-25-4.6 amended 2017; § 6-1.1-24.5 enacted 2015.

[Ind. Code §§ 6-1.1-24-1, -1.2, -2.3, -4, -5, -8, -9; -24.5-2, -4; 25-4.1, -4.5, -4.6 \(2019\)](#)

Taxing Authorities, Indiana, Public Notice and Posting Requirements

Notice of Sale (§ 6-1.1-24-3)

Except for vacant or abandoned property that is on the list the county auditor prepares pursuant to § 6-1.1-24-3, the county auditor must post a copy of the notice of sale at a public posting place in the county courthouse or in another public county building at least 21 days before the earliest date of application for judgment. It also must be published once each week for three consecutive weeks before the earliest date on which application for judgment may be made.

Vacant or Abandoned Property (§ 6-1.1-24-1.5)

After (a) obtaining an order that real property with delinquent taxes or special assessments from the prior year's fall installment or before is vacant or abandoned and (b) providing the required notice, the county, city, or town executive may certify a list of vacant or abandoned property to the county auditor. The list must be delivered no later than 51 days after the first tax payment due date each year. Upon receiving that list, the county auditor must, among other things:

- provide public notice of the properties' sale at least 30 days before the sale date; and
- effective retroactively to January 1, 2015, post a copy of the notice at a public posting place in a county courthouse or other public county building at least 21 days before the sale date.

The notice must be published in accordance with [Ind. Code ch. 5-3-1](#). Notice of the sale must contain the provisions required by statute. If the public auction is to be conducted as an electronic sale, the notice must also include:

- a statement indicating that fact; and
- a description of the procedures that must be followed to participate in the electronic sale.

Notices of tax sales may omit the descriptions of the properties to be offered for sale if the properties were not sold when initially offered for sale, if the descriptions are made available online or in an alternative form on request from the county auditor on request, and if the notice instructs on how to obtain the descriptions.

Notice of Public Sale by County of Certificates of Sale (§ 6-1.1-24-6.1)

For properties that the county desires to offer to the public the certificates of sale acquired by the county executive, the county must publish, in conformity with the procedures described above:

- a notice of the date, time, and place for the public sale; and
- a listing, by parcel number and minimum bid amount, of parcels on which certificates will be offered.

The publication must be once each week for three consecutive weeks, with the final advertisement not less than 30 days before the sale date.

Proposed Transfer of Properties to Nonprofits (§ 6-1.1-24-6.7)

The county executive may identify the property that the county executive desires to transfer to a nonprofit entity for use for the public good. Notice of the property so identified and the date, time, and place for the hearing on the proposed transfer of the property must be published as required by [Ind. Code ch. 5-3-1](#). The notice must:

- include a property description; and
- specify that the county executive will accept applications submitted by nonprofit corporations and hear any opposition to a proposed transfer.

Notice of Purchase (§ 6-1.1-25-4.5)

If the address of a person with a substantial recorded interest in property purchased at a tax sale is not indicated in the public record that created the interest and cannot be located by ordinary means by the person required to give notice (*see Preconditions to Foreclosure—Notice of Purchase*), the person may give notice by publication once every week for three consecutive weeks.

Notice of Petition for Tax Deed (§ 6-1.1-25-4.6)

Notice of filing of a petition for tax deed is given as provided by § 6-1.1-25-4.5 and to the same parties as a notice of purchase, except that if notice by publication is given, only one publication is required.

Notice of Lien (§ 6-1.1-24-6)

When real property is offered for sale and "an amount is not received equal to or in excess of the minimum sale price," the county executive acquires a lien in an amount equal to the minimum sale price. Whenever a county executive acquires such a lien, the county auditor must provide a list of the liens held by the county to the executive of a city or town who requests the list or post the list on the county's Internet web site no later than 30 days after the tax sale.

Sections 6-1.1-24-6 and 6-1.1-25-4.5 amended 2015; §§ 6-1.1-24-1.5, 6-1.1-24-3, 6-1.1-24-6.1, and 6-1.1-24-6.7, and amended 2016; 6-1.1-25-4.6 amended 2017.

Ind. Code §§ 6-1.1-24-1.5, -3, -6, -6.1, -6.7; -25-4.5, -4.6 (2019)

[Ind. Code §§ 6-1.1-24-1.5, -3, -6, -6.1, -6.7; -25-4.5, -4.6 \(2019\)](#)

[Taxing Authorities, Indiana, Preconditions to Eviction](#)

[Possession Rights](#)

Upon application by the grantee of a tax deed in the same court and under the same cause number in which the judgment of sale was entered, the court must enter an order to place the grantee in possession of the real estate. The court may enter orders and grant any relief that is necessary or desirable to place or maintain the grantee of a valid tax deed in possession of the real estate.

Section amended 2017.

[Ind. Code § 6-1.1-25-4.6\(g\) \(2019\)](#)

Taxing Authorities, Indiana, Appeals

Pre-Sale Payment (§ 6-1.1-24-5)

A tract or item of real property may not be sold at public auction if all the delinquent taxes, penalties, and special assessments on the property and any additional amounts required by law for costs incurred by the county due to the sale, are paid before the time of sale.

Defenses to an Application for Judgment and Order for Sale (§§ 6-1.1-24-4.6, -4.7)

Any defense to an application for judgment and order of sale must be filed with the court on or before the earliest date on which the application may be made. If written objections are filed in a timely manner, the court must conduct a hearing no later than seven days before the advertised date of the tax sale. At the hearing, the court must hear any defense offered by a person interested in any of the real property tracts. The court must determine the matter in a summary manner, without pleadings, and enter its judgment no later than three days before the advertised tax sale date.

Any objection must be in writing. No person may offer a defense unless the writing specifying the objection is accompanied by an original or a duplicate tax receipt or other supporting documentation.

Certificate of Sale as Bar to Defenses

A certificate of sale issued to the tax sale purchaser is presumptive evidence of:

- the truth of the statements contained in the certificate;
- the purchaser's interest in the property described in the certificate;
- the regularity and validity of all proceedings related to the taxes or special assessments for which the property was sold; and
- the regularity and validity of all proceedings related to the sale of the property.

After two years from the issuance of the certificate of sale, evidence may not be admitted in any court to rebut any such presumption unless the certificate was fraudulently procured. After four years from issuance of the certificate, evidence may not under any circumstance be admitted in any court to rebut such presumptions.

Redemption (§ 6-1.1-24-4)

The redemption period for property sold to a purchaser at a tax sale is generally one year after the sale date. There is no right to redeem property on the vacant and abandoned property list.

Appeal of Granting of Tax Deed

A person may, upon appeal, defeat the title conveyed by a tax deed executed under the property tax sale law only for the following limited reasons:

- the real property was not subject to the taxes for which it was sold;

- the delinquent taxes or special assessments for which the property was sold were paid before the sale;
- the property was not assessed for the taxes and special assessments for which it was sold;
- the real property was redeemed before the redemption period expired;
- the proper county officers issued a timely certificate, stating either that no taxes were due at the time of the sale or that the property was not subject to taxation;
- the property's description was "so imperfect as to fail to describe it with reasonable certainty"; or
- certain specified notices were not "in substantial compliance with the manner prescribed."

Property Containing Hazardous Waste

A tax deed issued on property containing hazardous waste or other environmental hazards is not contestable, except by appeal from the order of the court directing the county auditor to issue the tax deed. That appeal must be filed no later than 60 days after the date of the court's order.

Section 6-1.1-24-11 enacted 1975; § 6-1.1-25-16 amended 2001; §§ 6-1.1-24-4.7, 6-1.1-24-4.6, 6-1.1-24-5, 6-1.1-25-4, and 6-1.1-25-4.1 amended 2015.

Ind. Code §§ 6-1.1-24-4.6, -4.7, -5, -11; -25-4, -4.1, -16 (2019)

[Ind. Code §§ 6-1.1-24-4.6, -4.7, -5, -11; -25-4, -4.1 \(2019\)](#)

Lenders, Iowa, Foreclosure Type

Judicial; non-judicial foreclosures are allowed on some mortgages by mutual agreement of the parties. Real property deeds of trust are foreclosed like mortgages.

Section 654.18 amended 2012; § 655A.9 amended 2009; § 654.2 history unknown.

[Iowa Code §§ 654.2, .18; 655A.9 \(2020\)](#)

Lenders, Iowa, Preconditions to Foreclosure

Judicial

Notice of right to cure

A creditor who believes in good faith that a borrower is in default must give a notice of right to cure. The notice must:

- be in writing;
- set out the performance necessary to cure the alleged default;
- state the exact date by which the amount must be paid or performance tendered;
- contain other specified information; and
- include a statement that if the borrower does not cure the alleged default, the creditor is entitled to proceed with a foreclosure action or procedure.

The borrower has a right to cure the default within 30 days of the date the creditor gives the notice by tendering either the amount of all unpaid installments due at the time of tender, without acceleration, or the amount stated in the notice of right to cure, whichever is less, or by tendering any other performance necessary to cure the default described in the notice of right to cure. The borrower does not have a right to cure if the creditor has given the borrower a proper notice of right to cure with respect to a prior default that occurred within 365 days of the present default.

Demand for payment of accelerated balance

Before foreclosing on the accelerated balance of a mortgage loan and after the termination of any applicable cure period, a creditor must give the borrower a 14-day demand for payment of the accelerated balance to qualify for an award of attorney fees on the accelerated balance.

Notice of mortgage mediation assistance not applicable

Note that the statutory provisions regarding a required notice of mortgage mediation assistance apply only to the foreclosure of a mortgage on a one- or two-family dwelling that is the owner's residence.

Notice of sale

If the mortgagor is in actual possession of the property, the officer conducting the foreclosure sale must give him or her at least 20 days' written notice of the sale.

Election of action

If separate actions are brought in the same county on the note and on the mortgage given to secure it, the plaintiff must elect which to prosecute.

Agricultural property: notice of default and right to cure

A creditor who believes in good faith that a borrower on a deed of trust or mortgage on *agricultural* land is in default may give the borrower notice of the default. If the borrower has a right to cure the default, the creditor must also give the borrower a notice of the right to cure. The notice is deemed received if it is sent by certified mail. The borrower has a right to cure the default unless:

- the creditor has given the borrower a proper notice of right to cure with respect to two prior defaults;
- the borrower has voluntarily surrendered possession of the agricultural land and the creditor has accepted it in full satisfaction of the debt; or
- the creditor has given the borrower a proper notice of the right to cure with respect to a prior default during the previous 12 months.

Agricultural property: mediation notice

A person may not bring a proceeding to foreclose a deed of trust or mortgage on *agricultural* property that is subject to chapter 654A and is subject to a debt of \$20,000 or more, unless:

- the person receives a mediation release; or
- the court determines, after notice and hearing, that the time delay required for the mediation would cause the person to suffer irreparable harm.

Agricultural property: notice of right of first refusal

No later than the time a sheriff's deed to *agricultural* land used for farming is recorded, the grantee recording the sheriff's deed must notify the mortgagor of the mortgagor's right of first refusal. The

grantee must record the sheriff's deed within one year and 60 days from the date of the sheriff's sale. If, after the sheriff's deed is recorded, the grantee wants to sell or otherwise dispose of the agricultural land in a transaction other than a public auction, the grantee must first offer the mortgagor the opportunity to repurchase the agricultural land on the same terms and at the same price that the grantee proposes to sell or dispose of the land. If the grantee wants to sell the agricultural land by public auction, the mortgagor must be given 60 days' notice of the sale.

Military foreclosure protection notice

Effective July 1, 2009, a creditor generally may not initiate a proceeding to enforce an obligation secured by certain mortgages or other similar instruments against a borrower, or a borrower's dependents, who are a member of the national guard, the reserve, or a regular component of the United States armed forces in active duty. Notification procedures regarding these provisions include, "at a minimum, posting the information on an official internet site maintained by each department."

Non-judicial

General procedure

Upon the mutual written agreement of the mortgagor and mortgagee, a real estate mortgage may be foreclosed by a non-judicial action pursuant to the provisions of the "Nonjudicial Foreclosure of Nonagricultural Mortgages" laws. The following actions are required:

- the mortgagor must convey to the mortgagee all interest in the real property subject to the mortgage;
- the mortgagee must accept the mortgagor's conveyance and waive any rights to a deficiency or other claims arising from the mortgage;
- the mortgagee must have immediate access to the real property to maintain and protect it;

- the mortgagor and mortgagee must file a jointly executed document with the county recorder in the county in which the real property is located, stating that the mortgagor and mortgagee have elected to follow the alternative voluntary foreclosure procedures;
- the mortgagee must send, by certified mail, a notice of the election to all junior lienholders as of the conveyance date; and
- at the time the mortgagor signs the written agreement, the mortgagee must furnish the mortgagor with a completed "Disclosure and Notice of Cancellation" form.

Restrictions

A mortgagee who agrees to a non-judicial foreclosure may not report to a credit bureau that the mortgagor is delinquent on the mortgage. However, the mortgagee may report that the non-judicial foreclosure procedure was used.

The "Nonjudicial Foreclosure of Nonagricultural Mortgages" provisions do *not* apply to:

- real estate used for an agricultural purpose; or
- a one- or two-family dwelling that is occupied by a "legal or equitable titleholder."

Notice of nonjudicial foreclosure

The mortgagee initiates a nonjudicial foreclosure by serving the mortgagor with a written notice that must:

- reasonably identify the mortgage by document reference number;

- accurately describe the real estate covered;
- specify the mortgage terms that the mortgagor has breached; and
- state, in the form required by statute, that unless the mortgagor performs the terms in default or files with the county recorder a rejection of the notice and serves a copy of the rejection on the mortgagee within 30 days after the completed service of the notice, the mortgage will be foreclosed.

The mortgagee must also serve a copy of this notice on:

- the person in possession of the real estate, if different than the mortgagor; and
- all junior lienholders of record.

Notice must be served as provided in the rules of civil procedure for service of original notice or as provided by § 654.4A. A rejection of notice must be served by ordinary or electronic mail addressed as provided in the notice, or if no address is provided, to the last address of the mortgagee known to the mortgagor.

Section 654.18 enacted 1985; § 654.2A enacted 1986; § 654.2C amended 1987; §§ 654.2B and 654.2D amended 1991; § 626.78 amended 2006; § 655A.9 amended 2009; §§ 655A.3 and 655A.4 amended 2012; § 654.4B amended 2013; § 654.16A amended 2014; history of 654.4 unknown.

[Iowa Code §§ 626.78; 654.2A, .2B, .2C, .2D, .4, .4B, .16A; 655A.3, .4, .9 \(2020\)](#)

Lenders, Iowa, Public Notice and Posting Requirements

Judicial

Four weeks' public notice of the sale must be given. Notice must be posted in at least three public places in the county, one of which must be the county courthouse. In addition, there must be two weekly publications of the notice in some newspaper printed in the county. The first publication must be at least four weeks before the sale date, and the second at a later time before the sale date.

Non-judicial

Other than certain recording requirements and notice to specified parties (described in *Preconditions to Foreclosure*), no public notice and posting requirements were located.

Section 626.74 amended 1981; § 626.75 amended 1990.

[Iowa Code §§ 626.74, .75 \(2020\)](#)

Lenders, Iowa, Preconditions to Eviction

A purchaser at a foreclosure sale is entitled to immediate possession of the property. The purchaser may bring an action for forcible entry and detainer against the person in possession. An action for forcible entry and detainer requires service of three days' notice to quit.

Section 654.24 added 1987; § 648.3 amended 2013; § 648.1 amended 2004.

[Iowa Code §§ 648.1, .3; 654.24 \(2020\)](#)

Lenders, Iowa, Appeals

Judicial

Demand for delay of sale

A sale may be held promptly after the entry of judgment, unless the mortgagor files a demand for a delay of the sale. If a demand is filed, the sale must be held promptly two months after the entry of

judgment (unless the property is the mortgagor's residence and a one- or two-family dwelling). If the demand is filed, the mortgagor and mortgagee subsequently may file a stipulation that the sale may be held promptly after the stipulation is filed and that the mortgagee waives the right to a deficiency judgment. If the stipulation is filed, the sale must be held promptly after the filing.

Sale scheduling

An officer may postpone a sale without giving any further notice other than a public announcement at the time the sale was to have occurred if:

- there are no bidders;
- the amount offered is "grossly inadequate";
- the sale is prevented from taking place on the scheduled day;
- the judgment creditor so requests; or
- the parties agree.

However, no more than two such adjournments of no more than a total of 60 days may occur, except by the parties' written agreement.

Agricultural land: right to cure default

A borrower with a loan secured by *agricultural* land has a right to cure the default unless:

- the creditor has given the borrower a proper notice of right to cure with respect to two prior defaults on that obligation;
- the borrower has voluntarily surrendered possession of the agricultural land, and the creditor has accepted it in full satisfaction of the debt;
- the creditor has given the borrower a proper notice of right to cure with respect to a prior default during the previous 12 months.

If the borrower has the right to cure a default, the creditor may not accelerate the maturity of the obligation's unpaid balance, demand or otherwise take possession of the land (except by voluntary surrender), or otherwise attempt to enforce the obligation until 45 days after the notice of right to cure is given. During that 45-day period, the borrower may cure the default.

Nonagricultural land: right to cure default

The right to cure that applies to nonagricultural land does not apply if the creditor is an individual or if the mortgaged property is property *other than* a one-family or two-family dwelling that is the mortgagor's residence.

Continuance

If the owner files an answer admitting some indebtedness and breach of the mortgage's terms, the owner may apply for a continuance of the foreclosure action if the default is mainly due to a "drought, flood, heat, hail, storm, or other climatic conditions or by reason of the infestation of pests which affect the land in controversy." The length of the continuance depends on the default date.

Moratoriums

An owner may apply for a moratorium if the governor declares a state of economic emergency. The governor must state in the declaration the types of real estate eligible for a moratorium continuance.

Redemption of homestead that is a part of agricultural property

If a sheriff's sale is ordered on agricultural land used for farming, the mortgagor may, by a date set by the court (but not later than 10 days before the sale) designate a portion of the land the mortgagor claims as a homestead. The homestead may be any contiguous portion of 40 acres or less of the real estate subject to the sheriff's sale, but it must contain the mortgagor's residence and be as "compact as practicable."

If a homestead is designated, the court must determine the fair market value of the designated homestead before the sheriff's sale, and the mortgagor may redeem just the designated homestead.

Redemption rights

Generally, a mortgagor has no right to redeem after the sale.

Non-judicial

If the mortgagor or a junior lienholder cures the breach within 30 days of the service of notice, the right to foreclose for that breach is terminated.

Section 654.2A amended 1986; §§ 654.21 and 654.20 amended 2018; § 655A.5 added 1987; § 654.22 amended 1987; § 654.23 amended 2016; § 654.2D amended 1991; § 654.15 amended 2013; § 626.81 amended 2009; §§ 654.16 and 654.16A amended 2014.

[Iowa Code §§ 626.81; 654.2A, .2D, .15, .16, .16A, .20, .21, .22, .23; 655A.5 \(2020\)](#)

Taxing Authorities, Iowa, Foreclosure Type

Judicial and non-judicial.

Taxing Authorities, Iowa, Preconditions to Foreclosure

Delinquency Notice

If the semiannual installment of any property tax has not been paid by October 1, the unpaid amount becomes delinquent as of October 1. Notwithstanding this requirement, if there is a delay in the delivery of the real property tax list referred to in Chapter 443 to the county treasurer, the taxes become delinquent 30 days after the delivery date, or on the delinquent date of the first installment, whichever date occurs later. When taxes are delinquent and not paid as of November 1, the treasurer must provide notice to the taxpayer of the delinquency. Failure to receive notice, however, is not a defense to the payment of the total amount due.

Notice of Sale

Annually, on the third Monday in June, the county treasurer generally must offer at public sale all parcels on which taxes are delinquent. The sale must be made for the total amount of taxes, interest, fees, and costs due. If for good cause the treasurer cannot hold the annual tax sale on the third Monday of June, the treasurer may designate a different date in June for the sale.

A notice of the date, time, and place of the annual tax sale must be served on the person in whose name the parcel is taxed. The county treasurer must serve the notice by sending it by regular first class mail to the owner's last known address no later than May 1 of each year. The notice must contain:

- a description of the parcel to be sold;
- the amount of delinquent taxes;
- the amount of interest and fees, all incorporated as a single sum; and

- a statement that, after the sale, if the parcel is not redeemed within the statutory redemption period, the right to redeem expires and a deed may be issued.

The treasurer must also send, at least one week but not more than three weeks before the sale date, a notice of sale by regular first class mail to the following, if the party has requested, on a form prescribed by the treasurer, to receive a notice of sale:

- any mortgagee with a lien on the parcel;
- a vendor under a recorded contract of sale;
- a lessor who has a recorded lease or a memorandum of a recorded lease; and
- any other person who has a record interest in the parcel.

Conduct of Sale

The county treasurer must, on the day of the sale, offer each parcel separately for the total amount due. The county treasurer must continue the sale from day to day as long as there are bidders or until all delinquent parcels have been offered for sale. Further notice is not required for an adjourned sale, unless it is a public bidder sale.

Public Bidder Sales

Each county treasurer must, on the day of the regular tax sale each year (or any continuance or adjournment of the tax sale), offer and sell at public sale all parcels that remain liable to sale for delinquent taxes, that have previously been advertised, that have been offered for one year or more, and that remain unsold for want of bidders. Notice of the sale must be given at the same time and in the same manner as that given for a regular sale.

Notice of Property Sold

For each parcel sold, the county treasurer must notify the party in whose name the parcel was taxed that the parcel was sold at tax sale. The notice of sale must be sent by regular mail within 15 days from the sale date. Failure to receive a mailed notice is not, however, a defense to payment of the total amount due.

In addition, after one year and nine months from the sale date, or after nine months from a public bidder sale or three months from the date of a sale to the county for certain public housing purposes, the holder of the certificate of purchase may serve on the person in possession of the parcel, and also on the person in whose name the parcel is taxed, a notice signed by the certificate holder or the certificate holder's agent or attorney. The notice must state:

- the sale date;
- the description of the parcel sold;
- the purchaser's name; and
- that the redemption right will expire and a deed for the parcel will be granted unless redemption is made within 90 days from the completed service of the notice.

Service of this notice must also be made by both regular and certified mail on any mortgagee having a lien on the parcel, a vendor of the parcel under a recorded contract of sale, a lessor who has a recorded lease, and any other person who has an interest of record.

Alternative Remedy

A county may collect the total amount of delinquent taxes due by the alternative remedy of converting the amount due to a personal judgment. The remedies associated with tax sale and personal judgment may be simultaneously pursued until such time as the total amount due has

been collected or otherwise discharged. If the total amount due is collected pursuant to a personal judgment, the tax sale must be canceled. If a tax deed is issued, any personal judgment must be released and a satisfaction of judgment must be filed with the clerk of the appropriate district court.

Section 446.18 amended 1991; § 446.15 amended 1995; § 446.2 amended 1998; § 446.19B amended 2006; § 446.17 amended 2007; § 446.16 amended 2009; § 446.7 amended 2010; §§ 445.36, 446.9, and 446.20 amended 2011; § 447.9 amended 2012; § 445.37 amended 2017.

[Iowa Code §§ 445.36, .37; 446.2, .7, .9, .15, .16, .17, .18, .19B, .20; 447.9 \(2020\)](#)

Taxing Authorities, Iowa, Public Notice and Posting Requirements

Tax Sale

Publication of the date, time, and place of the annual tax sale must be made once by the treasurer in at least one official newspaper in the county, as selected by the board of supervisors, at least one week, but no more than three weeks, before the sale date. The publication must contain:

- a description of the parcel to be sold;
- the name of the person in whose name the parcel is taxed;
- the amount delinquent for each year;
- the amount of interest and fees, all to be incorporated as a single sum;
- a statement that if the parcel is not redeemed within the statutory post-sale redemption period, the right to redeem will expire and a deed may be issued to the purchaser.

The county treasurer must obtain a copy of the notice of sale with a certificate of its publication from the printer or publisher, and file it in the office of the treasurer.

If, for good cause, a parcel is not included in the publication specified above, notice may be given by posting a description of the parcel and the date, time, and place of the tax sale in the treasurer's office for two weeks before the sale and, at the time of the posting, mailing the notice as described in *Preconditions to Foreclosure*.

Public Nuisance Tax Sale

The board of supervisors of a county may adopt an ordinance authorizing the county treasurer to offer and sell separately at the annual tax sale certain delinquent taxes on parcels that are abandoned property. The county or city may file with the county treasurer a statement containing a listing of parcels and a declaration that each parcel is:

- abandoned property;
- assessed as residential or commercial multifamily housing property;
- is, or is likely to become, a public nuisance; and
- is suitable for use as housing following rehabilitation.

This statement must be published at the same time and in the same manner as the notice of the annual tax sale. The requirements in § 446.9(2) for publication of an annual tax sale notice also apply to this publication.

Sections 446.11 and .12 amended 1991; § 446.9 amended 2011; § 446.19B enacted 2006.

[Iowa Code §§ 446.9, .11, .12, .19B \(2020\)](#)

[Taxing Authorities, Iowa, Preconditions to Eviction](#)

Possession Rights

Not until one year and nine months from the sale date, or nine months from a public bidder sale or three months from the date of a sale made to the county for certain public housing purposes, may the holder of the certificate of purchase serve on the person in possession of the parcel sold a notice that a deed for the parcel will be granted to the purchaser unless redemption is made within 90 days from the date of service of the notice.

Eviction

Iowa's laws regarding tax sales do not otherwise address eviction of the occupants of tax-delinquent property. However, suits for the recovery of real property in general are covered by Chapter 646.

Section amended 2012.

[Iowa Code § 447.9 \(2020\)](#)

Taxing Authorities, Iowa, Appeals

General Right of Redemption

A parcel sold for delinquent taxes may be redeemed at any time before the redemption period expires (*see Preconditions to Foreclosure*), by paying to the county treasurer the amount for which the parcel was sold, including the certificate of purchase fee, plus interest at two percent per month from the month of sale, as well as the total amount the purchaser paid for any subsequent year's taxes, with interest at the same rate.

Post-deed Redemption

After the delivery of the treasurer's deed, a person entitled to redeem a parcel sold at a tax sale may do so only by an equitable action in the district court of the county where the parcel is located. In order to establish the right to redeem, the person maintaining the action must prove to the court

either that the person or a predecessor in interest was not properly served with notice, or that the person maintaining the action or a predecessor in interest acquired an interest in or possession of the parcel during the 90-day post-notice redemption period.

Lack of Notice

If a person in whose name the parcel is taxed establishes that he or she was not served with notice of expiration of the right of redemption, then the county treasurer's deed is generally void. If a person entitled to service of notice pursuant to § 447.9, other than the record owner or a person in whose name the parcel is taxed, establishes that he or she was not served with proper notice, the deed is not thereby rendered invalid. However, the deed is subject to all of the rights and interests of the person not served with notice.

Deed as Evidence

In all controversies and actions related to the purchaser's rights to the conveyed parcel, the deed is *presumptive* evidence that:

- the parcel conveyed was subject to taxes for the year or years stated in the deed;
- the taxes were not paid before the sale;
- the parcel had not been redeemed at the date of the deed;
- the parcel had been listed and assessed;
- the taxes were legally levied or set;
- the parcel was duly advertised for sale; and

- the parcel was sold as stated in the deed.

The deed is *conclusive* evidence that:

- the manner in which the listing, assessment, levy, notice, and sale were conducted as the law directed;
- the grantee named in the deed was the purchaser;
- the officers complied with all legal prerequisites, from the listing and valuation of the parcel up to the execution of the deed and all things required by law to make "a good and valid sale and to vest the title in the purchaser" were done, *except* those points set forth above in the presumptive evidence list.

Action to Challenge Treasurer's Deed

A deed executed by the county treasurer in conformity with the requirements of §§ 448.2 and 448.3 is presumed to be a valid title conveyance. The deed may be challenged only by an equitable action in the district court in the county in which the parcel is located. If the action seeks a court order to allow redemption after delivery of the treasurer's deed because the person seeking to redeem is a person with a legal disability (i.e. a minor or a person of unsound mind) who was entitled to redeem prior to the delivery of the treasurer's deed, the action must be brought in accordance with § 447.7. If the action seeks a court order to allow redemption after delivery of the treasurer's deed based on the improper service of notice of expiration of right of redemption, the action must be brought in accordance with § 447.8 (regarding redemption after delivery of deed).

If the action is not brought pursuant to §§ 447.7 or 447.8, the person may not maintain the action unless he or she establishes that he or she (or the person under whom he or she claims title):

- had title to the parcel at the time of the sale (or the title was obtained from the United States or Iowa after the sale); and

- paid all amounts due on the parcel for the applicable tax years.

The person maintaining the action must name the holder of the tax title and the county treasurer as defendants.

In order to invalidate the deed, the person challenging it must prove:

- that the parcel was not subject to taxes for the year or years named in the deed;
- that the taxes had been paid before the sale;
- that the parcel had been redeemed from the sale and that the redemption was made for "the use and benefit of persons" with redemption rights; or
- that there had been an "entire omission to list or assess the parcel, or to levy the taxes, or to give notice of the sale, or to sell the parcel."

If the court determines that the person challenging the treasurer's deed has established one or more of the above elements, the court must enter judgment declaring the deed to be invalid and ordering the treasurer to refund to the person claiming under the tax title all sums paid to the treasurer for the purchase of the tax sale certificate and for any subsequent taxes paid by the certificate holder.

If an affidavit is filed (pursuant to § 448.15) and if the time period for filing a claim (as set forth in § 448.16) expires without a claim having been filed, all persons are barred from bringing an action to challenge the deed.

Mistaken Sale

If an amount due was paid and the parcel was later sold through a mistake in the entry made in the county's system, the treasurer's deed does not convey title.

Statute of Limitations

An action may not be brought after three years from the execution and recording of the county treasurer's deed.

Sections 448.4, 448.5, and 448.8 amended 1991; § 448.6 and 448.12 amended 2005; § 447.9 amended 2012; § 448.3 amended 2008; § 447.8 amended 2018, effective July 1, 2018; § 447.1 amended 2017.

[Iowa Code §§ 447.1, .8, .9; 448.3, .5, .6, .8, .12 \(2020\)](#)

Kansas

Lenders, Kansas, Foreclosure Type

Judicial.

Lenders, Kansas, Preconditions to Foreclosure

No pre-foreclosure provisions were located (other than those described below in *Public Notice and Posting Requirements*).

Lenders, Kansas, Public Notice and Posting Requirements

Public notice of the time and place of sale must be given once each week for three consecutive weeks before the sale date. Publication must be made in a newspaper qualified to print legal notices in the county in which the land and tenements are located. The last such publication must be not less than seven days nor more than 14 days before the sale date.

Section amended 1988.

[Kan. Stat. § 60-2410 \(2019\)](#)

Lenders, Kansas, Preconditions to Eviction

Action to recover real property

An action to recover real property may be brought by any person with a legal or equitable interest in the property and the right to possession. There is no requirement that a notice to quit be served.

Possession rights

The defendant owner is entitled to possess the foreclosed property during the redemption period.

Section 60-1001 amended 1964; § 60-2414 amended 2013.

[Kan. Stat. §§ 60-1001, -2414 \(2019\)](#)

Lenders, Kansas, Appeals

Appeal

As a general rule, an appeal in a civil action must be filed within 30 days of the entry of judgment.

Reversal of judgment after sale

The reversal of a judgment does not affect a purchaser's title to the property sold in a foreclosure sale. In those cases, the judgment creditor must make restitution, with interest. This provision does *not* apply to "cases of sales under judgments rendered without personal appearance by the party against whom the judgment was rendered, and without service on such party other than by publication, when such sale was made within six months from the date of such judgment."

Sale scheduling

No provisions specifically applicable to scheduling were located. The sale of land under execution must be held at the courthouse located in the county seat of the county in which the judgment was rendered.

Redemption

Generally, a defendant owner may redeem real property sold under execution or order of sale at any time within 12 months from the sale date. If the court finds after hearing, upon not less than 21 days' notice to all parties, that the property has been abandoned or is not occupied in good faith, the court may shorten or extinguish the redemption period.

The right of redemption does not apply to oil and gas leaseholds.

Except for mortgages covering agricultural lands or single- or two-family dwellings owned by or held in trust for natural persons holding the dwelling as their residence, the mortgagor may agree in the mortgage document to waive or shorten the redemption period.

If a default occurs in the mortgage of the most senior lien foreclosed before one-third of the original debt has been paid, the court must order a redemption period of three months. If the court finds that the total outstanding amount of all mortgages or liens is less than one-third of the property's market value, the court must order a redemption period of 12 months. The court, upon notice and hearing, may extend a three-month redemption period if the defendant owner has involuntarily lost his or her primary source of income after the foreclosure date and before the expiration of the three-month redemption period.

Court's confirmation of sale

Upon hearing, a court may:

- decline to confirm the sale if the bid is "substantially inadequate";

- in its discretion and if conditions or circumstances warrant, set a minimum price for the sale; or
- establish the property's value and require the property's fair value to be credited upon the amounts due, with a sale for the full amount due being deemed adequate.

Section 60-2103 amended 2018; §§ 60-2410 and 60-2415 amended 1988; § 60-2414 amended 2013.

[Kan. Stat. §§ 60-2103, -2410, -2414, -2415 \(2019\)](#)

Taxing Authorities, Kansas, Foreclosure Type

Judicial and non-judicial.

Taxing Authorities, Kansas, Preconditions to Foreclosure

List of Property Subject to Sale

All real estate on which taxes not have been paid on or before May 10 of each year is subject to sale. Between July 1 and July 10 of each year, the county treasurer must prepare a list of all real estate subject to sale, describing the real estate in the same manner as in the county clerk's or register of deeds' records. The county treasurer must prepare an accompanying notice stating that:

- he or she will sell the listed real estate to the county for the amount of the delinquent taxes and legal charges due; and
- the sale will be on or after the first Tuesday of September following publication of the notice (*see Public Notice and Posting Requirements*).

If a county treasurer unavoidably omits or fails to sell any real estate for unpaid taxes on the first Tuesday of September, he or she must advertise and sell that real estate on the fourth Monday of October.

The list must include:

- the owners' names;
- the description and address, if available, of each tract or parcel; and
- the total unpaid taxes on each tract or parcel.

No irregularity in the advertisement or error or omission in the listing affects the legality of the sale or the title to any real estate subject to sale or sold for taxes.

Sale to County

On the day designated in the notice of sale, the county treasurer must sell the real estate and bid, in the name of the county, the amount of the delinquent taxes and legal charges due, including advertising costs and fees. At this initial sale, no bid may be received from any other person.

List of Property Sold

Immediately after the close of the sale to the county, the county treasurer must record a list of all real estate sold in a book prepared for that purpose. The list must include:

- the sale date;

- the name of the owner or owners, if known;
- the description of each tract or lot;
- the name of the county as purchaser;
- the total amount of taxes due at the time of sale; and
- columns for the name of any person redeeming and the redemption date, the total amount paid for redemption, the foreclosure date, and the name of the person to whom the property was sold on foreclosure sale.

The county treasurer must also file with the county clerk all affidavits, notices, and papers that reference the tax sale.

Sale by City or County

Whenever real estate that the county has purchased at a delinquent tax sale remains unredeemed on September 1 of the *second* year after the sale, or whenever abandoned real estate has been bid in by the county at a delinquent tax sale and remains unredeemed on September 1 of the *first* year after the sale, the county must institute an action in the district court against the owners of the real estate and all persons having any interest in it. The action is brought by filing a petition with the clerk of court. The petition must contain:

- a description of each real estate parcel, including, if in a city of the first or second class, the street number or location;
- the amount of taxes, charges, interest, and penalties;

- the name of the owner and parties with an interest in the property;
- the year the real estate was sold for delinquent taxes; and
- a request that the court adjudge the amount due to be a first and prior lien on the real estate and that the property be sold at public sale for the satisfaction of the lien, costs, charges, and expenses of the proceedings and sale.

The petition must be filed and a copy delivered to the county treasurer, who may then accept no payments of taxes on the real estate included in the petition. A summons must be issued and personally served, or publication made, as provided in other civil cases.

After the judgment is rendered, the district court clerk must issue an execution or order of sale. The order of sale must be delivered to the county sheriff, who must then cause the notice of the sale to be published as described in *Public Notice and Posting Requirements*. If the aggregate assessed valuation of the subject real estate is less than \$300,000, or the aggregate amount of delinquent taxes, including special assessments, is less than \$10,000, bringing the action is within the board of county commissioners' discretion.

Mineral Interests

If the real estate involved is a mineral interest in land that has been severed from the fee interest, bringing an action to foreclose the mineral interest is within the board of county commissioners' discretion.

Sale Procedures

On the sale date, the sheriff must offer each piece of real estate separately, and the property must be sold at public auction for the highest bid obtainable. The sheriff or other person authorized by the board of county commissioners may bid in the county's name. No bid on behalf of the county will be accepted in excess of the amount of the judgment lien and interest, plus the costs, charges, and expenses. If the sale cannot be completed on the day fixed by the notice, it may be adjourned from day to day until completed.

Unsold Property

If, six months after the confirmation of the sale to the county, any of the real estate remains unsold, the board of county commissioners may reduce the price and sell the property, after first advertising the sale once each week for three consecutive weeks in the county. The advertisement must:

- describe the real estate;
- give the location; and
- request sealed bids on or before a specified date.

The board must accept the highest cash bid received, but it may reject bids for less than the property's current market value.

Affidavit Regarding Purchaser

No sale will be confirmed until the purchaser files with the clerk of court an affidavit stating that the purchase was not made, directly or indirectly, for any person with the statutory right to redeem, other than a person who held an interest in the real estate as mortgagee of record at the time of the sale. No person who is the record owner of real estate with delinquent taxes is eligible to purchase property at a tax-delinquency sale.

City's Rights

If the board of county commissioners fails to initiate proceedings and the taxes on the property have remained delinquent for at least three years after the property first became eligible for sale,

the governing body of the city in which such property is located may initiate a judicial tax foreclosure sale on the property.

Sale of School Lands

If school lands are sold on foreclosure for taxes, a deed may not be given to the purchaser until he or she has paid all the installments and interest due at the time. The purchaser must also give a bond "as required from the purchaser in the first instance." Upon filing the bond with the county clerk, a deed must be given to the purchaser.

Sections 79-2306, and 79-2318 amended 1941; § 79-2804a enacted 1941; § 79-2302a enacted 1959; § 79-2317 amended 1968; § 79-2302 amended 1983; § 79-2804f amended 1996; § 79-2804 amended 1999; § 79-2801 amended 2001; § 79-2804h amended 2003; § 79-2301 amended 2010.

[Kan. Stat. §§ 79-2301, -2302, -2302a, -2306, -2317, -2318, -2801, -2804, -2804a, -2804f, -2804h \(2019\)](#)

Taxing Authorities, Kansas, Public Notice and Posting Requirements

Notice of Taxes Due

As soon as the county treasurer receives the tax roll, he or she must enter the amount of unpaid taxes and the date of unredeemed sales, if any, for previous years on each parcel. The treasurer must cause a similar notice to be published in the official county paper once each week for three consecutive weeks, stating in the notice the amount of taxes charged for state, county, township, school, city, or other purposes for that year, on each \$1,000 of valuation.

Notice of Sale

The county treasurer must publish the notice of sale required by Kan. Stat. § 79-2302 in the official county newspaper or in a newspaper of general circulation in the county on or before August 1 of each year. Publication must occur once each week for three consecutive weeks immediately before the week when the sale will occur. The county treasurer must also post a copy of the list of delinquent taxes and notice of sale in some conspicuous place in the county treasurer's office.

Every printer who publishes the list and notice must, immediately after the last publication, transmit to the proper county treasurer an affidavit of publication.

Court-ordered Sale

After the district court judgment is rendered (*see Preconditions to Foreclosure*), the clerk of court must issue an execution or order of sale. The order of sale must be delivered to the county sheriff, who must publish it once each week for three consecutive weeks in a newspaper of general circulation in the county. The notice must:

- describe each piece of real estate to be sold;
- describe the lien for which it will be sold, as determined by the court judgment;
- fix the sale date, which may not be less than 30 days from the first publication date; and
- state that the sale will be held at the front door of the courthouse in the county, or identify some other location in the county where the sale will be held, as selected by the chief judge.

Delayed Sales

If any real estate with delinquent taxes has been advertised as required by law, and has not been sold to the county by reason of an injunction or judicial proceeding, after the injunction has been dissolved, the county treasurer need publish in a newspaper of general circulation in his or her county only a notice stating that the real estate was not sold, by reason of the injunction. Then, the real estate must be sold to the county at the time and place specified, which time may not be less than 10 days from the publication date.

If, six months after the confirmation of a sale of tax-delinquent real estate to the county, any of the real estate remains unsold, the board of county commissioners may reduce the price and sell the

property, after first advertising it once each week for three consecutive weeks in the county newspaper. The advertisement must:

- describe the real estate;
- give the real estate's location; and
- request sealed bids on or before a specified date.

The board must accept the highest cash bid received, but it may reject bids for less than the real estate's current market value.

Negotiated Sales

Upon the county's application, a court may authorize the county to dispose of one or more lots or tracts by negotiated public or private sale, if the court finds that the property was included as part of a prior judgment and order of sale, but was not purchased at the sale. The county must publish notice of the proposed sale or transfer in the official county newspaper. The notice must:

- describe the property;
- state the name of the purchaser or recipient;
- state the sales price or other consideration, and the date, time, and general location of the hearing to confirm the sale.

Any sale or transfer of real estate by the county under this provision is subject to a hearing and confirmation by the court.

Sections 79-2304 and 79-2322 amended 1941; § 79-2303 amended 1994; § 79-2804f amended 1996; § 79-2804 amended 1999; § 79-2803b enacted 2002; § 79-2001 amended 2017.

[Kan. Stat. §§ 79-2001, -2303, -2304, -2322, -2803b, -2804, -2804f \(2019\)](#)

Taxing Authorities, Kansas, Preconditions to Eviction

After the sale and confirmation by the court, an execution will issue, upon praecipe of the county attorney, county counselor, or the purchaser, requiring an officer to deliver possession of the real estate to the parties entitled to it, including the county.

Section amended 1999.

[Kan. Stat. § 79-2804 \(2019\)](#)

Taxing Authorities, Kansas, Appeals

Pre-sale Redemption

A real estate owner or record title holder, his or her successors, or any mortgagee or his or her assigns may, before the sale date, redeem the property by filing with the clerk of court an application to redeem and paying to the clerk the amount the court orders or an amount equal to five percent of the amount set forth in the petition as the lien for taxes, charges, interest, and penalties chargeable to the property. The payment constitutes a full satisfaction and redemption of the real estate and stays all further collection proceedings.

Post-sale Redemption

Real estate bid off by the county for both delinquent taxes and special assessments must be held by the county for two years from the sale date, subject only to the right of redemption. Any owner or record title holder, or his or her successors, or any mortgagee or the owner's or holder's assigns may redeem the real estate sold in the sale at any time within two years after the sale by paying to the county treasurer the amount for which the real estate was sold, plus the interest accrued, all delinquent taxes and special assessments and interest that remain unpaid as of the redemption date, and costs and expenses.

If the mortgagor fails to pay the taxes or permits any land to be sold for unpaid taxes, the mortgagee may pay the taxes and/or redeem the land.

Court Actions

Legal or equitable actions or proceedings may be brought to open, vacate, modify, or set aside any judgment rendered for taxes, interest, and costs, or any order of sale, or any sale made under the provisions of § 79-2804. However, the action must be brought within 12 months after the date the court confirmed the order of sale or sale. The petition must show that the action was commenced within the prescribed time limits.

Refunds

If, after the sale of real estate on foreclosure for taxes, it is adjudged that the sale was invalid or void, the board of county commissioners must refund the money paid on the sale, together with subsequent taxes and charges paid by the purchaser, with interest, upon the delivery of a quitclaim deed from the party holding under the sheriff's deed.

Section 79-2803 amended 1945; § 79-2804b amended 1949; §§ 79-2804c and 79-2901 amended 1992; § 79-2401a amended 2007.

[Kan. Stat. §§ 79-2401a, -2803, -2804b, -2804c, -2901 \(2019\)](#)

Kentucky

Lenders, Kentucky, Foreclosure Type

Judicial.

Lenders, Kentucky, Preconditions to Foreclosure

Options

In an action to enforce a mortgage, a judgment may be obtained for the sale of the property and for the recovery of the debt against the defendant personally. A sale of the property "may be ordered without giving time to pay money or do other act."

Parties to action

The plaintiff in an action enforcing a lien on property must make others with liens on the property defendants in the action.

Appraisal of property before judicial sale

Before any real property is sold under a court order or judgment (other than an execution), the officer selling the property must have it appraised by two "disinterested, intelligent housekeepers of the county." If they disagree, the officer acts "as umpire." If only a part of a tract is sold, that part must be revalued after the sale. The appraisal must be in writing, signed by the appraisers, and returned to the court. Before the sale, the court must file the appraisal and enter it on the court's records.

Rights of mortgagee after default

Kentucky statutes, which permit the above judicial procedure, generally provide that "[f]oreclosure of a mortgage is forbidden." However, a mortgagee after default may take possession of property subject to the mortgage if the mortgagor has abandoned it.

Any right a mortgagee acquires in a tenant's interest in crops "raised on shares" is inferior to the landlord's prior existing lien on the tenant's interest.

Sections 426.005 and 426.006 enacted 1953; §§ 426.520 and 426.525 amended 2012.

[Ky. Rev. Stat. §§ 426.005, .006, .520, .525 \(2020\)](#)

Lenders, Kentucky, Public Notice and Posting Requirements

Notice of sale

Unless otherwise agreed by the parties, public sales of property under execution must be advertised by publication. The advertisement must include the time, place, and terms of the sale. Notice must be published at least once, but may be published two or more times, provided that one publication is made not less than seven nor more than 21 days before the sale.

Section 426.560 amended 1966; § 424.130 amended 2019.

[Ky. Rev. Stat. §§ 424.130; 426.560 \(2020\)](#)

Lenders, Kentucky, Preconditions to Eviction

Action for trespass

No specifically relevant provisions were located; however, it may be possible to bring an action for trespass against a person in wrongful possession of property after foreclosure.

Possession rights

When the right of redemption exists, the purchaser receives an immediate writ of possession and a deed containing a lien in favor of the defendant, reflecting the defendant's right to redeem during the statutory period.

Section 381.230 added 1942; § 426.530 amended 2016.

[Ky. Rev. Stat. §§ 381.230; 426.530 \(2020\)](#)

Lenders, Kentucky, Appeals

Appeal

Generally, a notice of appeal must be filed within 30 days of the judgment.

Sale scheduling

Sale of the property may be ordered "without giving time to pay money or do other act."

Redemption

If real property sold by judgment or court order (other than an execution) does not bring two-thirds of its appraised value, the defendant may redeem it within six months from the sale date, by paying the original purchase money, 10 percent interest, and any reasonable costs the purchaser incurred after the sale to maintain or repair the property. (Note that legislation enacted in 2014 reduced the redemption period from one year to six months for real property sold pursuant to a judgment or court order, other than an execution, if the sale did not bring two-thirds of the property's appraised value.)

Section 426.005 amended 1953; § 426.530 amended 2016; rule 73.02 amended 2010.

[Ky. Rev. Stat. §§ 426.005, .530 \(2020\); Ky. R. Civ. P. 73.02](#)

Taxing Authorities, Kentucky, Foreclosure Type

Judicial and non-judicial.

Taxing Authorities, Kentucky, Preconditions to Foreclosure

Delinquency

The state and each county, city, or other taxing district have a lien on the property assessed for taxes due for 11 years following the date the taxes become delinquent.

Every city with a population of less than 20,000 (based on the most recent federal decennial census) must file notice of its delinquent tax liens with the county clerk of any county in which the taxpayer's business or residence is located, or in any county in which the taxpayer has a property interest. The notice must be recorded in the same manner as notices of lis pendens are filed. The file must be designated miscellaneous state and city delinquent and unpaid tax liens.

Notice by third-party purchaser to taxpayer

Within 50 days after the clerk delivers a certificate of delinquency to a third-party purchaser, the third-party purchaser must send a notice to the delinquent taxpayer, informing the delinquent taxpayer that the third-party purchaser has purchased the certificate of delinquency. The notice must be sent by first-class mail with proof of mailing. The third-party purchaser must also send a notice at least annually until the notice required by § 134.490(2) is sent.

Anytime after the expiration of the one-year tolling period, the third-party purchaser may institute an action to collect the amount due on a certificate of delinquency. At least 45 days before instituting a legal action, the third-party purchaser must send to the taxpayer by first-class mail with proof of mailing, a notice informing the taxpayer that enforcement action will be taken, among other things.

The third-party purchaser must resend to the "Occupant" at the property's address any notices returned as undeliverable. A third-party purchaser must also submit to the department a copy of any notice sent and returned as undeliverable within 10 days of receipt of the returned notice. The department must attempt to obtain an updated address for the property owner from the individual or entity filing the property's tax return. The department must provide any updated address information to the third-party purchaser. If updated information is provided, the required notices must be sent again by first-class mail, with proof of mailing, within 10 days of the receipt of an updated address from the department.

The third-party purchaser must maintain records of all notices sent.

A third-party purchaser must send the required notices relating to "unmined coal, oil, or gas reserves or any other mineral or energy resources assessed separately from the surface real property" to the address the department provides.

The notices must include the following, among other information:

- a statement that the certificate of delinquency is a lien of record against the property for which delinquent taxes are owed;
- a statement that the certificate bears interest at the rate provided by § 134.125;
- a statement that if the certificate is not paid, it will be subject to collection, and that collection actions may include foreclosure;
- for the second notice, a statement of intent to institute legal action to collect the amount due;
- a complete listing of the amount due, as of the date of the notice;
- information regarding the provisions relating to third-party purchaser fees and charges; and
- contact information for the third-party purchaser.

For certificates of delinquency purchased after June 1, 2012, and at the delinquent taxpayer's written request, a third-party purchaser required to register with the department must provide a monthly installment payment plan to a taxpayer.

Notice by county to owner

Within 30 days of the date a certificate of delinquency is established, the county attorney or the department must mail a notice by regular mail to the owner of record at the address on property valuation administrator's records. The notice must, among other things:

- include the name, address, and telephone number of a contact person in the county attorney's office or the department;
- advise that the certificate of delinquency is a lien of record against the property, the amounts due are the taxpayer's personal obligation, and the certificate bears interest at 12 percent and, if not paid, will be subject to collection;
- include the total amount due as of the notice date;
- advise that anytime after 90 days from the creation of the certificate of delinquency, the certificate may be paid by a third-party purchaser and will be subject to collection by the third-party purchaser, who may impose substantial additional administrative costs and fees, and that collection actions may include foreclosure; and
- advise that the taxpayer may qualify for a payment plan with the county attorney or the department, if the taxpayer meets certain requirements and if the parties agree to the terms before the sale date.

At least 20 days after mailing the 30-day notice, but within 60 days of the date a certificate of delinquency is established, the county attorney or the department must mail a second notice, by regular mail, to owners of record at the address on the property valuation administrator's records.

This notice must contain:

- the name, address, and telephone number of a contact person in the county attorney's office or the department;
- a statement that a sale of tax claims will be held by the county clerk, with information regarding the sale and a statement regarding third-party purchasers, among other things; and

- a statement that the taxpayer may qualify for a payment plan with the county attorney or the department, if the taxpayer meets certain requirements and if the parties agree to the terms before the sale date.

If the notice is returned as undeliverable and the property valuation administrator is not able to provide a corrected or updated address, the county attorney or the department must address the 60-day notice to "Occupant" and mail it to the property's address.

Notice of intent by county to initiate action

Anytime after the expiration of the one-year tolling period, the county attorney or department may institute an action to collect the amount due on a certificate of delinquency owned by the taxing jurisdictions and in the county clerk's possession. At least 45 days before instituting a legal action, the county attorney or department must send, by regular mail, a notice of intent to initiate legal action to enforce the lien. The notice generally must be sent to the property's record owner.

Appraisal

If property is sold pursuant to a foreclosure judgment, it must be appraised.

Section 134.546 amended 2010; § 134.490 amended 2012; 134.504 amended 2016; § 134.420 amended 2014; § 134.452 amended 2017.

[Ky. Rev. Stat. §§ 134.420, .452, .490, .504, .546 \(2020\)](#)

Taxing Authorities, Kentucky, Public Notice and Posting Requirements

After the state, county, and taxing districts obtain real property, the commissioner's agent may advertise and sell at public sale any of the lands. The sales must be advertised by a written or printed notice posted at the courthouse door for 15 days before the sale date and by publication, and may also be advertised by printed handbills posted for 15 days before the sale date in three or more conspicuous places in the taxing districts.

When an advertisement is a notice of delinquent taxes or a notice of the sale of tax claims, it must be published either:

- once a week for three consecutive weeks; or
- once, preceded by a one-half page notice of advertisement the preceding week.

The half-page advertisement must include notice that a list of uncollectible delinquent taxes is also available for public inspection during normal business hours at the business address of the city or county and on an identified Internet Web site. The advertisement must include that business address and the URL for the Internet Web site, which must be affiliated with the city or county and contain other information about the city or county government. The delinquent tax list must be posted on the Internet Web site for at least 30 days and must be updated weekly.

Section 424.130 amended 2011; § 134.549 enacted 2009.

[Ky. Rev. Stat. §§ 134.549; 424.130 \(2020\)](#)

Taxing Authorities, Kentucky, Preconditions to Eviction

No specific provisions were located regarding evictions in the context of tax lien foreclosures or collections on certificates of delinquency. See [Ky. Rev. Stat. § 381.010 et. seq. \(2020\)](#) for general provisions regarding "Title to Property and Restrictions on Use, Ownership and Alienation."

Taxing Authorities, Kentucky, Appeals

Redemption

If property is sold pursuant to a foreclosure judgment, it must be appraised, and if the sale does not bring two-thirds of the property's appraised value, the defendant may redeem it within six months from the sale date, by paying the original purchase money and 10 percent interest. The defendant must also pay any reasonable costs incurred by the purchaser after the sale to maintain or repair the property.

Any real property acquired by the state, county, and taxing districts may be redeemed at any time before the commissioner gives a deed to a purchaser.

Section 134.546 amended 2010; § 134.549 enacted 2009; § 134.490 amended 2012; § 426.530 amended 2016.

[Ky. Rev. Stat. §§ 134.490, .546, .549; 426.530 \(2020\)](#)

Louisiana

Lenders, Louisiana, Foreclosure Type

Judicial. A conventional mortgage is enforced by "ordinary or executory proceedings."

History unknown.

[La. Code Civ. Proc. art. 3721 \(2019\)](#)

Lenders, Louisiana, Preconditions to Foreclosure

Proceedings

If a mortgagee enforces a conventional mortgage by an ordinary proceeding, he or she must first obtain a judgment against the mortgagor and then execute the judgment. If the mortgagee cannot obtain a personal judgment against the mortgagor, then the judgment is in rem.

If the mortgagee enforces a conventional mortgage by an executory proceeding, he or she must comply with La. Code Civ. Proc. art. 2631 through 2724.

Notice to judgment debtor

The sheriff must give notice to the judgment debtor when immovable property is seized for sale. The notice of seizure must be accomplished by personal or domiciliary service. If service cannot be made on the judgment debtor or his attorney of record, the court must appoint an attorney upon whom service may be made. The notice must include information concerning the availability of housing counseling services and the time, date, and place of the sheriff's sale.

Notice of seizure to occupants

The sheriff must also serve the occupants of the seized property with a written notice stating that the property has been seized. The notice must be directed to "occupants." If the notice cannot be served personally or by "domiciliary service" on the occupants, the notice must be posted on the main entrance to the premises. The failure to serve this notice does not invalidate the sheriff's sale, but the failure prevents the purchaser at the sheriff's sale from "availing himself of the provisions of R.S. 13:4346 as it applies to the ejectment or eviction of any occupants of the seized premises other than the judgment debtor."

If the premises consists of more than 10 units, the foreclosing creditor may have the sheriff post a sign to notify the building's residents of the seizure. A creditor's affidavit must be filed in the foreclosure proceeding stating that the sign was posted.

The above notice provisions apply only to foreclosure proceedings on property that is "occupied or intended for occupancy as a residence." It does not apply to foreclosure proceedings on property subject to "time share operations, hotels, motels, inns, guest houses, rooming houses, bed and breakfasts, camp sites, campgrounds, and other lodging establishments intended for the temporary housing of guests."

Notice of seizure

After seizure of property, the sheriff must give notice of the seizure to any person desiring to be notified who has filed a request for notice of seizure in the mortgage records of the parish where the immovable property is located. Also, an interested person may request, by written application to the sheriff, that a written notice of seizure be given to any other person or persons.

Upon seizure of immovable property, the sheriff must request from the clerk of court, or the recorder of mortgages for the parish of Orleans, at least 21 days before the first scheduled sheriff's sale, a mortgage certificate effective as of the date and time of the filing of the notice of seizure. Upon receipt of the mortgage certificate the sheriff must notify, at least 10 days before the first scheduled sheriff's sale, those persons requesting notice of the seizure. The notice of seizure must be made by:

- certified mail, return receipt requested;
- actual delivery; or
- any "manner provided for service of citation."

The notice must include:

- the seizing creditor's name and address;
- the method of seizure;
- the sum owed; and
- the date of the first scheduled sheriff's sale.

Appraisal

Seized property must be appraised before sale, unless:

- the seized property is subject to a mortgage, security agreement, or other document in which the debtor has waived the right to appraisal; and
- the judgment recites that the judgment creditor's right to enforce the judgment is limited to the collateral or security for the judgment amount.

If a "mortgage on immovable property contains a waiver of appraisal and is sought to be enforced under a writ of fieri facias and the plaintiff prays for a sale without appraisal," the sale will be conducted without appraisal.

Reading of advertisement and certificates

At the time and place designated for the sale, the sheriff must read aloud the advertisement. "The sheriff shall also read aloud a mortgage certificate and any other certificate required by law or otherwise provide, at least twenty-four hours prior to the sale, a copy of such certificates to the public by means of public posting, written copies, electronic means, or by any other method."

Articles 2332 and 3722 amended 2003; § 13:3886 amended 2005; § 2334 amended 2019; article 2293 amended 2013; articles 2334 and 3723 last modified 2005.

[La. Code Civ. Proc. art. 2293, 2332, 2334, 3722, 3723 \(2019\)](#); [La. Rev. Stat. § 13:3886 \(2019\)](#)

Lenders, Louisiana, Public Notice and Posting Requirements

Notice of sale

Notice of the sale must be published at least twice. The notice may not be published less than three days after the debtor receives notice of the sale. The publication must be no less than 10 days before the sale.

In parishes other than Orleans Parish, notice must be published in a newspaper published in the parish that is designated for the publication of judicial advertisements. If there is no newspaper

published in the parish, all advertisements or notices must be posted at or near the front door of the courthouse and at two other public places in different parts of the parish.

In a parish that contains a municipality with a population of at least 300,000, advertisements and legal notices must be published in a publication that:

- is domiciled in the parish;
- is published in English at least weekly;
- meets the requirements of La. Rev. Stat. § 43:200(3)(a), (b), and (c); and
- has maintained a total circulation of at least 30,000 for at least five consecutive years.

In Orleans Parish, the advertisement must be published in a daily newspaper selected by the sheriff, constable, clerk, or other officer charged with conducting the sale. Additional advertisements must be inserted in an auxiliary journal that satisfies the requirements of law regarding official journals of political subdivisions. When additional judicial advertisements are required in an auxiliary journal in a parish with a population of at least 300,000, the auxiliary journal must have been published for at least 75 years and meet other statutory requirements. However, in Orleans Parish a daily newspaper with a general paid circulation may be selected to publish judicial advertisements and legal notices if the newspaper has "maintained a public business office in Orleans Parish for eight consecutive months" before January 1, 2014.

Special provisions also apply to publications in Jefferson Parish.

Section 43:203 amended 1972; art. 2293 amended 2013; art. 2331 modified 2005; § 43:201.1 enacted 2012; §§ 43:201 and 43:202 amended 2014.

[La. Code Civ. Proc. arts. 2293, 2331 \(2019\); La. Rev. Stat. §§ 43:201, :201.1, :202, :203 \(2019\)](#)

[Lenders, Louisiana, Preconditions to Eviction](#)

An action to evict a person other than a tenant may be brought after five days' notice to vacate is delivered to the occupant.

Provisions that require a lessor to disclose in writing to lessees and to prospective lessees certain information, including pending foreclosure actions, apply only to lessors of residential dwellings.

Article history unknown; statutory section enacted 2013.

[La. Code Civ. Proc. art. 4702 \(2019\); La. Rev. Stat. § 9:3260.1 \(2019\)](#)

Lenders, Louisiana, Appeals

Appeal

No specific provisions relating to objections or appeals were located. If a party appealing an order wishes to suspend proceedings, or if the appeal is in a possessory action, the appeal generally must be filed within 30 days of the mailing of the notice of judgment.

Sale scheduling

No provisions relating to the scheduling of sales were located.

Amended 2010.

[La. Code Civ. Proc. art. 3662 \(2019\)](#)

Taxing Authorities, Louisiana, Foreclosure Type

Non-judicial.

Taxing Authorities, Louisiana, Preconditions to Foreclosure

Notice of Delinquency

No later than the first Monday of February of each year, or as soon after that date as possible, the tax collector must send written notice of delinquency certified mail, return-receipt requested, to each tax notice party if the debtor has not paid all statutory impositions assessed on immovable property. The notice must contain:

- a statement that, unless all impositions are paid within 20 days after sending the notice, the property will be sold at tax sale;
- the time and place of the scheduled sale;
- the debtor's redemption rights; and
- the total amount of statutory impositions owed.

Public notice of the delinquent tax list shall be made as described in *Public Notice and Posting Requirements*.

Before the tax sale, the tax collector must send a written notice by certified mail, return receipt requested, to each identified tax sale party. The notice must advise the person that the statutory impositions on the immovable property must be paid within 20 days after the notice is sent, or the property's tax sale title will be sold.

Conduct of Sale

The collector must sell the property on or before May 1 of the year following the statutory imposition to be collected. The price must be the amount of statutory impositions due on the property, costs, penalties and interest.

Notice of Sale

For each property for which the tax sale title was sold to a tax sale purchaser or adjudicated to a political subdivision at a tax sale, the collector must, within 30 days of the filing of the tax sale certificate (or as soon as practical), provide written notice that tax sale title has been sold at a tax sale. The notice must be mailed to "each tax notice party and each tax sale party whose interest would be shown on a thirty-year mortgage certificate in the name of the tax debtor and whose interest was filed" before the tax sale certificate was filed.

The notice must specify:

- the property upon which the taxes are delinquent;
- the taxes due; and
- the manner in which the property must be redeemed.

Post-Sale Notice

Upon sale, the collector must prepare and file a tax sale certificate containing:

- the sale proceedings' history;
- the property's description;
- the amount paid; and
- the purchaser's identity.

Recording the tax sale certificate triggers the tax debtor's redemption period.

The collector must send written notice of sale and right of redemption by U.S. mail to each tax notice party and tax sale party every January or, if the redemption period is less than two years, upon filing the tax sale certificate and every January and June thereafter.

After the property goes to tax sale and within 90 days of the expiration of the redemptive period, the tax collector must provide written notice by first-class to each tax notice party that tax sale title to the property has been sold and that after the expiration of the redemptive period, the property cannot be redeemed. Failure of the debtor to receive actual notice of the tax sale does affect the validity of the tax sale when the tax collector demonstrates a reasonable and diligent effort to provide notice.

Notice upon Expiration of Redemption Period

Upon the expiration of the redemption period, the purchaser may send written notice to a tax sale party, and publish the notice as described in *Public Notice and Posting Requirements*. The notice must contain a statement that the redemption period has passed and that their rights and interest will be terminated unless they file a court action to challenge the tax sale within 60 days, if more than five years from the filing of the tax certificate, or six months, if less than five years from the filing of the tax certificate. After the expiration of the applicable period, the purchaser may file an affidavit with the recorder of mortgages that notice of sale was given.

In New Orleans, abandoned or blighted residential or commercial property is redeemable for 18 months after the recordation date of the tax sale. Effective January 1, 2015, in any parish other than Orleans, vacant and blighted residential or commercial property is redeemable for 18 months after the recordation date of the tax sale.

Requests for Notice

Any person may request that all notices that are sent to a tax debtor also be sent to the requesting person by sending a written notice to the tax collector and paying a reasonable sum to defray the cost of providing the notice. A mortgage holder who has requested notice and paid the fee will receive notices until the tax collector receives notice of the cancellation of the mortgage inscription.

Property Adjudicated to a Political Subdivision

See La. Rev. Stat. § 47:2236 for additional notice and publication requirements that apply when whenever property or tax sale title to property is adjudicated to a political subdivision.

Section 2155 amended 2009; §§ 2157, 2159, and 2236 enacted 2008; §§ 2153 and 2156 amended 2019; § 2154 amended 2012; constitutional section last amended effective 2015.

[La. Rev. Stat. §§ 47:2153, :2154, :2155, :2156, :2157, :2159, :2236 \(2019\); La. Const. art. VII, § 25](#)

Taxing Authorities, Louisiana, Public Notice and Posting Requirements

Notice of Delinquent Tax List

Twenty days after mailing a tax debtor written notice of delinquency, the collector must publish notice of delinquency to the debtors and an advertisement for sale two times within 30 days in the official journal of the parish or municipality, including the time and place of the sale, the year the delinquent taxes were assessed, the total amount of all statutory impositions, and the property description.

Also, the tax collector may elect to publish on the Internet the portion of the notification and advertisement that includes:

- the delinquent tax debtors' names;
- the statutory impositions due; and
- the description of each specific piece of immovable property to be offered for sale.

If a detailed listing of properties offered for tax sale is posted on the Internet, the tax collector must provide, in the original printed notification or advertisement, the web address at which a comprehensive list of debtors and properties offered for sale can be viewed.

Notice of Tax Sale

After the expiration of the redemption period, the tax purchaser may publish in the official journal of the parish or municipality a notice of tax sale once a week for two consecutive weeks.

Property Adjudicated to a Political Subdivision

See La. Rev. Stat. § 47:2236 for additional notice and publication requirements that apply whenever property or tax sale title to property is adjudicated to a political subdivision.

Sections 2157 and 2236 enacted 2008; § 2153 amended 2019.

[La. Rev. Stat. §§ 47:2153, :2157, :2236 \(2019\)](#)

Taxing Authorities, Louisiana, Preconditions to Eviction

Eviction Action

An action to evict a person other than a tenant may be brought after five days' notice to vacate is delivered to the occupant.

Possession Rights

No generally applicable provisions were located. However, for property adjudicated to political subdivisions, upon the presentation of a certified copy of the tax sale certificate, after 10 days' notice to the owner and proper hearing, the judge will grant an order of possession commanding the sheriff to place the political subdivision in actual possession of the adjudicated property.

Statutory section enacted 2008; article history unknown.

[La Rev. Stat. § 47:2232 \(2019\)](#); [La. Code Civ. Proc. art. 4702 \(2019\)](#)

Taxing Authorities, Louisiana, Appeals

Tax sale

A tax sale must be conducted on any weekday with bidding opening no earlier than 8 a.m. and closing no later than 8 p.m. If a tax sale is conducted by using an online or electronic bidding process conducted over multiple days, bids may be placed on "any day at any time on any sale property upon which bidding has not closed, provided that all sales of property close on a weekday within the legal hours for sale."

Redemption

Property sold at a tax sale is redeemable for three years after the tax sale is recorded, by paying the price given, including costs, a five-percent penalty, and one-percent monthly interest.

In New Orleans, abandoned or blighted residential or commercial property is redeemable for 18 months after the recordation date of the tax sale. Effective January 1, 2015, in any parish other than Orleans, vacant and blighted residential or commercial property is redeemable for 18 months after the recordation date of the tax sale.

For property adjudicated to a political subdivision, after the applicable redemption period expires, a person may redeem tax sale title to property in the name of the tax debtor until any of the following occurs:

- the later of 60 days or six months, as applicable, after the notice required by La. Rev. Stat. § 47:2206, or the filing of the sale or donation transferring the property from the political subdivision;

- the granting of an order of possession; or
- 60 days or six months, as applicable, after the notice required by La. Rev. Stat. § 47:2236.

Evidence

A tax sale certificate is "prima facie evidence of the regularity of all matters regarding the tax sale and the validity of the tax sale." The tax sale purchaser, the political subdivision, or the purchaser or donee from a political subdivision is presumed to possess the property in good faith.

Action to Annul Tax Sale

A tax debtor generally may file an action to set aside and annul a tax sale within six months after service of the notice of sale, which may not be served until the redemption period expires, or within five years from the recordation of the tax deed if no notice of sale was given. An action to set aside or annul a tax sale may be filed at any time if based on proof that the debtor paid all taxes due before the sale date.

A tax sale may not be set aside except for:

- a payment nullity, which action must be brought before the later of (a) five years after tax sale certificate is recorded or (b) if the person bringing the action was not notified at least 60 days before the end of that five-year period, then within 60 days after the date the person was notified;
- a redemption nullity, which action must be brought before the earlier of (a) six months after a person is notified using a notice, other than the notice provided in § 47:2156, that is sent between the time that the redemptive period ends and five years after the date the tax sale certificate it recorded; or (b) if a person is duly notified more than five years after the tax sale certificate recording date, 60 days after the person is notified; or

- a nullity under La. Rev. Stat. § 47:2162.

The action must be brought in the district court of the parish in which the property is located. A nullity action is an "ordinary proceeding governed by the Louisiana Code of Civil Procedure."

The action may also be brought as a "reconventional demand," an intervention in an action to quiet title, or as an intervention in a motion proceeding, in which case the action must be asserted within the time specified for that type of action or proceeding.

Conditions to effectiveness of judgment

A judgment annulling a tax sale or other transfer based is not effective until all statutory impositions, governmental liens, applicable costs, interest and penalties, and other amounts provided by statute are paid.

Section 2155 amended 2009; §§ 2234, 2286, 2287, 2290, and 2291 enacted 2008; § 2246 amended 2010; constitutional section amended effective 2015.

[La. Const. art. VII, § 25](#); [La. Rev. Stat. § 47:2154](#), [:2155](#), [:2234](#), [:2246](#), [:2286](#), [:2287](#), [:2290](#), [:2291 \(2019\)](#)

Maine

Lenders, Maine, Foreclosure Type

Judicial and non-judicial. Non-judicial foreclosures are available only for business, commercial, or agricultural property.

Section amended 2015.

[Me. Rev. Stat. tit. 14, § 6203-A\(1\) \(2019\)](#)

Lenders, Maine, Preconditions to Foreclosure

Judicial

Breach

After the breach of a mortgage's condition, the mortgagee may foreclose by a civil action against all parties in interest in either the Superior Court or the District Court in the division in which the mortgaged premises are located, regardless of the amount of the mortgage claim.

Notice of right to cure requirement does not apply

Me. Rev. Stat. tit. 14, § 6111, which provides that no action to enforce a mortgage may be brought until at least 35 days after the lender has given notice of the right to cure the default, applies only to mortgages on residential property when the mortgagor occupies the property as the mortgagor's primary residence and the mortgage secures a loan for personal, family, or household use.

Foreclosure mediation program does not apply

The mandatory foreclosure mediation program notice required by § 6321-A applies only to the foreclosure of a mortgage on owner-occupied residential real property of no more than four units that is the owner-occupant's primary residence.

Notice of sale

Upon the expiration of the redemption period, if the mortgagor or the mortgagor's successors, heirs, or assigns have not redeemed the mortgage, the mortgagee must publish a notice of a public sale. (See *Public Notice and Posting Requirements* for details.) The mortgagee, in its sole discretion, may allow the mortgagor to redeem or reinstate the loan after the expiration of the redemption period but before the public sale.

In foreclosures by civil action brought on or after January 1, 1995, the mortgagee must also mail a notice of the public sale by ordinary mail to all parties who appeared in the foreclosure action or to their attorneys. The notice of sale must be mailed no less than 30 calendar days before the sale date.

Upon a showing of good cause, the court may extend the deadline for publishing the notice of sale or conducting the public sale.

Non-judicial

Use of power of sale (§§ 501-A, 6203-A)

A power of sale may be included in any mortgage granted by a corporation, partnership, limited partnership, liability limited liability partnership or company, or trustee of a trust that contains a power of sale. However, the power of sale may *not* be used to foreclose a mortgage granted by a trustee of a trust if:

- the real estate is used exclusively for residential purposes; or
- the real estate has four or fewer residential units and one of the units is the principal residence of the owner of at least half of the beneficial interest in the trust.

For mortgage deeds executed on or after October 1, 1993, the power of sale may be used only if the mortgage deed states that it is given primarily for business, commercial, or agricultural purposes. If the mortgage deed contains a statement that at the time the mortgage deed was given, the mortgaged real estate was not used exclusively for residential purposes, that the real estate has more than four residential units or that none of the residential units is the principal residence of the owner of at least half the beneficial interest in the trust, that statement conclusively establishes those facts, and the mortgage may be foreclosed by the power of sale.

Foreclosure Notice (§ 6203-A(1-A))

Effective October 15, 2015, at least 21 days before the sale date under the power in a mortgage, a copy of the foreclosure notice:

- must be served on the mortgagor or its representative in interest; or
- may be sent by registered or certified mail addressed to the mortgagor or its representative at the mortgagor's last known address, or to the person and address agreed upon in the mortgage or provided in writing by the mortgagor.

A copy of the foreclosure notice must also be sent by first-class mail, postmarked at least 21 days before the public sale, to all other parties in interest, except for parties in interest having a superior priority to the foreclosing mortgagee. It must be sent to:

- any address listed in the instrument evidencing the interest;
- if no address is listed, to the registered agent for the party in interest; or
- to any other address that may be readily available to the mortgagee.

Default

A mortgagee may sell the mortgaged premises by a public sale upon default in the performance of a mortgage containing a power of sale.

Notice of sale

Before the sale, a notice of sale must be published and recorded. (See *Public Notice and Posting Requirements* for details.) At least 21 days before the sale date, the notice must also be served on the mortgagor or sent by registered mail addressed to the mortgagor (or the mortgagor's

representative) at his or her last known address, or to the person and to the address as may be agreed upon in the mortgage.

The mortgagee must also provide a copy of the notice to the tenants if the mortgagee knows or should know that the property is a rental unit. Notice to a tenant may be served by the sheriff or sent by first class mail and registered mail at the tenant's last known address.

Notice of intention to foreclose and deficiency (§ 6203-E)

A mortgagee may not bring an action for a deficiency after a foreclosure by power of sale, unless a written notice of the mortgagee's intent to foreclose the mortgage has been served on the mortgagor or sent by registered or certified mail with return receipt requested at least 21 days before the sale date.

Section 501-A amended 2015; §§ 6321-A, 6111 and 6323 amended 2019; §§ 6203-A, 6203-E, and 6321 amended 2015.

[Me. Rev. Stat. tit. 14, §§ 6111, 6203-A, 6203-E, 6321, 6321-A, 6323; tit. 33, § 501-A \(2019\)](#)

Lenders, Maine, Public Notice and Posting Requirements

Judicial

Notice of sale (§ 6323)

A notice of sale must be published once in each of three successive weeks in a newspaper of general circulation in the county in which the premises are located. The first publication must be not more than 90 days after the redemption period expires.

Notice to tenants (§ 6322-A)

The mortgagee must, after entry of final judgment in its favor, provide a copy of the foreclosure judgment to any residential tenant of the premises. A tenant's notice may be provided by first class mail and registered mail at the tenant's last known address only after the mortgagee has made two good faith efforts to provide written notice to the tenant in person.

Abandoned Property (§ 6326)

If a court issues an order of abandonment, the foreclosure action may be advanced on the docket and the redemption period is shortened. However, the plaintiff must:

- notify the municipality in which the premises are located; and
- record the abandonment order in the appropriate registry of deeds within 30 days from the later of the date of (a) the foreclosure judgment and (b) the abandonment order.

The state's laws regarding abandoned premises apply only to property for which more than 50 percent of the mortgaged premises is used for residential purposes.

Non-judicial

Notice of sale (§ 6203-A)

Before a sale under a power of sale, notice must be published once in each of three successive weeks in a newspaper of general circulation in the town in which the land is located. The first publication must be no less than 21 days before the sale date. Effective October 15, 2015, the notice must comply with the requirements set forth in § 6203-A(3). This requirement is "implied in every power of sale mortgage in which it is not expressly set forth." At least 21 days before the sale date, a copy of the notice must be recorded in the registry of deeds.

Recording of affidavit of sale (§ 6203-B)

The mortgagee must, within 30 days after the date of delivery of the deed to the purchaser, record in the registry of deeds office a copy of the foreclosure notice as published and an affidavit. The affidavit must contain the information required by statute.

Section 6323 amended 2019; § 6322-A enacted 2009; § 6326 enacted 2013; §§ 6203-A and 6203-B amended 2015; § 6107 history unknown.

[Me. Rev. Stat. tit. 14, §§ 6107, 6203-A, 6203-B, 6322-A, 6323, 6326 \(2019\)](#)

Lenders, Maine, Preconditions to Eviction

Judicial

Writ of possession (§ 6323)

A writ of possession is issued to the purchaser at the foreclosure sale, along with the deed, if a writ of possession was obtained during the foreclosure process.

Notice to tenants (§ 6322-A)

A mortgagee must, after a final judgment is entered in its favor, provide a copy of the foreclosure judgment to any residential tenant of the premises. A residential tenant's notice may be provided by first class mail and registered mail at the tenant's last known address only after the mortgagee has made two good faith efforts to provide written notice to the tenant in person. A residential tenant may not be evicted unless a mortgagee institutes an action for forcible entry and detainer pursuant to § 6001 after providing this notice and after the redemption period expires.

Nonjudicial

Notice to tenants (§ 6203-A(2))

A mortgagee must provide a copy of the foreclosure notice to a residential tenant if the mortgagee knows or should know that the property is a rental unit. Notice to a residential tenant may be served by the sheriff, sent by first class mail at the tenant's last known address, or, effective October 15, 2015, posted conspicuously at each entrance to the mortgaged premises. No less than 21 days after service of the notice, the mortgagee may institute a detainer action pursuant to § 6001.

Section 6322-A amended 2009; § 6323 amended 2019; § 6203-A amended 2015.

[Me. Rev. Stat. tit. 14, §§ 6203-A, 6322-A, 6323 \(2019\)](#)

Lenders, Maine, Appeals

Judicial

Appeal

No specific provisions relating to appeals were located. As a general rule, civil appeals must be filed within 21 days of the entry of judgment.

Sale scheduling

Except as otherwise provided by federal regulation, the public sale must be held between 30 and 45 days after the first date of publication of the notice of sale.

As of August 1, 2014, except for sales of abandoned premises, the public sale may be adjourned for up to seven days until a sale is made. The change must be announced to those present at each adjournment. For sales of premises that the court has determined to be abandoned pursuant to § 6326, the public sale may be adjourned only once for up to seven days, although the court may permit one additional adjournment for good cause. Adjournments may also be made pursuant to federal regulations. However, the state's laws regarding abandoned premises apply only to property for which more than 50 percent of the mortgaged premises is used for *residential* purposes.

Non-judicial

Appeal

No specifically applicable provisions were located.

Real action against mortgagee in possession after mortgage paid

If a mortgagee has taken possession of the mortgaged premises, and the debt secured by the mortgage is paid or released before the foreclosure is perfected, the mortgagor may maintain "a real action to recover possession of said premises, the same as if paid or released before condition broken."

Redemption

A civil action may not be brought for redemption of mortgaged premises, founded on a tender of payment, unless it is brought within one year after such tender.

If the purchaser of an equity of redemption has satisfied and paid to the mortgagee the sum due on the mortgage, the mortgagor, if the mortgagor has redeemed the equity of redemption within one year after the sale, may redeem the property from the purchaser or any person claiming under him "within the time and in the manner that he might have redeemed it of the mortgagee if there had been no such sale made, and within such time only."

Section 6323 amended 2019; § 6326 enacted 2013; §§ 6209 and 6313 history unknown; Rule 2 restyled 2017.

[Me Rev. Stat. tit. 14, §§ 6209, 6313, 6323, 6326 \(2019\); Me. R. App. P. 2B\(2\)\(c\)](#)

Taxing Authorities, Maine, Foreclosure Type

Judicial and non-judicial.

Taxing Authorities, Maine, Preconditions to Foreclosure

Civil Action

Demand letter

When there is a lien on real estate for unpaid taxes, the tax collector may, after eight months and within one year from the date of original commitment of the tax (or, in the case of deferred taxes for the elderly, after the due and payable date), give to the person against whom the tax is assessed, leave at the person's last and usual place of abode, or send by registered mail to his or her last known address, a written notice. The notice must

- state the tax amount;
- describe the real estate; and
- demand the payment of the tax within 10 days after service of the notice.

Effective December 13, 2018, for property that constitutes a homestead for which a property tax exemption is claimed, the tax collector must include, with the above written notice, notice to the person named on the tax lien mortgage that that person may be eligible to file an application for tax abatement, "indicating that the municipality, upon request, will assist the person in requesting an abatement and provide information regarding the procedures for making such a request. The notice must also indicate that the person may seek assistance from the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection regarding options for finding an advisor who can help the person work with the municipality to avoid tax lien foreclosure and provide information regarding ways to contact the bureau."

Procedure

The tax collectory may bring a civil action for collection of the tax in the county where the property is located after the 10-day notice period expires. The action is begun by a writ of attachment commanding the officer serving it to attach the real estate on which the tax lien is claimed. The writ must be served as other writs of attachment to enforce real estate liens. If no service is made upon the person against whom the tax is assessed, or if it appears that other persons are interested in the property, the court must order notice of the action as appears proper and allow those persons to become parties.

If the court finds that the tax was legally assessed and is unpaid, and that there is an existing tax lien on the property, judgment must be rendered for the tax against the defendants and the real estate attached.

Tax Lien Mortgage Foreclosure

Demand letter

When there is a lien on real estate for unpaid taxes, the tax collector may, after eight months and within one year from the date of original commitment of the tax, give to the person against whom the tax is assessed (or, in the case of deferred taxes for the elderly, after the due and payable date), leave at the person's last and usual place of abode, or send by registered mail to his or her last known address, a written notice. The notice must

- state the tax amount;
- describe the real estate;
- allege that a lien is claimed on the real estate to secure payment of the tax; and
- demand payment of the tax within 30 days after service or mailing of the notice.

Procedure

After expiration of the 30-day notice period and within 10 days thereafter, the tax collector must:

- record a tax lien certificate in the registry of deeds of the county or registry district where the delinquent real estate is located;
- file a copy of the certificate with the municipal treasurer;
- hand deliver or send by certified mail, return receipt requested, a copy of the certificate to each record holder of a mortgage on the property; and
- if the property has not been assessed to its record owner, send a copy to the record owner by certified mail.

Filing the tax lien certificate in the registry of deeds creates a tax lien mortgage on the property in favor of the municipality in which the property is located. If the tax lien mortgage is not paid within 18 months after the filing, it is deemed to have been foreclosed and the right of redemption expires.

Notice of Foreclosing Tax Lien

The municipal treasurer must notify the party named on the tax lien mortgage and any record holder of a mortgage on the property not more than 45 days nor less than 30 days before the foreclosing date of the impending automatic foreclosure and the date thereof. The written notice must be left at the holder's last and usual place of abode or sent by certified mail, return receipt requested, to the holder's last known address. If notice is not given as required, the person not receiving timely notice may redeem the tax lien mortgage until 30 days after the treasurer does provide notice.

Foreclosure in Equitable Relief Action

As an alternative to the proceedings for foreclosure of a tax lien mortgage described above, a municipality may, if a waiver of foreclosure has been recorded, *see Appeals—Waiver of Foreclosure*, foreclose any tax lien mortgage held by the municipality for a period of at least four years from the date of filing the tax lien certificate by an action in rem for equitable relief.

Notice of pendency of complaint

The court must order that notice of the pendency of the complaint be given to the defendants by mailing a copy of the published notice to the defendants at their last known address. *See Public Notice and Posting Requirements—Foreclosure in Equitable Relief Action.*

Procedure

An action for equitable relief may be commenced on or before April 1 and may relate only to tax lien mortgages arising from taxes assessed in a given year.

Tax Collector's Tax Auction Sale

If any real estate tax remains unpaid on the first Monday in February next after the tax was assessed, the tax collector must sell at public auction so much of the real estate as is necessary for payment of the tax, interest, and all charges.

Notice of Sale

After the real estate is advertised, *see Public Notice and Posting Requirements—Tax Collector's Tax Auction Sale*, and at least 10 days before the sale date, the tax collector give the owner, if a resident, or any occupant notice of the sale. The notice must be given by:

- delivery in person;

- registered mail with receipt demanded; or
- leaving at his last and usual place of abode.

The notice must state the time and place of sale and the taxes due.

For nonresident owners, the notice must be sent by mail to the last and usual address, if known, at least 10 days before the sale date.

Procedure at sale

A public auction of tax delinquent property is held on the first Monday in February at 9:00 a.m. at the tax collector's office or at the place where the last annual municipal meeting was held. The tax collector may, if necessary to complete the sales, adjourn the auction from day to day. The municipality may bid on any property in which it is interested. If the purchaser at the sale does not pay the amount bid within 20 days after the sale date, the sale is void, and the municipality is deemed the purchaser of the real estate so sold.

Within 30 days after the sale, the tax collector lodges with the municipal treasurer a deed of each parcel sold running to the purchaser. The treasurer must keep the deed on file until the two-year redemption period expires.

Notice of purchase to mortgagees

If there is an undischarged recorded mortgage on the real estate sold for taxes, the purchaser at the sale must notify the record holder of each such mortgage within 60 days from the sale date by sending a notice by registered letter addressed to the record holder's residence given in the registry of deeds in the county where the property is located. The notice must state that the purchaser has purchased the property at a tax sale and request the mortgagee redeem it. If the notice is not given, the mortgagee may redeem the real estate at any time within three months after receiving actual notice of the sale.

Foreclosure of Real Estate in Unincorporated or Unorganized Places

See [Me. Rev. Stat. tit. 36, § 1281 et seq.](#) for procedures that apply to the foreclosure of tax mortgage liens on real estate located in unincorporated and unorganized places imposed for nonpayment of unorganized territory educational and services taxes.

Levy

Real estate tax liens on nonresidential property may also be foreclosed and sold by levy pursuant to [Me. Rev. Stat. tit. 36, § 176-A](#).

Section 943 amended 2019; § 941 amended 2010; § 942 amended 2019; §§ 945, 1071, 1073, 1076, 1077, 1080, and 1082 unknown.

[Me. Rev. Stat. tit. 36, §§ 941, 942, 943, 945, 1071, 1073, 1076, 1077, 1080, 1082 \(2019\)](#)

Taxing Authorities, Maine, Public Notice and Posting Requirements

Recordings

The tax collector must record in the registry of deeds of the county or registry district where the real estate is situated a tax lien certificate. The certificate must

- set forth the tax amount;
- describe the real estate;
- allege that a lien is claimed on the real estate to secure the tax payment; and
- state that a demand for payment of the tax has been and that the tax remains unpaid.

Foreclosure in Equitable Relief Action

In an action for foreclosure of a tax lien mortgage in an equitable relief action, notice of the pendency of the complaint must be given to the defendants by publication of the complaint and the court's order of notice in a newspaper published or printed in whole or in part in the county where the municipality is located, if any, or if none, in the state paper. The notice must be published once a week for three consecutive weeks with the last publication not less than 30 days before the time for the defendants' appearance. In addition, the complaint and order must be posted in at least three public places within the municipality during the same period.

Tax Collector's Tax Auction Sale

In the case of resident-owned real estate, the tax collector may give notice of the sale by posting notices in the same manner and at the same places that warrants for municipal meetings are required to be posted at least six weeks and not more than seven weeks before the first Monday in February, designating the name of the owner if known, the location and size of the property, the tax due and whatever other identification information is necessary.

In cases of real estate of nonresident owners, the tax collector must publish the notices of sale in a newspaper, if any, published in the county three successive weeks, publication to begin at least six weeks before the first Monday in February. If no newspaper is published in the county the notices must be published in the state paper. The notices must state that if the taxes are not paid before the first Monday in February, so much of the property as is sufficient to pay the amount due will be sold without further notice on the first Monday of February.

No irregularity, informality or omission in giving notice renders the sale invalid, but the tax collector is liable to any person injured thereby.

Section 942 amended 2019; history of §§ 945 and 1071 unknown.

[Me. Rev. Stat. tit. 36, §§ 942, 945, 1071 \(2019\)](#)

Taxing Authorities, Maine, Preconditions to Eviction

Equitable Relief

A municipality that has become the purchaser at a sale of real estate for nonpayment of taxes and any purchaser from a municipality of real estate or a lien acquired by a municipality as purchaser at a sale, may maintain an action for equitable relief against any and all persons who claim some right, title or interest in the premises adverse to the municipality's or purchaser's estate.

Possession Rights

The tax lien mortgage created upon the filing of a tax lien certificate does not give the municipality any right of possession until the right of redemption expires.

Section 946 amended 1975; § 943 amended 2019.

[Me. Rev. Stat. tit. 36, §§ 943, 946 \(2019\)](#)

Taxing Authorities, Maine, Appeals

Redemption

Civil action

Any person interested in real estate ordered sold under execution of a judgment in a civil action for collection may redeem it at any time within one year after its sale by paying the amount for which it was sold with interest.

Tax Lien Mortgage Foreclosure

The right to redeem from a tax lien mortgage foreclosure expires 18 months after the filing of the tax lien certificate with the registry of deeds. After expiration of the 18-month period, if the record mortgagee of the property, or its assignee, and the owner of record if the property has not been assessed to him, or the person claiming under him, have not been provided notice, they have the right to redeem within three months of receiving actual knowledge of the recording of the tax lien certificate.

Tax Collector's Sale

Any person with the right of redemption may at any time within two years from the date of sale redeem the property by paying into the municipal treasury for the purchaser, the full amount due including taxes, costs and charges.

Waiver of Foreclosure

The municipal treasurer, when authorized by the municipality's inhabitants, or in the case of a city by the city's legislative body, may waive foreclosure of a tax lien mortgage by recording a waiver in the registry of deeds in which the tax lien mortgage is recorded before the right of redemption expires. If the tax lien mortgage is not paid within six months after the waiver is recorded, the tax lien mortgage may be foreclosed in an equitable action. In such action the court must provide a period of redemption which shall expire not less than 90 days from the court's decree and in no event before the expiration of 18 months from the date of filing of the tax lien certificate in the registry of deeds.

Limitations

As of August 1, 2014, the following restrictions are placed on a title action brought against the validity of a governmental taking of real estate for the nonpayment of property taxes:

- for a tax lien recorded after October 13, 2014, a person must bring the action before the expiration of a five-year period immediately following the end of the redemption period;

- for a tax lien recorded after October 13, 1993, but on or before October 13, 2014, a person must bring the action on or before the earlier of (a) the expiration of a 15-year period immediately following the end of the redemption period, and (b) October 13, 2019; and
- for a tax lien recorded on or before October 13, 1993, a person must bring the action on or before the later of (a) 15 years after the end of the redemption period or (b) July 1, 1997.

Defenses in a Tax Lien Foreclosure Action

In an action to foreclose a tax lien mortgage, the defendant must allege as a defense in his or her answer any invalidity or defect in the proceedings, from the assessment of the tax to the time of filing of the complaint.

Evidence

In any civil action involving the validity of the sale of real estate for nonpayment of taxes, a duly executed and recorded tax collector's deed is prima facie evidence of title.

Section 941 amended 2009; § 943 amended 2019; § 944 amended 2011; § 946-B enacted 2013; history of §§ 947, 1078, and 1083 unknown.

[Me. Rev. Stat. tit. 36, §§ 941, 943, 944, 946-B, 947, 1078, 1083 \(2019\)](#)

Maryland

Lenders, Maryland, Foreclosure Type

Judicial and hybrid non-judicial if the mortgage or deed of trust contains a power of sale.

Lenders, Maryland, Preconditions to Foreclosure

Judicial

Service of process

If the loan document does not contain a power of sale or assent to a decree, process must be served according to Title 2, Chapter 100 of Maryland Rules (except in an action to foreclose a lien on residential property, in which case service must be in accordance with Rule 14-209). Generally, the action proceeds in the same manner as any other civil action.

Order directing immediate sale

If after a hearing, the court finds that the "interests of justice require an immediate sale of the property" and that a sale would likely be ordered in a judgment in the action, the court may order a sale of the property before judgment.

Residential timing and notice requirements do not apply

Md. Code, Real Prop. § 7-105.1, which provides, among other things, that an action to foreclose a mortgage or deed of trust on residential property may not be filed until the later of 90 days after a default or 45 days after the notice of intent to foreclose, applies only to residential property. "Residential property" means real property "improved by four or fewer single family dwelling units that are designed principally and are intended for human habitation."

Loss mitigation procedures do not apply

Maryland's loss mitigation procedures, which require a loss-mitigation application and information to accompany a notice of intent to foreclose, apply only to the foreclosure of a mortgage or deed of trust on owner-occupied residential property. For property that is not an owner-occupied residential property, the notice of intent to foreclose must be accompanied by:

- a written notice of the determination that the property is not owner-occupied residential property; and

- a telephone number to call to contest the determination.

Notice of sale

Written notice of the proposed sale must be provided to the property's record owner. Notice of the time, place, and terms of the sale must be sent by certified and first-class mail to:

- the borrower;
- the property's record owner;
- the holder of any subordinate interest in the property;
- a condominium or homeowners association that, at least 30 days before the date of the proposed sale, has recorded a statement of lien against the property
- "All Occupants" at the property's address.

The mailings must be sent not more than 30 days and not less than 10 days before the sale date.

If the trustee, in his discretion, postpones a sale, no new or additional notice need be given.

Notice to holder of subordinate interest and parties requesting notice

Generally, the person authorized to make a sale in a foreclosure action must give written notice of any proposed foreclosure sale to the holder of any subordinate interest. He or she must also give notice to parties who have recorded requests for notice of sale.

Recording and default required

A foreclosure action may not be filed unless:

- the instrument creating or giving notice of the lien has been recorded; and
- there is a default that lawfully allows a sale.

Non-Judicial Hybrid Sales

Power of sale or assent to decree for sale

A mortgage or deed of trust may authorize the sale of the property or declare the borrower's assent to the passing of a decree for the sale of the property, upon default in a specified condition.

Only an individual may exercise a power of sale or assent to decree authorized in a mortgage or deed of trust. Generally, a secured party authorized by the lien instrument or an individual designated by name in the lien instrument to exercise the power of sale must conduct the sale. An individual appointed as trustee in a deed of trust must conduct the sale, if the property is subject to a deed of trust. An individual appointed as a trustee in a lien instrument must conduct a sale pursuant to an assent to a decree. If there is no power of sale or assent to a decree in the lien instrument, or if the lien is a statutory lien, an individual trustee appointed by the court must conduct the sale.

Instituting an action under a power of sale

Generally, any individual authorized to exercise a power of sale may institute an action to foreclose the lien. An action to foreclose a lien pursuant to a power of sale is brought by filing an order to docket. A complaint or order to docket must be accompanied by:

- a copy of the lien instrument, with an affidavit that it is a true and accurate copy;
- an affidavit by the secured party or the plaintiff that the plaintiff has the right to foreclose and a statement of the debt due and payable;
- a copy of any separate note or other debt instrument, supported by an affidavit that it is a true and accurate copy and certifying ownership of the debt instrument;
- a copy of any assignment of the lien instrument, supported by an affidavit that it is a true and accurate copy;
- with respect to any defendant who is an individual, an affidavit in compliance with § 521 of the federal Servicemembers Civil Relief Act;
- a statement as to whether or not the property is residential property, and specified statements regarding whether it is owner-occupied; and
- in an action to foreclose a land installment contract on property other than residential property, an affidavit that the notice required by Rule 14-205(c) has been given.

Note that if the property is residential property that is *not* owner-occupied, a final loss mitigation affidavit to that effect must also be included.

Statutory sections amended 2019; rules 14-205 amended 2010; rule 14-208 amended 2018; rule 14-201 amended 2011; rule 14-210 amended 2018; rule 14-207 amended 2013; rule 14-214 adopted 2018.

[Md. Code, Real Prop. §§ 7-105, -105.1, -105.2 \(2020\); Md. Rules 14-201, -205, -207, -208, -210, -214](#)

[Lenders, Maryland, Public Notice and Posting Requirements](#)

Notice of sale

Notice of the time, place, and terms of the sale must be published in a newspaper of general circulation in the county in which the action is pending at least once a week for three successive weeks. The first publication must be not less than 15 days before the sale, and the last publication must be not more than one week before the sale. At least 15 days before the sale, the individual authorized to make the sale must also send written notice to the county or municipal corporation where the property is located.

Notice to occupants

The written notice of the foreclosure sale required by § 7-105.11 that must be sent to "all occupants" at the address of the property being foreclosed applies only to residential property.

Section 14-126 renumbered 7-105.3 in 2019; § 7-105.9 amended 2019; rule 14-210 amended 2018.

[Md. Code, Real Prop. §§ 7-105.11, -105.3 \(2020\); Md. Rules 14-210](#)

Lenders, Maryland, Preconditions to Eviction

An action for possession may be brought against a person in possession of real property by a person who claims title and right to possession.

If the purchaser of a real property interest at a foreclosure sale is entitled to possession and the person in actual possession fails or refuses to deliver possession, the purchaser may file a motion for a judgment awarding possession. The motion must state the legal and factual basis for the claim.

Maryland Rule 14-102 notes that the Federal Protecting Tenants at Foreclosure Act of 2009 requires a purchaser at a foreclosure sale of a dwelling or residential property to "give a 90-day notice to a 'bona fide tenant' before any eviction and precludes the eviction if the tenant has a 'bona fide lease or tenancy,' unless the new owner of the property will occupy the property as a primary residence."

The motion must be accompanied by:

- an affidavit that states specified information regarding the possession, the action that resulted in the sale, and the sale;
- if the person in actual possession was not a party to the action or instrument, a notice advising the person that any response to the motion must be filed within 30 days after being served (or any applicable longer time prescribed by Rule 2-321(b) for answering a complaint); and
- a copy of Rule 2-321(b).

The motion must be served on the person in actual possession and on any other person affected by the motion. If the person to be served was a party to the action or the instrument that authorized the sale, the motion must be served in accordance with Rule 1-321. If the person to be served was not a party to action or instrument, the motion must be served as follows:

- by personal delivery to the person or to a "resident of suitable age and discretion" at the person's dwelling; or
- if, on at least two different days, a good faith effort was made to serve the person, but the service was not successful, by mailing a copy of the motion by certified and first-class mail to the person at the property's address and by posting it in a conspicuous place on the property.

Section 14-108.1 amended 2016; rule 14-102 amended 2018.

[Md. Code, Real Prop. § 14-108.1 \(2020\)](#); [Md. Rules 14-102](#)

[Lenders, Maryland, Appeals](#)

Appeal

No specific provisions regarding appeal from a foreclosure judgment were located. As a general rule, civil appeals must be filed within 30 days of the entry of judgment.

Action for failure to receive owner's notice

A record owner's right to file an action for the failure of the person authorized to make a sale in a foreclosure action to comply with the owner's notice of sale provisions expires three years after the date of the order ratifying the foreclosure sale.

Sale scheduling

No specific provisions regarding scheduling of the sale were located.

Stay of the sale

The following may file a motion to stay the sale of property and dismiss a foreclosure action:

- the borrower or a record owner;
- a party to the lien instrument;
- a person who claims a subordinate right to or interest in the property; or
- a person who claims an equitable interest in the property.

For a lien on property other than owner-occupied residential property, a motion by a borrower or record owner to stay the sale and dismiss the action must be filed within 15 days after service pursuant to Rule 14-209 of an order to docket or complaint to foreclose. A motion to stay and dismiss by a person *not* entitled to service under Rule 14-209 (which applies only to residential property) must be filed within 15 days after the moving party first became aware of the action. The court may, for good cause, extend the time for filing the motion or excuse non-compliance. A motion to stay and dismiss must:

- be under oath or supported by affidavit;
- state the factual and legal basis of each defense;
- be accompanied by supporting materials and contain any request for the discovery of specific supporting documents in the plaintiff's possession or control;
- describe any collateral actions involving the property;
- state the date the moving party was served or when and how the moving party first became aware of the action; and
- if the motion was not timely filed, state the reasons.

The motion may include a request for referral to alternative dispute resolution.

If the court determines that a hearing should be held and the hearing cannot be held before the sale date, the court must enter an order that temporarily stays the sale on terms and conditions that the court finds "reasonable and necessary" to protect the property and the plaintiff's interests.

Statutory section 7-105.2 amended 2019; rule 14-211 amended 2013; rule 8-202 amended 2015.

[Md. Code, Real Prop. § 7-105.2 \(2020\)](#); [Md. Rules 8-202, 14-211](#)

Taxing Authorities, Maryland, Foreclosure Type

Nonjudicial sale of a tax certificate, subject to the taxpayer's right to redeem the property, followed by a judicial action brought by the holder of the tax certificate to foreclose on the post-sale right to redeem.

Note: Special provisions may apply to sales, fees, and other requirements within Baltimore City and certain counties, such as Baltimore County, Calvert County, Cecil County, Frederick County, Garrett County, Kent County, St. Mary's County, and Wicomico County, among others.

Taxing Authorities, Maryland, Preconditions to Foreclosure

Notice of Sale

At least 60 days before mailing final statements to taxpayers, the tax collector must notify other taxing authorities within the county of the planned sale, and state the time and place for the sale. Within 30 days, each taxing authority within the county must certify a statement of other taxes due. If other taxes are not certified, the tax collector need not include them in the lien being enforced against the property.

At least 30 days before first advertising a tax sale, the tax collector must mail a statement to the property's owner at that person's last known address on the tax roll. The statement must include:

- the person's name;
- the tax amount due;
- the statement, "This is a Final Bill and Legal Notice to the Person Whose Name Appears on this Notice"; and
- notice that unless the delinquent taxes are paid within 30 days, the property will be sold to satisfy the debt.

The above mailing must also include the informational insert required by § 14-812 describing the tax sale process and include information regarding assistance available from the state, or county, tax sale ombudsman program.

If the person has been listed as the record owner for at least the last 25 years, the person's name must be on a list sent to the local agency providing services for older persons, as defined in Md. Code, Hum. Servs. § 10-1-101.

Conduct of Sale

Each parcel must be sold as an entirety as it is assessed.

The sale must be held on the day and at the place stated in the notice by advertising and in the county in which the property is located. The collector may continue the sale, as he or she determines and announces to the bidders at the sale until all property included in the sale is sold.

All sales must be at public auction to the person who makes the highest good faith accepted bid.

Sale of Property Subject to a Ground Rent

Generally, if property subject to sale is also subject to a ground rent or lease for a term of 99 years renewable forever, the collector must sell "the leasehold interest only, with the improvements erected on the leasehold interest, if any."

Notice to Owner after Sale at Public Auction

Generally, within 60 days after property is sold at a tax sale, the collector must send to the person who last appears as the property's owner on the collector's tax roll, at the last address shown on the tax roll, a notice that includes, among other things:

- a statement that the property has been sold to satisfy unpaid taxes;
- the tax sale date;
- the amount of the highest bid;
- the lien amount on the property at the time of sale;
- a statement that the owner has the right to redeem the property until a court forecloses that right;
- a statement that the purchaser may institute an action to foreclose the property as early as six months from the sale date or if a government agency certifies that the property requires substantial repair to comply with applicable building codes, as early as 60 days from the sale date; and
- various disclosures regarding redemption and the amount that must be paid to redeem the property.

The above mailing must also include the informational insert required by § 14-812.

The notice must be sent by first-class mail.

Notice of Action to Foreclose Redemption Right

Generally, an action to foreclose a redemption right may be brought any time after six months have elapsed since the tax sale. However, the certificate holder may not file a complaint to foreclose the right of redemption until at least two months after sending the first of two required notices to:

- the person who last appears as property owner on the collector's tax roll; and
- either (a) the current mortgagee, assignee of a mortgagee of record, or servicer of the current mortgage, or (b) the current holder of a beneficial interest in a deed of trust recorded against the property.

The notices must, among other things:

- state that a certificate of sale has been issued;
- provide a copy of the certificate (if available at the time the notice is sent);
- state that the owner, mortgage holder, or other person holding an interest in the property may redeem until the right of redemption has been foreclosed;
- state that the certificate holder may file an action to foreclose the right of redemption at any time after two months from the date of the first notice; and
- provide information about how much it would cost to redeem the property under various scenarios.

The first notice may not be sent until at least four months after the sale. It must be sent by first-class certified mail, return receipt requested, in an envelope that states prominently on the outside: "Notice of Delinquent Property Tax."

The second notice must be sent to the same persons as the first, no earlier than one week after the first notice is sent. The required content is the same.

The holder of a certificate of sale may not file a complaint to foreclose the redemption right until at least two months after sending the first notice and at least 30 days after sending the second notice.

Notice of Complaint

The plaintiff must send written notice of the proceeding to:

- all persons with a recorded interest, claim, or lien, who have not been made a defendant in the proceeding;
- if the subject property is the common areas owned by or legally dedicated to a homeowners association, to the homeowners association; and
- each tenant of the subject property whose identity is known to the plaintiff.

This notice must be sent by certified mail, postage prepaid, return receipt requested, and be accompanied by a copy of the complaint.

For additional provisions relating to the form of complaint to foreclose the right of redemption and other procedural requirements, see [Md. Code, Tax-Prop. §§ 14-835 to -844](#) and [Md. Rules 14-502 to -506](#).

Note: Special provisions may apply to sales, fees, and other requirements within Baltimore City and certain counties, such as Baltimore County, Calvert County, Cecil County, Frederick County, Garrett County, Kent County, St. Mary's County, and Wicomico County, among others.

Section 14-814 amended 1985; § 14-817 amended 2018; §§ 14-830 and amended 2008; § 14-817.1 amended 2019; § 14-812 amended 2019; § 14-810 amended 1995; § 14-833 amended 2018; §§ 14-816 amended 2016; § 14-836 amended 2017.

[Md. Code, Tax-Prop. §§ 14-810, -812, -814, -816, -817, -817.1, -830, -833, -836 \(2020\)](#)

Taxing Authorities, Maryland, Public Notice and Posting Requirements

Publishing Notice of Sale

After 30 days have elapsed from the time the Final Bill and Legal Notice was mailed to the taxpayer, the sale must be advertised by publishing a notice of sale by public auction in one or more newspapers of general circulation. The notice must be published four times, once a week for four consecutive weeks.

Special publication rules apply for various taxing jurisdictions. For example,

- in Baltimore City, the notice must be published twice, once per week in alternate weeks and posted on the City's website four weeks before the sale date; and
- in Anne Arundel County, the notice must be published in two newspapers published in the county.

The notice must state, with substantial accuracy:

- the property's street address, along with the depth and frontage of the lot, as it appears in the tax records;
- the last record owner's name;
- the amount of all taxes due and unpaid on the property; and
- the last determined assessment of the property.

If the property is unimproved or has no street number, the notice must provide the description as it appears in the tax roll, or use the plat description.

Publication of Notice of Action to Foreclose

After the sale, if the certificate holder files an action to foreclose the right of redemption, the court must order publication of notice of the action. The published notice is directed to all defendants and must:

- describe the property as it is described in the tax-sale certificate; and
- warn the defendants that any person with an interest must answer the complaint or redeem the property or have his or her rights terminated.

For the precise statutory language of the required notice, see § 14-814.

Posting of Notice of Action to Foreclose

Maryland Rules also require that notice of the foreclosure proceeding must be posted in a conspicuous place on the property.

Note: Special provisions may apply to sales, fees, and other requirements within Baltimore City and certain counties, such as Baltimore County, Calvert County, Cecil County, Dorchester County, Frederick County, Garrett County, Kent County, St. Mary's County, and Wicomico County, among others.

Section 14-814 enacted 1985; § 14-840 amended 2000; § 14-812 amended 2019; § 14-813 amended 2012; rule 14-506 amended 1999; rule 14-503 amended 2005; rules 14-502 and 14-504 amended 2013; history of rules unknown.

[Md. Code, Tax-Prop. §§ 14-812, -813, -814, -840 \(2020\)](#); see also [Md. Rules 14-501 to -506](#)

Taxing Authorities, Maryland, Preconditions to Eviction

Possession Rights

Generally, the owner of property sold at a tax sale has the right, during the redemption period, to possess the property until the right of redemption has been foreclosed.

Writ of Possession

A person who acquires a deed through an action to foreclose on the right of redemption is generally entitled to a writ of possession of the property in the same manner as a person who obtained a judgment awarding possession of the property.

Additional actions are required when the property is occupied by a tenant. A tenant has a right to receive notice of an action to foreclose the right of redemption. The notice must be sent by first-class mail to the tenant, or to the occupant if the tenant's identity is not known, in an envelope that states prominently on the outside, "Notice of Action to Foreclose." The notice must state, in conspicuous, bold-faced font that:

- if the taxes and associated costs are not paid, the judgment of foreclosure will terminate the lease and the tenant's right to occupy the property;
- the tenant has the right to pay the taxes and costs to avoid termination of the lease; and
- the judgment could be entered in the next 90 days and cause the tenant to be evicted.

After the judgment foreclosing the right to redeem is entered, and at least 30 days before taking possession, the certificate-holder must give tenants written notice of his or her intention to take possession and state that the tenants must vacate the property within 30 days. The post-judgment notice must be sent by first-class mail, addressed to the tenant, or to the occupant if the tenant's

identity is unknown, in an envelope that states prominently on the outside, "Notice of Taking Possession of the Property."

During the 30-day period, the certificate holder may obtain a writ for possession, but may not execute on the writ until the 30-day period has elapsed.

Note: Special provisions may apply to sales, fees, and other requirements within Baltimore City and certain counties, such as Baltimore County, Calvert County, Cecil County, Frederick County, Garrett County, Kent County, St. Mary's County, and Wicomico County, among others.

Section 14-850 amended 1986; § 14-830 amended 2008; § 14-836 amended 2017.

[Md. Code, Tax-Prop. §§ 14-830, -836, -850 \(2020\)](#)

Taxing Authorities, Maryland, Appeals

Redemption

The owner or another person that has an estate or interest in the property sold by the collector may redeem the property at any time until the redemption right has been finally foreclosed.

Failure of Notice

The collector's failure to include any taxes in the published notice will not affect the sale's validity, unless the taxes were required to be certified by other taxing authorities before sending the final pre-sale notice to the owner.

Reopening Final Order

Generally, a court may not reopen a final order foreclosing the right of redemption, except for lack of jurisdiction or fraud on the court in the foreclosure action. If the petition to reopen the judgment alleges constructive fraud on the court, the petition must be filed within one year, or the petition will not be considered.

Evidence

A certificate of sale is presumptive evidence of the truth of the statements in the certificate, of the purchaser's title to the property, and of the regularity and validity of all relevant proceedings. Also, the validity of the taxes and the sale is presumed unless the defendant attacks them in the answer to the foreclosure action. A defendant alleging any jurisdictional defect or invalidity in the taxes or the sale must "particularly specify in the answer the jurisdictional defect or invalidity and must affirmatively establish the defense."

Note: Special provisions may apply to sales, fees, and other requirements within Baltimore City and certain counties, such as Baltimore County, Calvert County, Cecil County, Frederick County, Garrett County, Kent County, St. Mary's County, and Wicomico County, among others.

Section 14-842 amended 1985; §§ 14-823 and -827 amended 1986; § 14-845 amended 2003; § 14-817 amended 2018.

[Md. Code, Tax-Prop. §§ 14-817, -823, -827, -842, -845 \(2020\)](#)

Massachusetts

Lenders, Massachusetts, Foreclosure Type

Judicial and non-judicial.

Lenders, Massachusetts, Preconditions to Foreclosure

Judicial

Breach

Generally, a mortgagee may, after breach of a condition of a mortgage, recover possession of the mortgaged land by:

- an "open and peaceable entry thereon, if not opposed by the mortgagor or other person claiming it"; or
- by action.

Action for possession

A foreclosure action is conducted according to the rules for actions for possession.

Notice of intention to foreclose

No deficiency judgment may be had unless the mortgagee serves notice of intention to foreclose and to seek a deficiency on the mortgagor.

Necessary parties

Unless the defendant is "seized in fee simple in possession of the whole equity of redemption of the land," an order for a sale may not be made until "all parties interested in the equity of redemption and whose estate or interest therein would be affected by such sale" have been summoned to appear.

Non-judicial

Power of sale

If a conditional judgment has been entered on a mortgage containing a power of sale, the court must, at the plaintiff's request and instead of issuing a writ of possession, order the property to be sold pursuant to the power. The plaintiff must execute the power and do everything required by it or by the court.

Notice of sale

Notice of the sale must be sent at least 14 days before the sale by registered mail to the owner or owners of record of the equity of redemption as of 30 days before the sale date. The notice of sale must also be published. (See *Public Notice and Posting Requirements* for publication details.)

The provisions that require a creditor to take reasonable steps and make a good faith effort to avoid foreclosure, apply only to "certain mortgages," which are specified loans secured by a mortgage on owner-occupied residential property.

Notice of intention to foreclose

No deficiency judgment may be had unless the mortgagee serves the mortgagor with a notice of intention to foreclose and to seek a deficiency. The notice must be mailed, postage prepaid, by registered mail with return receipt requested, to the defendant to be charged with the deficiency at the last address known to the mortgagee. The notice, which must contain a warning of liability for the deficiency, must be sent not less than 21 days before the sale date under the power.

Section 13 amended 1971; § 4 amended 1973; § 1 amended 1991; § 17B amended 1998; § 11 amended 1902; §§ 14 amended 2012; § 35B enacted 2012.

[Mass. Gen. Laws ch. 244, §§ 1, 4, 11, 13, 14, 17B, 35B \(2019\)](#)

Lenders, Massachusetts, Public Notice and Posting Requirements

Judicial

No specific pre-foreclosure provisions were located.

Confirmation of sale

The person selling (or other specified authorized persons) must file in the clerk's office a copy of the notice and an affidavit.

Notice of mortgagee taking possession

A mortgagee taking possession of the mortgaged premises before foreclosure or a mortgagee conveying title to mortgaged premises must, within 31 days of taking possession or conveying title, notify all residential tenants of the act.

Non-judicial

Notice of the sale must be published once a week for three successive weeks in a newspaper published in the city or town in which the property is located or in a newspaper with general circulation in that city or town. The first publication must be not less than 21 days before the sale date. After the sale, a copy of the notice must be filed with the registry of deeds.

Tenant notice

Within 30 days of a foreclosure, the foreclosing owner must post in a prominent location in the building in which a rental housing unit is located a written notice "stating the names, addresses, telephone numbers, and telephone contact information of the foreclosing owner, the building manager or other representative of the foreclosing owner responsible for the management of such building and stating the address to which rent and use and occupancy charges shall be sent." This requirement is satisfied if the foreclosing owner has provided the contact information by:

- posting it in a prominent location in the building;
- mailing it by first-class mail to each unit; and
- sliding it under the door of each unit in the building.

A foreclosing owner may not evict a tenant for actions that constitute just cause unless the foreclosing owner has also delivered to each tenant a written disclosure of the tenant's right to a court hearing before eviction.

Section 15A enacted 1993; § 12 amended 1902; § 3 enacted 2010; § 14 amended 2012; § 15 amended 2015.

[Mass. Gen. Laws ch. 244, § 12, 14, 15, 15A; ch. 186a, § 3 \(2019\)](#)

Lenders, Massachusetts, Preconditions to Eviction

Summary proceedings may be brought to recover possession from a person who retains possession after foreclosure. Notice to quit is not required.

A foreclosing owner may not evict a tenant "except for just cause or unless a binding purchase and sale agreement has been executed for a bona fide third party to purchase the housing accommodation from a foreclosing owner." A foreclosing owner may not evict a tenant for actions that constitute just cause unless the foreclosing owner has delivered to each tenant the written notice required by Mass. Gen. Laws ch. 186a, § 3, and a written disclosure of the tenant's right to a court hearing before eviction. See Mass. Gen. Laws ch. 186a, § 4, for additional provisions related to just-cause evictions and eviction prerequisites.

Section 1 amended 1953; §§ 2, 3, and 4 enacted 2010.

[Mass. Gen. Laws ch. 239, § 1; ch. 186a, §§ 2, 3, 4 \(2019\)](#)

Lenders, Massachusetts, Appeals

Judicial

Appeal

No specific provisions relating to an appeal from a foreclosure were located. As a general rule, civil appeals must be filed within 30 days of the entry of judgment, except that if the Commonwealth or an officer or agency thereof is a party, the time to appeal is 60 days..

Sale scheduling

No specific provisions were located. Unless the mortgage contains a power of sale, the court will order that possession of the foreclosed property be turned over to the mortgagee if the amount of the judgment is not paid within two months.

Non-judicial

No provisions specifically relating to appeals or sale scheduling for non-judicial foreclosures were located.

Redemption

The mortgagor may, after a breach of a condition, redeem the mortgaged land, unless:

- the mortgagee has obtained possession of the land for breach of condition and has continued that possession for three years; or
- the land has been sold pursuant to a power of sale contained in the mortgage deed.

Generally, the tender may be made:

- before the expiration of the three years limited for redemption;

- before or after entry for breach of condition; and
- before a sale pursuant to a power contained in the mortgage.

The person entitled to redeem may, before the expiration of the three-year redemption period and before or after an entry for breach of condition, and before a sale pursuant to a power contained in the mortgage, bring a suit for redemption without previous tender. However, a mortgagee who has published a notice of sale before that suit is brought may proceed with the sale unless the amount due is paid into court or the sale is enjoined.

Sections 10, 18, 21, and 22 amended 1902; rule amended 2019; history of § 5 unknown.

[Mass. Gen. Laws ch. 244, § 5, 10, 18, 21, 22 \(2019\); Mass. R. App. P. 4](#)

Taxing Authorities, Massachusetts, Foreclosure Type

Judicial.

Taxing Authorities, Massachusetts, Preconditions to Foreclosure

Liens

Taxes assessed on land, along with charges and fees, are a lien on the land from January 1 in the year they are assessed. The tax collector must certify in writing the amounts necessary for the taking of the land.

Generally, absent any errors or irregularities in post-assessment procedures, a tax lien terminates at the end of three years and six months from the end of the fiscal year for which the taxes were assessed, if during this time the land has been alienated and the instrument doing so has been recorded. If not, then the lien continues until a recorded alienation.

Statement of Amount

The collector must, before selling the land, serve on the person owing the taxes, a statement of the amount owed with a demand for its payment. The demand for the tax on land may be made upon the person occupying the land on January first of the year in which the tax is assessed. The collector must make the demand by mailing it to the last or usual place of business or abode, or to the "address best known to him." Failure to receive the notice does not invalidate a tax or any proceedings for enforcing or collecting the tax.

If an owner or mortgagee designates a place at which all papers relative to the taxes on the land are to be served, the collector must serve any notice, demand for payment, or other paper relating to the taxes on him or her at that place. The collector may not advertise the sale of land for two months after the time a demand is made.

"Service" means:

- delivering the notice to the person for whom it is intended;
- leaving it at his or her last and usual place of abode or business;
- sending it by mail postpaid addressed to him or her at the last and usual place of abode or of business; or
- posting it conspicuously in some convenient and public place and sending a copy by mail postpaid addressed to the person for whom it is intended at the town in which the land is located.

The collector must keep on file the service affidavit of the collector, deputy collector, sheriff, deputy sheriff, or constable serving the notice.

A collector may take land for taxes when a demand for payment has been made and 14 days have passed without them being paid. The notice and publication requirements for a taking are the same as for a sale.

Conduct of Sale

If the taxes are not paid, the collector must, at the appointed time and place, sell by public auction, for the amount of the taxes, interest, and charges:

- the smallest undivided part of the land that will bring that amount; or
- the whole for that amount, if no one offers to take an undivided part.

If no person bids for the land offered for sale for an amount equal to the tax and charges, and if the sale has been adjourned one or more times, the collector must publicly declare that fact. If no bid equal to the tax and charges is then made, the collector must give public notice that he or she purchases the land for the town for the amount of the tax, charges, and expenses.

Notice of Pending Petition

Following the filing of a petition for foreclosure, a title examination must be done to ascertain interested persons' names. All interested persons must be notified of the pendency of the petition by registered mail, return receipt required. The notice must contain:

- the petitioner's name;
- the names of all known respondents;
- a description of the land;
- a statement of the petition's nature;
- the time in which an appearance may be entered; and

- a statement that unless the party notified appears and answers within the time fixed, a default will be recorded, the petition will be taken as confessed, and the right of redemption will be forever barred.

The court may order notice by publication or otherwise.

Sections 16, 35, and 39 amended 1933; § 43 and 66 amended 1935; § 53 amended 1970; §§ 45 and 48 amended 1973; § 37B enacted 1977; § 37 amended 1996; § 1 amended 2002.

[Mass. Gen Laws. Ann. ch. 60, §§ 1, 16, 37, 37B, 39, 43, 45, 48, 53, 66 \(2019\)](#)

Taxing Authorities, Massachusetts, Public Notice and Posting Requirements

Notice of Sale

The collector must give notice by publication of the time and place of the sale. This notice must contain:

- a substantially accurate description of the rights, lots, or divisions of the land to be sold;
- the tax amount assessed on each parcel; and
- the names of all owners known to the collector.

The notice of the sale of a deceased person assessed to his heirs, devisees, or estate must contain the names of all the interested heirs or devisees if the probate records disclose their identity.

Fourteen days before the sale, the collector must post a notice similar in content to that described above, in two or more convenient and public places.

Sale without Foreclosure

After 90 days from the taking or purchase by a town of any parcels for non-payment of taxes, the commissioner may inquire into the value of the parcels and the validity of tax titles held thereon. If the commissioner is of the opinion that the parcels are of insufficient value to meet the taxes, interest, charges, and expenses of a foreclosure, that none of the parcels exceeds \$15,000 in value, and that the facts essential to the validity of the tax titles on the lands have been adequately established, he or she may record an affidavit of that finding. The treasurer then may sell all the parcels at public auction to the highest bidder, after first giving notice of the time and place of sale by:

- publishing at least 14 days before the sale in a newspaper published in the town (or the county); and
- posting a notice of the sale in some convenient and public place in the town.

Section 42 amended 1933; §§ 40 and 79 amended 2002.

[Mass. Gen Laws. Ann. ch. 60, §§ 40, 42, 79 \(2019\)](#)

Taxing Authorities, Massachusetts, Preconditions to Eviction

Possession Rights

A tax deed conveys the land to the purchaser, subject to redemption rights. However, the purchaser does not have a right to possess the land until the redemption right is foreclosed.

Section amended 1973.

[Mass. Gen Laws. Ann. ch. 60, § 45 \(2019\)](#)

Taxing Authorities, Massachusetts, Appeals

Redemption

If land has been taken or purchased by the town and has not been reassigned, any interested person, at any time before the filing of a petition for foreclosure, may redeem the land by paying all taxes, interest, and charges owned. The amount may be paid in installments. The treasurer, upon accepting any payment, may extend the time during which proceedings for the foreclosure of all redemption rights may not be brought. This time period may not exceed two years beyond any other time permitted by law.

If the purchaser is other than the town, an interested person may redeem at any time before the filing of a petition for foreclosure, by paying the original sum paid, interest, intervening taxes, and costs.

Validity of Tax Title

A tax title or an item included in a tax title account is not invalid because of an error or irregularity that is neither substantial nor misleading.

A person claiming an interest who wants to raise a question concerning the validity of a title must "do so by answer filed in the proceeding on or before the return day, or within such further time as may on motion be allowed by the court, or else be forever barred from contesting or raising the question in any other proceeding." He or she must "file specifications setting forth the matters upon which he relies to defeat the title." Unless the specifications are filed, all questions of the title's validity or invalidity are deemed to have been waived. Upon the filing of the specifications, the court must hear the parties and enter a decree.

In other respects, procedures generally "conform as nearly as possible to the land court practice, rules, regulations and procedure" under chapter 185, except that no memorandum stating the disposition of the case must be made. Notice of filing the petition must be recorded in the registry of deeds, and all final decrees must be recorded.

Required Deposits

The petitioner, at the time of filing a petition, must deposit with the recorder a sum sufficient to cover the costs of the proceedings.

Section 64 enacted 1915; §§ 43 and 70 amended 1935; §§ 45, 73, and 75 amended 1973; § 65 amended 2003; § 62 amended 2006.

[Mass. Gen Laws. Ann. ch. 60, §§ 43, 45, 62, 64, 65, 70, 73, 75 \(2019\)](#)

Michigan

Lenders, Michigan, Foreclosure Type

Judicial and non-judicial.

Lenders, Michigan, Preconditions to Foreclosure

Judicial

No preconditions specific to judicial foreclosure were located.

Foreclosure proceeding

If a judgment has been obtained in any other civil action for the money demanded in a foreclosure complaint, no proceeding may be brought to foreclose unless the sheriff has returned an execution as unsatisfied and certified that he can find no property of the defendant out of which to satisfy the execution except the mortgaged premises.

Order to sell

A judge may not order that:

- property subject to a mortgage be sold within six months after the foreclosure complaint is filed; or
- property subject to a land contract be sold within three months after the foreclosure complaint is filed.

Service members

If a defendant in a foreclosure action is a service member who either entered into the mortgage or land contract before becoming a service member or is deployed overseas, the court may:

- stay proceedings until six months after the service member's period of military service ends; or
- issue "another order that is equitable to conserve" the parties' interests.

The above provision does not apply:

- if the court determines that the defendant's ability to comply with the mortgage's or land contract's terms is not "materially affected by the service member's military service"; or
- to mortgages entered into before May 21, 2008.

Non-judicial

Power of sale and default

A mortgage that contains a power of sale may be foreclosed by advertisement upon default. Generally, a party may foreclose a mortgage by advertisement if all of the following exist:

- a default in a condition of the mortgage has occurred, causing the power to sell to become operative;
- an action has not been brought to recover the debt, or, if an action has been instituted, either it has been discontinued or an execution on a judgment rendered in the action has been returned unsatisfied;
- the mortgage was recorded; and
- the party foreclosing the mortgage is either the owner of the debt secured by the mortgage, the owner of an interest in that debt, or the mortgage's servicing agent.

Service members

If a mortgagor is a service member who either entered into the mortgage before becoming a service member or who is deployed overseas, and if, during the service member's military service or within six months after his or her military service ends, the service member's mortgage is foreclosed by advertisement or the mortgaged real estate is sold under a power of sale, the foreclosure or sale is invalid unless ordered by a court. This restriction does not apply to mortgages entered into before May 21, 2008.

Sections 600.3105 and 600.3115 enacted 1961; § 600.3201 amended 1981; §§ 600.3185 and 600.3285 enacted 2008; § 600.3204 amended 2018.

[Mich. Comp. Laws §§ 600.3105, .3115, .3185, .3201, .3204, .3285 \(2020\)](#)

Lenders, Michigan, Public Notice and Posting Requirements

Judicial

Publication

A copy of the notice of sale must be published once each week for the six successive weeks before the sale in a newspaper printed in the county in which the premises are located. Publication may not begin until the time the judgment set for payment has expired, and until:

- six months after an action to foreclose a mortgage has begun; or
- three months after an action to foreclose a land contract has begun.

Posting

At least six weeks before the sale, written or printed notice must also be displayed in three public places in the township or city in which the real estate is to be sold.

Non-judicial

Publication

Notice of foreclosure by advertisement must be published at least once a week for four consecutive weeks in a newspaper published in the county. If no newspaper is published in the county, the notice must be published in a newspaper published in an adjacent county.

Posting

Within 15 days of the first publication, a copy of the notice must be posted on the premises being foreclosed. The mortgagee has the right to enter the mortgaged premises to post or serve the required notices.

Notice contents

The notice of foreclosure by advertisement must include:

- the names of the mortgagor, the original mortgagee, and any foreclosing assignee;
- the date of the mortgage and the date the mortgage was recorded;
- the amount due;
- the property description as contained in the mortgage and a description by street address;
- the length of the redemption period;
- a statement that if the property is sold at a foreclosure sale, the borrower is responsible to the purchaser for damaging the property during the redemption period; the name, address and telephone number of the attorney representing the foreclosing party;
- for a residential mortgage, a statement in the following form: "Attention homeowner: If you are a military service member on active duty, if your period of active duty has concluded less than 90 days ago, or if you have been ordered to active duty, please contact the attorney for the party foreclosing the mortgage at the telephone number stated in this notice."; and
- the statement: "Notice of foreclosure by advertisement. Notice is given under section 3212 of the revised judicature act of 1961, 1961 PA 236, MCL 600.3212, that the following mortgage will be foreclosed by a sale of the mortgaged premises, or some part of them, at a public auction sale to the highest bidder for cash or cashier's check at the place of holding the circuit court in _____ County, starting promptly at (time), on (date). The amount due on the mortgage may be greater on the day of the sale. Placing the highest bid at the sale

does not automatically entitle the purchaser to free and clear ownership of the property. A potential purchaser is encouraged to contact the county register of deeds office or a title insurance company, either of which may charge a fee for this information."

Section 600.3276 enacted 1961; § 600.6091 amended 1975; § 600.3208 amended 1972; § 600.3212 amended 2019.

[Mich. Comp. Laws §§ 600.3208, .3212, .3276, .6091 \(2020\)](#); [Mich. Ct. Rules 3.410](#)

Lenders, Michigan, Preconditions to Eviction

A person entitled to possess premises may bring summary proceedings to recover possession from a person who retains possession after the redemption period expires. Written demand for possession is not required.

Section amended 2014.

[Mich. Comp. Laws § 600.5714 \(2020\)](#)

Lenders, Michigan, Appeals

Judicial

Appeal

No specific provisions relating to appeal from a foreclosure were located. As a general rule, civil appeals must be filed within 21 days of the entry of judgment.

Sale scheduling

The court may not order the sale of foreclosed property less than six months after the filing of the complaint for foreclosure of a mortgage or three months after the filing of the complaint for

foreclosure of a land contract. The court may not order a sale on less than 42 days' notice. Sales must be held between 9 a.m. and 4 p.m.

Redemption

The mortgagor or the vendee of a land contract may redeem the premises within six months from the time of the sale.

Non-judicial

Appeal

No provisions relating to an appeal were located.

Sale Scheduling

The sale must be held between 9 a.m. and 4 p.m., at the place in the county at which Circuit Court is held. The sheriff may adjourn the sale from time to time at the request of the party in whose name the notice of sale is published. A notice of the adjournment must be posted before or at the time of and at the place where the sale is to be made. If the adjournment is for more than one week at one time, the notice must also be published in the newspaper in which the original notice was published. The first publication must be within 10 days of the date from which the sale was adjourned. An oral announcement of an adjournment is not necessary.

Redemption

Generally, for a mortgage of commercial property, industrial property, or multifamily residential property containing more than four units, the redemption period is six months from the sale date. For a mortgage of agricultural property, the redemption period is one year from the sale date. However, if the purchaser has obtained possession by summary proceedings necessary to protect the property from damage, the redemption rights are extinguished.

Section 600.3220 enacted 1961; §§ 600.3115 and 600.3216 amended 1961; § 600.3125 amended 1974; §§ 600.3238 and 600.3240 amended 2019.

[Mich. Comp. Laws §§ 600.3115, .3125, .3140, .3216, .3220, .3238, .3240 \(2020\); Mich. Ct. Rules 3.410, 7.104](#)

Taxing Authorities, Michigan, Foreclosure Type

Judicial.

Taxing Authorities, Michigan, Preconditions to Foreclosure

Delinquency

On March 1, property taxes levied in the immediately preceding year that remain unpaid are delinquent and subject to collection.

Notices of Delinquency

Except as otherwise provided for certified abandoned property, on or within 60 days before the June 1 immediately following the date that unpaid taxes are returned as delinquent, the county treasurer must send notice by first-class mail, address correction requested, to the person to whom a tax bill for the property was last sent or to the person identified as the owner, and to a person to whom a tax certificate for delinquent property was issued, as shown on the current records of the treasurer. Notice must also be sent to any person who has an unrecorded property interest, or any other person who wishes to receive notice of delinquent taxes on the parcel, and holders of undischarged mortgages, if they have sent the treasurer a written request that notice of delinquency be sent to them. The notice must state, among other information, that a person who holds a legal interest in the property may lose that interest by forfeiture and subsequent foreclosure and when the right of redemption will expire.

A second similar notice must be sent to the same persons on September 1.

List of Property Subject to Forfeiture for Delinquent Taxes

On November 1 of each tax year, the county treasurer must prepare a list of all property subject to forfeiture for delinquent taxes on the immediately succeeding March 1. No later than December 1, the treasurer must determine, to the extent possible, the following information based exclusively on the records contained in his office and the offices of the local assessor and treasurer, for property subject to forfeiture for delinquent taxes on the following March 1:

- the property's street address;
- the owner's name and address;
- the name and address of the holders of any undischarged mortgage, tax certificate, or other legal interest;
- the name and address of a subsequent purchaser under any land contract; and
- the name and address of any person entitled to notice of delinquent taxes under local governmental ordinance.

Notice of Forfeiture

Except for certified abandoned property, no later than the February 1 following preparation of the forfeiture list, the county treasurer must send notice by certified mail, return receipt requested, to the person to whom a tax bill for the delinquent property was last sent, and, if different, to the person identified in the treasurer's current records as the property's owner, and to those persons identified under *List of Property Subject to Forfeiture for Delinquent Taxes*, above. The notice must also be sent by first-class mail addressed to "occupant" if it was not already sent to the occupant of the property by certified mail.

Among other information, the notice must include:

- the unpaid delinquent taxes, interest, penalties, and fees due on the property;
- a schedule of any additional amounts that will accrue;
- a statement of the person's redemption rights and when they will expire; and
- a statement that unless the stated amounts are paid during the redemption period absolute title will vest in the foreclosing governmental unit.

Forfeiture

On March 1 in each year, certified abandoned property and property that is delinquent for taxes, interest, penalties, and fees for the immediately preceding 12 months or more is forfeited to the county treasurer for the total of those unpaid amounts. The foreclosing governmental unit does not have a right to possession of the forfeited property, however, until April 1 immediately succeeding the entry of judgment foreclosing the property, or in a contested case until 22 days after the entry of judgment foreclosing the property.

Notice of Show Cause Hearing and Foreclosure Hearing

No later than May 1, following forfeiture of property to the county treasurer, the foreclosing governmental unit must initiate a search of land title records in the county register of deeds office and the tax records in the offices of the county treasurer, the local assessor, and the local treasurer to identify the owners of a property interest in the property who are entitled to notice of the show cause and foreclosure hearings. After the search, the foreclosing governmental unit must determine an address reasonably calculated to apprise the owners of a property interest, and a notice of the hearings must be sent to them, and to persons who have requested notice, by certified mail, return receipt requested, not less than 30 days before the show cause hearing. If an address reasonably calculated to inform a person with an interest in the forfeited property cannot be determined, the governmental unit must take additional reasonable steps, including publication, to ascertain an address.

The foreclosing governmental unit must make a personal visit to each parcel of property forfeited to the county treasurer to ascertain whether the property is occupied, and if it appears to be, it must attempt to personally serve an occupant notice of the show cause and forfeiture hearings and orally inform the occupant:

- that the property will be foreclosed and the occupants required to vacate unless all delinquent taxes, interest, penalties, and fees are paid within the time allowed; and
- of agencies or other resources that may be available to assist the owner to avoid loss of the property.

The notice must also state that all existing interests in oil or gas in that property will also be extinguished except the following:

- the interests of a lessee or an assignee of an interest of a lessee under an oil or gas lease in effect, if the lease was recorded before petition for foreclosure's filing date; and
- interests preserved as provided by Mich. Comp. Laws § 554.291.

Foreclosure Action

No later than June 15, the foreclosing governmental unit must file a single petition with the circuit court of the county listing all property forfeited and not redeemed and to be foreclosed. The hearing on the petition must be held not more than 30 days before the March 1 immediately succeeding the date the petition for foreclosure is filed.

A show cause hearing must be held not later than seven days preceding the date of the foreclosure hearing at which the owner and any other interested person may appear and redeem the property or show cause why absolute title to the property should not vest in the foreclosing governmental unit. If such person prevails at the hearing the county treasurer must correct the tax roll to reflect the determination.

No later than the hearing date, the foreclosing governmental unit must file with the clerk of court proof of service of the notice of the show cause and foreclosure hearings and proof of a personal visit to the property and publication.

The court shall enter final judgment on a petition for foreclosure at any time after the hearing but not later than the March 30 immediately succeeding the hearing with the judgment effective on the March 31 immediately succeeding the hearing for uncontested cases or 10 days after the conclusion of the hearing for contested cases. The judgment must state, among other things, that fee simple title to the property foreclosed will vest absolutely in the foreclosing governmental unit without any further rights of redemption, if all delinquent taxes, interest, penalties, and fees are not paid on or before the March 31 immediately succeeding the entry of judgment foreclosing the property, or in a contested case within 21 days of entry of judgment.

Sale of Foreclosed Property

If the state, city, village, township, or county do not exercise their respective right of first refusal to purchase foreclosed property, the foreclosing governmental unit must hold one or more property sales at one or more convenient locations at which property foreclosed by judgment shall be sold by auction, which may include an auction conducted via an internet website. The sales must be held between the third Tuesday in July succeeding the entry of judgment and the following first Tuesday in November. If the foreclosing governmental unit holds more than one sale, the final sale may not be held less than 28 days after the previous sale. At the final sale, the minimum bid is not required.

Two or more county treasurers in adjoining counties may hold a joint sale of foreclosed properties.

Certified Abandoned Property

Property that is certified as abandoned is eligible for accelerated forfeiture. See [Mich. Comp. Laws §§ 211.79a; 211.961 to .966 \(2020\)](#) for details regarding accelerated forfeitures.

Sections 211.78e, 211.78j, and 211.79 enacted 1999; §§ 211.78a, 211.78h, and 211.78m amended 2014; §§ 211.78b, 211.78c, 211.78f, and 211.78i amended 2015; § 211.78k and 211.8g amended 2020.

[Mich. Comp. Laws §§ 211.78a, .78b, .78c, .78e, .78f, .78g, .78h, .78i, .78j, .78k, .78m, .79 \(2020\)](#)

Taxing Authorities, Michigan, Public Notice and Posting Requirements

Notice of Forfeiture

A county treasurer may insert one or more notices of pending forfeiture, *see Preconditions to Foreclosure*, in a notice publication circulated in the county in which the property is located.

Effective February 14, 2016, if no notice publication is circulated in the county in which the property is located, the county treasurer may insert additional notices in a notice publication circulated in an adjoining county. The county treasurer may also post additional notices on a website, including, but not limited to, a website the county treasurer maintains.

The treasurer also may insert in a notice publication circulated in the county in which the property is located, notice of the street address of the property subject to forfeiture, if available, and the name of the person to whom a tax bill for the property was last sent and, if different, the owner's name as shown on current records. Effective February 14, 2016, if no notice publication is circulated in the county in which the property is located, the county treasurer may insert a notice in a notice publication circulated in an adjoining county. The county treasurer may also post a notice on a website, including, but not limited to, a website the county treasurer maintains.

Notice of Show Cause and Forfeiture Hearing

If the foreclosing governmental unit is unable to personally meet with the occupant of property to be foreclosed, *see Preconditions to Foreclosure—Notice of Show Cause and Foreclosure Hearings*, it must post the notice of the show cause and foreclosure in a conspicuous manner on the property and also a notice that explains in plain English that the property will be foreclosed unless delinquent taxes are paid, when they must be paid and the names, addresses and phone numbers of agencies and other resources available to help the occupant avoid a loss of the property.

If the foreclosing governmental unit is unable to ascertain an address reasonably calculated to inform owners of a property interest entitled to notice, the notice of the show cause and foreclosure hearing must be published for once a week for two successive weeks in a notice publication circulated in the county in which the property is located. Effective February 14, 2016, if no notice publication is circulated in the county in which the property is located, the foreclosing governmental unit must insert the notice in a notice publication circulated in an adjoining county.

The foreclosing governmental unit may also post the notice for no less than 14 days on a website, including, but not limited to, a website the foreclosing governmental unit maintains.

Notice of Sale

Notice of the time and place of sales of foreclosed properties must be published not less than 30 days before each sale in a newspaper published and circulated in the county in which the property is located, if any. If there is no such newspaper, publication must be made in a newspaper published and circulated in an adjoining county.

Notice Publications

Effective February 14, 2016, notice publications required by §§ 211.78a through .78r must be separate inserts within the notice publication. A foreclosing governmental unit may exercise its discretion in selecting the notice publication based on the notice publication's cost and circulation.

Section 211.78m amended 2014; §§ 211.78f and 211.78i amended 2015; § 211.78s enacted 2015.

[Mich. Comp. Laws §§ 211.78f, .78i, .78m, .78s \(2020\)](#)

Taxing Authorities, Michigan, Preconditions to Eviction

Possession Rights

On March 1 in each year, certified abandoned property and property that is delinquent for taxes, interest, penalties and fees for the immediately preceding 12 months or more is forfeited to the county treasurer for the total of those unpaid amounts. The foreclosing governmental unit does not have a right to possession of the property, however, until April 1 immediately succeeding the entry of judgment foreclosing the property, or, in a contested case, until 22 days after the entry of judgment foreclosing the property.

Writs of Assistance

The circuit court may, upon application, put the purchaser of any lands, including the state and its grantees, sold under the property tax foreclosure laws in possession of the premises by writs of assistance.

Section 211.137 amended 1941; § 211.78g amended 2020.

[Mich. Comp. Laws §§ 211.78g\(1\), .137 \(2020\)](#)

Taxing Authorities, Michigan, Appeals

Redemption

Property forfeited to the county treasurer for unpaid taxes may be redeemed at any time on or before March 31 immediately succeeding the entry of judgment foreclosing the property or in a contested case within 21 days after the entry of judgment foreclosing the property, by paying the total amount of unpaid delinquent taxes, interest, penalties, and fees, plus any additional interest that has accrued, and all recording fees and fees for service of process or notice.

Financial Hardship

A foreclosing governmental unit may withhold from the foreclosure action property held by a person undergoing substantial financial hardship, as determined under a written policy developed and adopted by the governmental unit. The adopted written policy must be made available to the public.

In addition, if the court determines that the property owner is without means of support or is undergoing a substantial financial hardship, the court may withhold the property from foreclosure for one year or may enter an order extending the redemption period as the court determines may be equitable.

If property is withheld from foreclosure for financial hardship, a taxing unit's lien for taxes due or the foreclosing unit's right to include the property in a subsequent petition for foreclosure is not prejudiced.

Failure of Notice

The owner of any extinguished recorded or unrecorded interest in property that is subject to a foreclosure judgment who claims he or she did not receive any required notice may not bring an action for possession of the property against any subsequent owner, but may bring an action to recover monetary damages.

Appeal by Person Claiming to Have a Property Interest

The foreclosing governmental unit or a person claiming to have a property interest under § 211.78i in foreclosed property may appeal to the court of appeals the circuit court's order or judgment foreclosing property. The appeal is limited to the record of the proceedings in the circuit court and is not de novo. The circuit court's judgment foreclosing property is stayed until the court of appeals has reversed, modified, or affirmed the judgment.

To appeal the circuit court's judgment foreclosing property, the person appealing the judgment must pay to the county treasurer with the notice of appeal the amount determined to be due to the county treasurer under the judgment on or before the March 31 immediately succeeding the entry of a judgment foreclosing the property, or in a contested case within 21 days of the entry of a judgment foreclosing the property.

Section 211.78l amended 2003; § 211.78h amended 2014; § 211.78i amended 2015; §§ 211.78k and 211.78g amended 2020.

[Mich. Comp. Laws §§ 211.78g\(3\), .78h, .78i, .78k, .78l \(2020\)](#)

Minnesota

Lenders, Minnesota, Foreclosure Type

Judicial and non-judicial.

Lenders, Minnesota, Preconditions to Foreclosure

Both judicial and non-judicial

Part-homestead property

If the property being foreclosed contains a portion of a homestead, the borrower must be informed that the homestead may be sold and redeemed separately from the remaining property.

Agricultural property

Unless otherwise allowed, a person may not begin a proceeding to foreclose a mortgage on agricultural property that has a secured debt of more than \$15,000 unless:

- a mediation notice is served on the mortgagor after the default has occurred;
- a copy of the notice is served on the director; and
- the mortgagor and mortgagee have completed mediation.

If a mortgage on agricultural real property that contains separate tracts is foreclosed, the foreclosing party must notify the person in possession of the property that the separate tracts may be sold and redeemed separately. This notice must be served:

- with the notice of foreclosure served on the person in possession for a nonjudicial foreclosure; or
- in the summons and complaint for a judicial foreclosure.

A creditor desiring to start a proceeding to enforce a debt against agricultural property must serve a mediation notice on the debtor and the director. The creditor must also file with the director

proof of the date the mediation notice was served on the debtor. Generally, the creditor may not begin the proceeding until the stay of the creditor's remedies is lifted.

(Note that Minnesota's legislature had extended the expiration date for several agricultural mediation statutes to June 30, 2022.)

Voluntary foreclosure

Pursuant to Minn. Stat. § 582.32, the parties to certain mortgages in default that were executed on or after August 1, 1993, may enter into an agreement for voluntary foreclosure. This option applies only to mortgages on real estate of which no part is classified as a homestead or in agricultural use as of the date of agreement. Generally, the mortgagor and mortgagee must enter into a written agreement for voluntary foreclosure only during the existence of a default under the mortgage. At least one of the items constituting the default must have existed for at least one month. See § 582.32 for details regarding the contents of the agreement and other provisions regarding waived rights, appointment of a receiver, and other statutory provisions that apply to a voluntary foreclosure.

Within seven days after the agreement's date, the mortgagee must record or file the agreement (or a short-form of the agreement that meets statutory requirements) with the county recorder or registrar of titles, as applicable. A certificate, signed by the county or city assessor, stating that the real estate was not in agricultural and was not a homestead for property tax purposes, must be recorded before or with the certificate of sale. After the date of the agreement, the mortgagee may foreclose the mortgage in accordance with the laws generally applicable to foreclosure by advertisement. However, at least 14 days before the date of sale, the mortgagee must also:

- serve the persons in possession of the real estate with notice of the voluntary foreclosure sale; and
- mail notice of the voluntary foreclosure sale to each holder of a junior lien who has filed or recorded a request for notice.

The mortgagee must publish notice of the voluntary foreclosure sale in the same manner as in a foreclosure by advertisement.

Notice to tenants

In a foreclosure of a mortgage by advertisement and in a foreclosure of a mortgage by action on property consisting of one- to four-family dwelling units, one or more of which are occupied by a tenant as a residence, the mortgagee must give notice containing advice to the tenants.

Judicial

No preconditions were located. Generally, judicial foreclosures are governed by the same rules as other civil actions, except as otherwise provided in chapter 581. Note that many of the notices required by statute must be provided only on property consisting of one- to four-family dwelling units, one of which is owner-occupied.

Non-judicial

General requisites for non-judicial foreclosure

For a mortgage containing a power of sale to be foreclosed by advertisement, it is necessary that:

- some default in a condition of the mortgage has occurred that causes the power to sell to become operative;
- no action or proceeding has been instituted at law to recover the debt, an action or proceeding has been discontinued, or an execution on the judgment has been returned unsatisfied; and
- the mortgage and any assignments have been recorded or registered.

Note that the foreclosure prevention counseling requirements set forth in § 580.021 and the loss mitigation provisions set forth in § 582.043 apply only to property consisting of one- to four-family dwelling units, one of which the owner occupies as his or her principal place of residency. Similarly, the requirement set forth in § 580.041 that every written communication with the borrower must include a foreclosure advice notice applies only to property consisting of one- to four-family dwelling units, one of which the owner occupies as his or her principal place of residency.

Foreclosure advice and redemption rights notices

Although a lender must provide foreclosure advice and a redemption rights notices to some property owners, the requirement applies only to the foreclosure of mortgages on property consisting of one- to four-family dwelling units, one of which is owner-occupied.

Foreclosure prevention counseling

Minnesota's foreclosure prevention counseling requirements apply only to foreclosure of mortgages on property consisting of one- to four-family dwelling units, one of which is owner-occupied.

Notice of sale

A notice of the sale must be served on the person in possession of the premises at least four weeks before the sale. The notice must be served as in the manner of a summons in a civil action. If the premises contains a building used by a church or religious corporation for its usual meetings, service on any officer or trustee of the corporation is sufficient.

Section 580.01 amended 1953; § 582.042 enacted 1987; § 582.32 amended 1999; §§ 580.021 and 580.042 enacted 1987; § 580.041 amended 2013; § 581.01 enacted 1940; § 580.03 amended 2010; § 580.02 amended 2013; § 582.041 amended 1987; § 583.26 amended 2017; § 580.043 amended 2014; § 583.215 amended 2017; § 582.039 amended 2017.

[Minn. Stat. §§ 580.01, .02, .021, .03, .041, .042; 581.01; 582.039, .041, .042, .043, .32; 583.26, .215 \(2019\)](#)

Lenders, Minnesota, Public Notice and Posting Requirements

Judicial

No specific requirements were located.

After a sale is confirmed, a certificate of sale must be recorded within 20 days after the court confirms the sale.

Non-judicial

Notice of proposed sale

Notice of the proposed sale must be published for six weeks. Notice of the sale generally must be mailed at least four weeks before the sale to every person with a redeemable interest in the property who requests notice.

Effective July 1, 2015, publication of the notice of sale is sufficient if it occurs in a qualified newspaper with its known office of issue located either:

- in the county where all or part of the mortgaged premises are located; or
- in an adjoining county, if the publisher states in the required sworn affidavit of publication that a substantial portion of the newspaper's circulation is in the county where the mortgaged premises are located.

Tenant notice

If there are tenants on the property, notice of the foreclosure must be provided to them.

Notice of pendency

A person foreclosing a mortgage by advertisement must record a notice of the pendency of the foreclosure with the county recorder or registrar of titles before the first date of publication of the foreclosure notice, but no more than six months before the first publication date.

Voluntary foreclosure

A mortgagee in a voluntary foreclosure must publish notice of the voluntary foreclosure sale in the same manner as in a foreclosure by advertisement for four consecutive weeks.

Receivers

A court may appoint a receiver only upon a motion with notice to:

- the respondent;
- all other parties in the action;
- any parties in interest;
- all other persons the court requires; and
- any "judgment creditor who is seeking the appointment of a receiver in any other action."

The court may appoint a receiver "ex parte or on shortened notice on a temporary basis if it is clearly shown that an emergency exists requiring the immediate appointment of a receiver."

If a real estate interest is included in receivership property, a notice of lis pendens must be recorded as soon as practicable.

In a general receivership, unless the court orders otherwise, the receiver must give notice of the receivership to all creditors and other known parties in interest within 21 days after the appointment. The notice must include the time of appointment and the names and addresses of the respondent, the receiver, and the receiver's attorney.

Section 582.32 amended 1999; § 580.042 amended 2009; § 580.03 amended 2010; § 580.032 amended 2005; § 581.08 amended 1927; § 576.30 amended 2016; § 576.25 amended 2019; § 576.34 enacted 2012; § 580.033 enacted 2015.

[Minn. Stat. §§ 576.25, .30, .34; 580.03, .032, .033, .042; 581.08; 582.32 \(2019\)](#)

Lenders, Minnesota, Preconditions to Eviction

Judicial

The court may order delivery of possession after expiration of the redemption period.

Judicial and non-judicial

A party with the right to possession may bring an eviction against persons unlawfully holding possession of real property:

- after a sale of the property on an execution or judgment;

- after the expiration of the time for redemption on foreclosure of a mortgage, or after termination of contract to convey the property; or
- after the expiration of the time for redemption on a real estate tax judgment sale.

Notice to tenants

Minn. Stat. § 504B.285, which requires 90 days' notice to tenants before an eviction action is brought, applies only to evictions related to "residential real property or a dwelling" in which the person holding the real property after the redemption period expired was a tenant during the redemption period and the lease began after the date the mortgage was executed, but before the redemption period expired.

Section 504B.301 enacted 1999; § 581.11 enacted 1940; § 504B.285 amended 2017.

[Minn. Stat. §§ 504B.285, .301; 581.11 \(2019\)](#)

Lenders, Minnesota, Appeals

Judicial

Appeal

No specific provisions for appeal from a foreclosure were located. As a general rule, appeals must be filed within 60 days of the entry of judgment.

Sale scheduling

No specific provisions governing the scheduling of sales were located.

Non-judicial

Appeal

An action based on a sale being invalid because of a defect in the sale notice, the publication or service of the notice, or in the proceedings of the officer making the sale must be brought (or the defense alleging its invalidity must be interposed) "with reasonable diligence" and generally no later than five years after the sale date. However, if the person was under a disability when the sale was made because he or she was a minor, a person who lacked the mental capacity to make decisions, a person with a developmental disability, or a person in captivity or in a country with which the United States is at war, that person may bring an action or interpose the defense at any time within five years after the disability is removed.

An action in which the sale's validity is called into question for other reasons must be brought (or the defense must be interposed) within 15 years after the sale date.

Deposits to save action

A plaintiff may save a right by depositing with the sheriff before the redemption period expires the amount for which the mortgaged premises were sold, with interest, together with a bond to the holder of the sheriff's certificate of sale, if:

- the action claims that a mortgage is fraudulent, void, or has been paid or discharged, or the relative priority or the validity of liens is disputed;
- the mortgage has been foreclosed by advertisement; and
- the time for redemption from the foreclosure sale will expire before final judgment in the action.

Sale scheduling

The sale must be a public auction, conducted between 9 a.m. and 4 p.m. The party conducting the foreclosure may postpone the sale, from time to time. The party requesting the postponement must serve and record notice of the postponement.

If the mortgaged premises consist of separate and distinct farms or tracts, they must be sold separately. No more farms or tracts may be sold than are necessary to satisfy the amount due.

Redemption period

Generally, when property has been sold after a foreclosure by advertisement, the redemption period is six months. However, a 12-month redemption period applies if:

- the mortgage was executed before July 1, 1967;
- the amount claimed to be due and owing as of the date of the foreclosure sale notice is less than $66\frac{2}{3}$ percent of the original principal amount secured by the mortgage;
- the mortgage was executed before July 1, 1987, and the mortgaged premises exceeded 10 acres;
- the mortgaged premises exceeded 10 acres, but did not exceed 40 acres, and was in agricultural use; or
- the mortgaged premises exceeded 40 acres.

A mortgagor may waive in writing the right to have a 12-month redemption period based upon the premises being in agricultural use.

In a voluntary foreclosure, the redemption period is two months from the date of sale, unless the real estate is subject to a federal tax lien under which the United States is entitled to a 120-day redemption period. In that case, the mortgagor's redemption period is 120 days from the date of sale. The certificate of sale must indicate the applicable redemption period.

Sections 580.08 and 580.21 amended 1927; § 582.32 amended 1999; §§ 580.12 and 580.28 amended 2008; rule amended 2010; §§ 580.06 and 580.23 amended 2011; § 580.20 amended 2013; § 580.07 amended 2015.

[Minn. Stat. §§ 580.06, .07, .08, .12, .20, .21, .23, .28; 582.32 \(2019\); Minn. R. Civ. App. P. 104.01](#)

Taxing Authorities, Minnesota, Foreclosure Type

Judicial.

Taxing Authorities, Minnesota, Preconditions to Foreclosure

List of Delinquent Taxes

On or before February 15 each year, the county auditor must file with the court administrator of the county district court a list of the delinquent taxes on real estate within the county. The list must contain:

- the legal description and tax parcel or identification number of each parcel;
- names of the taxpayers and fee owners; and
- the total amount of taxes and penalties, with the years for which the properties are delinquent.

Filing this list has the same effect as filing a complaint in an action by the county against each parcel to enforce payment of the taxes and penalties. The auditor must verify the list by affidavit.

Within five days after filing the list, the court administrator must return a copy to the county auditor, with a notice prepared and signed by the court administrator, to all persons, companies, and corporations who have or claim any interest in or lien on any of the parcels. The notice must state that:

- each interested party must file, on or before the twentieth day after publication of the notice and list, a written answer setting forth any objection or defense;
- if no answer is filed, judgment will be entered against the land for the taxes, penalties, interest, and costs;
- based on that judgment, the land will be sold to the state on the second Monday in May; and
- a "narrative description" of the various redemption periods.

Sale

On the second Monday of May each year, the county auditor must sell all parcels against which judgment has been entered and remains unsatisfied for the taxes of the preceding year(s). The auditor must bid, on the state's behalf, the amount of all delinquent taxes, penalties, costs, and interest to date. No notice of sale is required to be published, posted, or served prior to sale.

Sections 279.14 and 279.15 amended 1986; § 279.05 amended 1998; § 279.06 amended 2013; § 279.16 amended 2014.

[Minn. Stat. §§ 279.05, .06, .14, .15, .16 \(2019\)](#)

[Taxing Authorities, Minnesota, Public Notice and Posting Requirements](#)

[Delinquency List](#)

The county must publish the notice and list of delinquent real property once in each of two weeks in the newspaper designated pursuant to the procedures set forth in Minn. Stat. § 279.08. The first publication must be on or before the March 20 immediately following the filing of the list with the court administrator, and the second must be not less than two weeks later. A taxpayer who has paid delinquent taxes since the first publication must be removed from the second publication. The publication may be made in the newspaper itself, or partly in the newspaper and partly in a supplement.

Expiration of Redemption Period

If any parcel of land bid for by the state at a tax judgment sale has not been redeemed by 120 days before the expiration of the redemption period, the county must give notice of expiration of the time for redemption. That notice must include:

- the tax parcel identification number and legal description of parcels subject to the notice;
- the names of taxpayers and fee owners; and
- the payment amount necessary to redeem as of the notice date.

The notice must be posted by the auditor in the auditor's office, subject to public inspection, and must remain posted until at least one week after the date of the last newspaper publication of notice. The publication must occur as soon as practicable after the posting of the notice, and must continue for two successive weeks in the county's official newspaper. Immediately after beginning publication or mailing, the county auditor must also deliver to the sheriff the notice of expiration of redemption for service on the persons in possession of all parcels of land actually occupied.

Section 279.13 amended 1999; § 279.09 amended 2004; § 281.23 amended 2006.

[Minn. Stat. §§ 279.09, .13; 281.23 \(2019\)](#)

[Taxing Authorities, Minnesota, Preconditions to Eviction](#)

Possession during Redemption Period

Immediately after publication or mailing of the notice of redemption-period expiration, the county auditor must deliver to the sheriff copies of the notice for service on the persons occupying the land. No actual transfer of the land may occur until the full redemption period expires and 60 days have elapsed since service of the notice of expiration.

Ejectment Actions

Ejectment actions in general are covered by Minn. Stat. ch. 559.

Section 281.33 enacted 1905; § 281.30 amended 1917; § 281.23 amended 2006.

[Minn. Stat. §§ 281.23, .30, .33 \(2019\)](#)

Taxing Authorities, Minnesota, Appeals

Payment of Taxes

Before sale, any person may pay the amount adjudged against a parcel, and all proceedings pending against the parcel must then be discontinued.

Civil Process

If objections to a delinquency notice are filed, the case will stand trial at the next general or special term, upon 10 days' notice. The orders and judgment rendered by the district court in such cases are subject to review as in other civil cases. In addition, the district court may, at any time, vacate and set aside the judgment on the ground that the tax in question was paid before judgment was rendered, or that the land in question was not subject to taxation.

Redemption

General provisions

The redemption period for lands sold to the state at a tax judgment sale is generally three years from the sale date, but there are several statutory exceptions. No actual transfer of the land may occur until the full redemption period expires.

Agricultural land

The redemption period for homesteaded agricultural land is five years from the date of sale to the state. The redemption period nonhomesteaded agricultural land is two years from the sale date, if the property is owned by a person who owns one or more parcels on which taxes are delinquent, and the delinquent taxes are more than 25 percent of the prior year's school district levy.

Solid waste disposal facilities

The redemption period for qualified mixed municipal solid waste disposal facilities is one year from the date of the sale to the state.

Military service

If real property forfeited to the state was owned and occupied for "dwelling, professional, business or agricultural purposes" by a person in the military service, the property must be so certified and withheld from sale or conveyance as tax-forfeited property, generally in accordance with the Servicemembers Civil Relief Act.

Section 279.22 enacted 1939; § 279.17 amended 1986; § 281.273 amended 2008; § 279.25 amended 2014; § 281.17 amended 2017.

[Minn. Stat. §§ 279.17, .22, .25; 281.17, .273 \(2019\)](#)

Mississippi

Lenders, Mississippi, Foreclosure Type

Judicial and non-judicial.

A non-judicial foreclosure started during a Presidentially-declared disaster period against property damaged as a result of that disaster may be enjoined by the chancery court. The mortgagor must swear that he or she is unable to pay the mortgage debt, that the value of the mortgaged property has declined by more than 15 percent as a result of the damage, and that the mortgagor has not been able to secure refinancing of the property.

Section added 1980.

Miss. Code § 89-1-301 (LexisNexis 2019)

Lenders, Mississippi, Preconditions to Foreclosure

No generally applicable preconditions to foreclosure were located.

If a deed of trust or mortgage with a power of sale is silent regarding the place and terms of sale and advertising mode, a sale may be "made after condition broken." The sale must be for cash, upon "such notice, and at such time and place as is required for sheriff's sale of like property." The sale must be in the county where the land is located or in the county of one of the grantor's residence.

Section amended 1942.

Miss. Code § 89-1-57 (LexisNexis 2019)

Lenders, Mississippi, Public Notice and Posting Requirements

Judicial

A person who brings a suit to enforce a lien on real estate, unless the claim is founded on a recorded instrument, must file with the clerk of the chancery court of each county where the real estate is located, a notice containing:

- the names of all the parties to the suit;
- the real estate's description; and
- a "brief statement" of the lien's nature.

The clerk must immediately file and record the notice in the lis pendens record.

Non-judicial

Sales must be advertised for three consecutive weeks before sale in a newspaper published or circulated in the county, and by posting one notice at the courthouse of the county where the land is situated.

Section 89-1-55 amended 1934; § 11-47-3 amended 1942.

Miss. Code §§ 11-47-3; 89-1-55 (LexisNexis 2019)

Lenders, Mississippi, Preconditions to Eviction

A mortgagee against whom possession of property is withheld may bring an unlawful detainer action to recover possession of the property.

"The purchaser of land at a sale for taxes, or his vendee, after two years from the date of the sale for taxes, and within three years from such date, may bring the action of unlawful detainer, for the recovery of possession of the land; and a judgment in his favor in the action shall be a bar to any action in any court brought after one year from the date of such judgment, to controvert the tax title to the land, saving the rights of infants and persons of unsound mind to redeem the same."

Sections amended 1942.

Miss. Code §§ 11-25-1, -3 (LexisNexis 2019)

Lenders, Mississippi, Appeals

Judicial

Appeal

No specific provisions relating to appeals from foreclosures were located. As a general rule, civil appeals must be filed within 30 days of the entry of judgment.

In general, an error in the mode of sale that makes a sale void is not cured by any statute of limitations, except the 10-year statute of adverse possession.

Sale scheduling

The Chancery Court sets the time and place of the sale.

Non-judicial

Appeal

No provisions for appeal were located.

Sale scheduling

Sales must be conducted between 11 a.m. and 4 p.m.

Section 11-5-93 amended 1942; § 89-1-55 amended 1934; rule amended 1998.

Miss. Code §§ 11-5-93; 89-1-55 (LexisNexis 2019); [Miss. R. App. P. 4](#)

Taxing Authorities, Mississippi, Foreclosure Type

Non-judicial.

Taxing Authorities, Mississippi, Preconditions to Foreclosure

Advertisement of Sale

After August 5 of each year, the tax collector for each county must advertise for sale all lands in the county on which the taxes due have not been paid. *See Public Notice and Posting Requirements.*

Conduct of Sale

On the first Monday of April, if the tax collector has elected to hold a tax sale on that day, and on the last Monday of August, the tax collector must sell the land on which past due taxes are owed to the highest bidder for the taxes, fees, penalties, and damages allowed by law. The sale must be held at the county courthouse door or at any place within the courthouse that the tax collector deems suitable; alternatively, the tax collector may conduct tax sales using online bidding and sale. If no one bids the whole amount of taxes and costs, the tax collector must strike off the land to the state. Sales must continue from day to day between the hours of 8:30 a.m. and 4:30 p.m. until completed. Neither a failure to advertise, nor an error in the advertisement or in conducting the sale, will invalidate a sale at the proper time and place, but a sale made at the wrong time or at the wrong place is void.

The tax collector must first offer 160 acres or, if the land is less than 160 acres, a smaller subdivision. If that first parcel does not produce the amount due, then he or she must offer all of the land as one tract.

If property in a public improvement district fails to receive a bid at a sale and is "struck off to the state," the tax collector may, before the redemption period expires, offer the property for sale for a second time, if approved.

If a sale cannot be held at the appointed time, it may be held at any time thereafter designated by order of the board of supervisors. Notice of a sale so ordered must be given by advertising it in the same manner prescribed by law for the sale of land for taxes.

Sale Lists

On or before the second Monday of May and the second Monday of October each year, the tax collector must transmit to the county chancery court clerk separate certified lists of the lands struck off to the state and the lands sold to individuals. The list must specify:

- to whom assessed;
- the sale date;
- the taxes for which the sale was made;
- each item of cost incident to the sale; and
- if sold to individuals, the purchaser's name.

Sales to individuals must be separately recorded by the clerk in a book kept for that purpose.

These lists vest in the state or in the individual purchaser perfect title to the land sold for taxes, but without the right of possession for the redemption period. The title is also subject to the right of redemption.

Notice of Land Sold

The clerk of the chancery court must, no more than 180 days and no less than 60 days before the redemption period expires, issue notice to the record owner of the land sold.

The notice must be issued to the sheriff of the county of the reputed owner's residence (if in Mississippi), and, effective July 1, 2013, the sheriff must serve the personal notice as follows:

- on the reputed owner personally, if he or she can be found in the county "after diligent search and inquiry," by handing the owner the notice;
- if the reputed owner cannot be found in the county, then by leaving the notice at the owner's usual abode with the owner's spouse or another person older than 16 years of age who lives at the abode and is willing to receive the notice; or
- if the reputed owner cannot be found, and if no person above 16 years of age who lives at the owner's abode is willing to receive the notice, then by posting the notice on a door of the owner's usual abode.

The clerk must also mail a copy of the notice, by registered or certified mail, to the reputed owner at his usual street address or post-office address (if only that address can be ascertained), and note such action on the tax sales record.

If the reputed owner is not a Mississippi resident, the clerk must mail a copy of the notice in the same manner as set out above, except that personal notice served by the sheriff is not required.

If notice by mail is returned undelivered and the personal notice is returned unserved, the clerk must make further inquiry to ascertain the reputed owner's street and post office address. If the address is ascertained after additional inquiry, the clerk must again issue notice as set out above. If those efforts fail, the clerk must file an affidavit to that effect, specifying the acts of inquiry made to ascertain the owner's address. The affidavit must be retained as a permanent record in the office of the clerk and noted on the tax sales record.

If the clerk fails to send notice as prescribed, the sale will be void.

Notice to Lienors

Notice of sales that have occurred must also be mailed to any lienors at their post-office address, if their address is set forth in the instrument creating the lien or otherwise actually known to the clerk. If the clerk does not know the addresses, then the notice must be addressed to the "county site" of the county.

Section 27-43-7 amended 1942; § 27-43-1 amended 1975; § 27-43-5 amended 1995; § 27-41-59 amended 2016; § 27-41-79 amended 2011; § 27-43-3 amended 2013; § 27-41-55 amended 2016.

Miss. Code §§ 27-41-55, -59, -79; 27-43-1, -3, -5, -7 (LexisNexis 2019)

[Taxing Authorities, Mississippi, Public Notice and Posting Requirements](#)

Notice of Sale

The tax sale notice must be advertised on the last Monday of August. The advertisement, which must designate the place of sale, must be placed for two weeks in some newspaper published in the county, if there is one. In counties with two court districts, the lands must be advertised and sold in the district in which they are situated and put up at the courthouse door in that district; alternatively, the tax collector may conduct tax sales using online bidding and sale. The lands must be listed in alphabetical order by owner or in numerical order as they are contained in the assessment roll.

Alternatively, at the tax collector's option, advertisement for the sale of county lands may be made after February 15 each year, with the sale to be held on the first Monday of April. All of the statutory provisions that relate to tax sales held in August apply.

If no newspaper is published in the county, or if the proprietor will not make the publication for the compensation allowed by law, the tax collector must post the advertisement and a list of lands at some public place in each supervisor's district for the same duration. The list must also be posted at the courthouse. If no newspaper is published in the judicial district of the county in which the

land is located, or if the proprietor will not make the publication for the compensation allowed by law, the advertisement may be made in some newspaper published in the county with a circulation in the appropriate judicial district.

Notice to Record Owner of Land Sold

The clerk must publish the name and address of the reputed property owner and the property's legal description in a public newspaper of the county in which the land is located. If no newspaper is published in the county, the information must be published in a newspaper with a general circulation in the county. The publication must be made at least 45 days before the redemption period expires.

Section 27-41-67 amended 1934; §§ 27-41-57 and -65 amended 1942; § 27-41-55 amended 2016.

Miss. Code §§ 27-41-55, -57, -65, -67 (LexisNexis 2019)

[Taxing Authorities, Mississippi, Preconditions to Eviction](#)

Possession during Redemption Period

A purchaser does not have the right to possess property until after the redemption period expires. At that time, the chancery clerk must, on demand, execute deeds of conveyance to individuals purchasing lands at tax sales. The conveyance:

- must be attested by the chancery clerk's office;
- must be recordable; and
- vests in the purchaser perfect title, with the immediate right of possession to the land.

Note that a former owner of property does not have the right during the redemption period to prospect for or to extract from the forfeited land any minerals, stone, or gravel that may be found on the land.

Section 27-45-23 amended 1908; § 27-41-83 amended 1972; § 27-41-79 amended 2011.

Miss. Code §§ 27-41-83, -79; -45-23 (LexisNexis 2019)

Taxing Authorities, Mississippi, Appeals

"No purchaser of land at any tax sale, nor holder of the legal title under him by descent or distribution, shall have any right of action to challenge the validity of the tax sale."

The property owner, or any person interested in the land sold for taxes, may redeem the property at any time within two years after the date of sale, by paying to the chancery clerk the amount of the purchaser's bid, the amount of all taxes for which the land was sold, all costs incident to the sale, and five-percent damages on the amount of taxes for which the land was sold, plus interest on all such taxes and costs at the rate of one and one-half percent per month, as well as all costs that have accrued on the land since the sale, with interest at the same rate. Upon payment of these amounts, the court clerk must execute a release of claim by the state or other purchaser of the land, which release, when recorded, serves as a quitclaim deed to the property.

Section 27-45-3 amended 1995; § 27-45-27 amended 2019.

Miss. Code § 27-45-3 (LexisNexis 2019); [2019 Miss. Laws H.B. 1307](#) (amending Miss. Code § 27-45-27)

Missouri

Lenders, Missouri, Foreclosure Type

Judicial and non-judicial.

Lenders, Missouri, Preconditions to Foreclosure

Judicial

If the debt secured is at least \$50, a real estate mortgagee may file a petition in the circuit court against the mortgagor. The petition must:

- set forth the substance of the mortgage deed; and
- pray that judgment be rendered for the debt, the equity of redemption be foreclosed, and the mortgaged property be sold to satisfy the amount due.

The petition may be filed in any county in which any part of the mortgaged premises is situated.

The issue, service, and return of summons and executions and all proceedings are generally subject to and governed by the law regulating proceedings in civil suits.

If the real estate sought to be sold under an execution in favor of the plaintiff is located in a different county from that in which the defendant resides, the plaintiff must serve a written notice on the defendant who owns the real estate, if the owner resides in the state. The notice must be served as other notices are served "by the existing law," at least 20 days before the sale date. It must also be "filed in the office whence the execution issues."

Non-judicial

Notice of sale

At least 20 days' prior notice of the sale must be given. Notice must be sent by United States certified or registered mail to:

- each person who has recorded a request to receive notice;

- the property owner as of 40 days before the scheduled sale date; and
- the lender or grantor named in the deed of trust or mortgage.

Recording of receipt issued by the United States Post Office for certified or registered mail is proof of compliance with the notice requirements.

Deeds of trust

Deeds of trust in the nature of mortgages of land may be foreclosed by suit or by trustee's sale, at the holder's option. The mortgaged property may be sold by the trustee "in the same manner and in all respects as in case of mortgages with power of sale."

Notice to tenants

If a foreclosed property is lawfully occupied by a residential tenant who is not in violation of any lease agreement, no unlawful detainer action, including eviction, may be taken against the tenant until at least 10 business days after the date of the notice that the foreclosure sale occurred. After a foreclosure sale, the new owner must provide the tenant written notice that:

- the foreclosure sale occurred;
- he or she is the new owner; and
- the tenant has 10 business days to vacate the property.

The tenant must receive the notice by mail and by a posting on the door of the premises where the tenant resides.

Sections 443.210, 513.225, and 513.230 amended 1939; § 443.200 enacted 1939; § 443.190 amended 1965; § 443.325 amended 1975; § 443.310 amended 1989; § 443.410 amended 1993; § 534.030 amended 2009.

[Mo. Rev. Stat. §§ 443.190, .200, .210, .310, .325, .410; 513.225, .230; 534.030 \(2019\)](#)

Lenders, Missouri, Public Notice and Posting Requirements

Judicial

Before the sale of foreclosed property, 20 days' notice must be published in a weekly or daily newspaper in the county. If there is no such newspaper, the sale must be advertised by posting at least six printed handbills in public places in different parts of the county.

Non-judicial

Notice must be given by advertisement, inserted at least 20 times, up to the day of the sale, in some daily newspaper in counties with cities of 50,000 inhabitants or more. In all other counties notice is given by advertisement in a weekly newspaper published in the county for four successive issues, with the last insertion no more than one week before the sale date, or in some daily, triweekly, or semiweekly paper published in the county at least once a week for four successive weeks. If the property lies wholly or in part within the corporate limits of a city with a population of 50,000 or more, the notice must be published in a daily newspaper in the city. In any county of the first class not having a charter form of government and containing a portion of a city with a population over 350,000 and in any county of the second class containing a portion of a city with a population over 350,000, the notice requirements may be met by advertisement in a weekly newspaper published in the county for four successive issues, with the last insertion no more than one week before the sale date.

Notice to tenants

If a foreclosed property is lawfully occupied by a residential tenant who is not in violation of any lease agreement, the tenant's notice must be posted on the door of the premises where the tenant

resides.

Section 443.320 amended 1989; § 513.205 amended 1978; § 534.030 amended 2009.

[Mo. Rev. Stat. §§ 443.320; 513.205; 534.030 \(2019\)](#)

Lenders, Missouri, Preconditions to Eviction

An unlawful detainer action may be brought against a person who holds over after the foreclosure of a mortgage. If the foreclosed property is occupied by a residential tenant, the purchaser of the foreclosed property must give 10 days' notice before beginning an unlawful detainer action.

Section amended 2009.

[Mo. Rev. Stat. § 534.030 \(2019\)](#)

Lenders, Missouri, Appeals

Judicial

Appeal

Generally, an appeal in a civil action must be filed no later than 10 days after the judgment becomes final.

A person may bring a proceeding to set aside or quash execution or order of sale by applying to any judge of the court that issued the order, by petition, verified by oath or affirmation. "Reasonable notice of such intended application" must previously be given to the opposite party or his or her attorney of record or agent.

Sale scheduling

Property must be sold at a public auction held between 9 a.m. and 5 p.m.

Non-judicial

Appeal

No specific provisions for appeal in non-judicial sales were located.

Sale scheduling

Unless the deed of trust specifies a time or place for the sale, scheduling the sale is left to the trustee's discretion to schedule the sale for a commercially reasonable time. A sale between 9 a.m. and 5 p.m. is deemed commercially reasonable.

A trustee exercising a power of sale may, in his or her discretion, continue a sale without readvertising or mailing additional notice by announcing on the day and at the time and place of sale that the sale is being continued. Only one such continuance may be made, and it may not exceed seven days, although the security instrument's holder and the land's owner may agree to more than one continuance or to continuances for more than one week.

Redemption

All real estate sold under a power of sale in a mortgage deed of trust is subject to redemption by the grantor within one year from the sale date. The party entitled to redeem must give written notice at the sale or within 10 days before the date advertised for the sale to "the person making or who is to make the sale." No party has the right of redemption unless he gives this written notice and, within 20 days after the sale, gives security to the satisfaction of the county circuit court for payment of specified amounts due.

Sections 513.235 and 513.360 amended 1939; § 443.420 amended 1939; § 443.355 enacted 1993; § 443.327 amended 1994; § 443.410 amended 1993; rule 81.04 amended 2016.

[Mo. Rev. Stat. §§ 443.327, .355, .410, .420; 513.235, .360 \(2019\); Mo. R. Civ. P. 81.04](#)

Taxing Authorities, Missouri, Foreclosure Type

Judicial and non-judicial.

Taxing Authorities, Missouri, Preconditions to Foreclosure

Delinquent Tax List

The county auditor must make an annual list of all delinquent and back taxes and unpaid special assessments on real property and provide a copy of the list to the county collector. The county clerk must enter the properties and mineral rights in a "back tax book," which entry constitutes a levy on the delinquent lands for the purpose of enforcing a lien against them. All real property on which taxes or special assessments are delinquent and unpaid become subject to sale to discharge the lien on the fourth Monday in August of each year.

Conduct of Sale

No proceedings for the sale of land and lots for delinquent taxes are valid unless brought within three years after the delinquency. No real property or mineral rights may be sold without judicial proceedings, unless a notice of sale is provided that contains the names of all record owners, or the names of all owners appearing in the land tax book, and all other information required by law.

The collector must send notices to the record owner before any delinquent and unpaid taxes subject to sale are published. The first notice must be by first class mail. A second notice must be sent by certified mail if the property's assessed valuation is greater than \$1000. If the second notice sent by certified mail is returned to the collector unsigned, then he or she must send notice before the sale by first class mail to the property's record owner and occupant.

The county collector must commence the sale on the day mentioned in the notice and continue it from day to day until each parcel assessed is sold to pay the taxes, interest, and charges. No sale may be made to a person or designated agent who is currently delinquent on any tax payments on any property, other than a delinquency on the property being offered for sale, and who does not sign an affidavit stating such at the time of sale. Failure to sign the affidavit or signing a false affidavit may invalidate the sale. In addition, no bid may be received from any non-resident of

Missouri or a foreign corporation or entity. Non-residents must file with the collector a written agreement consenting to the jurisdiction of the circuit court of the county in which the sale is made, and appointing a citizen of the county as agent for service of process in relation to any suit connected with the sale for taxes. Certificates of purchase must be issued to the agent, not the non-resident.

If the property is not sold at the first offering, it must be offered again. If, at the second offering, no one bids a sum equal to the delinquent taxes with interest, penalties, and costs, the clerk must note that fact in his or her records, and the county collector must record the fact in the back tax book. If lands have been offered for sale for delinquent taxes for two successive years and no person has bid the required sum, the county collector must, at the next regular tax sale of lands for delinquent taxes, sell the property to the highest bidder, provided the highest bid is not be less than the total of the delinquent taxes, interest, penalties, and costs. There is a 90-day redemption period for such sales. A certificate of purchase is issued as to such sales, and the purchaser is entitled to a collector's deed upon completion of a title search action as specified in § 140.405. If any lands or lots are not sold at the third offering, the collector, in his or her discretion, need not again advertise or offer the land for sale more often than once every five years after the third offering. A purchaser at any sale subsequent to the third offering is entitled to the immediate issuance and delivery of a collector's deed, and there is no redemption period.

Obtaining a Deed

A purchaser of property at a delinquent land tax auction may not acquire a deed to the property until the person meets the requirements of § 140.405, except in the case of post-third year sales. The purchaser must obtain a title search report from a licensed attorney or licensed title company.

Alternatively, at least 90 days before the date a purchaser is authorized to acquire the deed, the purchaser must notify the record owner and any person who holds a publicly recorded, unreleased deed of trust, mortgage, lease, lien, judgment, or claim on the property of the latter's right to redeem the property. Notice must be sent by first-class mail and certified mail return-receipt requested to that person's last known address.

If real estate purchased at a third-offering tax auction has a publicly recorded, unreleased deed of trust, mortgage, lease, lien, judgment or any other publicly recorded claim upon the real estate, the purchaser must similarly notify anyone with a publicly recorded interest within 45 days after the purchase at the sale of the person's right to redeem the property within 90 days from the postmark date on the notice. The notice must be sent by both first-class and certified mail, return-receipt requested, to the person's last known address. The purchaser must notify the county collector by

affidavit of the date the required notice was sent to the record owner and, if applicable, the holder of any other publicly recorded claim on the property.

If the county collector chooses to have the title search done, the county collector must comply with all the statutory requirements and may charge the purchaser for the search.

If no person redeems the property before the right to redeem expires, the collector must execute a conveyance of the real estate sold, subject to specified liens.

Section 140.240 enacted 1959; §§ 140.190 and 140.250 amended 2010; §§ 140.150 and 140.160 amended 2013; §§ 140.405 and 140.420 amended 2015.

[Mo. Rev. Stat. §§ 140.150, .160, .190, .240, .250, .405, .420 \(2019\)](#)

Taxing Authorities, Missouri, Public Notice and Posting Requirements

Delinquent Lands List

Except for lands with an assessed value of \$1500 or less, the county collector must, before the sale, cause a copy of the delinquent lands list to be printed in a newspaper of general circulation published in the county once a week for three consecutive weeks. The last publication must be at least 15 days before the fourth Monday in August. In addition to the names of all record owners, the published notice must state, in the aggregate, the amount of taxes, penalty, interest, and costs due, with each year separately stated. The notice must also indicate that the land and lots will be sold at public auction in or adjacent to the county courthouse, on the fourth Monday in August, starting at 10:00 a.m. and continuing from day to day until all parcels are offered. On or before the sale date, the county collector must record on his or her copy of the notice a certification of publication. In addition, the printer, editor, or publisher of the newspaper in which the list of delinquent lands and notice of sale was published must provide an affidavit of publication, to be recorded in the county recorder's office.

The county collector may maintain a separate list of lands, without legal descriptions and names of record owners, that is printed in a newspaper of general circulation published in the county for three consecutive weeks before the sale, for parcels with an assessed value of \$1500 or less that (a) have been previously advertised or (b) are lots in a development of 20 or more lots. The notice

must state that legal descriptions and the names of the record owners are posted at any county courthouse within the county and in the office of the county collector.

Section amended 2015.

[Mo. Rev. Stat. § 140.170 \(2019\)](#)

Taxing Authorities, Missouri, Preconditions to Eviction

Possession Rights

The purchaser of property, except for homesteads, at a sale for delinquent taxes may at any time after one year from the sale date be entitled to the immediate possession of the premises, unless sooner redeemed. However, the property's owner or occupant may retain possession by making a written and enforceable assignment of, or agreement to pay, rent certain or estimated to accrue during any remaining redemption period.

A purchaser at a tax sale who takes possession within the redemption period must pay the taxes subsequently assessed on the property during the occupancy period and within the redemption period. Upon the purchaser's failure to do so, or upon his or her commission of waste on the property, the purchaser forfeits all rights acquired by the certificate of purchase.

Section 140.320 enacted 1939; § 140.310 amended 2015.

[Mo. Rev. Stat. §§ 140.310, .320 \(2019\)](#)

Taxing Authorities, Missouri, Appeals

Pre-sale payment

Delinquent taxes or unpaid special assessments, plus penalty, interest, and costs due thereon may be paid to the county collector at any time before the property is sold at a tax sale.

Post-sale redemption

Upon paying reasonable and customary sale costs, the owner, lien holder, or occupant of any real property sold for taxes, or any other person with an interest in the property, has the "absolute right" to redeem at any time during the first year after sale. This right continues until the tax sale purchaser acquires the deed, except that upon the expiration of the lien evidenced by a certificate of purchase under § 140.410, no redemption is required.

Reasonable and customary sale costs include:

- the full sum of the purchase money named in the certificate of purchase;
- all sale costs; and
- interest at the rate specified in the certificate, not to exceed 10 percent annually.

Upon deposit with the county collector of the amount necessary to redeem, the county collector must mail to the purchaser a notice of the deposit for redemption. Such notice stops payment to the purchaser of any further interest or penalty.

Civil action

If a landowner is deprived of title or incurs expenses, damages, costs, or charges because of the county collector's failure to give proper credit for any taxes paid, or if land is assessed to two or more persons and the entire tax is paid by either of them and the collector sells the land as delinquent, the party damaged may bring an action against the officer whose act or omission caused the damages. The plaintiff may recover a judgment for the amount of all the damages, costs, and charges, plus a 10 percent penalty.

Suits against purchaser

Any suit against the purchaser of tax lands generally must be brought within three years.

Suit to set aside tax deeds

A person or corporation may not maintain an action against another to determine the title to, or to recover the possession of, any lands that have been sold for taxes or to set aside or cancel any tax deed or sale of land for taxes alleged to have been void, voidable or defective, unless that person or corporation, offers in the petition to refund to the defendant all taxes defendant paid, plus interest from the date of payment to the judgment date. The plaintiff need not tender the amount, but the petition must contain the offer.

Section 140.490 enacted 1939; § 140.600 amended 1939; § 140.590 amended 1983; § 140.150 amended 2013; § 140.340 amended 2015.

[Mo. Rev. Stat. §§ 140.150, .340, .490, .590, .600 \(2019\)](#)

Montana

Lenders, Montana, Foreclosure Type

Judicial and non-judicial.

The laws relating to non-judicial foreclosures provide alternate procedures to be followed for non-judicial foreclosure of a trust indenture (limited to property of less than 40 acres). A trust indenture may be foreclosed by advertisement and sale or by judicial procedure as provided for the foreclosure of mortgages.

Sections amended 2001.

[Mont. Code Ann. §§ 71-1-302, -304 \(2019\)](#)

Lenders, Montana, Preconditions to Foreclosure

Judicial

No preconditions specifically applicable to judicial foreclosure were located.

Non-judicial

Mortgage with power of sale

If the mortgage contains a power of sale, notice of the sale must be served personally at least 30 days before the sale date on:

- the property's occupant;
- the lender, if within Montana; and
- every person having or claiming an interest of record in the property who may be found within Montana.

Trust indenture

A trustee may foreclose a trust indenture by advertisement and sale if:

- the trust indenture, any assignments, and any appointment of a successor trustee are recorded;
- the grantor or another person owing an obligation defaults on a secured provision that authorizes sale in the event of default; and

- the trustee or beneficiary has filed a notice of sale.

At least 120 days before the sale date, a copy of the recorded notice of sale must be mailed by registered or certified mail to:

- the grantor;
- each person designated in the trust indenture to receive notice of sale;
- each person who has filed for record a request for a copy of notice of sale;
- any successor in interest to the grantor; and
- any person with a recorded lien or interest subsequent to the trustee's interest.

Sections 71-1-224 and 71-1-313 amended 1963; § 71-1-315 amended 2009.

[Mont. Code Ann. §§ 71-1-224, -313, -315 \(2019\)](#)

Lenders, Montana, Public Notice and Posting Requirements

Judicial

No relevant provisions were located.

Non-judicial

Mortgages

If the mortgage contains a power of sale, notice must be published at least 30 days before the sale date in a newspaper in the county in which the real estate is situated. If there is no newspaper in that county, notices must be posted in at least five conspicuous places in the county, one posted on the land advertised for sale, two in conspicuous places in the township in which the land is situated, one in a conspicuous place in the county that will be most likely to give notice to all persons interested in the sale, and one posted in a conspicuous place at the front door of the county courthouse.

Trust indentures

Notice of the intent to sell the property must be recorded in the Office of the Clerk and the County Recorder no less than 120 days before the sale. At least 20 days before the sale date, a copy of the recorded notice of sale must be posted in some conspicuous place on the property to be sold. A copy of the notice of sale must also be published in a newspaper published in any county in which the property is situated, at least once each week for three successive weeks. If there is no such newspaper, copies of the notice must be posted in at least three public places in each county in which the any part of the property is located. The posting or the last publication must be made at least 20 days before the sale date.

On or before the sale date, affidavits of mailing, posting, and publication showing compliance with the above requirements must be recorded in the office of the clerk and recorder of each county in which any part of the property is located.

Sections 71-1-224 and -313 amended 1963; § 71-1-315 amended 2009.

[Mont. Code Ann. §§ 71-1-224, -313, -315 \(2019\)](#)

[Lenders, Montana, Preconditions to Eviction](#)

Possession Rights

Mortgages

The purchaser of land at a mortgage foreclosure is not entitled to the possession of the land during the redemption period *while the execution debtor personally occupies the land as a home*. No provision was located addressing possession of commercial land during the redemption period.

Trust indentures

A person who remains in possession of property for more than 10 days after the sale is deemed a tenant-at-will. A tenancy-at-will may be terminated by one month's written notice.

Section 70-27-104 amended 1947; § 71-1-319 amended 1963; § 71-1-229 amended 2009.

[Mont. Code Ann. §§ 70-27-104; 71-1-229, -319 \(2019\)](#)

Lenders, Montana, Appeals

Judicial

Appeal

No specific provisions regarding appeal of a foreclosure action were located. As a general rule, an appeal in a civil action must be filed no later than 30 days after the entry of judgment.

Sale scheduling

No relevant provisions were located.

Non-judicial

Appeal

No relevant provisions were located.

Sale scheduling

No relevant provisions were located regarding scheduling of sales.

For a trust indenture, the sale may not be less than 120 days after the date on which the notice of sale was filed for record. The sale must be held between the hours of 9 a.m. and 4 p.m., Mountain Standard Time. The person making the sale may, for any cause the person considers expedient, postpone the sale for a period not exceeding 15 days by so stating at the time and place set in the sale notice.

Section 71-1-313 amended 1963; § 71-1-315 amended 2009; rule amended 2015.

[Mont. Code Ann. §§ 71-1-313, -315 \(2019\); Mont. R. App. P. 4](#)

Taxing Authorities, Montana, Foreclosure Type

Non-judicial sale of tax liens.

Taxing Authorities, Montana, Preconditions to Foreclosure

Notice of Tax Lien Attachment

On or before the last Monday of June, the county treasurer must publish a notice of all property in the county on which taxes are delinquent and which are subject to a tax lien attachment. *See Public Notice and Posting Requirements.*

Notice of Pending Attachment

Prior to attaching a tax lien to the property, the county treasurer must send notice of the pending attachment to the person to whom the property was assessed. The notice must include the information in the tax-lien certificate, state that the tax lien may be assigned to a third party, and include certain property-tax assistance information. The notice must have been mailed at least two weeks before the date on which the county treasurer attaches the tax lien.

Notice of Issuance of Tax Deed

Between May 1 and May 30 of the year in which the redemption period expires, the assignee of a tax lien or the county treasurer, as appropriate, must notify, by certified mail return receipt requested, all persons considered interested parties in the property and the current occupant, if any, that a tax deed will be issued to the assignee or the county unless the property is redeemed within the redemption period. Proof of notice of mailing must be filed with the county clerk and recorder within 30 days of mailing or publishing the notice.

Statutory section 7-1-2121 amended 2015; §§ 15-17-122 and 15-17-125 amended 2017; §§ 15-17-323 and 15-18-212 amended 2019.

[Mont. Code Ann. § 7-1-2121; 15-17-122, -125, -323; -18-212 \(2019\)](#)

Taxing Authorities, Montana, Public Notice and Posting Requirements

Notice of Pending Tax Lien Sale

The county treasurer must publish a notice of pending tax lien attachments twice, with at least 6 days separating each publication, in the newspaper designated for county printing. If no newspaper is published in the county, the notice must be posted in a qualified newspaper in an adjacent county. If there is no qualified newspaper in an adjacent county, publication must be made by posting the notice in three public places in the county, designated by resolution of the governing body. The notice must state the following:

- the date on which the county will attach a property lien to the property on which the taxes are delinquent;

- that the delinquent taxes, including penalties, interest, and costs, are a lien on the property;
- that unless that amount is paid before the specified date, the lien will be attached and may be assigned to a third party; and
- that a list of each property on which taxes are delinquent is on file in the county treasurer's office and open to inspection.

A copy of the notice, accompanied by an affidavit of publication, must be filed with the county clerk.

Notice of Issuance of Tax Deed

The person required to give notice must publish a notice that a tax deed will be issued if the property is not timely redeemed. Notice must be published twice, with at least 6 days separating each publication, in the newspaper designated for county printing. If no newspaper is published in the county, the notice must be posted in a qualified newspaper in an adjacent county. If there is no qualified newspaper in an adjacent county, publication must be made by posting the notice in three public places in the county, designated by resolution of the governing body. (If the county is the purchaser and the board of county commissioners has not directed the treasurer to issue a tax deed, then the relevant period is not less than 60 days nor more than 120 days before the date upon which the county treasurer will otherwise issue a tax deed.) Proof of notice of publication must be filed with the county clerk and recorder within 30 days of publishing.

Section 7-1-2121 amended 2015; §§ 15-17-122, 15-17-123, and 15-18-212 amended 2017.

[Mont. Code Ann. §§ 7-1-2121; 15-17-122, -123; -18-212 \(2019\)](#)

Taxing Authorities, Montana, Preconditions to Eviction

Possession Rights

A tax deed conveys to the grantee absolute title to the property as of the date of the tax deed. The deed is deemed prima facie evidence of the right of possession accruing as of the date on which the tax deed was issued.

Section amended 2019.

[Mont. Code Ann. § 15-18-214 \(2019\)](#)

Taxing Authorities, Montana, Appeals

Redemption

A property tax lien may be redeemed by the following:

- the owner;
- the holder of an unrecorded or recorded interest;
- the property's occupant;
- a mortgagee;
- a vendor of a contract for deed;
- a lienholder; or
- another person with a properly recorded interest in the property.

The time for redemption is by the first working day in August:

- 2 years after attachment of the tax lien for property subdivided as a residential or commercial lot on which special improvement district assessment or rural special improvement district assessments are delinquent and on which no habitable dwelling or commercial structure is situated, or
- 3 years after attachment of the tax lien for all other property.

Voiding a Tax Lien Attachment

If a court declares a tax lien void for irregularity in the assessment, levy, or assignment, or if a tax lien is assigned in error, the money the assignee paid at the sale must be refunded, with interest from the payment date, to the assignee, together with any penalty paid by the assignee. Following the payment of a refund, the county is considered the possessor of the tax lien upon the property for the legal taxes on the property accruing from the date of delinquency, plus penalties and interest. The assignee has a lien on the property for the amount of taxes, penalties, interest, and costs paid, with interest. If the assignee possesses and resides on the property, the assignee may not be ejected from the property until the assignee's lien has been liquidated.

Royalty Interests

An action against a county to recover a royalty interest in land the county acquired by tax deed must be brought within three years after the commencement of commercial production of oil, gas, or other minerals from the land.

Action to quiet title to tax deed

In an action brought to set aside or annul a tax deed or to determine a purchaser's rights to real property claimed to have been acquired through tax proceedings or a tax lien attachment, the assignee or the recipient or purchaser of a tax deed may file an affidavit and obtain from the court an order directed to the person claiming to be the true owner. Generally, the order may require the true owner to:

- deposit certain amounts with the court for the purchaser's use; or
- show cause why the payment should not be made.

The order must be filed with the county clerk and a copy must be served personally on each person shown in the affidavit claiming to be a true owner and whose name and address are reasonably ascertainable. Jurisdiction is acquired over others by giving a copy to the county treasurer.

The proceedings are void if the taxes were not delinquent or have been paid.

If the payment is made to the court, the true owner is successful in the action, and the tax proceedings are declared void, the amount deposited with the court must be paid to the county that possesses the tax lien, or to the assignee or the recipient or purchaser. If the purported true owner is not successful in the action and the county's or the assignee's, recipient's or purchaser's title is sustained, the money must be returned to the purported true owner.

Section 27-2-210 amended 2009; §§ 15-17-326, 15-18-111 amended 2017; §§ 15-18-411 and 15-18-412 amended 2019.

[Mont. Code Ann. §§ 15-17-326; 15-18-111, -411, -412; 27-2-210 \(2019\)](#)

Nebraska

Lenders, Nebraska, Foreclosure Type

Judicial and non-judicial.

Lenders, Nebraska, Preconditions to Foreclosure

Judicial

Generally, actions for foreclosure of mortgages or deeds of trust as mortgages must be brought within 10 years after the cause of action accrues.

When a summons has been served or publication made, the action is pending so as to charge third persons with notice. In all actions brought to affect title to real property, the plaintiff may, either at the time of filing his or her complaint or later, file with the clerk or register of deeds of each county in which any part of the real estate is situated, a notice of the pendency of the action. The notice in an action for foreclosure of a mortgage must contain:

- the parties' names;
- the object of the action;
- the property's description;
- the mortgage's date and parties; and
- the time and place the mortgage was recorded.

From the time of filing, the notice of pendency of the action is constructive notice to any purchaser or encumbrancer to be affected.

Non-judicial

Notices

Notice of default must be sent by registered or certified mail to the parties to the deed of trust no more than 10 days after the notice of default is filed with the County Recorder. Notice of the sale must be sent to the parties to the deed of trust no less than 20 days before the sale. Notice of the sale must be sent by registered or certified mail.

Trust deed

A trustee may exercise a power of sale and sell the trust property after a breach of an obligation for which the trust property is conveyed as security. (At the beneficiary's option, a trust deed may also be foreclosed in the manner provided by law for the foreclosure of mortgages on real property.)

Section 25-1531 amended 2018; § 76-1005 amended 1993; § 25-531 amended 2012; § 76-1008 amended 2006; § 25-202 amended 2008.

[Neb. Rev. Stat. §§ 25-202, -531, -1531; 76-1005, -1008 \(2019\)](#)

Lenders, Nebraska, Public Notice and Posting Requirements

Judicial

Notice of sale

Public notice of the time and place of sale must be given by publication once each week for four successive weeks in a newspaper printed in the county. If no newspaper is printed in the county, public notice must be published in some newspaper in general circulation in the county. Notice must also be posted on the courthouse door and in five other public places in the county, two of which must be in the precinct where the property is located. Sales made without proper notice may be set aside by the court that ordered the sale.

Notices regarding ordinance violations

After filing a complaint to foreclose a mortgage under § 25-2142, the complainant, within five business days after receipt of a written request by the city or village with jurisdiction over the mortgaged property, must provide the name and address of a designated person to accept notices of ordinance violations by the mortgaged property's owner on behalf of the complainant.

Non-judicial

Notice of default

Notice of default must first be filed in the county in which the property is located. Notice must also be sent by registered or certified mail to any person who has filed a request for notice no more than 10 days after the notice of default is filed.

Notice of sale

Notice of the sale must be sent to the parties who request notice no less than 20 days before the sale. Notice of the sale must be sent by registered or certified mail. No less than one month after filing the notice of default, notice of the sale must be published at least five times, once a week for five consecutive weeks, in a newspaper with a general circulation in the county in which the property is located. The last publication must be at least 10, but not more than 30, days before the sale.

Farming operations

If trust property is used in farming operations carried on by the trustor and is not located in an incorporated city or village, the notice of default must also include the following statements:

- that the default may be cured within two months of the filing of the notice of default;
- the amount of the entire unpaid principal sum secured, the interest accrued, and the dollar amount of the interest accruing daily; and
- the amount of the unpaid principal that "would not then be due had no default occurred."

In the case of farming operations, the trustee may give notice of sale no less than *two* months after filing the notice of default.

Notices regarding ordinance violations

After filing a notice of default pursuant to § 76-1006, the trustee or the trustee's attorney, within five business days after receipt of a written request by the city or village with jurisdiction over the trust property, must provide the name and address of a designated person to accept notices of ordinance violations by the property's owner on behalf of the beneficiary.

Section 25-1529 amended 1971; §§ 76-1007 and 76-1008 amended 2006; §§ 25-2142 and 76-1006 amended 2015.

[Neb. Rev. Stat. §§ 25-1529, -2142; 76-1006, -1007, -1008 \(2019\)](#)

Lenders, Nebraska, Preconditions to Eviction

An action for forcible entry and detainer may be brought against a mortgagor who holds over after a sale. Notice to leave must be served at least three days before bringing the action.

In addition, an action for ejectment may be brought by any person with a legal estate in property who is entitled to possession of the property.

Section 25-21,221 amended 1985; § 25-2124 amended 2002; § 25-21,220 amended 2016.

[Neb. Rev. Stat. §§ 25-2124, -21,220, -21,221 \(2019\)](#)

Lenders, Nebraska, Appeals

Judicial

Stay

Generally, a foreclosure sale may be stayed for nine months after the entry of the decree if the mortgagor files a written request to the court for a stay.

Sale scheduling

No specific provisions relating to the scheduling of a sale were located.

Redemption

The owners of any real estate against which a decree of foreclosure has been rendered in any court of record may redeem at any time before the sale is confirmed by a court of competent jurisdiction.

Failure to publish notice of sale

The court that ordered a sale may set aside a sale made without proper notice.

Affirmative defenses

If a defendant sets up an affirmative cause of action and demands relief that will affect title to real estate, he or she may, at the time of filing the answer or later, file with the clerk or register of deeds of each county in which the real estate is located, a notice of the pendency of such action. From the time of filing, the notice is constructive notice to any purchaser or encumbrancer.

Non-judicial

Appeal

No specific provisions relating to objections to, or appeals from, the sale were located.

Sale scheduling

Sales must be held between 9 a.m. and 5 p.m. on the date set out in the notice of sale. The person conducting the sale may postpone the sale of all or any part of the property from time to time until the sale is completed. Notice of postponement must be given by public declaration at the time and place last appointed for the sale. The public declaration of the notice of postponement must include the new sale date, time, and place. No other notice of the postponed sale need be given unless the sale is postponed for more than 45 days after the day designated in the notice of sale, in which case notice must be given in the same manner as the original notice of sale.

Section 25-1529 amended 1971; § 25-1531 amended 2018; § 25-1506 amended 2002; § 25-1530 amended 2004; § 76-1007 amended 2006; § 76-1009 amended 2010; § 25-531 amended 2012.

[Neb. Rev. Stat. §§ 25-531, -1506, -1529, -1530, -1531; 76-1007, -1009 \(2019\)](#)

Taxing Authorities, Nebraska, Foreclosure Type

Judicial and non-judicial.

Taxing Authorities, Nebraska, Preconditions to Foreclosure

Non- Judicial

Except for delinquent taxes on mobile homes, cabin trailers, manufactured homes, or similar property assessed and taxed as improvements to leased land, all real estate on which taxes have become delinquent and have not been paid in full on or before the first Monday of March, are subject to sale on or after that date.

Between four and six weeks before the first Monday in March of each year, the county treasurer must make a list of all real property subject to sale, indicating each delinquent tax amount and describing each property. A notice must accompany the list, stating that as much of the property as necessary will be sold for the taxes, interest, and costs owing at public auction on the first Monday in March at the county treasurer's office.

At least three months before applying for a tax deed, the purchaser generally must serve notice that states that after at least three months have expired, the purchaser will apply for a tax deed. The notice must include numerous items required by § 77-1831(1), including the following statement: "UNLESS YOU ACT YOU WILL LOSE THIS PROPERTY."

Effective September 1, 2019, service of the notice required by § 77-1831 must be made by:

- personal or residence service on "a person in actual possession or occupancy of the real property and upon the person in whose name the title to the real property appears of record" who can be found in Nebraska, except that if a person in actual possession or occupancy of the property cannot be served by personal or residence service, service of the notice must be made upon such person by certified mail service or designated delivery service as described in § 25-505.01, and the notice sent to the address of the property; and if the person in whose name the title to the property appears of record cannot be found in Nebraska or if such person cannot be served by personal or residence service, service must be made upon such person by certified mail service or designated delivery service as described in § 25-505.01, and the notice sent to the name and address to which the property tax statement was mailed; and
- certified mail or designated delivery service as described in § 25-505.01 upon every encumbrancer of record found by the title search required in § 77-1833, sent to the encumbrancer's name and address appearing of record as shown in the encumbrance filed with the register of deeds.

Generally, the laws in effect on the date a tax sale certificate is issued govern all matters related to the tax-deed proceedings, including notice and foreclosure. However, tax sale certificates sold and issued between January 1, 2017, and September 1, 2019, are governed by the laws that were in effect on September 1, 2019, with regard to all matters related to tax-deed proceedings, including notice and foreclosure.

Judicial

-

After any real estate parcel has been offered for sale and not sold for lack of bidders, the county board must direct the county attorney to foreclose the lien for all delinquent taxes. Final confirmation of the sale cannot occur until two years have expired from the sheriff's sale date in the foreclosure proceedings.

Within six months (extended to nine months, as of January 1, 2015) after the expiration of three years from the sale date, the holder of a tax sale certificate or tax deed may, instead of demanding a deed, proceed in the district court of the county in which the land is situated to foreclose the lien for taxes, generally in the same manner and with like effect as in the foreclosure of a real estate mortgage.

Section 77-1903 amended 1943; § 77-1901 amended 2011; § 77-1801 amended 2000; § 77-1902 amended 2013; §§ 77-1837.01, 17-1802, 17-831 and 17-1832 amended 2019.

[Neb. Rev. Stat. §§ 77-1801, -1802, -1831, -1832, -1837.01, -1901, -1902, -1903 \(2019\)](#)

Taxing Authorities, Nebraska, Public Notice and Posting Requirements

Non-Judicial

The list of real property subject to sale and the accompanying notice must be published once a week for three consecutive weeks prior to the date of sale, beginning the first week in February. The publication must be in a legal newspaper and, in counties having more than 250,000 residents, in a daily legal newspaper of general circulation. The county treasurer must also post a copy of it in a conspicuous place in her or her office. Effective July 18, 2014, the treasurer will also be required to forward an electronic copy of the list of real property subject to sale to the Property Tax Administrator. The Administrator will compile a list for all counties and publish the compiled list on the web site of the Department of Revenue.

In issuing the treasurer's tax deed, if the owner or encumbrancer entitled to notice under § 77-1832 cannot, upon diligent inquiry, be found, the purchaser or his or her assignee must publish the notice in a newspaper of general circulation in the county which has been designated by the county board in the year publication is required. The notice must be published three consecutive weeks, the last time not less than three months before applying for the tax deed.

Generally, the laws in effect on the date a tax sale certificate is issued govern all matters related to the tax-deed proceedings, including notice and foreclosure. However, tax sale certificates sold and issued between January 1, 2017, and September 1, 2019, are governed by the laws that were in effect on September 1, 2019, with regard to all matters related to tax-deed proceedings, including notice and foreclosure.

Judicial

General requirements

In all foreclosure proceedings, it is sufficient to designate the township, range, section, or part of section and the number and description of any lot or block by initial letters, abbreviations, and figures. If the plaintiff desires, he may choose to include or make the real property a defendant. If the owners of the real property are unknown and can't be found, the plaintiff may proceed against the real property itself, but in such case the service shall be as in the case of an unknown defendant.

Sale

The sheriff must sell the real property in the same manner as is provided by law for a sale on execution. The sheriff or officer conducting the sale may postpone the sale of all or any portion of the real property from time to time until the sale is completed. In that case, he or she must give a notice of postponement by public declaration at the time and place last appointed for the sale. The public declaration must include the new sale date, time, and place. No other notice of the postponed sale need be given unless the sale is postponed for longer than 45 days after the original sale date. In that case, notice must be given in the same manner as the original notice of sale.

Sections 77-1904 and 77-1906 amended 2002; § 77-1912 amended 2010; §§ 77-1834 and 77-1835 amended 2019; § 77-1804 amended 2014; § 77-1837.01 amended 2019.

[Neb. Rev. Stat. Ann. §§ 77-1804, -1834, -1835, 1837.01, -1904, -1906, -1912 \(2019\)](#)

Taxing Authorities, Nebraska, Preconditions to Eviction

No provisions specifically applicable to evictions in the context of tax lien foreclosures were located. *See generally*, [Neb. Rev. Stat. § 76-301 et seq. \(2019\)](#).

Taxing Authorities, Nebraska, Appeals

Non-Judicial

On the day designated in the notice of sale, the county treasurer must begin the sale and must continue it from day to day, except Sundays and holidays, until each item of real property, or so much of it as is sufficient to pay the taxes and charges, has been sold or offered for sale. The owner or occupant of any real property sold for taxes or any person with a lien on or interest in the property may redeem. The redemption right expires when the purchaser files a tax deed application with the county treasurer. The county treasurer may not accept a redemption unless it is received before the close of business on the tax deed application date.

Redemption is accomplished by paying the county treasurer the sum mentioned in the certificate, with interest, from the purchase date to the redemption date, together with all other taxes subsequently paid, with interest.

A minor's real property may be redeemed at any time during the redemption period or at any time before the minor becomes of age and during two years thereafter. The real property of a person with an intellectual disability or a mental disorder may be redeemed at any time within five years after the sale.

Defeating a tax title

In all controversies and suits involving the title to real property claimed and held under and by virtue of a tax deed, the person claiming the title adverse to the title conveyed by the deed must, in order to defeat the title, prove either:

- that the real property was not subject to taxation for the years or year named in the deed;
- that the taxes had been paid before the sale;
- that the property has been properly redeemed from the sale and that the redemption was for the use and benefit of persons with redemption rights; or

- that there had been an "entire omission" to list the property, to assess the property, to levy the taxes, or to sell the property.

A person may not question the title acquired by a treasurer's deed without first showing

- either that he or she (or the person under whom he or she claims title) had title to the property at the time of the sale or that the title was obtained from the United States or the state after the sale; and
- that all taxes due on the property had been paid by the person or persons under whom he or she claims title.

No action for the recovery of real estate sold for the nonpayment of taxes may be brought after five years from the execution and recording of the treasurer's deed, unless the owner is at the time of the sale a minor, mentally incompetent, or a convict, in which case the action must be brought within five years after that disability is removed.

Judicial

Order of sale

Twenty days after the court's decree, the plaintiff is entitled to an order of sale of the real property remaining unredeemed. This order must be issued only at the request of the plaintiff or the holder of an unredeemed lien. It must be issued within ten years from the date of the decree. After ten years, no order of sale will be issued, the decree is deemed satisfied, and no further action lies to enforce the lien of any taxes or special assessments included in the decree.

After the expiration of the time provided in *Preconditions to Foreclosure—Judicial*, on plaintiff's motion, with limited exception, the court must make and enter an order of confirmation of the sale, directing the disposition of the proceeds and order the sheriff to make and deliver to the purchasers a sheriff's deed for any real estate not redeemed.

Redemption

Any time before the institution of foreclosure proceedings, a person entitled to redeem may do so by paying the county treasurer:

- the amount found due;
- interest, from the purchase date to the redemption date;
- costs; and
- all other taxes subsequently paid, whether for any year(s) previous or subsequent to the sale, with interest from the payment date to the redemption date.

During the pendency of a foreclosure action, any person entitled to redeem may do so by paying the court the amount due with interest and costs, including attorney's fees, if requested in the foreclosure complaint.

Within 30 days after receipt of payment of all amounts due, the holder of the tax sale certificate shall dismiss its claim in the foreclosure proceeding with respect to any redeemed tax sale certificate.

Attacking the authority of governmental subdivisions to convey real property

When any county, city, village, school district, drainage district, or irrigation district has acquired real estate under tax foreclosure proceedings, the governing body may convey the real estate. However, that conveyance is subject to any right another person, entity, or governmental body has to attack the conveyance by action or proceeding during the one-year limitation period.

Section 77-1844 amended 1943; § 77-1913 amended 1982; §§ 77-1806, 77-1826, and 77-1911 amended 1992; § 77-1855 amended 1993; § 77-1843 amended 2006; §§ 77-1904 and 77-1917 amended 2008; § 77-1914 amended 2011; §§ 77-1824, 77-1827, and 77-1936 amended 2013; § 77-1824.01 repealed 2019.

[Neb. Rev. Stat. Ann. §§ 77-1806, -1824, -1826, -1827, -1843, -1844, -1855, -1911, -1913, -1914, -1917, -1936 \(2019\)](#)

Nevada

Lenders, Nevada, Foreclosure Type

Judicial and non-judicial.

Lenders, Nevada, Preconditions to Foreclosure

Judicial

Notice of sale

Notice of the sale must be given by personal service or service by registered mail on each person liable on the mortgage. If the property is operated as a health facility licensed under chapter 449, notice must also be given to the State Board of Health.

Non-judicial

Notice of default and election to sell

A power of sale in a deed of trust may not be exercised until the trustee serves notice of default and election to sell the property on the property owner. The owner has 35 days from the date of service of the notice to cure the default. If the property is operated as a health facility licensed under chapter 449, the notice must be given to the State Board of Health.

Note that certain other notices, such as notice of the availability of consumer credit counseling, apply only if the trust agreement is subject to § 152 of the Home Ownership and Equity Protection Act of 1994 (15 U.S.C. § 1602(bb)) or concerns owner-occupied housing. Similarly, the required notices regarding mediation apply only to trust agreements concerning owner-occupied housing.

The notice of default must also be sent by registered or certified mail, return receipt requested and postage prepaid, to each guarantor or surety of the debt.

Foreclosure Prevention Alternatives

Nevada's property foreclosure alternative laws apply only to certain foreclosures of owner-occupied housing securing a residential mortgage loan.

Section 107.500 amended 2019; § 21.130 amended 2015; §§ 107.080, 107.085, 107.086, and 107.095 amended 2017.

[Nev. Rev. Stat. §§ 21.130; 107.080, .085, .086, .095, .500 \(2019\)](#)

Lenders, Nevada, Public Notice and Posting Requirements

Judicial

Notice of the sale

Notice of the sale must be posted for 20 days successively, in three public places in the township or city where the property is located and where the property is to be sold. Notice must also be published three times, once each week for three successive weeks, in a newspaper, if there is one in the county.

The required postings on the property and notices to tenants apply only to property sold as a "residential foreclosure."

Record of sale

Within 30 days after a property is sold, the sheriff who conducted the sale must record the sale in the office of the county recorder for the county in which the property is located.

Non-judicial

Notice of default and election to sell

Notice of the default and the election to sell the property must be filed with the County Recorder no less than three months before the sale. Except as otherwise provided, the beneficiary or trustee must include a notarized affidavit of authority to exercise the power of sale, which affidavit must include the provisions set forth in § 107.080(2)(c).

The notice must be:

- posted for 20 days successively in a public place in the county in which the property is situated; and
- published three times, once each week for three consecutive weeks, in a newspaper of general circulation in the county in which the property is located.

Notice of the sale must also be sent within 10 days of filing to any person who claims an interest in the property, as evidenced by a recorded document or instrument.

Notice must be posted on the property only if the foreclosure concerns residential property. Also, the required notices to tenants or subtenants appear to apply only to residential foreclosures (although that restriction is somewhat unclear in some instances).

Record of sale

After a property sale, the trustee must record the trustee's deed within 30 days after the sale date.

Effective June 1, 2015, within five days after recording the trustee's deed upon sale, the trustee or successful bidder who recorded the deed must cause a copy of the trustee's deed upon sale to be posted conspicuously on the property.

Section 107.090 amended 2009; §§ 21.130, 107.080, 107.086 and 107.087 amended 2019; § 21.430 amended 2017.

[Nev. Rev. Stat. §§ 21.130; 40.430; 107.080, .086, .087, .090 \(2019\)](#)

Lenders, Nevada, Preconditions to Eviction

An action for removal of a person who holds over after a foreclosure sale or a sale under a power of sale may be brought if the person continues in possession after service of a three-day notice to quit.

Section 40.255 amended 2019.

[Nev. Rev. Stat. § 40.255 \(2019\)](#)

Lenders, Nevada, Appeals

Judicial

Appeal

No specific provisions for appeal from a foreclosure decree were located. As a general rule, an appeal in a civil action must be filed no later than 30 days after the entry of judgment.

Sale Scheduling

All sales of property under execution must be made at auction to the highest bidder between 9 a.m. and 5 p.m. at the public location in the county designated by the governing body of the county for that purpose. If the debtor is present, he or she may direct the order in multiple parcels will be sold.

Redemption

The debtor may redeem the property from the purchaser any time within one year after the sale.

Non-judicial

Appeal

If proper notice is not provided pursuant to §§ 107.080(3) or 107.080(4)(a), the person who did not receive the notice may bring an action within 60 days after the date on which the person received actual notice of the sale.

If, in an action brought by the grantor or title-holder, the court finds that the beneficiary or the trustee did not comply with any requirement of § 107.080(2), (3) or (4) (which subsections generally contain preconditions to foreclosure), the court must award to the grantor or the title-holder:

- the greater of \$5000 or treble the amount of actual damages;
- an injunction enjoining the exercise of the power of sale until the beneficiary or the trustee complies with the requirements; and
- reasonable attorney's fees and costs.

The court, upon finding good cause, may provide a different award.

Sale scheduling

A sale of commercial property may be held no sooner than three months following the recording of the notice of default and election to sell. The sale must be held between 9 a.m. and 5 p.m. A sale may be postponed by oral proclamation to a later date at the same time and location. If a sale has been postponed by oral proclamation three times, any new sale information must be provided by notice.

Section 21.150 enacted 1911; § 21.210 amended 1973; §§ 107.081 amended 2017; §§ 107.080 and 107.085 amended 2019; §107.082 added 2005; rule 4 amended 2019.

[Nev. Rev. Stat. §§ 21.150, .210; 107.080, .081, .082, .085 \(2019\); Nev. R. App. P. 4](#)

Taxing Authorities, Nevada, Foreclosure Type

Judicial and non-judicial.

Taxing Authorities, Nevada, Preconditions to Foreclosure

Trustee's Certificates Sales

Notice of delinquent taxes

Within 30 days after the first Monday in March, with respect to each property on which tax is delinquent, the county tax collector must mail a notice of the delinquency by first-class mail to:

- the owner(s) of the property;
- the person(s) listed as the taxpayer(s) on the tax rolls, at their last known addresses, if the names and addresses are known;

- each holder or a recorded security interest if the holder has made a written request to the tax receiver for the notice; and
- each assignee of a tax lien who has requested in writing to receive the notice.

The notice must state, among other information, that if the amount due is not paid by or on behalf of the taxpayer, the tax receiver will at 5:00 p.m. on the first Monday in June of the current year, issue to the county treasurer as trustee for the state and county, a certificate authorizing him to hold the property, subject to redemption within two years (or one year, if the property is determined to be abandoned) and that a tax lien may be sold against the parcel.

A second copy of the delinquency must be sent by certified mail, not less than 60 days before the expiration of the redemption period.

Procedure

At the time stated in the notice, the tax receiver must make a certificate that describes each property on which delinquent taxes have not been paid, which certificate authorizes the county treasurer, as trustee for the state and county, to hold each described property for two years, or one year if the property is determined to be abandoned, after the first Monday in June of the year the certificate is dated, unless sooner redeemed.

When the redemption period has expired without payment, the tax receiver must execute and deliver to the county treasurer a deed of the property for the use and benefit of the state and county, which deed must be held by the treasurer until it is sold or otherwise disposed of. Such deeds are conclusive evidence of the regularity of all proceedings, from the assessment by the county assessor to execution of the deed, except as against actual fraud.

Effective July 1, 2019, the tax receiver of a county may elect to use an expedited procedure for the sale of a property on which delinquent taxes, penalties, interest and costs have not been paid if, after an investigation, the tax receiver determines that the property is abandoned pursuant to the criteria set forth in Nev. Rev. Stat. § 361.567.

Conveyance of property held in trust by treasurer

Any property held in trust by a county treasurer by virtue of a trustee's certificate may be sold and conveyed, after giving notice of sale, for an amount not less than the amount of the taxes, costs, penalties, and interest chargeable against the property as stated in an order by the county board of commissioners ordering the sale.

The notice must be sent at least 90 days (45 days if the property is determined to be abandoned) before the sale date to the parcel's owner as shown on the tax roll and to any person or governmental entity that appears in the county records to have a lien or other interest in the property. The notice must specify the sale day, time, and place. If the receipt is returned unsigned, the county treasurer must make a reasonable attempt to locate and notify these persons before the sale.

Upon compliance with the board of commissioner's order and filing of the treasurer's affidavit of posting and publication of the notice of sale, the treasurer shall execute and deliver to the purchaser, upon payment of the consideration specified in the commissioner's order, a quitclaim deed to the property.

Effective July 1, 2105, a county treasurer may not issue a quitclaim deed if, no later than 5 p.m. on the third business day immediately before the sale date, a municipality provides the county treasurer with a signed affidavit stating that:

- the municipality sold the property or the property was stricken off to the municipality pursuant to § 271.560; and
- a certificate of sale for the property was issued to the purchaser pursuant to § 271.570 or to the municipality pursuant to § 271.560.

This provision does *not* apply if:

- the person who purchased the property from the county pays to the municipality any amount owed; and

- the municipality provides a signed affidavit stating that those amounts have been paid.

If the purchaser does not pay the amount owed to the municipality within 20 days after the county sells the property, the county's sale of the property is void.

Suits for Delinquent Taxes

In addition to other remedies provided by law, delinquent taxes may be collected through an action in the district court in which judgment may be entered against the defendants and against the real estate, such judgment being a lien which is not extinguished until the delinquent sums are paid. The real estate is subject to sale by execution to enforce the judgment.

List of delinquent taxes

Not later than the second Monday in June, the county treasurer may, and must when directed by the county board of commissioners, prepare and deliver to the district attorney a certified list of all accumulated delinquent taxes, exclusive of penalties and irrigation district assessments, of \$3000 or more, and may also prepare a similar list of accumulated delinquent taxes of \$1000 or more but less than \$3000.

If the listed delinquent taxes, plus penalties, interest and costs, are not paid within 20 days after delivery of the list to the district attorney, the district attorney may, and shall when directed by the county board, immediately commence an action for collection of the delinquent taxes.

Service of summons

Summons in the suit must be served on the personal defendant by delivering to and leaving with him or her a copy of the summons, if the defendant is found within the county.

Sales of Tax Liens

A county must assign a tax lien against a parcel of real property upon which the taxes are delinquent if the assignee:

- presents the county treasurer with a duly executed written authorization for the assignment and evidence that the assignee has posted and maintains the required bond (or is exempt from that requirement); and
- tenders to the county treasurer the full amount of the delinquent taxes assessed against the property and any applicable penalties, interest, fees, and costs.

The county may not assign a tax lien to a government, governmental agency, or political subdivision.

An assignee must post a cash bond or surety bond:

- in the "penal sum of \$500,000"; and
- conditioned to provide indemnification to any owner of real property in Nevada "with respect to which a tax lien is assigned to the assignee if the owner is determined to have suffered damage as a result of the assignee's wrongful failure or refusal to perform the obligations of the assignee under an agreement entered into pursuant to section 4 of this act [2013 Nev. Stat. ch. 331]."

This requirement does not apply to an assignee who is related within the third degree of consanguinity to the property's owner.

The county treasurer may assign a tax lien at any time after the taxes on the parcel become delinquent and before judgment is entered in favor of the county if:

- the parcel is on the secured roll; and

- the taxes on the parcel are delinquent.

The county treasurer must issue a certificate of assignment to each assignee of a tax lien. Generally, if a tax lien is not redeemed, the assignee may commence an action for the collection of the delinquent taxes, penalties, interest, fees, and costs.

Section 361.670 enacted 2005; §§ 361.590, 361.5648, 361.570 and 361.595 amended 2019; § 361.635 amended 2007; §§ 361.7312, 361.7314, 361.7316, 361.7318, and 361.733 amended 2013; § 361.585 amended 2015; 361.567 enacted 2019.

[Nev. Rev. Stat. §§ 361.5648, .567, .570, .585, .590, .595, .635, .670, .7312, .7314, .7316, .7318, .733 \(2019\)](#)

Taxing Authorities, Nevada, Public Notice and Posting Requirements

Trustee's Certificates Sales

Notice of delinquent taxes

If a tax on real estate remains delinquent 30 days after the first Monday in April, the county tax receiver must publish notice of the delinquency at least once in the newspaper that publishes the list of taxpayers. The county tax receiver must publish notice of the delinquency on an Internet website that is maintained by the county treasurer or by the county. If there is no newspaper in the county, the notice must be posted at least five conspicuous places within the county. The notice must contain the information required for a notice mailed to property owners. See *Preconditions to Foreclosure—Trustee's Certificate Sales* for additional information.

If the delinquent property consists of unimproved real estate assessed at \$25 or less, the notice must be given by posting a copy of the notice in three conspicuous places within the county, without publishing the notice in a newspaper.

Notice of sale

A notice of sale must be posted in a least three public places in the county, including one at the courthouse and one on the subject property, not less than 20 days before the sale date. In lieu of posting, the notice may be published "at least once a week for 4 consecutive weeks by four weekly insertions" in some newspaper published within the county, if the board of commissioners so directs. The first publication must be at least 22 days before the sale date. The notice must specify the sale's day, time, and place.

Suits for Delinquent Taxes

Service of summons

If the personal defendant in a suit for delinquent taxes cannot be found in the county after diligent search, service may be made upon him or her by publishing a notice of suit commenced in a newspaper published in the county once a week for three consecutive weeks. If no newspaper is published in the county or if the paper refused to publish the notice, the notice may be posted for 21 days at the courthouse door of the county in which suit is commenced. The last publication of the notice, and the last day of the 21 days during which the copy of the summons is required to be posted, must be at least 10 days before the return day named in the summons.

As to real estate and improvements thereon, or improvements when assessed to a person other than the real estate owner, and as to all owners of or claimants to the same, known or unknown, service of summons may be made by posting a copy of the summons in a public place on the real estate, or improvements, if assessed separately, for 21 days and by publishing and posting a notice in the same manner as above where the personal defendant cannot be found in the county.

Section 361.675 enacted 1953; § 361.565 amended 2011; § 361.670 amended 2005; § 361.595 amended 2019.

[**Nev. Rev. Stat. §§ 361.565, .595, .670, .675 \(2019\)**](#)

[Taxing Authorities, Nevada, Preconditions to Eviction](#)

[Possession Rights](#)

A deed derived from the sale of real property for delinquent taxes is conclusive evidence of title, except as against actual frauds or payment of the taxes by a person not a party to the action or judgment in or upon which such sale was made. The deed entitles the holder to possession of the property.

Action for Possession

Possession may be obtained by an action in a justice court for the unlawful withholding thereof in the same manner as where tenants hold over after their lease expires.

Section amended 1954.

[Nev. Rev. Stat. § 361.705 \(2019\)](#)

Taxing Authorities, Nevada, Appeals

Trustee's Certificates Sales

Payment before public notice of sale

Nevada law provides that at any time during the 90-day period specified in Nev. Rev. Stat. § 361.603 or no later than 5 p.m. on the third business day before the sale date by a county treasurer of any property held in trust by him or her by virtue of a deed, any of the following persons may have the title reconveyed upon payment to the treasurer of an amount equal to the taxes accrued, with any costs, penalties and interest:

- the owner;
- the beneficiary under a note and deed of trust;
- the mortgagee;

- a creditor under a judgment;
- the person to whom the property was assessed;
- a holder under a contract to purchase before its conveyance to the treasurer;
- the Director of the Department of Health and if the owner has received or is receiving any benefits from Medicaid;
- the successor in interest of any of the above; and
- a municipality that holds a lien against the property.

Redemption

Property subject to a trustee's certificate may be redeemed within two years after the date of issuance of the certificate.

Action to Recover Property Sold

An action or counterclaim for recovery of land sold for taxes must be brought or interposed within two years after the execution and delivery of the quitclaim deed to the purchaser.

Section 361.600 amended 1993; § 361.603 amended 1999; § 361.5648 amended 2019; § 361.590 amended 2019; § 361.585 amended 2015.

[Nev. Rev. Stat. §§ 361.5648, .585, .590, .600, .603 \(2019\)](#)

New Hampshire

Lenders, New Hampshire, Foreclosure Type

Judicial and non-judicial.

Lenders, New Hampshire, Preconditions to Foreclosure

Judicial

Mortgages that do not contain a power of sale are foreclosed:

- by entry on the premises under process of law and continued actual possession for one year;
- by peaceable entry on the premises and continued, actual, peaceable possession of the premises for one year and by publication of notice of the possession in a newspaper for three successive weeks (see *Public Notice and Posting Requirements* for publication details); or
- by the mortgagee in possession of the mortgaged premises publishing in a newspaper three weeks successively a notice stating that from and after a day specified in the notice (which may not be more than four weeks from the last day of publication of the notice), the possession will be held for condition broken and for the purpose of foreclosing the right of the mortgagor (see *Public Notice and Posting Requirements* for publication details), and by retaining actual, peaceable possession of the premises for one year from and after the day specified in the notice.

Non-judicial

Decree for sale

If the mortgage contains a power of sale and a conditional judgment is entered, the lender may have a decree entered that the property will be sold pursuant to that power. The lender must give "such notices and do all such acts as are authorized and required by the power or by the court in its decree."

Notice of sale

A copy of a notice of sale must be served on the mortgagor or sent by registered or certified mail to his or her last known address (or to any person agreed upon in the mortgage) at least 25 days before the sale. A similar notice must be sent not less than 21 days before the sale to any person with a recorded lien on the mortgaged premises, provided the lien was recorded at least 30 days before the sale date. The notice must contain:

- the date, time, and place of the sale;
- the address of the mortgaged premises;
- the mortgage's date;
- the volume and page of the recorded mortgage; and
- the sale's terms.

The notice of sale served on or mailed to the mortgagor must include statutory language regarding the mortgagor's right to petition the superior court to enjoin the scheduled foreclosure sale. Failure to institute such petition and complete service on the foreclosing party conducting the sale before that sale bars any action of the mortgagor based on the foreclosure's validity.

Statutory provisions effective January 1, 2016, that require additional information and statements regarding help with foreclosure issues apply only to "owner-occupied dwellings of 4 or fewer units."

Report of sale

The selling party must, within 10 days after the sale, file with the court a report of the sale. The court may confirm and allow the sale or set it aside and order a new sale.

Chapter 479-B Not Applicable

Note that the foreclosure consultant and pre-foreclosure conveyance provisions set forth in chapter 479-B apply only to mortgages on residential property.

Section 479:19, 479:22, and 479:23 history unknown; §§ 479-B:2 and 479-B:3 enacted 2007; § 479:25 amended 2015.

[N.H. Rev. Stat. §§ 479:19, :22, :23, :25 \(2019\)](#); see [N.H. Rev. Stat. §§ 479-B:2, :3 \(2019\)](#)

Lenders, New Hampshire, Public Notice and Posting Requirements

Judicial

Foreclosure based on entry and publication

If foreclosure is based on one year's possession and publication of notice, the notice must be published in a newspaper printed in the same county, if any, or if none, in some newspaper printed in an adjoining county, for three successive weeks. The notice must state:

- the time the possession for condition broken began;
- the object of the possession;
- the mortgagor's and mortgagee's names;

- the mortgage's date; and
- a description of the premises.

The first publication must be at least six months before the right to redeem would be foreclosed.

Foreclosure based on possession and publication

If foreclosure is based on publication by a mortgagee in possession, notice must be published in a newspaper for three successive weeks, stating that from and after a specified day, which is not more than four weeks from and after the last day of publication of the notice, the possession will "be held for condition broken and for the purpose of foreclosing the right of the mortgagor and of all persons claiming under him to redeem the same." The notice must state:

- the names of the mortgagor and the mortgagee;
- the mortgage's date; and
- a description of the premises

Court-ordered sale

If sale of the foreclosed property is ordered, the court's decree will set out the notice and advertisement requirements.

Non-judicial

Notice of sale

Notice must be sent to any person who has a recorded lien on the mortgaged premises that was recorded at least 30 days before the sale date. The notice must be sent not less than 21 days before the sale.

The notice of sale must also be published once a week for three successive weeks in a newspaper of general circulation in the town or county in which the property is situated. The first publication must be not less than 20 days before the sale date, excluding the date of publication of the first notice and the sale date.

Section 479:25 amended 2015; §§ 479:19 and 479:22 history unknown.

[N.H. Rev. Stat. §§ 479:19, :22, :25 \(2019\)](#)

Lenders, New Hampshire, Preconditions to Eviction

A person who purchases property at a foreclosure sale may obtain a writ of possession after service of a written notice to quit possession.

Section 540:12 amended 1939.

[N.H. Rev. Stat. § 540:12 \(2019\)](#)

Lenders, New Hampshire, Appeals

Judicial

Appeal

No specific time or procedures for objecting to the foreclosure were located.

Sale scheduling

Sales are ordered on request of the mortgagor only if the mortgage contains a power of sale. If a sale is ordered, the time and place of the sale will be as ordered by the court.

Non-judicial

Appeal

A claim challenging the form of notice, manner of giving notice, or the conduct of the foreclosure sale must be brought within one year from the date of the recording of the foreclosure deed for the sale.

Sale scheduling

The time and place of the sale are as set out in the power of sale.

Effect of confirmation of sale

Any interested person may intervene on any proceeding regarding a power of sale, and the court order confirming the sale is conclusive evidence that the power was duly executed.

Bar to action on foreclosure's validity

The notice of sale served on or mailed to the mortgagor must include statutory language regarding the mortgagor's right to petition the superior court to enjoin the scheduled foreclosure sale. Failure to institute the petition and complete service on the foreclosing party before the sale thereafter bars any action by the mortgagor based on the foreclosure's validity.

Redemption

The mortgagor may redeem property conveyed in a mortgage only before foreclosure.

Section 479:25 amended 2015; §§ 479:18, 479:22, and 479:24 history unknown.

[N.H. Rev. Stat. §§ 479:18, :22, :24, :25 \(2019\)](#)

Taxing Authorities, New Hampshire, Foreclosure Type

Non-judicial.

Taxing Authorities, New Hampshire, Preconditions to Foreclosure

Notice of Sale

Before posting notice of the sale, but not more than 30 days before the posting, the tax collector must send notice of the tax sale to the last known address of the owner or the person against whom the tax was assessed. The notice must state:

- the name of the owner or the person to whom the property was taxed;
- the property description, as recorded by the selectmen;
- the amount of the tax and interest due;
- the costs and fees incident to advertising and posting; and
- the place, day, and hour of the sale.

Conduct of Sale

The sale must be at auction for the percentage of the common and undivided interest in the whole property that a bidder is willing to offer for the unpaid tax, interest, and costs due. The sale must be held in some public place in the town where the land is located and between the hours of 10:00 a.m. and 6:00 p.m. If necessary, the sale may be adjourned from day to day, not exceeding three days, by proclamation made at the sale place within the stated hours.

Any town or county or the state may be a purchaser at any sale of lands for taxes.

Notices of Purchase

The purchaser of any real estate sold by the tax collector must, within 45 days from the sale date, notify all persons holding mortgages on the property, as recorded in the office of the register of deeds. The notice must be in writing and a copy must be given to each mortgagee in hand, left at his or her usual place of abode, or sent by registered mail to his or her last known post-office address.

No real estate tax sale upon which there is a recorded lien for aid to permanently and totally disabled persons or for old age assistance is valid as against the state, unless the purchaser at the tax sale notifies in writing the Commissioner of Health and Human Services, within 45 days from the sale date.

Notices of Pending Tax Deed

The tax collector, after two years from the tax sale, must execute to the purchaser a deed of the land sold and not redeemed. At least 30 days before executing the deed, the collector must notify the current property owner (or his or her representative or executor) and each person holding a mortgage on the property by certified mail, return receipt requested, of the impending deed.

Alternate Tax Lien Procedure

For any town or city that adopts the provisions of N.H. Rev. Stat. Ann. §§ 80:58 to :86 for a real estate tax lien procedure, the provisions relative to tax sales described herein do not apply. In those municipalities, only a municipality, county, or the state where the property is located may acquire a tax lien against land and buildings for unpaid taxes. Tax sales to private individuals are prohibited.

Note that for this alternate procedure a corporation's real and personal property is "liable for the tax lien process in the same manner as the property of individuals."

Section 80:26 amended 1925; § 80:29 amended 1979; § 80:38-a enacted 1983; §§ 80:28 and 80:31 amended 1985; §§ 80:20-a and 80:58 enacted 1987; § 80:21 amended 1983; § 80:24 amended 1989; § 80:38-b enacted 1995; § 80:38 amended 1997.

[N.H. Rev. Stat. §§ 80:20-a, :21, :24, :26, :28, :29, :31, :38, :38-a, :38-b \(2019\)](#)

Taxing Authorities, New Hampshire, Public Notice and Posting Requirements

Notice of Sale

The tax collector must give notice of every tax sale by posting advertisements in two or more public places in the town at least 25 days before the sale, exclusive of the day of posting and the day of sale. The notice must state:

- the name of the owner or the person to whom the property was taxed;
- the property description, as recorded by the selectmen;
- the amount of the tax and interest due thereon;
- the costs and fees incident to advertising and posting; and
- the place, day, and hour of the sale.

Section amended 1983.

[N.H. Rev. Stat. § 80:21 \(2019\)](#)

Taxing Authorities, New Hampshire, Preconditions to Eviction

No specifically applicable provisions were located in the state's tax foreclosure laws. However, N.H. Rev. Stat. Ann. § 498:5-a addresses the superior court's jurisdiction to decide an action by the holder of a tax collector's deed who desires to quiet his title to the property conveyed, including a determination of entitlement to immediate or exclusive possession.

Section amended 1992.

[N.H. Rev. Stat. Ann. § 498:5-a \(2019\)](#)

Taxing Authorities, New Hampshire, Appeals

Redemption

At any time before a deed is given, a person with a legal interest in tax-sale land may redeem it by paying the tax collector the amount for which the land was sold, plus interest. Partial payments in redemption may be made. If the complete amount necessary for redemption is not paid before a deed is given to the purchaser, the collector must, within 10 days, direct the selectman to issue an order on the town treasurer to refund the sum paid to the person making partial payments.

Contesting the Tax Sale or Deed

No action, suit or proceeding may be brought to contest the validity of a tax sale or any tax collector's deed after 10 years from the date of record of the collector's deed.

Right to Repurchase Property Acquired by Municipality by Tax Deed

At least 90 days before a municipality offering for sale a property that it acquired by tax deed, the governing municipal body must send notice by certified mail, address service and return receipt requested, to the last known post office address of the property's owner at the time of the tax deed, if known, or to the person to whom the notice of pending tax deed was given. The notice must set forth the terms of the offering and the right of the former owner to repurchase the property.

Section 80:39 amended 1986; § 80:33-a amended 1991; § 80:89 amended 2016.

[N.H. Rev. Stat. Ann. §§ 80:33-a, :39, :89 \(2019\)](#)

New Jersey

Lenders, New Jersey, Foreclosure Type

Judicial.

Lenders, New Jersey, Preconditions to Foreclosure

Order of proceedings

Generally, the proceedings available to collect a debt secured by a real property mortgage are:

- first, a mortgage foreclosure; and
- second, an action on the bond or note for any deficiency.

However, this requirement does *not* apply to proceedings to collect a debt secured by a mortgage on real property where:

- the debt secured is for a business or commercial purposes, other than a two- to four-family residence in which the owner or his immediate family resides;

- the mortgaged property is *other* than a one- to four-family dwelling in which the owner or his immediate family resides at the time the proceedings to collect the debt are instituted;
- a state or federal banking institution, savings and loan association, or building and loan association is the lender and the mortgage is not the primary security for the debt; or
- a state or federal banking institution, savings and loan association, building and loan association or licensed secondary mortgage lender and the mortgage is subject to certain prior liens.

Therefore, financial institutions granting commercial mortgage loans to businesses are *not* required to foreclose on a mortgage before seeking entry of judgment on a note.

Sale pending foreclosure

If the mortgaged property is liable to deteriorate in value or its care or preservation is difficult or expensive pending the determination of the action, the court may, before judgment and upon any party's application, order a sale of the mortgaged property at a public or private sale.

Fair Foreclosure Act does not apply

The "Fair Foreclosure Act," which requires a mortgagee to give a residential mortgage debtor notice of the intention to foreclose at least 30 days in advance and to give the debtor a 14-day notice of the submission of proofs for entry of a foreclosure judgment, does *not* apply to the foreclosure of a non-residential mortgage.

Optional foreclosure procedure

New Jersey law also provides an optional foreclosure procedure "without sale for the disposition of a foreclosed premises," but this procedure applies only in certain circumstances involving residential property.

Notice of foreclosure action

In actions for the foreclosure of a recorded or registered mortgage, a notice of lis pendens must be recorded. (See "Public Notice and Posting Requirements" for details.)

Sections 2A:50-31 and 2A:15-9 enacted 1951; § 2A:50-2 amended 1979; § 2A:50-2.3 amended 1981; §§ 2A:50-62 and 2A:50-63 enacted 1995; § 2A:50-58 amended 2006; § 2A:50-56 amended 2019.

[N.J. Rev. Stat. §§ 2A:15-9; :50-2, -2.3, -31, -56, -58, -62, -63 \(2020\)](#)

Lenders, New Jersey, Public Notice and Posting Requirements

Notice of sale

Notice of the time and place of the sale must be posted in the office of the sheriff of the county or counties in which the real estate is located at least three weeks before the sale date. The notice need not be set up at any other place.

The notice must also be published four times, at least once a week during four consecutive weeks, in two newspapers both printed and published in the county in which the real estate is located. One of the newspapers must be published either at the county's county seat or in the municipality in the county with the largest population. If no newspapers are printed and published in the county, both must be circulated in the county. The first publication must be at least 21 days before the sale, and the last publication must be not more than eight days before the property's sale.

The officer conducting the sale may require the notice of sale to be published in three newspapers instead of two, if three are printed and published in the county where the real estate is located. He or she may also require the notice to be printed in a newspaper printed in a foreign language that circulates in the property's neighborhood.

Notice of foreclosure action

In actions for the foreclosure of a duly recorded or registered mortgage, the notice of lis pendens must be recorded. The notice must describe the affected real estate as required by statute and note the time of its filing and the time of the filing of the complaint.

Notice of pendency of action

In every action, the object of which is to enforce a lien on real estate, the plaintiff must, after filing the complaint, file in the office of the county clerk or register of deeds and mortgages, a written notice of the pendency of the action. The notice must set forth the title and the general object of the action and contain a description of the affected real estate.

Section 2A:15-9 enacted 1951; § 2A:61-1 amended 1979; § 2A:15-6 amended 1993.

[N.J. Rev. Stat. §§ 2A:15-6, -9; :61-1 \(2020\)](#)

Lenders, New Jersey, Preconditions to Eviction

An action for possession of property may be brought against a person who holds over and continues in possession after his or term has expired. Three months' notice to quit must be given before the action may be brought. The notice must specify the cause of the termination of the tenancy, and must be served either personally on the tenant or on the person in possession by giving him a copy of the notice or by leaving a copy of the notice at his usual place of abode with some member of his family older than 14 years of age.

Section 2A:18-53 amended 1991; § 2A:18-56 amended 1975.

[N.J. Rev. Stat. §§ 2A:18-53, -56 \(2020\)](#)

Lenders, New Jersey, Appeals

Appeal

Within 10 days of receiving the notice of intent to sell the property, or to proceed without a sale, the mortgagee may send the lender a statement that there is a reasonable likelihood that the mortgagee will be able to provide payment to cure the default within 45 days.

Sale Scheduling

The sheriff must schedule a sale within 120 days (150 days, effective July 29, 2019) of receiving the writ of execution.

Section 2A:50-63 amended 2019; § 2A:50-64 amended 2019; § 2A:50-56 amended 2019.

[N.J. Rev. Stat. §§ 2A:50-56, -63, -64 \(2020\)](#)

Taxing Authorities, New Jersey, Foreclosure Type

Non-judicial sale of a tax-sale certificate, subject to taxpayer's right of redemption. The purchaser of the tax-sale certificate must foreclose on the right to redeem by filing a civil action in the Superior Court.

Taxing Authorities, New Jersey, Preconditions to Foreclosure

Delinquency

When unpaid real property taxes remain in arrears at the end of the fiscal year, the collector must enforce the lien by selling the property at a standard tax sale in the following fiscal year. If unpaid taxes remain in arrears on the eleventh day of the eleventh month in the fiscal year in which the taxes became in arrears, the collector must enforce the lien by selling the property at an accelerated tax sale. That sale must be conducted and completed no earlier than during the last month of the fiscal year. However, effective January 11, 2016, if the due date for the fourth-quarter property tax installment payment has been extended pursuant to N.J. Stat. § 54:4-67(a), a municipality may not conduct an accelerated tax sale with respect to that installment.

List of lands subject to sale

The tax collector must make a list of the lands subject to sale. The list must state:

- the owner's name;

- a description of the properties being offered for sale; and
- the amounts, interest, and costs due.

In the case of a standard tax sale, the list must be prepared at least 50 calendar days before the sale date. The collector may prepare the list after the eleventh day of the eleventh month of the fiscal year, and before the close of the fiscal year, in order to start advertising the standard tax sale before the close of the current fiscal year. In the case of an accelerated tax sale, the list must be prepared as of the eleventh day of the eleventh month of the current fiscal year.

Notice of tax sale

When the owner's name appears in the delinquency list and his post-office address is known, the collector must mail to him at that address, postage prepaid, a copy of the notice. However, failure to mail the notice does not invalidate any tax collection proceeding.

Sale scheduling

The sale may occur no sooner than the last month of the fiscal year. The sale covers only the unpaid taxes or other municipal liens that were in arrears that fiscal year.

Foreclosure of taxpayer's right to redeem

After property is sold, if the purchaser is not the municipality where the property is located, the purchaser must foreclose on the taxpayer's right to redeem the property. If municipality is the purchaser of a tax sale certificate, the municipality may, any time after six months from the sale date, bring an action to foreclose the right of redemption. Generally, for all other persons that do not acquire a tax sale certificate from a municipality, an action to foreclose the right of redemption may be instituted at any time after two years from the tax sale date.

Abandoned property

A person holding a tax sale certificate on a property that is abandoned, may, at any time, file an action with the Superior Court, demanding that the right of redemption on the property be barred. A person holding a tax sale certificate on a property that is abandoned may, at or after the time of the tax sale, enter the property, upon written notice to the owner by certified mail return receipt requested, for the following purposes:

- to make repairs;
- to abate, remove, or correct any condition that is harmful to the public health, safety, and welfare; or
- to address any condition that is materially reducing the property's value.

As of February 5, 2015, any person holding a tax sale certificate on abandoned property may institute an in rem tax foreclosure action against the property.

A municipality may not institute an action under the In Rem Tax Foreclosure Act on a tax sale certificate unless:

- more than six months have expired from the date of the tax sale; and
- all or any portion of the general land taxes levied and assessed against the land for the 21 months immediately before commencement of the action, other than those subject to payment by authorized installments, remain unpaid.

Section 54:5-10 amended 1953; § 54:5-21 amended 2009; §§ 54:5-19, 54:5-86, and 54:5-104.34 amended 2015; § 54:5-27 history unknown.

[N.J. Stat. §§ 54:5-10, -19, -21, -27, -86, -104.34 \(2020\)](#)

Taxing Authorities, New Jersey, Public Notice and Posting Requirements

Public Notice of Sale

After completing the tax-sale list, the collector must provide public notice of the sale. The notice must state:

- the time and place of sale;
- descriptions of the properties being sold;
- the owner's name;
- the total amount due; and
- a statement that the lands will be sold to recover the amounts due, with interest to the sale date and costs of the sale.

Copies of the notice must be posted in five of the most public places in the municipality. The notice also must be published in a newspaper circulating in the municipality at least once in each of the four weeks preceding the calendar week in which the sale is to be held. Alternatively, notice may be sent by regular or certified mail to the owner and any other person or entity entitled to notice, in which case the newspaper-published notice needs to run only twice. The owner's failure to receive notice of the tax sale is not a basis for voiding the sale, and the failure to mail the notice does not invalidate the sale.

For the purposes of notice in connection with a special tax sale for abandoned properties, a single advertisement published in a newspaper circulating in the municipality no less than four and no more than six weeks before the sale, along with notice to the property owner and any person or entity entitled to notice of foreclosure, constitutes sufficient notice of sale.

Notice of foreclosure action

Generally, in actions for the foreclosure of a duly recorded certificate of tax sale, a notice of lis pendens must, in addition to describing the affected real estate, specify the book and page of the certificate of tax sale record. The notice must be filed.

Notice of intent to foreclose right to redeem

The purchaser must give 30 days' written notice of his or her intent to foreclose on the right to redeem to persons who have the right to redeem by certified mail addressed to the last known address of each person with a record interest. The notice must state the amount due and must be filed with the municipal tax collector's office.

Section 2A:15-9 enacted 1951; § 54:5-25 amended 1991; §§ 54:5-26 and 54:5-97.1 amended 2009; § 54:5-27 history unknown.

[N.J. Stat. §§ 2A:15-9; 54:5-25, -26, -27, -97.1 \(2020\)](#)

Taxing Authorities, New Jersey, Preconditions to Eviction

No provisions specific to tax-foreclosure sales were located. For provisions that generally relate to actions for ejectment, see [N.J. Stat. §§ 2A:35-1 to -35-3 \(2020\)](#).

Taxing Authorities, New Jersey, Appeals

Adjournment of sale

The collector has discretion to adjourn a sale, whether because there are no bidders or because persons interested in the sale ask for an adjournment. The collector must make a public announcement of the adjournment and note it on the list. Adjournments may not be made for more than eight weeks total, after which new public notice must be given.

Affirmative defenses

A taxpayer may attack the validity of the taxes assessed, the validity of the proceedings to sell the property, or the validity of the sale itself by pleading those matters as affirmative defenses in the answer to the foreclosure complaint. If these matters are not pleaded as affirmative defenses, their validity is conclusively presumed. All questions as to invalidity may be tried in the action.

Sale set aside

If the assessment is valid and the tax is justly due, no sale may be set aside, unless the person attempting to have it set aside pays the amount due to the municipality for the use of the holder of the certificate of sale. If the sale is set aside, the municipality must refund to the purchaser the price paid, with interest, upon his assigning to the municipality the certificate of sale. The municipality may readvertise and sell the property if the municipal lien remains in force.

A sale may *not* be set aside because of the following reasons, among others:

- insufficient description in the original entry of the lien or in the list made up for the sale;
- a mistake in or omission of the owner's name;
- failure of a municipal officer to record the proceedings relative to the sale; or
- variance between the date of a published notice and its actual publication, provided notice was actually given for the time required.

Certificate of sale as evidence

A certificate of sale is presumptive evidence in all courts in all proceedings by and against the purchaser of:

- the truth of the statements in the certificate;
- the purchaser's title to the land; and
- the regularity and validity of all relevant proceedings.

After two years from the recording of the certificate of sale, no evidence may be admitted in any court to rebut those presumptions, unless the holder obtained the certificate by fraud or had previous knowledge that it was fraudulently made or obtained.

Limitation

In the absence of fraud, no action may be brought to contest or set aside a "certificate of sale, notice and affidavit of service so recorded as a deed, or to recover possession of the lands so conveyed" more than two years from the date they were recorded.

Section 54:5-82 and -100 amended 1953; §§ 54:5-28, -43, -44, and -52 history unknown.

[N.J. Stat. §§ 54:5-28, -43, -44, -52, -82, -100 \(2020\)](#)

New Mexico

Lenders, New Mexico, Foreclosure Type

Judicial and non-judicial.

Lenders, New Mexico, Preconditions to Foreclosure

Judicial

No preconditions specific to mortgage foreclosures, other than publication requirements, were located. See "Public Notice and Posting Requirements" for details regarding publication requirements.

Sale notices

Generally, all sale notices by sheriffs under execution, order, or decree of any state district court must contain:

- the nature of the action;
- the date of the judgment, order, or decree;
- the judgment amount, with interest;
- the property description; and
- the date, hour, and conditions of the sale.

Non-judicial

Power of sale and breach

A power of sale is conferred on the trustee of a deed of trust, pursuant to which the trust real estate may be sold after a breach or default in the underlying contract or the deed of trust. At the beneficiary's option, a deed of trust may be foreclosed as provided by law for the foreclosure of real estate mortgages. Either the beneficiary or the trustee may be the proper plaintiff in an action to foreclose a deed of trust, and either may bring an action to foreclose a deed of trust at any time before the trust real estate has been sold as provided in the power of sale. However, a sale of the trust real estate pursuant to a power of sale may not be held after an action to foreclose the deed of trust has been brought, unless the foreclosure action has been dismissed.

The power of sale of a trust real estate may not be exercised before the expiration of 90 days from the recording of the notice of sale.

Notice of sale

Notice of the sale must be sent within five days of the recording of the notice to all parties to the deed of trust. The notice must show the date the notice was recorded, and must be sent by certified or registered mail. The notice must contain:

- a statement that a breach or default has occurred;
- the nature of the breach or default; and
- the beneficiary's election to sell the trust real estate as provided in the deed of trust.

A copy of the additional notice must also be sent to all junior lienors, with a written statement that the party's interest may be subject to being terminated by the trustee's sale.

Note that "trust real estate" does not include:

- real estate used by the trustor for farming operations; or
- oil and other liquid hydrocarbons, gas, coal, or other minerals in, on, or under real estate, unless the minerals "have not been severed from and are included with the surface estate."

The trustee must give written notice of the time and place of sale by:

- publication of the notice as provided by law for foreclosure of mortgages on real estate;

- recording the notice in the office of the clerk of each county in which the trust real estate is located; and
- giving notice as provided above.

Limitation on action or sale of trust real estate

A trustee's sale of trust real estate pursuant to a deed of trust must be made or an action to foreclose a deed of trust as a mortgage must be brought within the period prescribed by law for commencing an action on a contract secured by a deed of trust.

Section 39-5-3 amended 1953; §§ 48-10-12 and -19 enacted 1987; §§ 48-10-3 and -10 amended 2006; § 48-10-11 amended 2007.

[N.M. Stat. §§ 39-5-3; 48-10-3, -10, -11, -12, -19 \(2019\)](#)

Lenders, New Mexico, Public Notice and Posting Requirements

Judicial and non-judicial

Notice of the time and place of the sale and a full description of property to be sold must be published for four weeks preceding the sale in English or Spanish, as the officer conducting the sale deems will give the most extensive notice in the county in which the property is located. Six notices must also be posted in six of the most public places in the county.

Non-judicial

Notice of the sale must be recorded in the office of the County Clerk. Within 30 days after recording the notice of sale, notice must be sent to:

- all persons who have filed a request for notice before the recording of the notice of sale; and
- to each person who, at the time of recording of the notice of sale, appears by a recorded document to have an interest in any of the trust real estate, including junior lienors.

Section 39-5-1 amended 1953; § 48-10-12 amended 1987; § 48-10-11 amended 2007.

[N.M. Stat. §§ 39-5-1; 48-10-11, -12 \(2019\)](#)

Lenders, New Mexico, Preconditions to Eviction

Action for ejectment

A person who is legally entitled to possession of premises is entitled to bring an action for ejectment. There is no notice to quit requirement.

Growing crops

If a crop is growing on the property and if the mortgage foreclosure was brought after March 15 of any year, the mortgagor may not be dispossessed until the crop has been fully harvested. The mortgagor may retain the crop, unless the mortgage provides otherwise.

Section 42-4-1 amended 1953; § 39-5-16 amended 1991.

[N.M. Stat. §§ 39-5-16; 42-4-1 \(2019\)](#)

Lenders, New Mexico, Appeals

Judicial

Appeal

No specific provisions for objections to a foreclosure were located. Generally, a civil appeal must be filed within 30 days of the filing of the judgment or order.

Sale scheduling

A sale pursuant to a decree of foreclosure may not be held less than 30 days after the entry of the decree of foreclosure.

Non-judicial

Appeal

No specific provisions for objection to a sale were located; however, the borrower may petition the court for permission to redeem the property. The petition must be made within nine months of the sale, or any shorter period provided by the deed of trust.

Sale scheduling

The sale may not be held less than 90 days after the notice of sale is recorded. The person conducting the sale may, for the purpose of verifying the proper amount to be paid or the availability of immediately collectible federal funds, postpone or continue the sale for a reasonable period by giving notice of the new time by public declaration at the sale.

Redemption

Generally, the redemption period after a trustee's sale is the lesser of nine months or the period provided in the deed of trust, which may not be less than one month.

After the sale of real estate pursuant to a court order, judgment, or decree of foreclosure, the former owner or any junior lienholder whose rights were judicially determined may generally redeem the property within nine months from the date of sale.

Statutory section 39-5-17 amended 1971; § 48-10-10 amended 2006; §§ 39-5-18, 48-10-16, and 48-10-13 amended 2007; rule amended 2016.

[N.M. Stat. §§ 39-5-17, -18; 48-10-10, -13, -16 \(2019\); N.M. R. App. P. 12-201](#)

Taxing Authorities, New Mexico, Foreclosure Type

Non-judicial foreclosure of tax liens.

Taxing Authorities, New Mexico, Preconditions to Foreclosure

Notices of Delinquency

Real property taxes are a lien against the property from January 1 of the tax year for which they are imposed. The lien runs in favor of the state. The taxes become delinquent 30 days after the due date unless a timely protest has been made, in which case the taxes attributable to the property's net taxable value that is not in controversy become delinquent if not paid within 30 days after the due date.

If a tax is delinquent for more than 30 days as of June 30, the county treasurer must mail a notice of delinquency to:

- the property's owner as shown on the property tax schedule at the address as shown on the schedule; and
- any other person to whom the tax bill on the property was sent.

The notice must include a statement that if the property taxes due are not paid within three years from the delinquency date the property will be sold and a deed will be issued. The notification form is available at N.M. Code R. § 3.6.7.60.

By June 10 of each year, the county treasurer must mail a similar notice to each owner of property for which taxes have been delinquent for more than two years.

Delinquency List

By July 1, the county treasurer must prepare a property tax delinquency list of all real property for which taxes have been delinquent for more than two years, submit the list to the Department of Taxation and Revenue, and record the list in the county clerk's office. After receiving the list, the Department has the exclusive authority to collect delinquent taxes shown on the list, including bringing collection actions in the district courts based on the property owners' personal liability for taxes and taking the collection actions authorized in the Property Tax Code.

Sale of Property for Delinquent Taxes

The Department of Taxation and Revenue may sell real property for delinquent taxes three years after the first date on which the taxes became delinquent. The property must be offered for sale within four years after the first date on which the taxes became delinquent, or, if the Department is barred by operation of law or court order from offering the property for sale within that period, within one year from the time the Department determines it is no longer barred from selling the property.

Notices of Sale

At least 20 days but not more than 30 days before the sale, the Department must notify by certified mail, return receipt requested, and, for abandoned real property, an additional letter sent by first class mail, to the address shown on the most recent property tax schedule, each property owner that the owner's property will be sold to satisfy delinquent taxes, unless:

- all delinquent taxes, penalties, interest and costs due are paid by 5:00 p.m. of the day prior to the date of sale, or, for abandoned real property being sold via an online platform, all delinquent taxes, penalties, interest and costs due are paid by 5:00 p.m. of the day prior to the date the property is offered on the property tax division's website; or

- an installment agreement for payment, pursuant to N.M. Stat. § 7-38-68, is entered into with the Department by 5:00 p.m. of the day prior to the date of sale. or, for abandoned real property sold via an online platform, an installment agreement for payment of all delinquent taxes, penalties, interest and costs due is entered into with the Department by 5:00 p.m. of the day prior to the date the property is offered on the property tax division's website.

At the same time, a notice must also be sent by certified mail to each person holding a lien or security interest of record in the property, if such person's address is reasonably ascertainable through a search of the county's property records. Failure of the Department to mail any required notice invalidates the sale.

See N.M. Stat. § 7-38-67.1 for sale requirements applying to abandoned real property.

Issuance of Deeds

Upon receiving payment for real property sold for delinquent taxes, the Department must execute a deed to the purchaser that conveys all of the former property owner's interest in the property as of the date the state's property tax lien arose, subject only to prior perfected interests.

Section 7-38-81 amended 1973; §§ 7-38-46, 7-38-51, and 7-38-70 amended 1982; §§ 7-38-60 and 7-38-61 amended 1997; § 7-38-48 amended 2003; § 7-38-67 amended 2005; § 7-38-65 amended 2013; § 7-38-62 amended 2015; § 7-38-66 amended 2018; § 7-38-67.1 enacted 2018.

[N.M. Stat. §§ 7-38-46, -48, -51, -60, -61, -62, -65, -66, -67, -67.1, -70, -81 \(2019\)](#)

Taxing Authorities, New Mexico, Public Notice and Posting Requirements

Delinquency Dates

The county treasurer must publish notice of the date taxes become delinquent in a newspaper of general circulation within the county at least once a week for the three weeks immediately preceding the week in which the delinquency date for the first and second installments of property taxes due occurs.

Notice of Sale

Notice of the sale must also be published in a local newspaper within the county where the property is located, or, if there is none, then in a newspaper in a contiguous or nearby county, at least once a week for the three weeks immediately preceding the sale week.

Section 7-38-46 amended 1982; § 7-38-66 amended 2018.

[N.M. Stat. §§ 7-38-46, -66 \(2019\)](#)

Taxing Authorities, New Mexico, Preconditions to Eviction

There are no applicable provisions under the tax foreclosure laws. However, see [N.M. Stat. § 42-4-1 et seq. \(2019\)](#) for ejectment actions in general.

Taxing Authorities, New Mexico, Appeals

Action Challenging a Conveyance

After two years from the date of a tax sale, neither the delinquent taxpayer nor anyone claiming through him may bring an action challenging the conveyance.

Any person claiming title adverse to that acquired by a deed issued by the Department of Taxation and Revenue as a result of a tax sale must prove, in order to defeat the title, that:

- the property was not subject to taxation the tax years that the delinquent taxes for which it was sold were imposed;
- the Department failed to mail the required notice of sale or to receive any required return receipt;

- the claimant had title to the real property at the time of the sale and had paid all delinquent taxes, penalties, interest, and costs before the sale; or
- the claimant had entered into an installment agreement to pay all delinquent taxes, penalties, interest, and costs before the sale, and all payments were timely made.

Section amended 1982.

[N.M. Stat. § 7-38-70 \(2019\)](#)

New York

Lenders, New York, Foreclosure Type

Judicial only. The law allowing non-judicial foreclosures was repealed effective July 1, 2009.

Lenders, New York, Preconditions to Foreclosure

When action permitted

A mortgage foreclosure action may not be brought if final judgment for the plaintiff has been rendered in an action to recover any part of the mortgage debt, unless an execution against the defendant's property has been issued and returned wholly or partly unsatisfied. In that case, the complaint must state whether any other action has been brought to recover any part of the mortgage debt, and whether any part has been collected. If an action is pending or after final judgment for the plaintiff, no other action may be brought or maintained to recover any part of the mortgage debt, without leave of the court in which the former action was brought.

Necessary defendants

Each of the following persons with an interest claimed to be subject and subordinate to the plaintiff's lien must be made a defendant to the action:

- every person with an estate or interest in the property as "tenant in fee, for life, by the curtesy, or for years";

- every person entitled to the reversion, remainder, or inheritance of the real property;
- every person with a "right of dower or an inchoate right of dower in the real property";
- every person with a lien or incumbrance on the real property that is claimed to be subject and subordinate to the plaintiff's lien; and
- if the mortgage is on a public utility, the public service commission.

Residential notice provisions not applicable

Numerous notice provisions, such as those required for counseling services, apply only to home loans. "Home loans include loans to natural persons on property secured by a mortgage or deed of trust on real estate improved by either a one- to four-family dwelling or on a condominium unit used or occupied as the borrower's principal residence. However, the notice regarding help for homeowners in foreclosure required by N.Y. Real Prop. Acts. Law § 1303 must also be provided to "any tenant of a dwelling unit."

Sections 1301 and 1311 enacted 1962; § 1320 amended 2007; § 6-L amended 2009; § 1303 amended 2016; § 1304 amended 2018.

[N.Y. Banking Law § 6-L; Real Prop. Acts. Law §§ 1301, 1303, 1304, 1311, 1320 \(2020\)](#)

Lenders, New York, Public Notice and Posting Requirements

Notice of pendency

The plaintiff, at least 20 days before a final judgment directing a sale is rendered, must file in the clerk's office of each county in which the mortgaged property is located a notice of the pendency of the action. The notice must specify, "in addition to other particulars required by law":

- the mortgage's date;
- the parties to the mortgage; and
- the time and place of recording.

Notice of sale

Notice of the sale is given by publishing a notice of the time and place of the sale in a newspaper published in the county in which the property is located. If there is none, the notice generally must be published in a newspaper published in an adjoining county. If the real property is located in a county within the city of New York, the publication must be in a daily newspaper published within the county or in a weekly paper published in a city or in the incorporated village. Publication may be either once each week for four successive weeks or at least twice each week for three successive weeks before the original sale date.

If the property is located entirely outside a city or an incorporated village, notice of the sale must also be given by posting a copy of the notice at least 28 days before the date fixed for the sale in three public places in the town in which the property is located. If the sale is to be held in another town or in a city, it must be posted in three public places in that town or city.

Notice to tenants

The notice regarding help for homeowners in foreclosure required by N.Y. Real Prop. Acts. Law § 1303 must also be provided to "any tenant of a dwelling unit." For buildings with five or more dwelling units, a legible copy of the notice must be posted on the outside of each of the building's entrances and exits.

Section 231 amended 1983; § 1331 enacted 1962; § 1303 amended 2016.

[N.Y. Real Prop. Acts. Law §§ 231, 1303, 1331 \(2020\)](#)

Lenders, New York, Preconditions to Eviction

An order that contains a direction for the sale of real property, or confirms such a sale, may direct the delivery of the possession of the property to the person entitled to it. If a party withholds possession from the person declared to be entitled to it, the court, besides punishing the disobedience as a contempt, may require the sheriff to put the person entitled to the property in possession.

Section amended 2009.

[N.Y. Real Prop. Acts. Law § 221 \(2020\)](#)

Lenders, New York, Appeals

Appeal

No specifically relevant provisions were located. However, within one year after the sale, the court may set the sale aside for failure to comply with the notice requirements, or the requirements regarding the time or manner of the sale, if a substantial right of a party was prejudiced by the defect.

Sale Scheduling

If the publication of the notice of sale was for three weeks, the sale must take place on any day on or after the 21st day and on or before the 28th day after the first publication date. If the publication was for four weeks, the sale must take place on any day on or after the 28th day and on or before the 35th day after the first publication date.

If the officer appointed to make the sale does not appear, the plaintiff's attorney may postpone or adjourn the sale for up to four weeks, during which time the attorney may apply to the court to have another person appointed to make the sale. Notice of postponement of the sale must be:

- posted at least three days before the postponed date in the same places as the original notice of sale, if posting of the notice of sale was required; and
- published once at least three days before the postponed date in the newspaper in which the notice of sale was originally published.

Section amended 1983.

[N.Y. Real Prop. Acts. Law § 231 \(2020\)](#)

Taxing Authorities, New York, Foreclosure Type

Judicial.

A tax lien may be foreclosed by a proceeding in rem. The supreme court and the county court have concurrent jurisdiction. Once a final judgment is entered, the property may be sold at public auction or deeded to the taxing district. If a tax district acquires a property through a foreclosure proceeding, it may sell or convey the property (including, effective January 1, 2016, any associated gas, oil, or mineral rights) with or without advertising for bids.

Alternatively, a taxing district, if authorized, may sell the lien to the New York Municipal Bond Bank, and the Bond Bank may foreclose on the lien as if it were a mortgage. Mortgages may be foreclosed by judicial proceedings only. (The law allowing non-judicial foreclosures was repealed effective July 1, 2009.)

NOTE: New York's tax-enforcement statutes are generally applicable to all levels of local government. However, local governments that had local authority to collect delinquent property taxes on January 1, 1993, could opt to continue using that authority rather than the statutes discussed here. Local governments that elected to follow local laws were required to file a copy of those laws with the state tax board by August 1, 1994. New York City follows its own procedures. The Office of Real Property Services recommends that people with questions about foreclosures consult the county clerk for the county where the property is located.

Sections 1120 and 1170 enacted 1994; § 1136 amended 1995; § 1190 enacted 2003; § 1166 amended 2015.

[N.Y. Real Prop. Tax Law §§ 1120, 1136, 1166, 1170, 1190 \(2020\)](#)

Taxing Authorities, New York, Preconditions to Foreclosure

Petition of Foreclosure

Generally, an action to foreclose a tax lien may be brought 21 months after the date the lien arose (which occurs on January 1 of the fiscal year in which the tax was levied). However, for properties subject to three- or four-year redemption periods, which includes residential and farm properties, a petition of foreclosure cannot be filed until 33 or 45 months after the tax lien arose, respectively.

The petition must be filed with the clerk of the county in which the property is situated no later than two business days after its execution.

The enforcing officer must file the petition with the county clerk within two business days after its execution, following the form set forth in the N.Y. Real Prop. Tax § 1123. The petition may incorporate the statutory notice of foreclosure, which is set forth in N.Y. Real Prop. Tax § 1124. If it does, separate notice is not required. The petition also may include the property description, the owners' names and the date of filing the delinquent taxes, which information may, in the alternative, be attached to the petition.

Personal Notice of the Foreclosure Action

The enforcing officer must mail personal notice of the foreclosure action to:

- all owners or persons who have a record interest in the property, whose names and addresses are reasonably ascertainable from the public record;
- any person who has filed a declaration of interest in the property; and

- the enforcing officer of any other tax district with the right to enforce the payment of a tax against the property.

The notice must be sent both by certified mail and ordinary first class mail. The notice is deemed received unless it is returned by the Post Office within 45 days. If the mail is returned, the enforcing officer must look for an alternate address. If no alternate address can be found for an owner, the notice must be posted on the property; if no alternative address can be found for a non-owner, the notice must be posted at the enforcing officer's office and in the office of the county clerk. If an owner is listed as "unknown" on the tax roll and the owner's name cannot be found in the public record, the notice must be mailed to the property address by first class mail, addressed to "occupant," and a copy must be posted on the property.

Sale after Final Judgment

The remedy after final judgment depends on whether an interested person filed an answer to the petition. If an answer was filed and a final judgment of foreclosure is entered, the enforcing officer must sell the property in a public auction. The deed may be in fee simple absolute or subject to other existing tax liens. If no answer to the petition was filed, however, the court will award possession of the property to the taxing district and order the enforcing officer to prepare a deed conveying the property in fee simple to the taxing district.

NOTE: New York's tax-enforcement statutes are generally applicable to all levels of local government. However, local governments that had local authority to collect delinquent property taxes on January 1, 1993, could opt to continue using that authority rather than the statutes discussed here. Local governments that elected to follow local laws were required to file a copy of those laws with the state tax board by August 1, 1994. New York City follows its own procedures. The Office of Real Property Services recommends that people with questions about foreclosures consult the county clerk for the county where the property is located.

Section 1131 enacted 1994; § 1136 amended 1995; § 1123 amended 1996; § 1125 amended 2009; § 1122 amended 2019.

[N.Y. Real Prop. Tax Law §§ 1122, 1123, 1125, 1131, 1136 \(2020\)](#)

Taxing Authorities, New York, Public Notice and Posting Requirements

Public Notice of Foreclosure

Once a petition for foreclosure is filed, the enforcing officer must publish notice for three non-consecutive weeks over a two-month period in at least two newspapers of general circulation within the tax district, which may include an official newspaper of the district or, in New York and Bronx Counties, a daily law journal designated by the judges of the first appellate division of the supreme court. The notice must follow the form set forth in N.Y. Real. Prop. Tax Law § 1124. The notice also must be posted at the office of the enforcing officer and at the county court house. The enforcing officer may use other methods for publication, such as broadcast on a local-access channel or cable television.

The enforcing officer may incorporate the substance of the statutory notice in the foreclosure petition. If that option is chosen, the petition of foreclosure must be published and posted instead.

Notice of Auction

If an answer is filed and a final judgment of foreclosure is entered, the enforcing officer must sell the property in a public auction. Notice of the auction must be published in a newspaper published in the tax district, or if there is no such newspaper, in a newspaper within the county in which the tax district is situated. The notice must be given once a week for at least three weeks in a row. The notice must describe the property in the same manner as it was described in the foreclosure petition, along with any other description that the court directs.

If no answer to the petition was filed, the final judgment will award possession of the property to the taxing district and order the enforcing officer to prepare a deed conveying the property to the taxing district. The statute does not contain any notice provisions for this procedure. Another provision states that if a tax district acquires a property through a foreclosure proceeding, it may sell or convey the property (including, effective January 1, 2016, any associated gas, oil, or mineral rights) with or without advertising for bids.

NOTE: New York's tax-enforcement statutes are generally applicable to all levels of local government. However, local governments that had local authority to collect delinquent property taxes on January 1, 1993, could opt to continue using that authority rather than the statutes discussed here. Local governments that elected to follow local laws were required to file a copy of

those laws with the state tax board by August 1, 1994. New York City follows its own procedures. The Office of Real Property Services recommends that people with questions about foreclosures consult the county clerk for the county where the property is located.

Section 1124 and 1136 amended 1995; § 1126 amended 2010; § 1166 amended 2015.

[N.Y. Real Prop. Tax Law §§ 1124, 1126, 1136, 1166 \(2020\)](#)

Taxing Authorities, New York, Preconditions to Eviction

No specific provisions were found. For statutes relating to the recovery of real property generally, see [N.Y. Real Prop. Acts Law §§ 601–661](#). For statutes relating to summary proceedings for possession, see [N.Y. Real Prop. Acts Law §§ 701–767](#).

NOTE: New York's tax-enforcement statutes are generally applicable to all levels of local government. However, local governments that had local authority to collect delinquent property taxes on January 1, 1993, could opt to continue using that authority rather than the statutes discussed here. Local governments that elected to follow local laws were required to file a copy of those laws with the state tax board by August 1, 1994. New York City follows its own procedures. The Office of Real Property Services recommends that people with questions about foreclosures consult the county clerk for the county where the property is located.

Taxing Authorities, New York, Appeals

Redemption

Real property subject to a delinquent tax lien may be redeemed by paying to the enforcing officer, on or before the expiration of the redemption period, the delinquent tax lien amount, including all authorized charges. Generally, the redemption period expires two years after the lien date, except that a tax district may increase the redemption period for residential or farm property. A tax district may also decrease the redemption period to one year for residential vacant and abandoned property provided the property has been placed on a vacant and abandoned roll, or registry or list prior to the date on which taxes become delinquent in the local municipality.

However, if the notice published pursuant to N.Y. Real Prop. Tax Law § 1124 specifies a later date, the redemption period will expire on the date so specified.

Failure to Answer Petition

Any person with an interest in property, including a different tax district, may redeem the property or answer the petition. The answer must be verified and must set forth:

- the nature and amount of the person's interest; and
- any defenses or objections to foreclosing the lien.

The answer must be filed on or before the last day the property can be redeemed.

If a person with an interest does not answer the petition or redeem the property, he or she will be forever barred from asserting rights, title or an interest in the property, and a default judgment of foreclosure may be entered against him or her.

Evidence

All lawful taxes or other lawful charges, and the liens related to them, are presumed valid.

A tax deed is presumptive evidence that the proceedings and all required notices were "regular" and in accordance with applicable laws. After two years from the date of the recording of the deed, this presumption becomes conclusive.

Statute of Limitations.

A proceeding to set aside a tax deed must be brought and a notice of pendency must be filed within two years of the date of the recording of the tax deed.

NOTE: New York's tax-enforcement statutes are generally applicable to all levels of local government; however, local governments which had local authority to collect delinquent property taxes on January 1, 1993, could opt to continue using that authority rather than the statutes discussed here. Local governments that elected to follow local laws were required to file a copy of those laws with the state tax board by August 1, 1994. New York City follows its own procedures. The Office of Real Property Services recommends that people with questions about foreclosures consult the county clerk for the county where the property is located.

Sections 1131, 1134, 1137, and 1168 enacted 1994; § 1111 amended 2010; § 1123 amended 1996; § 1110 amended 2019.

[N.Y. Real Prop. Tax Law §§ 1110, 1111, 1123, 1131, 1134, 1137, 1168 \(2020\)](#)

North Carolina

Lenders, North Carolina, Foreclosure Type

Judicial and hybrid.

Lenders, North Carolina, Preconditions to Foreclosure

Judicial

No generally applicable preconditions to judicial foreclosure were located.

Public sale of timber

When a court orders the sale of timber by sealed bid, the person holding the sale, before giving notice of the sale, must obtain one or more appraisals of the timber to be sold, among other things.

Hybrid

Power of sale barred when foreclosure barred

Generally, a person may not exercise a power of sale contained in a mortgage or deed of trust if an action to foreclose the mortgage or deed of trust is barred by the statute of limitations.

Notice of hearing

Before a power of sale in a mortgage or deed of trust is exercised, the holder of the power must file with the Clerk of Court a notice of hearing. The notice must specify a time and place for a hearing and must be served not less than 10 days before the hearing. If service by publication would be authorized by the Rules of Civil Procedure, service may be made by posting a notice in a conspicuous place and manner on the property not less than 20 days before the hearing date. If a party cannot be served after a reasonable and diligent effort, notice to that party may be given by posting the notice in a conspicuous place and manner upon the property not less than 20 days before the hearing date.

The notice of hearing must be served on:

- any person to whom the security interest instrument itself directs notice to be sent in case of default;
- any person obligated to repay the debt; and
- every record owner.

The notice must be in writing and must state:

- the real estate security interest being foreclosed;
- the security instrument holder's name and address;

- the nature of the default claimed;
- the fact that the secured creditor has accelerated the maturity of the debt, if true;
- any right of the debtor to pay the debt or cure the default; and
- additional statements and rights specified by statute.

Notice of sale

The notice of sale must:

- describe the instrument pursuant to which the sale is held;
- designate the date, hour, and place of sale;
- describe the real property to be sold; and
- state the terms of the sale, among other provisions required by the instrument or by statute.

The notice of sale must be posted or published as required by the security instrument and by statute. (See *Public Notice and Posting Requirements* for details.) The notice of sale must also be:

- mailed by first-class mail at least 20 days before the sale date to each party entitled to notice of the hearing whose address is known to the trustee or mortgagee; and

- mailed by first-class mail to any party desiring a copy of the notice of sale who has recorded a request to receive the notice.

If the property contains less than 15 residential rental units, the notice of sale must also be mailed to any person who occupies the property pursuant to a residential rental agreement by name, if known, at the property's address. If the name of the person who occupies the property is not known, the notice must be sent to "occupant" at the address of the property to be sold.

"Emergency Program to Reduce Home Foreclosures Act" does not apply

North Carolina's "Emergency Program to Reduce Home Foreclosures Act," which requires an additional notice if the loan being foreclosed is a home loan, applies only to foreclosure proceedings on a debtor's primary residence.

Military Service members

A mortgagee, trustee, or other creditor may not exercise a power of sale contained in a mortgage or deed of trust, or provided by statute, during or within 90 days after a mortgagor's, trustor's, or debtor's period of military service. A service member may waive his or her rights to such protection by a separate written agreement executed during or after his or her military service.

Section 45-21.12 amended 1977; § 1-339.13A enacted 1997; § 45-21.12A amended 2011; §§ 45-21.16 and 45-102 amended 2012; §§ 45-21.16A and 45-21.17 amended 2015.

[N.C. Gen. Stat. §§ 1-339.13A; 45-21.12, -21.12A, -21.16, -21.16A, -21.17, -102 \(2019\)](#)

Lenders, North Carolina, Public Notice and Posting Requirements

Judicial

Type of sale

A sale may be either public or private, at the court's discretion.

Notice of public sale

If the sale is public, notice of public sale of real property must be posted, in the area designated for the posting of notices in the county in which the property is situated, for at least 20 days immediately before the sale.

Notice must also be published once a week for at least two successive weeks in a newspaper qualified for legal advertising published in the county. If there is no newspaper qualified for legal advertising published in the county, the notice must be published in a newspaper with general circulation in the county. The period from the date of the first publication to the date of the last publication may not be less than seven days, including Sundays, and the date of the last publication may be no more than 10 days before the sale date. In addition to the above notice requirements, other notices of public sale must be posted or advertised if required by the judge or clerk.

The notice of public sale must:

- refer to the order authorizing the sale;
- designate the date, hour, and place of sale;
- describe real and personal property to be sold;
- state the terms of the sale; and
- include any other provisions required by the order of sale.

Sale of timber

If the sale is a sale of timber by sealed bid, the notice of public sale must also include certain information regarding the sealed bid procedure. The notice must be in writing, not less than 21 days before the date on which bids are to be opened, and sent to a reasonable number of prospective timber buyers, which must include the timber buyers listed in the office of the North Carolina Forest Services for the county.

Hybrid

Notice of hearing

The mortgagee or trustee granted a power of sale under a mortgage or deed of trust who seeks to exercise a power of sale must file with the clerk of court a notice of hearing.

Notice of sale

Notice of the sale of real property must be posted in the area designated for posting public notices in the county in which the property is situated, at least 20 days immediately before the sale. In addition, the notice must be published once a week for at least two successive weeks in a newspaper in the county in which the property is situated that publishes legal advertising. In addition, the clerk may, in his discretion and on application of any interested party, authorize additional advertisement that will serve the parties' interest. Notice of the sale must be mailed to each party entitled to notice of the hearing. When the notice of sale is published in a newspaper, the period from the date of the first publication to the date of the last publication, may not be less than seven days, including Sundays, and the date of the last publication may not be more than 10 days before the sale date.

The notice must also be sent to any person who has recorded a request for a copy of the notice of sale.

If the property contains less than 15 residential rental units, the notice of sale must also be mailed to any person who occupies the property pursuant to a residential rental agreement by name, if known, at the address of the property to be sold.

Sections 1-339.3A and 1-339.15 amended 1997; §§ 45-21.16 and 45-21.17A amended 2012; § 1-339.17 amended 2013; § 45-21.17 amended 1993.

[N.C. Gen. Stat. §§ 1-339.3A, .15, .17; 45-21.16, .17, .17A \(2019\)](#)

Lenders, North Carolina, Preconditions to Eviction

Judicial

The judge or clerk of court in the proceeding may grant an order for possession of real property against all persons in possession who are parties to the proceeding. The order for possession so granted is directed to the sheriff and authorizes him to remove the party or parties in possession, and their personal property, from the premises and to put the purchaser in possession. There is no requirement of a notice to quit.

Hybrid

The Clerk of Court may issue an order for possession after the sale if 10 days' notice is given to the parties in possession.

Section 1-339.29 amended 1987; § 45-21.29 amended 2019.

[N.C. Gen. Stat. §§ 1-339.29; 45-21.29 \(2019\)](#)

Lenders, North Carolina, Appeals

Judicial

Appeal

No specific provisions for objection or appeal were located. Generally, an appeal in a civil action must be filed within 30 days of the notice of entry of judgment.

Sale scheduling

Sales must be held between 10 a.m. and 4 p.m. on any day except Sunday. The person authorized to hold a public sale by auction may postpone the sale no later than six days, excluding Sunday, after the original sale date, if certain circumstances, including "good cause" exists.

Hybrid

Appeal

The Clerk of Court's order allowing the sale to proceed may be appealed to the district or superior court within ten days of the clerk's order. Either party may demand that the matter be heard at the next succeeding term of court that convenes 10 or more days after the hearing before the Clerk.

Enjoining mortgage sales on equitable grounds

A real estate owner may apply to a judge of the superior court, before the time that the rights of the parties to the sale become fixed to enjoin the sale, on the ground that the amount bid or price offered is inadequate and inequitable and will result in irreparable damage to the owner or other interested person, or upon any other legal or equitable ground that the court may deem sufficient. However, the court or judge must require the plaintiff to post a bond or deposit as is necessary to indemnify and save harmless the mortgagee, trustee, cestui que trust, or other person enjoined.

Sale scheduling

The sale must be held between 10 a.m. and 4 p.m. on any day other than Sunday or a legal holiday when the courthouse is closed for transactions. Any person exercising a power of sale may postpone the sale to a certain date not later than 90 days after the original sale date under the

circumstances stated by statute, which include "for good cause." The person exercising a power of sale may postpone the sale more than once whenever any of the specified conditions are met, as long as the sale is held no later than 90 days after the original sale date.

All notices of a scheduled foreclosure sale, and withdrawal or postponement of a scheduled sale must, on the day of receipt by the Clerk, be posted by the person exercising the power of sale in the location at the county courthouse normally used for the posting of public notices. If a scheduled sale has been withdrawn, the notice must remain in that location for at least 30 days. If the sale has been postponed, the notice must remain in that location until it is replaced by a notice of a rescheduled or withdrawn sale.

Section 1-339.5 enacted 1949; § 45-21.34 amended 1993; § 45-21.21 amended 2018; § 45-21.23 amended 2003; §§ 1-339.20 and 1-339.21 amended 1997; § 45-21.16 amended 2012; Rule 3 amended 2018.

[N.C. Gen. Stat §§ 1-339.5, .20, .21; 45-21.16, .21, .23, .34 \(2019\); N.C. R. App. P. 3](#)

Taxing Authorities, North Carolina, Foreclosure Type

Judicial foreclosure of tax liens.

Taxing Authorities, North Carolina, Preconditions to Foreclosure

Delinquency

Generally, a tax is delinquent on the date it accrues interest.

Report of Unpaid Taxes

In February the tax collector must report to the governing body the total unpaid taxes for the current fiscal year that are liens on real property. When it receives the report, the governing body must order the tax collector to advertise the tax liens.

Notice of Tax Liens

After the governing body orders the tax collector to advertise the tax liens, the collector must send a notice to the record owner of each affected parcel at the owner's last known address by first-class mail at least 30 days before the date of the advertisement to be published in the newspaper. The notice must:

- state the amount of unpaid taxes that are a lien on the property; and
- inform the owner that the owner's name will appear in the newspaper delinquent taxes advertisement if the taxes are not paid before the publication date.

Failure to mail the notice to the correct record owner does not affect the validity of the tax lien or any foreclosure action.

Action in Nature of Mortgage Foreclosure

An action in the nature of a mortgage foreclosure may be brought to foreclose a tax lien. The record owner as of the date the taxes became delinquent, any subsequent owner, all taxing units having tax liens, all other lienholders of record, and all persons who would be entitled to be made parties to a court action to foreclose a mortgage must be made parties and served with summonses. The complaint, from the time it is filed in the office of the clerk of court, serves as notice of the pendency of the foreclosure action.

Any judgment in favor of the plaintiff or a defending taxing unit must order the sale of the property or as may be necessary to satisfy the taxes adjudged to be liens. In all cases in which no answer is filed within the time allowed and in cases in which answers filed do not seek to prevent sale of the property, the clerk may enter the judgment.

In rem Method of Foreclosure

As an alternate method of collecting taxes, the governing body of any taxing unit may direct the tax collector to file a certificate of taxes due with the clerk of the superior court, no earlier than 30 days after the tax liens were advertised. Upon docketing and indexing the certificate, the taxes,

penalties, interest, and costs constitute a valid judgment against the real property, having the same effect of a judgment directing sale for satisfaction of the tax lien.

Notice of tax lien foreclosure

At least 30 days before docketing, the tax collector must send notice of the tax lien foreclosure, by registered or certified mail, return receipt requested, to the taxpayer at his or her last known address and to all lienholders of record. The notice must state:

- that a judgment will be docketed;
- the proposed date;
- that execution will issue; and
- that the lien may be satisfied before judgment.

Notice of sale under execution

At any time after three months and before two years from the indexing of the judgment, execution will be issued at the tax collector's request and the real property will be sold by the sheriff in the same manner as other real property under execution, except in lieu of personal service of notice on the taxpayer, the sheriff must send notice by registered or certified mail, return receipt requested, to the taxpayer at his or her last known address at least 30 days before the date fixed for the sale.

Sections 105-369 and 105-374 amended 2006; § 105-365.1 enacted 2008; § 105-375 amended 2011.

[N.C. Gen. Stat. §§ 105-365.1, -369, -374, -375 \(2019\)](#)

Taxing Authorities, North Carolina, Public Notice and Posting Requirements

Notice of Tax Liens

The tax collector must advertise county tax liens by posting a notice of the liens at the county courthouse (municipal collector must post the notice at the city or town hall) and by publishing each lien at least once in one or more newspapers with general circulation in the taxing unit. The advertisements must be made during the period of March 1 through June 30. Among other information, the posted notice and newspaper advertisement must state that the amounts advertised will be increased by interest and costs and that the taxing unit may foreclose the tax liens and sell the real property in satisfaction of its tax claim.

A tax collector's failure to comply with the posting and advertising requirements does not affect the validity of the taxes or tax liens. Additionally, no tax lien is void because the property to which the lien attached was listed or advertised in the name of a person other than the person in whose name the property should have been listed for taxation if the property was otherwise correctly described on the abstract or in the advertisement.

Action in Nature of Mortgage Foreclosure

Notice of public sale

Persons who have disappeared or who cannot be located and persons whose names and whereabouts are unknown (and their possible heirs or assignees) may be served by publication.

Also, notice of the sale of property ordered by a judgment must be posted in the area designated by the clerk of court for the posting of notices in the county where the property is located, for at least 20 days immediately preceding the sale. Notice must also be published once a week for two consecutive weeks in a newspaper qualified for legal advertising published in the county, or, if no such qualified newspaper is published in the county, in a newspaper of general circulation in the county. The period of the date of the first publication to the date of the last publication may not be less than seven days, and the date of the last publication may not be more than 10 days preceding the sale date.

In rem Method of Foreclosure

Notice of tax lien foreclosure

If a return receipt is not received within 10 days of mailing the notice of tax lien foreclosure, the tax collector must make reasonable efforts to locate and notify the taxpayer and all lienholders, which may include posting of the notice in a conspicuous place on the property. The tax collector must also publish a notice in a newspaper of general circulation in the county once a week for two consecutive weeks, directed to and naming all unnotified lienholders and the taxpayer and stating that a judgment will be docketed against the taxpayer.

Notice of sale under execution

If a return receipt is not received within 10 days of mailing the notice of sale under execution, then the tax collector must make reasonable efforts to locate and notify the taxpayer and all lienholders, which may include posting the notice in a conspicuous place on the property. The tax collector must also publish a notice in a newspaper of general circulation in the county once a week for two consecutive weeks. The notice must be:

- directed to and name all unnotified lienholders and the taxpayer; and
- state that a judgment will be docketed against the taxpayer.

Sections 105-369 and 105-374 amended 2006; § 105-375 amended 2011; § 1-339.17 amended 2013.

[N.C. Gen. Stat. §§ 1-339.17; 105-369, -374, -375 \(2019\)](#)

Taxing Authorities, North Carolina, Preconditions to Eviction

Generally, the judge or clerk of court with jurisdiction over a proceeding in which there is a public sale of real property may grant an order for possession of real property so sold and conveyed, as against all persons in possession who are parties to the proceeding. Such an order is directed to

the sheriff and authorizes him to remove the party in possession and their personal property from the premises and to put the purchaser in possession. However, this requirement may not apply to tax foreclosure sales. See [N.C. Gen. Stat. § 1-339.1](#) ("judicial sale," for which the sale provisions of article 29A specifically apply, does not include "a tax foreclosure sale").

Section amended 1987.

[N.C. Gen. Stat. § 1-339.29 \(2019\)](#)

Taxing Authorities, North Carolina, Appeals

Action in Nature of Mortgage Foreclosure

At any time within 10 days after the sale commissioner files his report of the foreclosure sale with the court, any person with an interest in the property may file exceptions to the report and at any time within that period an increased bid may be filed in the amount specified by and subject to the provisions of N.C. Gen. Stat. ch. 1, art. 29A. In the absence of exceptions or increased bids, the court may order resale of the property whenever it deems such action necessary or in the parties' best interests.

In rem Method of Foreclosure

At any time before the issuance of execution, a person with an interest in the property to be foreclosed may appear before the clerk of the superior court and move to set aside the judgment on the ground that the tax has been paid or that the tax lien on which the judgment is based is invalid.

Contesting Validity of Tax Foreclosure Title

No action may be brought to contest the validity of any real property title by a taxing unit or a private purchaser in any tax foreclosure action or proceeding, nor may a motion to reopen or set aside the judgment in any tax foreclosure action or proceeding, be entertained after one year from the date on which the deed is recorded.

Section 105-377 amended 1977; § 105-374 amended 2006; § 105-375 amended 2011.

[N.C. Gen. Stat. §§ 105-374, -375, -377 \(2019\)](#)

North Dakota

Lenders, North Dakota, Foreclosure Type

Judicial and non-judicial. Non-judicial foreclosures are allowed only for mortgages that contain a power of sale and are held by the State of North Dakota or a state agency.

Section amended 1983.

[N.D. Cent. Code § 35-22-01 \(2019\)](#)

Lenders, North Dakota, Preconditions to Foreclosure

Judicial

Summons and complaint

The complaint in a foreclosure action must state allegations sufficient to:

- identify the mortgage being foreclosed;
- establish the applicable redemption period; and
- determine whether a deficiency judgment will be sought and against which parties.

If the foreclosure involves a mortgage on *commercial* real property, the plaintiff must state in the pleading:

- whether a deficiency judgment will be sought;
- if so, the identity of the parties claimed to be personally liable; and
- a demand for a deficiency judgment against those parties.

If the complaint in an action to foreclose on *agricultural* land of more than 40 acres has provided for a deficiency judgment, a separate action for the deficiency must be brought within 90 days after the sheriff's sale.

The summons in a foreclosure action must be served in the same manner as in any civil action.

Notice of foreclosure

Written notice of foreclosure must be served on the record owner of the property at least 30 days and not more than 90 days before the commencement of any action or proceeding for the foreclosure of a real estate mortgage. Notice may be served personally or by mail.

The notice before foreclosure must contain:

- a description of the real estate;
- the mortgage date and amount;
- the amount due;

- the amount advanced for taxes, insurance, and maintenance; and
- a statement that if the amount due is not paid within 30 days, proceedings will be brought to foreclose the mortgage.

Non-judicial

Default and power of sale

A mortgage of real property held by the state or any of its agencies that contains a power of sale may be foreclosed by advertisement upon default. More specifically, the mortgage may be foreclosed by advertisement if:

- a default in a condition of the mortgage has occurred and caused the power of sale to become operative;
- no action or proceeding has been instituted to recover the debt, or if any action or proceeding has been instituted, it has been discontinued or an execution on a judgment has been returned unsatisfied; and
- the mortgage containing the power of sale and any assignments have been recorded.

Notice of intention to foreclose

Generally, before bringing a non-judicial foreclosure, the foreclosing party must serve a notice of intention to foreclose on the record title owner of the real estate described in the mortgage. Proof of that service must be recorded with the notice and certificate of sale. The notice must be served at least 30 days and not more than 90 days before the commencement of the foreclosure proceedings.

Section 35-22-03 amended 1933; § 35-22-02 amended 1943; § 35-22-01 amended 1983; §§ 32-19-04, -06.1, -06.2, -20, -21, -25, and -29 amended 2005; § 32-19-22 amended 2007.

[N.D. Cent. Code §§ 32-19-04, -06.1, 06.2, -20, -21, -22, -25, -29; 35-22-01, -02, -03 \(2019\)](#)

Lenders, North Dakota, Public Notice and Posting Requirements

Judicial

Before the property may be sold, the officer making the sale must give public notice of the time and place of the sale by advertisement in the county's official newspaper once a week for three successive weeks, with the last publication at least 10 days before the sale.

Non-judicial

Notice that the mortgage will be foreclosed by a sale of the mortgaged premises must be given by publishing notice six times, once in each week for six successive weeks, in a newspaper published in the county in which the premises are located. If no such newspaper exists, the notice must be published in a newspaper published in an adjoining county.

An affidavit of the publication of the notice of the sale must be filed for record by the officer making the sale, in the office of the recorder of the county in which the real property is located, within 60 days after the sale.

The notice of sale must be substantially in the form set forth in § 35-22-07.

Section 35-22-03 amended 1933; § 35-22-06 amended 1943; §§ 35-22-07 and 35-22-14 amended 2001; § 28-23-04 amended 2007.

[N.D. Cent. Code §§ 28-23-04; 35-22-03, -06, -07, -14 \(2019\)](#)

Lenders, North Dakota, Preconditions to Eviction

An action for eviction may be brought against a party who continues in possession after the sale of foreclosed property and after the expiration of the 60-day redemption period. Three days' written notice of intention to evict must be given before proceedings can be instituted. The notice may be served personally on the party, or, if the party cannot be found, by the sheriff of the county or a process server posting the notice conspicuously on the premises.

Sections amended 2009.

[N.D. Cent. Code §§ 47-32-01, -02 \(2017\)](#)

Lenders, North Dakota, Appeals

Judicial

Appeal

No specific provisions for appeal from a foreclosure were located. Generally, an appeal in a civil action must be filed within 60 days of the service of notice of entry of judgment.

Sale scheduling

A sale of mortgaged premises pursuant to a foreclosure judgment must be made in the county in which all or some part of the premises are located. The sale must be made in the manner prescribed by law for the sale of real property upon execution. If there are no bidders, the amount offered is "grossly inadequate," or the sale is prevented from occurring on the set date, the sheriff may postpone it for no more than three days without being required to give further notice. No more than two such postponements may occur. The postponements must be publicly announced when and where the sale should have taken place. The sale may be postponed for a longer period by continuing the publication of the original notice of sale with a notice of the postponement.

Redemption

A party in a foreclosure action generally may redeem within 60 days after the sale, except that *agricultural* land may be redeemed within 365 days after the filing of the summons and complaint or the time of the first publication of the notice by advertisement. The final date for redemption of agricultural land may not be earlier than 60 days after the sheriff's sale.

Non-judicial

Appeal

After service of the notice of intention to foreclose, the mortgagor may submit an affidavit to a judge of the district court that the mortgagor has a legal counterclaim or any other valid defense against the collection of the amount claimed to be due on the mortgage. The judge may enjoin the mortgagee or the mortgagee's assignee from foreclosing the mortgage and may direct that all further proceedings for the foreclosure be had in the district court. After the expiration of the period set out in the notice of intention, an order enjoining the foreclosure may be made only on motion or order to show cause. Notice of the motion must be served on the mortgagee's attorney or agent in the same manner as service of other notices of motion, no fewer than eight days before the hearing.

Sale scheduling

Sales must be made at public auction to the highest bidder, between the hours of nine a.m. and four p.m.

Redemption

The property sold may be redeemed as is provided for redemption of real property sold upon execution (chapter 28-24) by the mortgagor, the mortgagor's successor in interest, or a creditor with a subsequent judgment lien or mortgage on the property sold. The redemption period is generally one year from the date of the sheriff's sale.

Section 35-22-04 amended 1931; §§ 28-23-08 and 35-22-08 amended 1943; § 35-22-20 enacted 1985; § 32-19-08 amended 2005; § 32-19-18 amended 2019; §§ 28-23-07 and 28-24-02 amended 2007; rule 4 amended 2018.

[N.D. Cent. Code §§ 28-23-07, -08; 28-24-02; 32-19-08, -18; 35-22-04, -08, -20 \(2019\); N.D. R. App. P. 4](#)

Taxing Authorities, North Dakota, Foreclosure Type

Non-judicial foreclosure of tax liens.

Taxing Authorities, North Dakota, Preconditions to Foreclosure

Delinquency

Real property taxes become due on the first day of January following the year for which the taxes were levied. The first installment becomes delinquent after the following March 1, and the second installment becomes delinquent after October 15.

Notice of Delinquency

Each year, between November 1 and 15, the county treasurer must mail a notice to each owner of a lot or tract on which the taxes are delinquent. The notice must state that:

- there are delinquent taxes that constitute a lien against the property; and
- unless the delinquent taxes, with penalty, interest, and costs, are paid by October 1 of the second year following the year in which the taxes became delinquent, the county auditor will foreclose on the tax lien and issue a tax deed to the county.

Notice of Foreclosure of Tax Lien

On or before June 1, the county auditor must give notice of foreclosure of tax lien for all property for which two or more years have passed since the tax became due.

If the owner is a nonresident of North Dakota, the county auditor must serve the notice by certified mail addressed to the owner's last-known post-office address. If the current assessment records show that no residential building is located on the property, the auditor must serve the notice by certified mail addressed to the owner at the owner's last-known post-office address. If a person entitled to notice has registered an agent with the secretary of state, the notice must be served on the registered agent.

The notice of foreclosure of tax lien must also be served personally upon any person actually residing on the property and upon any tenant or other person entitled to possession of the property as may appear from the recorder's records. In addition the county auditor must serve the notice by certified mail upon each mortgagee, lienholder, and other person with an interest in the property, except those with certain severed mineral interests.

The tax lien foreclosure date is the October 1 after the service of the notice of foreclosure. Thereafter, if the lien remains unsatisfied, the county auditor must issue a tax deed to the county, which deed passes the property in fee. The county may then sell the property.

Conduct of Sale

The annual sale must be held at the county auditor's office or the usual place of holding district court in the county beginning the third Tuesday of November of each year.

The county auditor may sell any property not sold at the annual November sale at private sale before the next annual November sale, for not less than the minimum sale price. The board of county commissioners may by resolution engage licensed real estate brokers to attempt to sell property not sold at the annual November sale.

The board of county commissioners may sell, without further notice, property acquired by the county at tax sale or by foreclosure of tax lien more than 10 years ago.

Section 57-20-01 amended 1985; §§ 57-28-13, -17, and -17.1 amended 1991; §§ 57-28-02 and -22 amended 1999; § -09 amended 2003; §§ 57-20-26 and 57-28-01 amended 2007; § 57-28-04 amended 2017.

[N.D. Cent. Code §§ 57-20-01, -26; 57-28-01, -02, -04, -09, -13, -17, -17.1, -22 \(2019\)](#)

Taxing Authorities, North Dakota, Public Notice and Posting Requirements

Notice of Foreclosure

As to all property for which notice of foreclosure is served on the owner by certified mail, the county auditor must also serve the notice of foreclosure of tax lien by publication in the official newspaper of the county once on or before August 1.

Notice of Sale

Notice of the annual sale of land acquired by tax deed must be given by both:

- posting a notice at the county auditor's office at least 15 days before the sale date; and
- publishing a notice in the official newspaper of the county once, not less than 10 days before the sale date.

Sections amended 1999.

[N.D. Cent. Code §§ 57-28-06, -14 \(2019\)](#)

Taxing Authorities, North Dakota, Preconditions to Eviction

There are no applicable provisions under the tax foreclosure laws, but see [N.D. Cent. Code ch. 47-32](#) for eviction in general.

Taxing Authorities, North Dakota, Appeals

Repurchase

The former owner or his or her executor, administrator, parent, spouse, or child may repurchase property forfeited to the county, as long as the property's tax title remains in the county.

Contesting Sale Price

All property acquired by the county by tax deed must be appraised by the board of county commissioners at least 30 days before the annual sale. After the appraisal, the board sets a date for hearing objections to the minimum sale price determined by the board. At least 10 days before the hearing, the county auditor must send written notice by mail to the city auditor or clerk of the board of supervisors of any township in which the appraised property is located stating the time of the hearing, at which any member or representative of the taxing district's governing body may appear with reference to the fair market value of the property, and the board may change the minimum sale price.

Compromise of Unpaid Taxes

If real estate taxes remain unpaid after the second Tuesday in December, the county commissioners board, subject to approval of the state tax commissioner, because of depreciation in the property's value or other valid reason, may compromise with the property owner by abating a portion of the delinquent taxes, upon payment of the remainder. The commissioners may not compromise the tax after the county auditor has issued a tax deed to the county.

Effect of failure to satisfy tax lien

If the owner, mortgagee, or other lienholder fails to satisfy the tax lien before the foreclosure date, he or she waives "all errors, irregularities, or omissions which do not affect the substantial rights of the parties, except jurisdictional defects."

Other Appeals

Section 57-23-10, which previously explicitly addressed appeals, was repealed in 1971.

Section 57-28-19 amended 1991; § 57-23-07 amended 1999; §§ 57-28-08 and -10 amended 2003.

[N.D. Cent. Code §§ 57-23-07; 57-28-08, -10 \(2019\)](#)

Ohio

Lenders, Ohio, Foreclosure Type

Judicial.

Lenders, Ohio, Preconditions to Foreclosure

Appraisal

When execution is levied on property, the officer who makes the levy must obtain three disinterested and impartial appraisals of the property. If two-thirds of the appraised value is sufficient to satisfy the execution, with costs, the judgment will not operate as a lien on the rest of the debtor's estate to the prejudice of any other judgment creditor.

Preliminary judicial report not applicable

Ohio Rev. Code § 2329.191, which requires a plaintiff to record a preliminary judicial report, applies to the judicial sale of residential real estate consisting of one to four single-family units.

Notice of sale

Written notice of the date, time, and place of the sale must be served on the judgment debtor, if the debtor has answered the foreclosure action. A copy of the notice and proof of service must be filed with the clerk of court at least seven calendar days before the sale date. Service of the written notice is not required on any party who is in default for failure to appear in the action.

All notices and advertisements for the sale of property located in a municipal corporation must contain, in addition to a property description, the street number of the buildings or lots offered for sale. If no such number exists, the notice must contain the name of the street or road upon which the property is located, together with the names of the streets or roads immediately north and south or east and west. If applicable, the notice must include the address of the website that allows a person to obtain a complete legal description. Notices for the sale of property located in a township, and not within the limits of a municipal corporation, must contain the name of that township.

Section 2329.24 enacted 1953; § 2329.17 amended 2018; § 2329.19 amended 2016; § 2329.23 amended 2008; § 2329.191 enacted 2008; § 2329.26 amended 2016.

[Ohio Rev. Code §§ 2329.17, .19, .191, .23, .24, .26 \(2020\)](#)

Lenders, Ohio, Public Notice and Posting Requirements

Notice of sale

Public notice of the date, time, and place of a sale must be published once a week for at least three weeks before the sale date in a newspaper of general circulation in the county that meets other statutory requirements. The court ordering the sale may designate the newspaper in which this public notice must be published. If public notice is made in a newspaper published weekly, it is sufficient to insert it for three consecutive weeks. It is sufficient to publish the public notice in a daily once a week for three consecutive weeks before the sale date, with each insertion to be on the same day of the week, if:

- both a daily and weekly edition of the paper are published and the circulation of the daily in the county exceeds that of the weekly in the county; or
- if the property is located in a city, both a daily and weekly edition of the paper are published, and the circulation of the daily in that city exceeds the circulation of the weekly in that city.

Notice of open house before sale

The officer selling vacant or abandoned property *may* hold an open house before the sale. In that case, the officer may include a notice of the open house in the public notice of sale.

Sections 2329.27 and 2329.272 amended 2008; § 2329.26 amended 2016.

[Ohio Rev. Code §§ 2329.26, .27, .272 \(2020\)](#)

Lenders, Ohio, Preconditions to Eviction

An action to recover real property may be brought by a person with a legal estate in the property and the right to possession. There is no requirement that a notice to quit be served.

Section added 1953.

[Ohio Rev. Code § 5303.03 \(2020\)](#)

Lenders, Ohio, Appeals

Appeal

No specific provisions for appeal from a foreclosure were located. Generally, an appeal in a civil action must be filed within 30 days of the entry of an order that is final upon entry.

Effect of reversal of judgment

Upon the reversal of a judgment in satisfaction of which property is sold, the reversal does not defeat or affect the purchaser's title. In such case, the judgment creditor must make restitution, with interest.

Scheduling of sale

When the sheriff receives the appraisal return, he or she must deposit a copy of it with the clerk of the court and "immediately advertise and sell" the real estate. A private selling officer must also immediately advertise and sell the real estate.

Generally, no tract of land may be sold for less than two-thirds of its appraised value.

Sales set aside

The sale of property made without compliance with the statutory written notice requirements, public notice requirements, or purchaser information requirements must be set aside, on motion by any interested party.

Redemption

At any time before the confirmation of a sale, the debtor may redeem the property.

Sections 2329.20 and 2329.45 enacted 1953; § 2329.33 enacted 1976; § 2329.18 amended 2016; § 2329.27 amended 2008; Rule amended 2014.

[Ohio Rev. Stat. §§ 2329.18, .20, .27, .33, .45 \(2020\); Ohio R. App. P. 4](#)

Taxing Authorities, Ohio, Foreclosure Type

Judicial.

Taxing Authorities, Ohio, Preconditions to Foreclosure

Delinquent tax list

Each county auditor must prepare a delinquent land list. The list must contain, for each property with delinquent taxes:

- the property description;
- the person in whose name the property is listed; and
- the total amount of all taxes, assessments, recoupment charges, penalties, and interest due and unpaid.

Any taxpayer appearing on the list, who more than seven days before the first publication of the list pays the delinquent taxes in full, may be stricken from the list. If the taxpayer pays in full after the first publication of the list, but more than seven days before the second publication, that taxpayer will be eliminated from the second publication.

Timing of foreclosure proceedings

If the taxes have not been paid for one year after having been certified as delinquent, the state generally must institute foreclosure proceedings.

Filing of delinquent tax list

One year after preparing the delinquency list, the auditor must make a delinquent land certificate for each tract or lot listed in the delinquent land list upon which amounts due and owing have not been paid. The certificate must state that the amount has been certified to the county prosecuting attorney as delinquent. The certificate must be filed with the prosecuting attorney.

Instituting the foreclosure proceedings

Upon delivery of the certificates, the county prosecuting attorney must institute foreclosure proceedings to foreclose the state's lien unless amounts due and owing are paid before the complaint is filed. Except for non-resident delinquent taxes and in rem proceedings, tax foreclosure

proceedings must be instituted and prosecuted in the same manner as foreclosures on mortgages, except if service by publication is necessary, it must be made once a week for three consecutive weeks and must be complete at the end of three weeks after the first publication.

In any tax foreclosure proceeding, if the prosecuting attorney determines that service may be obtained ultimately only by publication, the attorney may cause service to be made simultaneously by certified mail, return receipt requested, ordinary mail, and publication.

Notice of sale

The officer must advertise and sell the property in the manner provided by law for the sale of real property on execution. The advertisement for sale of each parcel must be published. (See "Public Notice and Posting Requirements" for publication details.) Any number of parcels may be included in one advertisement.

The notice of the advertisement must be substantially in the form set forth in § 5721.191. In any county that has adopted a permanent parcel number system, the parcel may be described in the notice by parcel number only if the prosecuting attorney determines that publication of the complete legal description is not necessary to provide reasonable notice of the foreclosure sale. If the complete legal description is not published, the notice must indicate where the complete legal description may be obtained.

Whenever the officer charged to conduct the sale offers any parcel for sale, he or she must read aloud either (a) a complete legal description of the parcel or (b) a summary description and a parcel number, if the county has adopted a permanent parcel number system and the advertising notice includes a complete legal description or indicates where the complete legal description may be obtained.

Tax certificate sales

In certain circumstances, the county treasurer may select from the list parcels of delinquent land for which the county treasurer may attempt to transfer by the sale of tax certificates pursuant to Ohio Rev. Code §§ 5721.30 to 5721.43. The county treasurer must compile a separate list of parcels

selected for tax certificate sales, including the same information as must be included in the delinquent land list.

Generally, when tax certificates are to be sold, the county treasurer must send written notice to the record owner and all interested parties discoverable through a title search for each parcel by certified mail or, if the treasurer has record of an internet identifier of record associated with the owner, by ordinary mail and by that internet identifier of record. The notice must inform the owner or interested parties that a tax certificate will be offered for sale on the parcel, and that the owner or interested parties may incur additional expenses as a result of the sale.

Except as otherwise provided by statute, at least 30 days before the date tax certificates are to be sold, the county treasurer:

- *must* send written notice of the sale by certified mail to the record owner's last known tax-mailing address; and
- *may* send the notice to all parties with a recorded interest in the property.

The county treasurer must also publish the sale of tax certificates. (See "Public Notice and Posting Requirements" for publication details.)

The sale of tax certificates by public auction may be conducted at any time after completion of the advertising of the sale, on the date and at the time and place designated in the advertisement. The sale may be continued from time to time as the county treasurer directs.

Request for foreclosure after sale of tax certificate

Generally, at any time after one year from the date the tax certificate was sold, and no later than the end of the certificate period, a certificate holder may file with the county treasurer a request for foreclosure, if the certificate parcel has not been redeemed or voided. If the certificate holder is a county land reutilization corporation, the corporation may institute a foreclosure action at any time after it acquires the tax certificate.

If the holder of a certificate purchased in a tax certificate sale submits a notice of intent to foreclose to the county treasurer but fails to file a foreclosure action within the time required, the liens are canceled and the certificates are voided.

The foreclosure proceeding must be brought and prosecuted in the same manner as is provided by law for the foreclosure of mortgages on land, except that, if service by publication is necessary, it must be once a week for three consecutive weeks, and the service must be complete at the end of three weeks after the first publication date.

The certificate holder must allege in the complaint that:

- the holder duly purchased the tax certificate;
- the certificate redemption price is due and unpaid;
- there is a lien against the property described in the tax certificate; and
- if applicable, the certificate holder desires to invoke the alternative redemption period.

Notice of sale of tax certificate

After selling a tax certificate, the county treasurer must send written notice to the certificate parcel's owner by certified mail or, if the treasurer has record of an internet identifier of record associated with the owner, by ordinary mail and by that internet identifier of record. A notice sent by certified mail must be sent to the owner's last known tax-mailing address. The notice must:

- inform the owner that the tax certificate was sold;

- describe the owner's options to redeem; and
- name the certificate holder and any secured party.

The county treasurer is not required to send this notice if the treasurer previously attempted to send a notice to the owner at the owner's last known tax-mailing address, and the postal service returned the notice as undeliverable.

Section 5721.13 enacted 1991; § 5721.02 enacted 2000; §§ 5721.011 and 5721.10 amended 2008; §§ 5721.31 and 5721.32 amended 2018; § 5721.37 amended 2011; §§ 5721.03, 5721.18, and 5721.19 amended 2014.

[Ohio Rev. Code §§ 5721.011, .02, .03, .10, .13, .18, .19, .31, .32, .37 \(2020\)](#)

Taxing Authorities, Ohio, Public Notice and Posting Requirements

Publication of delinquent tax list

The delinquent land list must be published twice in a newspaper of general circulation in the county within 60 days after the county auditor delivers the list to the county treasurer. The auditor may publish the list or lists on a preprinted insert in the newspaper. The auditor must insert display notices of the forthcoming publication of the delinquent land list once a week for two consecutive weeks in a county newspaper of general circulation. These display notices must contain:

- the times and methods of paying taxes provided by law, including information regarding installment payments in accordance with a written delinquent tax contract;
- notice that an interest charge will accrue on accounts remaining unpaid after the last day of November unless the taxpayer enters into such a contract;
- a statement that the lands are subject to a tax certificate sale; and

- any other information that the auditor considers pertinent to the purpose of the notice.

A separate delinquent vacant land tax list may be compiled and if so, separate display notices for it must contain a statement that the lands on the list are lands on which taxes have remained unpaid for two years after being certified delinquent and that they are subject to foreclosure proceedings as provided by law.

Attached to the delinquent tax list must also be a notice that the delinquent lands will be certified for foreclosure unless all amounts due and owing are paid. If one is published, a delinquent vacant land tax list must also have an attachment notifying that the delinquent vacant lands will be certified for foreclosure unless all amounts due and owing are paid within 28 days after the final publication of the notice.

Notice of foreclosure

Within 30 days after the filing of a complaint, the clerk of the court must cause a notice of foreclosure to be published once a week for three consecutive weeks in a newspaper of general circulation in the county. After the third publication, the publisher must file with the clerk of the court an affidavit stating the fact of the publication and including a copy of the notice of foreclosure as published.

Notice of sale

Each parcel must be advertised and sold by the officer to whom the order of sale is directed in the manner provided by law for the sale of real property on execution. The advertisement for sale of each parcel must be published once a week for three consecutive weeks and must include the date on which a second sale will be conducted if no bid is accepted at the first sale. Any number of parcels may be included in one advertisement.

The notice must be substantially in the form set forth § 5721.191.

Notice to purchasers of delinquent lands

The county auditor must enter on the county auditor's tax list and county treasurer's duplicate the word "delinquent." That entry is notice to all purchasers or other persons acquiring any right, title, or interest in or to the land of the state's prior right and lien.

Mineral Rights

If the delinquent property listed includes minerals or rights to minerals, the county prosecuting attorney may institute a foreclosure proceeding in the name of the county treasurer, in any court with jurisdiction, to foreclose the state's lien against the minerals or rights to minerals, unless:

- the taxes, assessments, charges, penalties, and interest are paid before the complaint is filed;
or
- a foreclosure has been or will be instituted.

Tax certificate sales

In certain circumstances, the county treasurer may select from the list parcels of delinquent land for which the county treasurer may attempt to transfer by the sale of tax certificates pursuant to Ohio Rev. Code §§ 5721.30 to 5721.43. In that case, the county treasurer must advertise the sale of the tax certificates in a newspaper of general circulation in the county, once a week for two consecutive weeks. The advertisement must include:

- the date, time, and place of the public auction;
- abbreviated legal descriptions of the parcels;
- the record owners' names; and

- the certificate purchase prices of the parcels or the total purchase price of tax certificates for sale in blocks.

Section 5721.13 enacted 1991; § 5721.06 amended 2020; § 5721.11 amended 2008; § 5721.32 amended 2018; § 5721.03, 5721.14, 5721.18, and 5721.19 amended 2014.

[Ohio Rev. Code §§ 5721.03, .06, .11, .13, .14, .18, .19, .32 \(2020\)](#)

Taxing Authorities, Ohio, Preconditions to Eviction

No provisions specifically regarding evictions in the context of tax lien foreclosures were located. Generally, an action to recover real property may be brought by a person with a legal estate in the property and the right to possession. There is no requirement that a notice to quit be served.

Section added 1953.

[Ohio Rev. Code § 5303.03 \(2020\)](#)

Taxing Authorities, Ohio, Appeals

Redemption

All delinquent land upon which taxes, assessments, penalties, interest, or charges have become delinquent may be redeemed before foreclosure proceedings have been instituted by tendering to the county treasurer an amount the court determined to be sufficient to pay the amounts due and the costs incurred. After a foreclosure proceeding has been instituted, but before the filing of a confirmation of sale, any entitled party may redeem the land. If the redeeming person has not previously defaulted on a delinquent tax contract under certain circumstances, he or she may enter into a delinquent tax contract with the county treasurer for the amounts owing. The county treasurer of a county in which a county land reutilization operates may invoke an alternate redemption period for abandoned land.

Sale scheduling

Whenever the officer charged to conduct a sale offers a parcel for sale and no adequate bids are made, the officer must adjourn the sale to the second date that was specified in the advertisement of sale. The second date must be not less than two weeks nor more than six weeks from the first sale date.

Sale of tax certificates by public auction

The sale of tax certificates by public auction may be conducted at any time after completion of the advertising of the sale pursuant to § 5721.31, on the date and at the time and place designated in the advertisement. The sale may be continued from time to time as the county treasurer directs. The county treasurer may offer the tax certificates for sale in blocks, consisting of any number of tax certificates, and may specify a certificate period of no less than three years and no more than six years.

Right to redeem in tax certificate sale

At any time before the certificate pays the county treasurer to initiate foreclosure proceedings, the parcel's record owner or any other entitled party may redeem the parcel by paying the county treasurer an amount equal to the total of the certificate redemption prices of all tax certificates for that parcel.

Section 5721.16 enacted 1994; §§ 5721.25 and 5721.34 amended 2008; § 5721.32 amended 2018; § 5721.38 amended 2011; §§ 5721.18 and 323.78 amended 2014.

[Ohio Rev. Code §§ 5721.16, .18, .25, .32, .34, .38; 323.78 \(2020\)](#)

Oklahoma

Lenders, Oklahoma, Foreclosure Type

Judicial and non-judicial. The Oklahoma Power of Sale Mortgage Foreclosure Act, Okla. Stat. tit. 46, §§ 41–49, does not apply to the following liens, among others:

- a mortgage securing an extension of credit made primarily for agricultural purposes, if the mortgagor is either a natural person or a farm or ranching business corporation; and

- a mortgage on the mortgagor's homestead if, after the notice of sale is given to the mortgagor, the mortgagor elects judicial foreclosure.

Section enacted 1986.

[Okla. Stat. tit. 46, § 41 \(2020\)](#)

Lenders, Oklahoma, Preconditions to Foreclosure

Judicial

Statute of limitations

A foreclosure action or proceeding must be brought within seven years from the date the last-maturing obligation secured by the mortgage, contract for deed, or deed of trust becomes due.

Appraisal

Unless a borrower waives his or her right to an appraisal, the property must be appraised before sale. The property may be sold for no less than two-thirds of the appraised value.

Notice of sale

Written notice of the sale must be sent to the mortgagor by first class mail, postage prepaid, at least ten days before the sale date. The notice must also be sent to any holder of a record interest in the property or other known persons whose interest may be extinguished.

Notice of hearing

Upon the return of a writ of execution for which lands have been sold, the party causing the execution to be issued must mail a written notice of hearing on the confirmation of the sale, by first class mail, postage prepaid, at least 10 days before the hearing, to:

- all persons required to receive notice of the execution sale; and
- the high bidder at the sale.

If the name or address of any such person is unknown, a notice of the hearing on the confirmation of the sale must be published in a newspaper authorized by law to publish legal notices in the county in which the property is situated. (See *Public Notice and Posting Requirements* for details.)

Non-judicial

Notice of intention to foreclose

Before beginning the proceedings, the mortgagee must give the mortgagor written notice of the intention to foreclose by power of sale. The notice must be sent by certified mail addressed to the mortgagor at the mortgagor's last-known address, and must inform the mortgagor that he or she has 35 days from the date the notice is sent to cure a breach or default and reinstate the mortgage. If a non-homestead mortgagor is in default more than three times in a 24-month period and has been so notified, no right to an additional notice of intent to foreclose will be required before acceleration.

Notice of sale

Notice of sale must be personally served on the mortgagor at least 30 days before the sale date. If, by due diligence, personal service cannot be made, the mortgagee must execute an affidavit to that effect and the publication notice required will be deemed sufficient.

Section 760 amended 2017; § 762 enacted 1910; §§ 764, 765, 44 and 45 amended 1987; § 301 amended 2001.

[Okla. Stat. tit. 12, §§ 760, 762, 764, 765; tit. 46, §§ 44, 45, 301 \(2020\)](#)

Lenders, Oklahoma, Public Notice and Posting Requirements

Judicial

Notice of sale

Public notice of the date, time, and place of sale must be given by publication for two successive weeks in a newspaper published in the county in which the property to be sold is located. If no newspaper is published in the county, then notice is published in a newspaper of general circulation in the county. Notice must also be posted on the courthouse door and in five other public places in the county. Two of those places must be in the township where the lands and tenements lie.

In counties with a population of 110,000 or more, the advertisement must be published in a newspaper published in the city or township in which the property is located. If there is no newspaper in the city or township, notice is published in a newspaper published in the county.

Notice of hearing on the confirmation of the sale

If the name or address of a person to receive a written notice of hearing on the confirmation of the sale is unknown, the notice must be published in a newspaper authorized to publish legal notices in the county in which the property is located. If no such newspaper exists, the notice must be published in a newspaper of general circulation published in an adjoining county. The notice must state the name of any person being so notified and must be published once at least 10 days before the date of the hearing on the confirmation of the sale.

Non-judicial

Notice of sale

Notice of the sale must be published in a newspaper authorized by law to publish legal notices. The notice must be published at least one day a week for four consecutive weeks. The first publication date may not be less than 30 days before the sale date. The notice and proof of personal service on the mortgagee must be recorded within 10 days of the service of notice of sale.

Sections amended 1987.

[Okla. Stat. tit. 12, § 764, 765; tit. 46, § 45 \(2020\)](#)

Lenders, Oklahoma, Preconditions to Eviction

An action for forcible entry and detainer may be brought against a judgment debtor who remains in possession after a foreclosure. There is no requirement that a notice to quit be served.

Section amended 1978.

[Okla. Stat. tit. 12, § 1148.3 \(2020\)](#)

Lenders, Oklahoma, Appeals

Judicial

Appeal

No specific provisions for appeal of a judicial foreclosure were located. As a general rule, appeals must be filed within 30 days of the filing of the judgment.

Sales without appropriate notice of sale

Generally, sales for which the required notice of sale was not made will be set aside "on motion by the court to which the execution is returnable."

Objection to sale confirmation

A person filing a written objection to a confirmation of sale must mail a copy of the written objection, before the hearing on the confirmation of the sale, by first class mail, postage prepaid, to all persons required to receive notice of the hearing on the confirmation of the sale. The court may continue the hearing or otherwise allow interested persons to adequately support or oppose the objection.

If a judgment for which any lands are sold is reversed, the reversal does not defeat or affect the purchaser's title. In that case, the judgment creditor must make restitution of the money for which the land was sold, with interest from the sale date.

Sale scheduling

The sale may not be held less than 30 days after the date of first newspaper publication of the notice.

Non-judicial

Appeal

No provisions regarding appeal were located.

Sale scheduling

The sale may be held on the date designated in the notice of sale, on a day other than a Sunday or legal holiday, between 9 a.m. and 5 p.m. The person conducting the sale may, for any cause deemed in the parties' interests, postpone or continue the sale by:

- giving notice by public declaration at the time and place of the scheduled sale; and
- in any other reasonable manner, including publication one time at least 10 days before the new sale date.

Statutory section 774 enacted 1910; §§ 764, 765, 45, and 46 amended 1987; Rule 1.21 amended effective 2013.

[Okla. Stat. tit. 12, §§ 764, 765, 774; tit. 46, §§ 45, 46 \(2020\); Okla. Ct. Rules 1.21](#)

Taxing Authorities, Oklahoma, Foreclosure Type

Nonjudicial.

Taxing Authorities, Oklahoma, Preconditions to Foreclosure

Delinquency

Property taxes become liens on the property for seven years after the taxes become due. The county treasurer must advertise and sell real estate for delinquent taxes if the taxes are a lien on the real property and have been unpaid for three years or more as of the date the taxes first became due. Notice must also be given to the owner of real property on which a manufactured home is located if personal property taxes become delinquent on the manufactured home.

Notice of Delinquent Taxes

The treasurer must give notice of delinquent taxes by publication as described in *Public Notice and Posting Requirements* and by certified mail to the last known owner. The notice must, among other things:

- state the amount of taxes due;

- include the property description; and
- inform the owner that the property will be sold if the taxes are not paid.

Notice of Resale

When a property becomes subject to tax resale, the treasurer must give notice by publication as described in *Public Notice and Posting Requirements* and, at least 30 days before the resale date, give notice by certified mail to the property owner and to all mortgagees of record. The notice must contain:

- the time and place of the sale;
- the property description; and
- the owner's right to claim an age or disability exemption from sale.

Sale Requirements

If any real estate remains unredeemed at the end of the redemption period, the county treasurer must sell the real estate at resale on the second Monday of June each year in each county. The sale must be held at the county treasurer's office between the hours of 8 a.m. and 5 p.m., the exact hours to be determined by the treasurer, and continue from day to day until all of the real estate is sold. The real estate must be sold at public auction to the highest bidder for cash, but not less than the lesser of (a) two-thirds of the assessed value for the current fiscal year, or (b) the total amount of taxes, penalties, interest, and costs due on the property.

Mineral Rights

A resale tax deed conveys only the "surface and surface rights and mineral interests owned by the owners of the surface rights as distinguished from mineral and mineral rights of such real property."

Section 3101 amended 1992; §§ 3119 and 3125 amended 2008; § 3127 amended 2010; § 3129 amended 2014; §§ 3105 and 3106 amended 2020.

[Okla. Stat. tit. 68, §§ 3101, 3105, 3106, 3119, 3125, 3127, 3129 \(2020\)](#)

Taxing Authorities, Oklahoma, Public Notice and Posting Requirements

Notice of Tax Delinquency

The county treasurer must give notice of delinquent taxes by publication in a county newspaper once a week for two consecutive weeks at any time after April 1, but before the end of September following the year in which the taxes were first due and payable. The notice must contain:

- a notification that all lands on which taxes are delinquent will be sold;
- a list of the lands to be sold;
- the name of the last record owners as of the preceding December 31 or later; and
- the delinquent tax amount.

Notice of Tax Resale

The treasurer must give notice of tax resale by publication in a circulated newspaper published in the county, or by posting notice at the county courthouse if no such paper exists, once a week for four consecutive weeks preceding the sale. The notice must contain:

- a property description;
- the name of the record owner as of the preceding December 31 or later;
- the sale time and place;
- a statement of the date on which said taxes first became due;
- the years for which taxes are delinquent;
- a statement that the property has not been redeemed;
- the total amount of all delinquent taxes, costs, penalties, and interest due; and
- a statement that the property will be sold to the highest bidder for cash.

If the Governor declares a Catastrophic Health Emergency, the board of county commissioners, upon the written request of the county treasurer, must postpone delinquent tax sales and related delinquent tax notices and publications. The county treasurer designates the period of postponement for a term of up to one year. Upon postponement action by the county commissioners, the county treasurer must advertise the details of the postponement in the same manner as other delinquent tax legal publications once per week for four consecutive weeks.

Section 3127 amended 2010; §§ 3106 and 3148 amended 2020.

[Okla. Stat. tit. 68, §§ 3106, 3127, 3148 \(2020\)](#)

[Taxing Authorities, Oklahoma, Preconditions to Eviction](#)

No specifically relevant provisions were located. Generally, within 30 days after a property is sold at tax resale, the treasurer must file with the county clerk a resale return and issue a deed of conveyance. The deed of conveyance effectively cancels all delinquent taxes due on the property and vests in the grantee absolute and perfect title in fee simple.

Section amended 2014.

[Okla. Stat. tit. 68, § 3131 \(2020\)](#)

Taxing Authorities, Oklahoma, Appeals

Redemption

A property owner may redeem the property any time before the execution of a deed of conveyance by paying the delinquent tax, interest, and costs.

Evidence

To defeat a deed of conveyance, it must be clearly proven that one or more essential prerequisites to the execution of the deed was wholly omitted rather than irregularly done.

A resale tax deed is prima facie evidence that:

- the real property was subject to taxation for the years included in such sale;
- the property had been legally assessed and taxes were legally levied;
- the property was legally sold to the county at a delinquent tax sale more than two years before resale;

- the property had not been redeemed;
- the property was legally sold at resale to the grantee and was duly advertised; and
- the county complied with all required proceedings, notices, and duties.

Prerequisites to Bringing Action

Whenever an action is brought to recover possession of property sold or to invalidate a deed of conveyance, the plaintiff must first pay the full amount of taxes, interest, penalties, and costs owed.

Procedure to Cancel Deed

To defeat a deed, a person must:

- show clearly the entire failure to do "some one or all the things of which the tax deed is made presumptive evidence";
- show that he (or the person under whom he claims) had the right to redeem; and
- tender in open court the tax deed, all taxes, penalties, interests, and costs, that the party seeking to redeem would be bound to pay if he was then redeeming the land from tax sale.

The rule that tax proceedings are to be strictly construed against the tax purchaser does not apply in this case.

Limitation of Action to Recover Land

A former owner must bring an action to recover possession of land that has been sold and conveyed by deed for nonpayment of taxes, or to avoid the deed, within one year after the recording of the deed.

Sections 3133, 3138, 3140, and 3141 amended 1991; § 3113 amended 2009; § 3131 amended 2014.

[Okla. Stat. tit. 68, §§ 3113, 3131, 3133, 3138, 3140, 3141 \(2020\)](#)

Oregon

Lenders, Oregon, Foreclosure Type

Judicial and non-judicial.

Lenders, Oregon, Preconditions to Foreclosure

Judicial

Timing of action

The foreclosure of a trust deed or mortgage by judicial procedure generally must be brought within 10 years from the later of the debt's maturity date, the expiration of the debt's term, or the date to which payment has been extended by recorded agreement.

Notice of sale

A judgment creditor must list the names and addresses of all persons entitled to written notice of the execution sale, including the judgment debtor and his or her attorney, as reflected in the judgment document.

Before conducting an execution sale of real property, the sheriff must give written mail a copy of the notice of sale as follows:

- by first class and certified mail, return receipt requested, to the judgment debtor;
- by first class mail to the judgment debtor's attorney; and
- by first class mail to any other listed persons.

The notice of sale must be mailed at least 28 days before an execution sale is conducted.

The sheriff must also post and publish a notice of the sale. (See *Public Notice and Posting Requirements* for details.)

Non-judicial

Timing

The foreclosure of a trust deed by advertisement generally must be brought within 10 years from the later of the debt's maturity date, the expiration of the debt's term, or the date to which payment has been extended by recorded agreement.

Required conditions and notice of default

A trustee may not foreclose a trust deed by advertisement and sale unless:

- the trust deed, any assignments, and any appointment of a successor trustee are recorded;

- there is a default of an obligation secured by a trust deed that authorizes sale in the event of that default;
- the trustee or beneficiary has recorded a notice of default containing, among other things, the trustee's or beneficiary's election to sell the property to satisfy the obligation; and
- subject to certain exceptions, no action has been brought to recover the debt secured by the trust deed, or, if such action has been brought, the action has been dismissed.

Notice of sale

After recording a notice of default and at least 120 days before the sale date, a notice of sale must be served or mailed to all addresses on file with the trustee for the following persons or the legal representatives of the persons, including post office boxes:

- the grantor;
- any successor in interest to the grantor whose interest is recorded or known by the trustee or the beneficiary;
- any person, including a state agency, that has a lien or interest subsequent to the trust deed, if that lien or interest is recorded or known to the beneficiary; and
- a person who requests the notice.

Notice of the sale must be served on an occupant of the property described in the trust deed by personal service at least 120 days before the sale date. If service cannot be effected on the first attempt, the person that attempts service must post a copy of the notice in a conspicuous place on the property on the date of the first attempt. At least two days after the first attempt, the person that attempts service must make a second attempt. If service cannot be effected on the second attempt, the person attempting service must post a copy of the notice in a conspicuous place on

the property on the date of the second attempt. The person that attempts service must make a third attempt to effect service on a day that is at least two days after the second attempt. If service cannot be effected on the third attempt, the person that attempts service must send a copy of the notice, addressed to "occupant," to the property address by first class mail with postage prepaid. Service is effected on earlier of the date that notice is personally served or the first date on which notice is posted. An affidavit of service of the notice of sale must be filed on or before the sale date.

If the owner of real property subject to foreclosure dies and the real property is subject to a transfer-on-death deed, notice of sale must be given to the beneficiary designated on the deed.

The notice of sale must contain:

- the names of the grantor, trustee, and beneficiary and the trustee's mailing address;
- the property's description;
- the book and page of the mortgage records where the trust deed is recorded;
- the default and the amount owing;
- the election to sell the property;
- the date, time, and place of the sale;
- the right to have the proceeding dismissed and the trust deed reinstated by payment of the entire amount due, with costs and fees, and by curing any other default at any time before five days before the sale date; and

- effective January 1, 2015, include a statement that "some residential property sold at a trustee's sale may have been used in manufacturing methamphetamines, the chemical components of which are known to be toxic"; and that a prospective purchaser of residential property should be aware of this potential danger before placing a bid at a trustee's sale.

Any person may record a request to receive a copy of a notice of default or notice of sale, at any time after the trust deed is recorded but before a notice of default is recorded.

Notice of default

The provisions of Or. Rev. Stat. § 86.756, requiring the mailing of the notice of default before a notice of sale, apply only to residential trust deeds.

Foreclosure Avoidance Measures

The foreclosure avoidance measures that are effective as of July 11, 2012, and that were significantly revised as of June 4, 2013, apply only to the foreclosure of certain trust deeds on residential property.

Section 18,918 amended 2005; § 18.924 amended 2019; § 86.815 enacted 1959 and renumbered 2013; §§ 86.764 and 86.752 amended 2017; § 88.010 amended 1997; § 86.707 enacted 2013; §§ 86.771 and 86.774 amended 2014; § 86.756 amended 2019.

[Or. Rev. Stat. §§ 18.918, .924; 86.707, .752, .756, .764, .771, .774, .815; 88.110 \(2019\); see 2013 Or. Laws ch. 304 \(S.B. 558\)](#)

Lenders, Oregon, Public Notice and Posting Requirements

Judicial

Notice of sale

Before conducting a real property execution sale, a sheriff must:

- post notice of the sale for at least 28 days on the website established for that purpose; and
- publish notice of the sale once a week for four successive weeks in a newspaper in the county in which the real property is located.

The notice posted on the website must include specified language for prospective bidders regarding independent investigations and the following notice to the debtor:

"NOTICE TO DEBTOR You should be careful about offers to sell rights to surplus funds. You may have a right to surplus funds remaining after payment of costs and satisfaction of the judgment, as provided in ORS 18.950(4). If you transfer or sell your right to redemption, you might not have the right to surplus funds."

The sheriff must also post the notice of the sale in a conspicuous place on the property. The notice must be posted not more than seven days after the sheriff mails notice to the debtors.

Non-judicial

Notice of sale

A copy of the notice of sale must be published in a newspaper of general circulation in each of the counties in which the property is located. Publication must be made once a week for four successive weeks. The last publication must be made more than 20 days before the sale date.

If service of the notice cannot be made upon an occupant of the property, a copy of the notice must be posted in a conspicuous place on the property on the date of the first service attempt. If service cannot be effected upon a second attempt of service, another copy of the notice must be posted on the property on the date of the second attempt. If a third attempt of service is unsuccessful, the notice must be mailed to "occupant" at the property address.

No later than five days before the sale date, the trustee must record an affidavit of mailing with respect to the notices.

Notice to tenants

If the property includes one or more dwelling units, any individual who occupies the property and who is or might be a residential tenant must receive notice that includes the information required by Or. Rev. Stat. § 86.771.

Section 18.924 amended 2019; §§ 86.771 and 86.774 amended 2014.

[Or. Rev. Stat. §§ 18.924; 86.771, .774 \(2019\)](#)

Lenders, Oregon, Preconditions to Eviction

Judicial

The purchaser of property at a foreclosure sale has the right to immediate possession of the property, subject to any right of redemption. A person who has a legal estate in property and the present right to the possession of that property may bring an action to recover possession of the property, with damages for withholding possession. There is no requirement that a notice to quit be served.

Non-judicial

Generally, the purchaser is entitled to possession of the property on the 10th day after the sale. However, an exception to this provision applies to property that includes a dwelling unit that is subject to chapter 90 (regarding residential tenants) when an individual occupies the unit as a bona fide tenant.

In cases not involving the specified residential tenants, at any time after the trustee's sale, the purchaser may follow the procedures set forth in §§ 105.105 to 105.168 or other applicable judicial procedures to obtain possession of the property from a person holding possession under an interest the grantor created voluntarily. No earlier than 30 days before the first sale date, the person must be served with at least 30 days' written notice of the requirement to surrender or deliver possession of the property.

If property purchased at the trustee's sale includes one or more dwelling units that are subject to chapter 90 (regarding residential tenants), the purchaser must provide written notice of change in ownership to the occupants of each unit within 30 days after the sale date. The notice must be served concurrently with service of a written termination notice.

If the property purchased at the trustee's sale includes at least one dwelling unit that is subject to chapter 90 and an individual occupies the unit as a bona fide tenant, the purchaser may obtain possession by following the procedures set forth in Or. Rev. Stat. §§ 105.105 to 105.168 and by using the complaint form provided in § 105.124 or § 105.126:

- upon expiration of the tenancy's fixed term; or
- at least 90 days after service of a written termination notice if the bona fide tenancy is a fixed term tenancy and the purchaser intends to occupy the unit as the purchaser's primary residence or a month-to-month tenancy or week-to-week tenancy.

If a purchaser gives a 90-day written termination notice, the purchaser may include in the notice a request that a tenant with a fixed term tenancy provide written evidence of the tenancy's existence to the purchaser.

A purchaser may not begin a proceeding pursuant to §§ 105.105 to 105.168 before the later of:

- the 10th day after the trustee's sale;

- the date specified in a written notice of the requirement to surrender or deliver possession of the property if the required notice is given and the statutory residential tenant provisions do not apply;
- the date specified in a written notice of the purchaser's intent to terminate a tenancy if the required notice is given to a residential tenant; or
- the date on which the term of a fixed term tenancy ends, if the property is a dwelling unit and the purchaser has not terminated the tenancy as required by statute.

Section 18.946 added 2005; § 105.005 amended 2019; § 86.782 amended 2017.

[Or. Rev. Stat. §§ 18.946; 86.782; 105.005 \(2019\)](#)

Lenders, Oregon, Appeals

Judicial

Appeal

No specific provisions for appeal from a foreclosure were located. As a general rule, an appeal in a civil action must be filed within 30 days of the entry of judgment.

Confirmation of sale

A sale of real property in an execution sale is conclusively established to have been conducted in the manner required by statute, unless the judgment debtor or another person adversely affected by the sale files an objection to the sale no later than 10 days after the filing of the sheriff's return. If an objection to a sale is filed, the court must schedule a hearing on the objection. The court must grant an order confirming the sale unless:

- the objecting person establishes that the sale did not substantially conform with the manner required by law; and
- as a result, the person probably suffered damage.

Sale scheduling

The sale may not be conducted before the expiration of the time for advertising the sale. The sale must be conducted between 9 a.m. and 4 p.m. A sheriff may postpone an execution sale to a specified date if:

- the sheriff is unable to conduct the sale at the place and time specified in the notice of sale;
- the sheriff considers it appropriate to postpone the sale for want of purchasers; or
- for other sufficient cause.

A sheriff must postpone an execution sale to a specified date upon the judgment creditor's request. The sheriff may not postpone the execution sale to a date later than the final date for return on the writ of execution.

If possible, the sheriff must make a public announcement of a postponement at the time and place scheduled for the sale. An execution sale may be postponed more than one time, but not beyond the date that a return on the writ is due.

Non-judicial

Appeal

No specifically applicable provisions were located.

Failure to receive notice of sale

If the trustee fails to give notice of the sale to a person entitled to notice and that person did not have actual notice of the sale at least 25 days before the sale date, the omitted person may bring an action against the trustee in the circuit court. The omitted person is entitled to damages if the omitted person proves that:

- the trustee did not give notice of the sale to the omitted person in the manner required by statute;
- a search of the record under the grantor's name would have revealed the omitted person's interest;
- the omitted person could and would have cured the default; and
- the omitted person sustained actual damages.

In such an action, the omitted person must plead that the omitted person did not have actual knowledge of the sale at least 25 days before the sale date. The defendant has the burden of proving that the omitted person did have notice.

Sale scheduling

The sale must be held between 9 a.m. and 4 p.m. on the date in the notice of sale.

The trustee or the trustee's attorney may postpone the sale for one or more periods totaling no more than 180 days from the original sale date, by giving notice of each postponement by public

proclamation at the time and place set for sale and by serving notice on the grantor and on any person to whom notice of the sale was given.

Discontinuance of foreclosure proceedings after cure

If a trustee has commenced foreclosure of a trust deed by advertisement and sale, the grantor, the grantor's successor in interest, any beneficiary under a subordinate trust deed, or any person having a recorded subordinate lien or encumbrance may cure the default at any time before five days before the sale date. After cure, on the terms provided by statute, the trustee must dismiss all proceedings, and the obligation and trust deed must be reinstated.

Redemption

Generally, a judgment debtor's right to redeem property sold at an execution sale expires unless the judgment debtor redeems the property within 180 days after the sale date.

Sections 18.932, 18.948, and 18.964 enacted 2005; § 19.255 enacted 2003; § 18.930 amended 2011; § 86.778 amended 1999 and renumbered 2013; § 86.767 amended 2012 and renumbered 2013; § 86.782 amended 2017.

[Or. Rev. Stat. §§ 18.930, .932, .948, .964; 19.255; 86.767, .778, .782 \(2019\)](#)

Taxing Authorities, Oregon, Foreclosure Type

Judicial.

Taxing Authorities, Oregon, Preconditions to Foreclosure

Delinquency

Taxes on real property not paid on or before May 15 are delinquent. Real property in Oregon is subject to foreclosure for delinquent taxes whenever three years have elapsed from the first levy and charge of tax delinquency.

Notice of Delinquent Taxes

As soon as practicable after taxes become delinquent each year, the tax collector must send a notice to each person or entity shown on the tax roll as owning real property on which the taxes due have not been paid. The notice must contain:

- a brief description of each parcel;
- the total amount of taxes due and delinquent;
- the interest rate and penalties; and
- the date on which foreclosure proceedings may be brought.

The tax collector must send the notice by mail to the last-known address of the person or entity shown on the tax roll (or otherwise reported to the tax collector) as owing the delinquent taxes.

Foreclosure List

Within two months after the day of delinquency each year, the tax collector must prepare a list of all real properties subject to foreclosure. This list, known as the foreclosure list, must contain the following:

- the names of persons appearing in the latest tax roll as owners of tax-delinquent properties (if the owner is an attorney, or a public safety officer, county juvenile department employee or civil code enforcement officer who has applied for an exemption, the list must state that the owner's name is suppressed by law);
- a description of each property;

- the years for which the taxes are delinquent;
- the principal amount of the delinquent taxes for each year; and
- the interest accrued as of the publication date.

In addition to public notice, notice of the foreclosure proceeding must be sent by certified and regular first class mail to the owners of each property included on the foreclosure list at the addresses reflected in the county records.

A mortgagee or other holder of a recorded lien on real property may file with the tax collector a request that notice of any foreclosure list including the real property be given to the mortgagee or other lienholder. In that case, the tax collector must send by registered mail, or certified mail with return receipt requested, written notice to the mortgagee or other lienholder.

Service of Notice of Foreclosure Proceeding

If deemed expedient, notice of the foreclosure proceeding may be given by personal service in lieu of service by publication and certified and regular first class mail as otherwise required. In that case, it is not necessary to include in the publication of the foreclosure list the defendant's name, description, or other matters relating to the property.

Foreclosure Proceedings Timing

Three months after the day of delinquency of taxes of the latest year, the tax collector, with the assistance of the district attorney, must institute proceedings to foreclose the liens for all the delinquent taxes against each property included in the foreclosure list.

Notice of Expiration of Redemption Period

No less than one year before the redemption period expires for any real property ordered sold to the county under a judgment under Or. Rev. Stat. § 312.100, the tax collector must provide notice of the redemption period expiration to any person or entity entitled to redeem the property.

The notice must contain:

- the judgment date;
- the expiration date of the redemption period;
- a warning that the property, unless redeemed, will be deeded to the county immediately on expiration of the redemption period;
- the property's legal description and a tax account number; and
- the owner's name.

The notice must be given by both certified mail and by regular first class mail.

Timber Lands

Removing timber before paying taxes on timber or land is prohibited. The county in which the property is located may maintain an injunction proceeding against a person or entity cutting or removing timber in violation of this prohibition.

See Or. Rev. Stat. § 312.310 for provisions that apply when a timber fire reduces the value of property in the process of foreclosure for tax delinquencies.

Section 311.545 amended 1953; § 312.010 amended 1965; § 312.310 amended 1969; § 311.510 amended 2012; § 311.425 amended 1985; § 312.040 amended 1987; § 312.140 amended 2001; § 312.125 amended 2009; § 312.030 amended 2019; § 312.050 amended 2017.

[Or. Rev. Stat. §§ 311.425, .510, .545; 312.010, .030, .040, .050, .125, .140, .310 \(2019\)](#)

Taxing Authorities, Oregon, Public Notice and Posting Requirements

Notice of Foreclosure Proceedings

Notice of each foreclosure proceeding must be given by publication and by both certified and regular first class mail, unless notice is given by personal service as described in *Preconditions to Foreclosure*.

Notice must be given by one publication of the foreclosure list in a newspaper of general circulation in the county. The county must mail a copy of the newspaper notice to each incorporated city in the county.

Notice of Expiration of Redemption Period

Between 10 and 30 days before the redemption period expires, the tax collector must publish a general notice related to the period's expiration. The notice must contain:

- the judgment date;
- the redemption period's expiration date; and
- a warning that all the properties ordered sold under the judgment, unless redeemed, will be deeded to the county immediately upon the redemption period's expiration.

The notice must be published in two weekly issues of a duly designated newspaper of general circulation in the county within the 20-day period specified above. Proof of publication must be attached to and made a part of the deed issued to the county. The published notice may be a general notice and need not include descriptions of the several properties or the owners' names.

Section 312.040 amended 1987; § 312.190 amended 2007.

[Or. Rev. Stat. §§ 312.040, .190 \(2019\)](#)

Taxing Authorities, Oregon, Preconditions to Eviction

Possession Rights

The sale of property to the county on foreclosure for delinquent taxes does not affect the former owner's right to possession of the property during the redemption period. However, any waste of the property, committed by the former owner or by anyone acting under his or her permission or control works a forfeiture to the county of the right to possession.

The county is deemed to have constructive possession of the real property from the date of the execution of the deed and as such shall be deemed the equivalent of actual and physical possession of such property that is hostile, adverse, actual, visible, notorious, and exclusive.

Histories unknown.

[Or. Rev. Stat. §§ 312.180, .218, .990 \(2019\)](#)

Taxing Authorities, Oregon, Appeals

Answers and Defenses in Action

Any person with an interest in any real property included in the foreclosure list may file a written answer and defense, specifying his or her objection to the application for judgment within 30 days after the date of the first publication of the foreclosure list. If an answer and defense is filed, the matter must be heard in a summary manner without other pleading.

Removal from List

At any time before judgment, a parcel may be removed from the foreclosure proceeding by payment of the amount that would have prevented inclusion of the property in the foreclosure list, plus interest and penalties. If a payment is received before the filing of the application for judgment, the tax collector must remove the property from the foreclosure list and proceeding. If received after filing the application for judgment, the property may not be removed from the foreclosure list and proceeding except on court order.

Redemption

Unless a shorter redemption period is warranted due to waste or abandonment, the county must hold all real properties sold to the county under the tax lien foreclosure laws for two years after the judgment date, unless sooner redeemed. During that two-year period, any interested person (as of the judgment date) may redeem the property by paying the full amount applicable to the property under the judgment, with interest, a five-percent penalty, and any applicable fees.

Appeal Timing

Appeal from any judgment or final order may be taken to the Court of Appeals by giving notice orally in open court at the time of the judgment or final order or by giving written notice at any time within 30 days after the date of the judgment or final order.

Judgment as Evidence

Any judgment for the sale of real property to the county on foreclosure for delinquent taxes is conclusive evidence of its regularity and validity in all collateral proceedings, unless:

- the taxes have been paid; or

- the property was not liable for assessment and taxation.

The judgment is prima facie evidence that the taxes have not been paid and that the property was subject to taxation at the time it was assessed. The judgment also estops all persons raising objections to it or to the title based on it that existed at or before the judgment date and that could have been presented as an objection or defense to the application for the judgment.

Limitations

An action brought to determine the validity of a sale of real property on foreclosure for delinquent taxes or to recover possession of the property must be brought within two years from the date of the judgment of foreclosure and sale to the county.

Required Payments

A person claiming to be the owner of property, as against the county or grantee, must pay into court with the first pleading an amount equal to the total of:

- the amount charged against the property in the foreclosure judgment;
- the amount or amounts that would otherwise have been assessed and levied against the property as taxes from the judgment date to the time of the filing of the action; and
- any penalties and interest that would have accrued, as provided by statute.

Sections 312.070, .080, .090, .100, .110, .120, .210, and .220 amended 2003; § 312.230 amended 2005; § 312.122 amended 2009.

[Or. Rev. Stat. §§ 312.070, .080, .090, .100, .110, .120, .122, .210, .220, .230 \(2019\)](#)

Pennsylvania

Lenders, Pennsylvania, Foreclosure Type

Judicial.

Lenders, Pennsylvania, Preconditions to Foreclosure

Starting a foreclosure action

In actions involving title to, interest in, possession of, or charges or liens on real property, original process must be served on the defendant as in other civil actions. If the action is a mortgage foreclosure, original process must also be served on any person not named as a party who is in possession of the property. (However, in a mortgage foreclosure, that person does not become a party to the action.)

If service cannot be so made, the plaintiff may move the court for a special order directing the method of service. The motion must be accompanied by an affidavit stating the nature and extent of the investigation that has been made to determine the defendant's whereabouts and the reasons why service cannot be made. In that case, the court must direct one or more of the following service methods:

- by publication;
- by posting a copy of the original process on the most public part of the property;
- by registered mail to the defendant's last known address; or
- by any other method the court deems appropriate.

If service of process by publication has been authorized, the notice of the action must be advertised once in any legal publication designated by the court for the publication of legal notices and once in one newspaper of general circulation within the county.

Residential notices not applicable

41 Pa. Stat. §§ 403 and 404, which require notice of intention to foreclose and address the defendant's right to cure, apply to *residential* mortgage lenders. Similarly, 35 Pa. Stat. § 1680.403c, which also sets forth notice requirements and addresses consumer credit counseling, is a part of the Homeowner's Emergency Assistance Act.

Notice of sale

Notice of the sale of real property must be given by handbills, by written notice to all persons whose names and addresses are set forth by affidavit, and by publication. (See *Public Notice and Posting Requirements* for details regarding the handbill and publication requirements.) The plaintiff must prepare the written notice of sale, which must contain the same information as the handbills or may consist of the handbill. The notice must be served at least 30 days before the sale on all persons whose names and addresses are set forth by affidavit.

Service of the notice on a defendant in the judgment who *has not* entered an appearance and upon the owner of the property must be made by:

- the sheriff or a competent adult who is not a party to the action in the manner for the service of original process on a defendant;
- the plaintiff mailing a copy in the manner described by Rule 403 to the addresses set forth by affidavit; or
- if service cannot be made by one of the above methods, the method set forth by special order of court. (If original process was served pursuant to a special order of court, the notice may be served on that defendant in the same manner without further application to the court).

Service on a defendant who *has* entered an appearance must be by the plaintiff in the manner provided by Rule 440 for service of legal papers other than original process. Service on each other person named in the affidavit must be by ordinary mail at the address set forth in the affidavit.

The person serving the notice must file a return of service.

If service on any person is not made at least 30 days before the sale date, the notice will be deemed timely if the sale is stayed, continued, postponed, or adjourned to a date at least 30 days after the date of the last required service.

Vacant abandoned property

See [2018 Pa. Laws No. 2018-32](#) (codified as 68 Pa. Stat. & Cons. Stat.§§ 2301 to 2307) for procedures related to foreclosure of property certified as vacant and abandoned.

Statutory sections 403 and 404 added 1974; § 1680.403c amended 2008; r. 3129.2 amended 2010; r. 410 and 430 amended 2016, effective Jan.1, 2017.

[35 Pa. Stat. & Cons. Stat. § 1680.403c](#); [41 Pa. Stat.& Cons. Stat. §§ 403, 404 \(2020\)](#); [231 Pa. Code §§ 3129.2, 410, 430 \(2020\)](#)

Lenders, Pennsylvania, Public Notice and Posting Requirements

Posting of notice of sale

Notice of the sale is given by handbills posted by the sheriff in the sheriff's office and on the property at least 30 days before the sale. The handbill must include:

- a brief description of the property, its location, and any improvements;
- the judgment;
- the owner's name;

- the time and place of the sale; and
- a notice that a schedule of distributions will be filed no later than 30 days after the sale and that distributions will be made according to the schedule unless exceptions are filed within 10 days after the schedule is filed.

Publication of notice

Notice is also given by publication by the sheriff once a week for three successive weeks in a newspaper of general circulation in the county and in any legal publication designated by rule of court for publication of notices. The first publication must be made not less than 21 days before the sale date.

Section 3129.2 amended 2010.

[231 Pa. Code § 3129.2 \(2020\)](#)

Lenders, Pennsylvania, Preconditions to Eviction

No specific statutory provisions were located. If, in an action involving a real property interest, the relief sought is possession, original process must be served upon any person not named as a party who is found in possession of the property, and the person so served becomes a defendant in the action.

Regulation amended 2016, effective Jan. 1, 2017.

[231 Pa. Code § 410 \(2020\)](#)

Lenders, Pennsylvania, Appeals

Appeal

The writ of execution may be set aside for a defect in the writ or service of the writ, a showing of an immunity or exemption, or any other legal or equitable ground.

Sale scheduling

No requirements relating to the scheduling of sales were located.

Regulation added 1960.

[231 Pa. Code § 3183 \(2020\)](#)

Taxing Authorities, Pennsylvania, Foreclosure Type

Nonjudicial sale conducted by Tax Claim Bureau. The Bureau may petition for a judicial sale when the "upset price" is not bid at the nonjudicial sale.

Taxing Authorities, Pennsylvania, Preconditions to Foreclosure

Delinquency List

The tax receiver or collector for each taxing district must file a return with the Tax Claim Bureau between January 1 and April 30 each year. The return must list all properties for which taxes from the previous year remain unpaid. The return must provide:

- a description of the property;
- the owner's name and address, as it appears in the record; and
- the tax amount due, along with penalties and interest.

Claims for unpaid taxes are entered in the Tax Claim Bureau's docket, based on the returns the Bureau has received by June 30.

Notice of Claim

By July 31, the Bureau must give notice of the claim to the property's record owner. The notice must be sent by U.S. registered or certified mail to the record address. The mailing envelope may contain a claim for only one delinquent property; thus, a taxpayer with delinquencies on multiple properties receives a separate mailing for each property. If the owner has been unknown for a period of less than five years or if the mailed notice of claim is not deliverable, notice of the claim may be posted at the property. The notice of the claim must:

- show all information set forth in the claim filed by the Bureau;
- state that payment or exception to payment must be made by December 31 or the claim will be absolute;
- state that the taxpayer has one year from July 1 of the year in which the claim was filed to discharge the claim or the property will be sold; and
- state that the property cannot be redeemed after the sale.

The notice also must contain a warning, prescribed by statute, that failure to pay the claim or take legal action to challenge the claim will result in a forced sale of the property.

Property Owned by Entity

If the property of a corporation, limited partnership, or joint-stock association is advertised for sale, the bureau must give to the Department of Revenue, at least 30 days before the scheduled sale, notice of the sale by certified mail on a form provided by the Department of Revenue. Upon receipt of the notice and at least seven days before the sale date, the Department of Revenue must mail to

the bureau, by certified mail, a proof of claim for payment of Commonwealth taxes that are accorded priority by "The Fiscal Code" (Pa. Stat. tit. 72, § 1401). The bureau must include in the property's upset sale price the amount of Commonwealth taxes set forth on the proof of claim received from the Department of Revenue.

Absolute Claims

If the claim is not paid by the January 1 following the mailed notice, and if no legal action challenging the claim is filed (the statute refers to this kind of challenge as "an exception"), the claim becomes absolute. The property cannot be sold unless the claim is "absolute."

Notice of Sale

A notice of sale generally must be mailed to each owner, return receipt requested. If a receipt is not returned from each owner, then an additional notice must be sent at least 10 days before the sale to each owner that did not acknowledge receipt, using that person's last known post office address. (Note that some notice of sale requirements explicitly apply only to owner-occupied property. An "owner occupant" is the owner of property that has "improvements constructed thereon and for which the annual tax bill is mailed to an owner" *residing* at the property's address.)

Sale Requirements

The property may be sold if:

- the claim has become absolute;
- the property has not been discharged from the tax claim nor removed from the sale by payment of the full tax lien or an agreement to pay the lien within one year in installments (accompanied by a 25-percent payment); and
- the property has not been sequestered.

The bureau must schedule the upset sale date no earlier than the second Monday of September and before October 1. The sale may be adjourned, readjourned, or continued with no additional notice of sale required if the sale is held by the end of the calendar year.

Property that is essential to the business of a quasi-public corporation may not be sold.

The Bureau also may conduct a private sale if the "upset price" is not bid at the sale.

Petition for Judicial Sale

If the "upset price" is not bid at the sale, the sale must be continued (but not beyond the end of the calendar year), and the Bureau may file a petition with the Court of Common Pleas to sell the property at a judicial sale. The court, after reviewing the petition and accompanying documents, must order the owners to show cause why the property should not be sold. The rule is served on all persons with an interest using the procedure for serving the writ of scire facias, or if that fails, by registered mail to the person's last known address. If the court is satisfied that service has been made and the facts set forth in the Bureau's petition are true, it may order that the property be sold to the highest bidder. If the petition for judicial sale is filed within three months of the Bureau's advertised sale, no further advertisement is required. If the petition is filed after three months, the sale must be readvertised.

If the Bureau has not filed a petition for a judicial sale or conducted a private sale within 10 months of the scheduled sale, the Bureau must file a petition for a judicial sale.

Section 5860.611 enacted 1947; §§ 5860.306, .307, .602, .603, and .610 amended 1986; § 5860.308 amended 1993; § 5860.601 amended 2000; § 5860.612 amended 2004; § 5860.309 amended 2006; § 5860.102 amended 2015.

[72 Pa. Stat. & Cons. Stat. §§ 5860.102, .306, .307, .308, .309, .601, .602, .603, .610, .611, .612 \(2020\)](#)

Taxing Authorities, Pennsylvania, Public Notice and Posting Requirements

Notice of Filing of Returns and Entry of Claim

If the property's owner is unknown and has been unknown for a period of not less than five years, the notice of filing of returns must be given by posting on the property affected. Also, if no post office address of the owner is known or if a notice mailed to an owner at such last known post office address is not delivered, then the notice must be posted on the property affected. If the property owner has entered into an agreement with the bureau for the payment of the delinquent taxes, the posting is not necessary.

Notice of Sale

At least 30 days before a scheduled sale, the Bureau must publish notice of the sale at least once in two newspapers of general circulation in the county, and once in a court-designated legal journal (if there is one). The notice must state:

- the purpose of the sale;

- the time and place of the sale;

- the terms of the sale, including the approximate price;

- the property description; and

- the owner's name.

If the owner is unknown for less than five years, the name of the owner need not be included. The notice must be addressed to the "owners of properties described in this notice and to all persons having liens, judgments or municipal or other claims against such properties."

The notice also must be posted on the property at least 10 days before the sale.

All notices must contain a conspicuous warning stating that the property is being sold without consent for nonpayment of taxes. The warning must provide the telephone number of the Bureau or the county's lawyer referral service.

Section 5860.602, .607, .607a, .613, and .616 amended 1986; § 5860.308 amended 1993.

[72 Pa. Stat. & Cons. Stat. §§ 5860.308, .602, .607, .607a, .613, .616 \(2020\)](#)

Taxing Authorities, Pennsylvania, Preconditions to Eviction

No provisions specific to tax-sales were located. See [Pa. R. Civ. P. 1051–1057](#) and [3160–3165](#) for rules generally relating to ejection actions.

Taxing Authorities, Pennsylvania, Appeals

Filing an Exception

The taxpayer can prevent a sale by attacking the claim's validity before the claim becomes absolute by filing an exception to the claim with the Bureau before the January 1 after the notice of claim has been provided to the taxpayer. The Bureau may set aside or reduce the claim on the grounds that the taxes have been paid, in whole or in part, or "for any reason which constitutes a just, sufficient and valid defense to the claim in whole, or in part, except want of notice of the return and entry of the claim by the bureau, or for any dispute in the amount of the claim which involves the amount of the assessed valuation of the property or the validity of the tax levied." The Bureau will give notice to the entity that assessed the tax and will hold a hearing to determine the validity of the taxpayer's exception. The taxing entity may appeal the decision to the court of common pleas, which will order the taxing entity to show cause why the Bureau's claim should not be set aside or reduced. The parties may request a jury trial. The court must either affirm or set aside the claim, or set the proper amount in accordance with the verdict. Upon its final order, or after final disposition on appeal, the claim becomes absolute.

The taxpayer does not have the right to petition the Court of Common Pleas in order to open a claim that already has become absolute, except on the grounds that the tax was paid or that the notice of the claim was not received. The sale may not be set aside on the grounds that the taxpayer did not receive notice of the sale, provided the Bureau followed the statutory notice requirements.

Staying a Sale

The sale may be stayed if the owner or a lien creditor:

- pays the taxes in full, along with all charges and interest due; or
- enters into a written installment agreement with the Bureau, after paying 25 percent of the amount due, with the remainder to be paid within one year in not more than three installments. If the owner defaults, the sale may proceed at the next scheduled sale date.

Challenging a Sale

A taxpayer may challenge a sale by sending notice of his or her intent to file objections or exceptions with the court of common pleas relating to the regularity and procedures followed at the sale. The objections or exceptions must be filed within 60 days after the court of common pleas confirms the bureau's consolidated return reporting the sale. The challenge must focus on the regularity or legality of the sale, not the legality of the underlying taxes, the tax collector's return, or the bureau's claim. The relief, however, is limited: the sale is set aside and a new sale must be held.

If no challenge to the sale is timely filed, the sale is final and may not be reopened through a court proceeding.

Sections 5860.314, .602, .603, and .607 amended 1986; § 5860.601 amended 2000.

[72 Pa. Stat. & Cons. Stat. §§ 5860.314, .601, .602, .603, .607 \(2020\)](#)

Puerto Rico

Lenders, Puerto Rico, Foreclosure Type

Judicial.

Lenders, Puerto Rico, Preconditions to Foreclosure

Loan due

Puerto Rico's mortgage foreclosure provisions apply once a mortgage loan or its interest has wholly or partially become due.

Demand for payment

Demand for full payment must be made at least 20 days before the procedure is commenced. Demand must be sent by notary or by certified mail. If the property is community property, and one spouse is either outside Puerto Rico or cannot be located, delivery on one spouse is deemed sufficient.

Brief

A summary mortgage procedure is initiated by presenting a brief that includes the specific "legal grounds for the certainty, subsistence and ability to demand the mortgage loan" and the exact amount subject to the claim, among other things.

Writ and summons

If the requirements for foreclosure are met, the court will issue a writ to the mortgagor directing payment within 30 days. The Clerk of Court will issue a summons, to be served on the mortgagor personally, directing payment. The summons must expressly warn the debtor that if the payment is not made within the stated period, the mortgaged properties will be sold at public auction to pay the amount due. The marshal must also deliver to the person summoned an exact copy of the initial brief and an authentic copy of the demand for payment.

Mediation

2012 P.R. Laws ch. 184, which requires compulsory mediation in foreclosure of properties dedicated to housing, is not readily available on-line in English. Generally, the law provides that a compulsory

mediation must occur to address all alternatives available to avoid the mortgage execution or judicial sale of residential property that serves as the borrower's main dwelling. Therefore, it is not applicable to commercial foreclosures.

Sections 2706, 2710, 2712, and 2714 enacted 1979; §§ 2701 and 2703 amended 1980; compulsory mediation act passed 2012.

P.R. Laws tit. 30, §§ 2701, 2703, 2706, 2710, 2712, 2714 (LexisNexis 2020); [2012 P.R. Laws ch. 184](#) (available in Spanish)

Lenders, Puerto Rico, Public Notice and Posting Requirements

After the order directing the sale of the property is issued, the sale must be advertised at least 20 days in advance by inserting the court's edict in a newspaper of general circulation at least once a week, not less than three times. The 20-day period is measured from the first publication.

Section added 1979.

P.R. Laws tit. 30 § 2719 (LexisNexis 2020)

Lenders, Puerto Rico, Preconditions to Eviction

The purchaser at the auction may request legal possession of the property within 60 days of the order confirming the sale. After 60 days, without further proceedings, the court may order the ouster of anyone occupying the property.

Section added 1979.

P.R. Laws tit. 30 § 2730 (LexisNexis 2020)

Lenders, Puerto Rico, Appeals

Appeal

No appeal is allowed from an order directing the sale of the property.

Sale scheduling

The sale may take place 30 days after service on the mortgagor of the demand for payment. The auction sale must take place on a working day of the court, between 8 a.m. and 5 p.m. The ordered sale may be contested by submitting a written deposition of the reasons for contesting the sale to the foreclosing party's attorney.

Challenges

During the first 20 days of the 30-day period granted for paying the amount claimed in the summary procedure, the debtor may submit a written deposition stating all reasons he may have for contesting the following:

- the "validity, legality and legal efficacy" of the mortgage loan because of error or defects in the way it was granted;
- the "registration, security, subsistence, maturity, ability to demand and the amount of the mortgage debt being collected";
- the creditor's legal capability or capability to be party to a suit for a summary procedure, and "that of the debtor himself or third owner to be summoned for payment";
- fulfillment of the foreclosure requirements;
- the "validity of judicial actions or procedure verified up to that time";
- the rate and interest charged; or

- the court's jurisdiction.

Notification of the written deposition must be made with a copy to the creditor's lawyer on the date it is filed.

The auction sale may not be ordered until the objections are resolved.

After this first 20 days have passed, the debtor may not file an exception in either the summary procedure or in any other litigation filed by ordinary procedures, except to address:

- the court's jurisdiction over the parties;
- the court's jurisdiction or "competence over the procedure"; or
- fraud.

The party aggrieved by the court's decree after a hearing on the matter may appeal the resolution only by writ of certiorari before the Supreme Court within five working days after notification. The final decree constitutes res judicata among the parties.

Sections 2714, 2717, 2719, 2723, and 2733 added 1979; § 2716 amended 1980.

P.R. Laws tit. 30, §§ 2714, 2716, 2717, 2719, 2723, 2733 (LexisNexis 2020)

[Taxing Authorities, Puerto Rico, Foreclosure Type](#)

Non-judicial.

[Taxing Authorities, Puerto Rico, Preconditions to Foreclosure](#)

[Notice of attachment](#)

When taxes become delinquent, the internal revenue collector must notify the Secretary of the Treasury of its intent to attach and sell the debtor's real property to satisfy the debt. Thereafter, the Secretary must order the collector or its agent to attach and sell the property by serving the debtor with a written notice of attachment of the debtor's real property. The notice must:

- specify the total debt amount, including interest, surcharges, and fees; and
- notify the debtor that his or her real property will be attached and sold at public auction in 30 days or as soon thereafter as possible.

The notice must be served by leaving a copy with the debtor or a member of his family in possession of the property. If the debtor or his family cannot be located, the notice of attachment must be sent by registered mail, return receipt requested, to the address appearing in the collector's records.

Attachment certificate

The collector must prepare an attachment certificate describing the real property attached and must present the certificate for recording in the proper registry of property. The certificate must contain:

- the delinquent taxpayer's name, if known;
- the number in the registry of deeds of the real property attached;
- the taxes and costs owed;
- the property description; and

- a statement that the attachment will be valid in favor of the Commonwealth of Puerto Rico.

Once the certificate of attachment is registered in the property registry, the collector must serve it on the debtor or a member of his family in possession of the real property, or by registered mail as described above.

Notification upon sale

If the debtor has not exercised his right to redeem the property within one year from the date on the certificate of purchase by paying the collector the full purchase price paid at auction, plus improvements, expenses, fees, and taxes due, along with a 20-percent premium as compensation to the purchaser, the Secretary of the Treasury must notify the debtor of all unpaid surplus remaining from the sale and deliver such surplus upon proof of his or her right to receive it. Recording the certificate of purchase vests absolute title in the purchaser.

Section 507 amended 1976; § 503 amended 1979; § 502 amended 1988; §§ 506, 509, 510, and 514 amended 1991.

P.R. Laws tit. 13, §§ 502, 503, 506, 507, 509, 510, 514 (LexisNexis 2020)

[Taxing Authorities, Puerto Rico, Public Notice and Posting Requirements](#)

Public Auction Advertisement

The time, place, and conditions of the public auction must be publicly advertised at least three times a week for a period of one week in two newspapers of general circulation in Puerto Rico. Notices to the same effect must also be posted. Upon expiration of the publication period, the property must be sold at auction to the highest bidder who bids at least an amount sufficient to pay the delinquent taxes. If no sufficient bids are made on the property, the collector may purchase the property on behalf of the Commonwealth.

Section 519 amended 1979; § 510 amended 1991.

P.R. Laws tit. 13, §§ 510, 519 (LexisNexis 2020)

Taxing Authorities, Puerto Rico, Preconditions to Eviction

Unlawful Detainer Actions

Owners of real property or persons entitled to the enjoyment of real property may commence an action of unlawful detainer by filing and serving a civil complaint in the court in which the property is situated.

Section 2824 amended 1998; §§ 2821 and 2823 amended 2007.

P.R. Laws tit. 32, §§ 2821, 2823, 2824 (LexisNexis 2020)

Taxing Authorities, Puerto Rico, Appeals

Unlawful tax collection

Any taxpayer who believes a tax was collected from him unlawfully or unduly may apply in writing to the Secretary of the Treasury for reimbursement of the tax collected within four years of the collection date. Denial of the application may be appealed to the Court of First Instance within 30 days.

Cancellation of irregular sale to Commonwealth

When real property sold for delinquent taxes has been bid on in the name of the Commonwealth and it is later discovered that the sale was irregular and the owner was improperly deprived of his property, the Secretary of the Treasury may cancel the sale and, if necessary, issue a certificate of redemption, which acts as a reconveyance of the property to the owner.

Section 520 enacted 1907; § 261 amended 1954.

P.R. Laws tit. 13, §§ 261, 520 (LexisNexis 2020)

Rhode Island

Lenders, Rhode Island, Foreclosure Type

Judicial and non-judicial.

Lenders, Rhode Island, Preconditions to Foreclosure

Judicial

Complaint

A person entitled to foreclose the equity of redemption in a mortgaged estate may "prefer a complaint to foreclose it." The complaint may be "heard, tried, and determined according to the usages in chancery and the principles of equity."

Notice of sale

Notice of the intended sale of real estate must be sent by certified mail, return receipt requested, to the property's record owner as of the date 60 days before the scheduled sale date.

Non-judicial

Power of sale

The mortgage must contain a power of sale for a lender to proceed with a non-judicial foreclosure.

Notice of sale

For individual consumer mortgagors, written notice of the time and place of sale must be sent to the mortgagee by certified mail, return receipt requested, at least 30 days before the first

publication of the notice of sale. For mortgagors other than individual consumers, at least 20 days' notice must be sent.

This notice must also contain a specific statement printed in at least 14-point type regarding servicemembers' rights. The mortgagee must include in the foreclosure deed an affidavit of compliance with this requirement. Upon receipt of written notice from the mortgagor (or his or her authorized representative) that the mortgagor is participating in active duty or deployment or that the notice was received within nine months of completion of active duty or deployment, the mortgagee may not proceed with the execution of the property's sale until that nine-month period has lapsed or until the mortgagee obtains court approval.

Mediation requirement not applicable

The mediation-conference requirement set forth in § 34-27-3.2 applies only to the foreclosure of first-lien mortgages on owner-occupied, residential property that has no more than four dwelling units and that is the mortgagor's primary dwelling.

Section 34-27-1 amended 1956; § 9-26-16 amended 1992; § 34-27-4 amended 2012; § 34-27-3.2 amended 2015.

[R.I. Gen. Laws §§ 9-26-16; 34-27-1, -3.2, -4 \(2020\)](#)

Lenders, Rhode Island, Public Notice and Posting Requirements

Judicial

Notice of sale

Public notice of the sale of real estate must be published once a week for the three weeks before the time of the sale in a public newspaper published in the county in which the property is located. If there is no such newspaper, notice is published in a public newspaper published daily in the city of Providence.

Notice is also published by mailing written notice of the time and place of the sale by certified mail, return receipt requested, to all persons who have recorded a mortgage, attachment, lien, or any other encumbrance relating to the real estate. That notice must be mailed at least 14 days before the scheduled sale date.

Non-judicial

Notice of sale

Unless otherwise stated in the mortgage, notice must be published once a week for three successive weeks before the sale. The first publication of the notice must be at least 21 days before the sale date, and the third publication of the notice must be no fewer than seven days (including the day of the third publication) and no more than 14 days before the original sale date listed in the advertisement.

An advertisement for foreclosure may describe the real estate to be foreclosed by metes and bounds description and street address, by reciting the taxing authority's assessor's plat and lot designation and street address, or by reciting the book and page of the mortgage and street address.

Section 9-26-16 amended 1996; § 34-27-5 enacted 1990; § 34-27-4 amended 2012.

[R.I. Gen. Laws §§ 9-26-16; 34-27-4, -5 \(2020\)](#)

Lenders, Rhode Island, Preconditions to Eviction

A person entitled to possession of real property may bring an action to recover possession. No notice to quit is required.

If the mortgagor asserts a right to redemption, the mortgagee will not have the right to possession until two months after the judgment, if the property is not redeemed.

Note that the state's provisions requiring just cause to evict a foreclosed residential property's tenants applies to housing accommodations, which are defined as a building or structure containing four or fewer dwelling units.

A mortgagee must provide tenants notice of a foreclosure sale. The notice must contain the information required by statute and must be mailed by first class mail at least one business day before the first publication of the notice required by § 34-27-7. The notice may be addressed to "Occupant" and mailed to each dwelling unit of the real estate identified in the loan application. The mortgagee's failure to provide this notice does not affect the foreclosure's validity.

Sections 34-20-2 and 34-20-4 amended 1938; § 34-27-7 amended 2016; § 34-18-38.2 enacted 2014.

[R.I. Gen. Laws §§ 34-20-2, -4; 34-27-7 \(2020\)](#); see [R.I. Gen. Laws §§ 34-18-38.2 \(2020\)](#) (requires just cause to evict a foreclosed residential property's tenants)

Lenders, Rhode Island, Appeals

Judicial

Appeal

No specific provisions for appeal were located. As a general rule, an appeal in a civil action must be filed within 20 days of the entry of judgment.

Sale scheduling

The sale may be held no less than three weeks before the last publication of the notice of sale. The officer may, for good cause, adjourn the sale by giving one week's notice by publication in a public newspaper.

Non-judicial

Appeal

No provisions for objecting to, or appealing from, the sale were located.

Sale scheduling

The sale may take place no more than 14 days after the third publication of notice. If the sale is adjourned and the adjourned sale is held during the same calendar week as the originally scheduled sale date, no additional advertising is required.

Servicemembers

A sale, foreclosure, or seizure of property because of a breach by a servicemember who is entitled to the benefits provided by § 34-27-4(d) and who provided the mortgagee with written notice, is not valid if made during, or within nine months after, the servicemember's military service period, except:

- upon a court order granted after hearing on the mortgagee's petition; or
- if made pursuant to an agreement of all parties.

A mortgagee who knowingly makes a sale, foreclosure, or seizure that is prohibited by § 34-27-4(d)(3) is subject to a fine of \$1000, imprisonment for up to one year, or both.

Section 9-26-16 amended 1992; § 9-26-17 amended 1997; § 34-27-4 amended 2012; appellate rules revised 2019.

[R.I. Gen. Laws §§ 34-27-4; 9-26-16, -17 \(2020\); R.I. R. App. P. 4](#)

Taxing Authorities, Rhode Island, Foreclosure Type

Non-judicial sale of tax liens; judicial foreclosure of right of redemption.

Taxing Authorities, Rhode Island, Preconditions to Foreclosure

Notice of Sale to Taxpayer

The tax collector must notify the taxpayer of the time and place of the tax sale by first class mail not less than 90 days before the date of sale or any adjournment of the sale and again by certified mail not less than 40 days before the date of sale or any adjournment of the sale. The notice must be sent to:

- the street address of the real estate liable for tax payment, and, if different, to the taxpayer's address listed with the tax assessor's office;
- any other address the taxpayer designates in writing to the assessor;
- the taxpayer's address, as stated on the recorded deed; or
- the taxpayer's last known address.

The notice may also be left at the taxpayer's last known address or personally served on the taxpayer not less than 30 days before the date of sale or any adjournment of the sale, but no notice of adjournment is necessary other than the announcement made at the sale. Persons age 65 or older or persons suffering from a disability may designate a third party to receive notice by advising the assessor of that person's name and address. If the estate taxed is a corporation, the notice may be sent by registered or certified mail to the place of business or left with an employee at the corporation's business office.

Notice of Sale to Mortgagees and Other Parties in Interest

If the collector advertises the sale of any real property in which a person other than the person to whom the tax is assessed has an interest, the collector need not notify the interested party, except for the following, provided their interest was of record at least 90 days before the sale date:

- the present owner of record;
- mortgagees of record and their assignees of record;
- former fee holders whose right to redeem has not been foreclosed;
- tax title holders;
- federal agencies with a recorded lien on the property;
- holders of life estates of record; and
- vested remaindermen whose identity can be ascertained from examining the land or probate records of the municipality conducting the sale.

Notice must be given by registered or certified mail sent not less than 20 days before the date of sale or any adjournment of the sale. Advertisement and posting of notice of the sale is deemed sufficient for all other interested parties.

Conduct of Sale

The tax collector must, at the time and place appointed for the sale, sell the following by public auction for the taxes, assessments, rates, liens, interest, and necessary intervening charges:

- the smallest undivided part of the land that will bring the amount, but not less than one percent; or
- the whole if no person offers to take the undivided interest.

If no person bids an amount equal to the tax and charges for the land offered for sale, the tax collector must then publicly declare that fact. If no bid equal to the taxes and charges is then made, he must give public notice that he purchases the land for the city or town by which the tax is assessed for the taxes, charges, and expenses. The treasurer of any city or town holding a tax title may assign and transfer the title to any person who pays a sum equal to the amount necessary for redemption. Notice of the intended assignment must be sent to the owner of record at the owner's last known address by registered or certified mail at least 10 days before the assignment. However, failure to receive the notice does not invalidate the assignment. The treasurer may also transfer and assign any tax title held by the city or town for no monetary consideration to the redevelopment agency of the city or town, subject to the record owner's redemption right.

Tax Collector's Deed

The collector must execute and deliver a deed to the tax sale purchaser. The deed conveys the land to the purchaser subject to the right of redemption. Until the right of redemption is foreclosed, the conveyed title is held as security for repayment of the purchase price with intervening costs, interest, and fees. The deed is not valid against any intervening interests if not recorded by the collector within 60 days after the sale.

Notice of Foreclosure Petition

After one year from a sale of land for taxes, whoever holds the tax title may bring a petition in the superior court for the foreclosure of all redemption rights. Upon filing the petition, the petitioner, at his or her own cost, must select a title company or attorney, with the court's approval, to make a title examination sufficient to determine the persons who may be interested in the title. Upon the filing of the examiner's report, the petitioner must notify all persons appearing to be interested, whether as equity owners, mortgagees, lienors, attaching creditors, or otherwise, as well as the appropriate tax collector, of the petition's pendency. The notice must be sent by registered or certified mail, return receipt required.

If a notice sent by certified mail is returned unopened, the petitioner must send the notice to the addressee at the same address by first-class mail. The court may order other or further service by publication or otherwise.

Foreclosure Proceeding

After the fixed return day, which must be at least 20 days after the petitioner actually issues the notice, the court, if satisfied that the notice has been properly given and on the petitioner's notice, must enter an order defaulting all persons failing to appear, and decreeing that the petition as to them is confessed.

Any person claiming to redeem an interest on or before the return day, or within such other time as may be allowed by the court, must file an answer setting forth his or her right to redeem. The court, in its discretion, may allow the party to redeem within a time fixed by the court upon payment to the petitioner of the specified amount.

A decree must be entered that forever bars the right of redemption if:

- default is entered;
- redemption is not made within the time and upon the terms set by the court;
- at the time fixed for the hearing the person claiming the right to redeem does not appear to argue his claim; or
- the court determines that the facts do not entitle the person to redeem.

A procedure exists for expedited foreclosure of redemption rights on property sold for taxes that is vacant and either vandalized or non-code compliant. See [R.I. Gen. Laws § 44-9-25.3 \(2020\)](#).

Section 44-9-14 amended 1946; §§ 44-9-28 and 44-9-29 amended 2018; § 44-9-30 amended 2018; §§ 44-9-18 and 44-9-18.2 amended 1997; §§ 44-9-8.3, 44-9-25, and 44-9-27 amended 2006; § 44-9-11 amended 2015; §§ 44-9-10 amended 2016; § 44-9-12 amended 2017; § 44-9-25.3 enacted 2018.

[**R.I. Gen. Laws §§ 44-9-8.3, -10, -11, -12, -14, -18, -18.2, -25, -27, -28, -29, -30 \(2020\)**](#)

[Taxing Authorities, Rhode Island, Public Notice and Posting Requirements](#)

Notice of Sale

The tax collector must give notice of the time and place of a tax sale by posting it in two or more public places in the city or town at least three weeks before the time of sale.

The collector must also publish a notice of the tax sale in some public newspaper published in the city or town. If there is no such newspaper, the notice must be published in some public newspaper published in the county. The notice must include:

- the time and place of the sale;
- the real estate liable for payment of taxes;
- the name of the person against whom the real estate was assessed; and
- a list of the parcel(s) to be offered for sale by recorded plat and lot number, by assessor's plat and lot number, or by another adequate description.

The notice giving a full description must be published at least three weeks before the sale date. Thereafter, a weekly formal legal notice must be published between the date of the original advertisement and the time of sale. That notice must state that the collector will sell at public auction the real estate advertised and reference the original advertisement with the full description. Whenever an advertised tax sale is postponed or continued, a formal legal notice giving the new date must be published at least one week before the new date.

Any notice of sale must:

- inform any party entitled to notice of the redemption rights;
- explain the manner in which the right must be exercised; and
- inform the party of the penalties and forfeitures that may occur if the redemption right is not exercised.

Section amended 2003.

[**R.I. Gen. Laws § 44-9-9 \(2020\)**](#)

[Taxing Authorities, Rhode Island, Preconditions to Eviction](#)

[Possession during Redemption Period](#)

A purchaser at a tax sale does not have the right to possession until one year after the sale date.

[Action for Possession](#)

See [**R.I. Gen Laws § 34-16-1 \(2020\)**](#) for provisions regarding quiet title actions to affirm and quiet possession by persons claiming title based on a tax deed.

Section amended 2018.

[**R.I. Gen. Laws § 44-9-12 \(2020\)**](#)

Taxing Authorities, Rhode Island, Appeals

Redemption from Non-municipal Purchaser

A person may redeem by tendering the redemption amount to a purchaser, other than a city or town, or to the person to whom the city or town has assigned the tax title, at any time before the petition for foreclosure is filed. The land may also be redeemed by paying the required sum to the treasurer, in which case the city or town treasurer is deemed the purchaser's or the assignee's agent. The redemption right may be exercised only by the taxpayer or mortgagees and other interested parties entitled to notice of the sale. *See Preconditions to Foreclosure—Notice of Sale to Mortgagees and Other Parties in Interest.*

Redemption from City or Town

If the land has been purchased by the city or town and has not been assigned, a person with an interest in land sold for nonpayment of taxes at any time before the filing of a petition for foreclosure may redeem the land. The redemption right may be exercised only by the taxpayer or mortgagees and other interested parties entitled to notice of the sale. *See Preconditions to Foreclosure—Notice of Sale to Mortgagees and Other Parties in Interest.*

Civil Action

A foreclosure decree may be vacated in a separate action commenced within six months following the entry of the decree, but only for:

- inadequacy of the notice of the petition for foreclosure amounting to a denial of due process; or
- the invalidity of the tax sale because the taxes for which the property was sold had been paid or were not due because the property was exempt.

Contest of Validity of Tax Title

If a person claiming an interest desires to raise any question concerning the validity of a tax title, he or she must do so by answer filed in the foreclosure proceeding on or before the return day, or within such additional time as may be allowed by the court upon motion, provided the motion is brought before the fixed return date. Otherwise, the person is forever barred from contesting or raising the question in any other proceeding.

Sections 44-9-21, 44-9-24 and 44-9-31 amended 2018; § 44-9-11 amended 2015; § 44-9-19 amended 2003.

[R. I. Gen. Laws §§ 44-9-11, -19, -21, -24, -31 \(2020\)](#)

South Carolina

Lenders, South Carolina, Foreclosure Type

Judicial.

Lenders, South Carolina, Preconditions to Foreclosure

Notice of lis pendens

In an action affecting the title to real property, the plaintiff, not more than 20 days before or any time after filing the complaint, may file with the clerk of each county in which the property is located a notice of the pendency of the action. The notice must contain:

- the parties' names;
- the object of the action; and
- the property description.

If the action is for the foreclosure of a mortgage, the notice must be filed 20 days before judgment and must contain:

- the date of the mortgage;
- the parties to the mortgage; and
- the time and place of recording the mortgage.

This notice must be followed by the first publication of the summons (or an order therefor) or by the personal service of the summons on a defendant within 60 days.

Required parties

The following are not necessary parties to a foreclosure proceeding:

- the personal representative of a deceased mortgagor; or
- a mortgagor who has conveyed the mortgaged premises to another, if no deficiency judgment is demanded.

Debt secured must be established

No sale under a mortgage passes the title of the mortgaged property unless the debt is first established by:

- the judgment of some court of competent jurisdiction; or
- written consent by the debtor after the debt's maturity, which consent must be recorded.

If the mortgagor is dead, it is not necessary in any foreclosure proceeding to establish the debt as required above.

A mortgagor's consent to the amount of the debt must be dated no more than 12 months before any sale under a power contained in the mortgage.

Expedited mortgage

A mortgagee bringing a motion to proceed with an expedited foreclosure of a mortgage on abandoned property must, in addition to other required notices, serve a notice on each defendant that "the mortgagee is seeking an entry of a judgment and decree of foreclosure on the date fixed by the court or on the return date of the rule to show cause." (This provision may not be "supersede or limit procedures adopted by the South Carolina Supreme Court" for *residential* mortgage foreclosure actions.)

Sections 15-11-10, 15-11-20, 15-11-30, 29-3-610, 29-3-620, 29-3-630, and 29-3-640 amended 1962; § 29-3-625 enacted 2014.

[S.C. Code §§ 15-11-10, -20, -30; 29-3-610, -620, -625, -630, -640 \(2018\)](#)

Lenders, South Carolina, Public Notice and Posting Requirements

Posting of notice of sale

Sales of property must be advertised for three weeks before the sale date. The advertisement must be posted at three public places in the county, one of which must be at the courthouse door.

Publication of notice of sale

If the sale is to take place in a county in which a newspaper is published, the advertisement must be published before the sale date.

A court must allow a party with an interest in or lien on real property subject to a mortgage foreclosure action to serve by publication any unknown party to the action and who has an interest in or lien on the real property, if the plaintiff:

- cannot, with a "reasonably diligent effort," ascertain the unknown party's residence; and
- presents an affidavit to the court stating that fact.

The court order must require the party serving by publication to publish the service once a week for three weeks in a newspaper of general circulation in the county in which the property is located.

Section 15-39-650 amended 1962; § 15-39-660 amended 1962; § 15-9-720 amended 2010.

[S.C. Code §§ 15-9-720; -39-650, -660 \(2018\)](#)

Lenders, South Carolina, Preconditions to Eviction

Action for ejectment

An action for ejectment of a tenant may be brought against a person who holds over after a foreclosure sale. No notice to quit is required.

Possession rights

A mortgagee is not entitled to maintain a possessory action for the mortgaged real estate, even after the time allotted for the payment of the money secured by mortgage is elapsed. However, the mortgagor is deemed the owner of the land and is entitled to recover satisfaction out of the land by foreclosure and sale.

Section 29-3-10 amended 1962; § 27-37-10 amended 2000.

[S.C. Code §§ 27-37-10; 29-3-10 \(2018\)](#)

Lenders, South Carolina, Appeals

Appeal

No specific provisions for appeal were located. Generally, notice of a civil appeal must be served within 30 days of receipt of the notice of entry of judgment.

Sale scheduling

Judicial sales are usually held on the first Monday of the month, between 11 a.m. and 5 p.m.

Order for appraisal

In any real estate foreclosure proceeding, a defendant against whom a personal judgment is pursued, whether he has appeared in the action or not, may, within 30 days after the sale of the mortgaged property, apply by verified petition to the clerk of court for an order of appraisal.

In a commercial mortgage transaction, the defendant may waive these appraisal rights, if the debtors, makers, borrowers, and guarantors are notified in writing before the transaction that a waiver of appraisal rights will be required and upon signing a statement to that effect. The waiver may be in any document relating to the transaction, but the required language must be on a page containing the signature of the person making the waiver and the capitalized sentence must be underlined, in capital letters, or otherwise prominently disclosed.

The petitioner or the judgment creditor may appeal from the appraisers' return upon notice. The notice must state the ground of the appeal and be served on the other party within 10 days after notice of the filing of the return. The court, after a hearing, may confirm the return or order a new appraisal upon such terms as he may deem equitable. An appeal from the judge's order or decree may be brought as in other equity cases.

Section 29-3-750 amended 1962; § 29-3-680 amended 1996; § 15-39-680 amended 1987; § 15-39-690 amended 1991; rule 203 amended 2018.

[S.C. Code §§ 15-39-680, -690; 29-3-680, -750 \(2018\); S.C. R. App. P. 203](#)

Taxing Authorities, South Carolina, Foreclosure Type

Non-judicial.

Taxing Authorities, South Carolina, Preconditions to Foreclosure

Delinquency

If property taxes, assessments, and penalties are not paid by March 17, the county treasurer must issue his tax execution to the officer authorized and directed to collect delinquent taxes.

Notice of Delinquent Property Taxes

After the county treasurer has issued execution against a defaulting taxpayer, the officer to whom the execution is directed must mail a notice of delinquent property taxes, penalties, assessments, and costs to the taxpayer and to any grantee of record of the property whose value generated all or part of the tax. It must be mailed to the best address available and must specify that if the amounts are not paid, the property must be advertised and sold to satisfy the delinquency.

Second Notice of Delinquency

If taxes remain unpaid 30 days from the date the first delinquency notice is mailed, the executing officer must take exclusive possession of the property by mailing, by certified mail, return receipt requested, a notice of delinquent property taxes to the defaulting taxpayer and to any grantee of record at the address shown on the tax receipt or an address of which the officer has knowledge. If the addressee is an entity, the notice must be mailed to its last known post office address by certified mail, return receipt requested. The notice must state that if the taxes, assessments, penalties, and costs are not paid before a subsequent sale date, the property must be advertised and sold. The return receipt of the notice is equivalent to "levying by distress."

Notice of Tax Sale to Mortgagee

When the tax collector levies real property for taxes, he or she must give written notice at least 45 days before the sale to a mortgagee contained on the mortgagee list filed with the tax collector. The notice must be delivered to the mortgagees either personally or by certified mail with return receipt requested at the addresses shown on the most current mortgagee list. To be entitled to this notice, the mortgagee must file with the county tax collector a list of each mortgage in that county for which it desires to receive notice. This list must be filed on or before March 15 of each year.

Conduct of Sale

The person officially charged with collecting delinquent taxes must sell duly advertised delinquent-tax property at public auction at the courthouse, or other convenient place within the county if designated and advertised, on the advertised date during regular hours. The officer charged with the duty to sell real property for nonpayment of ad valorem property taxes must submit a bid on behalf of the Forfeited Land Commission, unless the property is known or reasonably suspected to be contaminated.

If the defaulting taxpayer or the grantee of record has more than one item advertised for sale, as soon as sufficient funds have been accrued to cover all of the delinquent taxes, assessments, penalties, and costs, additional items may not be sold.

Notice of End of Redemption Period

No more than 45 days nor less than 20 days before the end of the redemption period for real estate sold for taxes, the person charged with collecting delinquent taxes must mail a notice, by certified mail, return receipt requested, to the defaulting taxpayer, and to a grantee, mortgagee, or lessees of record in the county's public records. The notice must state that the property has been sold for taxes, and, if not redeemed by payment of the specified sum by the specified date, a tax title will be delivered to the tax-sale purchaser. The return of the certified mail "undelivered" is not grounds for withholding a tax title or finding the title defective.

Section 12-51-120 amended 2000; § 12-49-1120 enacted 2006; § 12-51-50 amended 2012; §§ 12-45-180, 12-49-1150, 12-51-40, and 12-51-55 amended 2015.

[S.C. Code §§ 12-45-180; 12-49-1120, -1150; 12-51-40, -50, -55, -120 \(2019\)](#)

Taxing Authorities, South Carolina, Public Notice and Posting Requirements

Taking Possession of Property by Posting

If the second notice of delinquency (*see Preconditions to Foreclosure*) has been returned, the executing officer must take possession of the property against which the taxes were assessed by posting a notice at one or more conspicuous places on the premises. The notice must read, "Seized by person officially charged with the collection of delinquent taxes of (name of political subdivision) to be sold for delinquent taxes." The posting of the notice is equivalent to levying by distress, seizing, and taking the exclusive possession of the property.

Advertising of Delinquency Tax Sale

The sale of property for tax delinquency must be advertised in a newspaper of general circulation in the county or municipality and must be entitled "Delinquent Tax Sale." The advertisement must be published once a week for three consecutive weeks before the legal sales date and must include the taxpayer's name and the property description (reference to the county auditor's map-block-parcel number is sufficient).

If a successful bidder fails to remit payment on the day of the sale, the bid is canceled and the property must be re-advertised for sale, in the same manner, on a subsequent legal sale date.

Section 12-51-70 amended 2012; § 12-51-40 amended 2015.

[S.C. Code §§ 12-51-40, -70 \(2019\)](#)

Taxing Authorities, South Carolina, Preconditions to Eviction

No specifically applicable provisions were located.

Possession Rights

If the defaulting taxpayer, a grantee from the owner, a mortgagee, a judgment creditor, or a lessee of the property fails to redeem during the redemption period, the person charged with collecting delinquent taxes, within 30 days or as soon thereafter as possible, must make a tax title to the tax-sale purchaser or the purchaser's assignee. Delivery of the tax title to the clerk of court or register of deeds is deemed "putting the purchaser, or assignee, in possession."

Section amended 2006.

[S.C. Code § 12-51-130 \(2019\)](#)

Taxing Authorities, South Carolina, Appeals

Redemption

The defaulting taxpayer, any grantee from the owner or any mortgagee or judgment creditor may redeem the property within 12 months from the date of the delinquent tax sale by paying the delinquent taxes, assessments, penalties, costs, and interest.

Limitation

An action for the recovery of land sold pursuant to a Chapter 51 tax sale or for recovery of possession must be brought within two years from the date of the sale. If the property is not redeemed within the 12-month period and after the passing of an additional 12 months, the tax deed issued is incontestable on procedural or other grounds.

Sections amended 2006.

[S.C. Code §§ 12-51-90, -160 \(2019\)](#)

South Dakota

Lenders, South Dakota, Foreclosure Type

Judicial and non-judicial.

Lenders, South Dakota, Preconditions to Foreclosure

Judicial

Service of process

An action for a mortgage foreclosure may be brought in the circuit court for the county in which some portion of the mortgaged real property is located. If the defendant is not a resident of the county, process may be served on him or her in any other county in the state.

Non-judicial

Power of sale and default

A mortgage that contains a power of sale may be foreclosed by advertisement upon default in the mortgage's conditions. The default must be one that causes the power to sell to become operative.

Recording of mortgage

A mortgage containing a power of sale must have been duly recorded before a party may foreclose by advertisement. If the mortgage has been assigned, the assignments must also have been recorded.

Notice of foreclosure sale

Notice of the foreclosure sale must be served on the mortgagor at least 21 days before the sale date.

Notice in a nonjudicial voluntary foreclosure

Upon the mutual written agreement of the mortgagor and mortgagee, a real estate mortgage may be foreclosed by nonjudicial voluntary foreclosure. In that case, the mortgagor conveys to the mortgagee, subject to acceptance, all interests in the real property subject to the mortgage. The mortgagor and mortgagee must file a jointly executed document that states that the parties have elected to follow the alternative voluntary foreclosure procedures.

The mortgagee must send by certified mail a notice of the election to all junior lienholders as of the conveyance date, stating, among other things, that the junior lienholders have 60 days from the date of mailing to exercise any redemption rights. On the date of the written agreement, the mortgagee must also furnish the mortgagor with a "Disclosure and Notice of Cancellation" in the form provided by statute. This notice includes a statement that the mortgagor, by agreeing to a voluntary foreclosure, is giving up the right to redeem.

Short-term Redemption Foreclosure

Upon default, a mortgage made pursuant to chapter 21-49 on real property of no more than 40 acres that contains a power of sale, may be foreclosed pursuant to the 180-day redemption procedures (chapter 21-49), by action (chapter 21-47), or by advertisement (chapter 21-48). A mortgage foreclosed in a short-term redemption foreclosure must contain the following statement in capital letters: "THE PARTIES AGREE THAT THE PROVISIONS OF THE ONE HUNDRED EIGHTY DAY REDEMPTION MORTGAGE ACT GOVERN THIS MORTGAGE." It must be entitled, "MORTGAGE--ONE HUNDRED EIGHTY DAY REDEMPTION."

An action for the foreclosure or satisfaction of short-term redemption mortgages is brought in the circuit court for the county in which a portion of the mortgaged property is located. If a defendant is not a resident of the county, process may be served on him in any other county within the state.

Section 21-47-1 amended 1943; §§ 21-48-2 and -3 amended 1960; § 21-48-1 amended 1961; § 21-49-12 amended 1977; § 21-49-11 amended 1979; § 21-49-15 amended 1981; § 21-48A-1 enacted 1991; § 21-48-6.1 amended 2002.

[S.D. Codified Laws §§ 21-47-1; -48-1, -2, -3, -6.1; -48A-1; -49-11, -12, -15 \(2019\)](#)

Lenders, South Dakota, Public Notice and Posting Requirements

Judicial

Service by publication

If the defendant is not a South Dakota resident, is absent, or cannot be found in the state, service may be made by publication in the manner provided by statute or court rule in ordinary civil actions.

Notice of sale

Public notice of the sale must be given by advertisement published in a legal newspaper published in each county in which any part of the property is located. Notice must be published once each week for four consecutive weeks before the sale. If no newspaper is published in the county, notice must be published in the nearest legal newspaper in the state likely to give notice.

Return of sale of real property

The person making an execution sale of real property must, within 10 days after the sale, file in the court a verified written return of the sale.

Non-judicial

Notice of foreclosure sale

Notice of the foreclosure sale must be given by publishing the notice at least once each week for four successive weeks in a legal newspaper of the county in which the property is located. If there is no newspaper in the county, notice must be published in the nearest newspaper in the state.

Written notice must also be given to any lien holder or encumbrancer whose interest in the property would be affected by the foreclosure.

Nonjudicial voluntary foreclosure

In a nonjudicial voluntary foreclosure, the mortgagor and mortgagee must file a jointly executed document with the register of deeds, stating that the mortgagor and mortgagee have elected to follow the alternative voluntary foreclosure procedures. The mortgagee must also send by certified mail a notice of the election to all junior lienholders, stating that the junior lienholders have 60 days from the date of mailing to exercise any redemption rights.

Short-term Redemption Foreclosure

Service of process

Service related to a short-term redemption foreclosure may be by publication in the manner prescribed by statute or rule of court in ordinary civil actions if the defendant is a nonresident of the state, absent, concealed, or cannot be found in the state after due diligence.

Notice of sale

Notice of the sale of mortgaged property in a short-term redemption mortgage must be given by publishing it at least once a week for at least two successive weeks in a legal newspaper of general circulation in each of the counties in which the property is located.

Section 15-9-8 added 1942; § 21-47-2 amended 1943; § 15-19-20 amended 1960; § 21-49-16 amended 1995; § 21-49-25 enacted 1977; § 21-48A-1 enacted 1991; §§ 21-48-6 and -6.1 amended 2002.

[S.D. Codified Laws §§ 15-19-8, -20; 21-47-2; 21-48-6, -6.1; 21-48A-1; 21-49-16, -25 \(2019\)](#)

Lenders, South Dakota, Preconditions to Eviction

An action for unlawful detainer may be brought against a party who continues in possession after a mortgage foreclosure sale and after the period for redemption has expired. Three days' notice to quit must be served before the action may be brought.

Section 21-16-1 amended 1992; § 21-16-2 amended 1986.

[S.D. Codified Laws §§ 21-16-1, -2 \(2019\)](#)

Lenders, South Dakota, Appeals

Judicial

Appeal

Any interested party may file objections to a sale within 10 days of the sale.

Sale scheduling

Sales may be held on any day except Sunday, and must be held between 9 a.m. and 4 p.m. If there are no bidders, the amount offered is "grossly inadequate," or the sale is prevented from taking place on the scheduled date, the sheriff may postpone the sale for no more than three days without being required to give any further notice. The sheriff may not make more than two such postponements and must publicly announce each postponement when and where the sale was scheduled.

Stay of further proceedings

If any time before sale, the defendant brings into court the principal and interest due, with costs, the foreclosure action proceedings will be stayed until a further default.

Redemption rights

The redemption of real property sold upon foreclosure of mortgages by court order, judgment, or decree are as provided by statute relating to redemption from mortgage foreclosure sales by advertisement and sale under a power of sale.

Reversal of judgment

If a judgment, in satisfaction of which real property was sold, is later reversed, the reversal does not defeat or affect the purchaser's title. In that case, the judgment creditor must make restitution of the money for which the real property was sold, with interest from the sale date.

Non-judicial

Appeal

No specific provisions regarding appeal or objection were located.

Sale scheduling

Sales must be held between 9 a.m. and 4 p.m. on the date noticed for sale. The sale may be postponed, from time to time, by inserting a notice of the postponement, as soon as practicable, in the newspaper in which the original advertisement was published. The publication must be

continued until the rescheduled sale date, at the expense of the party requesting the postponement.

Application to require foreclosure by action

If the mortgagee has started a foreclosure by advertisement, the mortgagor or other party with a recorded interest in the property may require the mortgagee to foreclose by action by presenting the court with an application. The application must:

- describe the mortgage;
- state the applicant's interest;
- state "why the mortgage should be foreclosed by action without necessity of stating any reasons."

The court must then enjoin the mortgagee from foreclosing the mortgage by advertisement and direct that all further proceedings for the foreclosure be in the appropriate circuit court.

Short-term Redemption Foreclosure

Redemption rights

The redemption period for a deed issued after short redemption or abandonment period is 180 days (60 days if the property is abandoned) from the recording of the certificate of sale.

Section 15-19-21 amended 1960; § 15-19-10 amended 1960; §§ 15-19-18, 15-19-23, 15-19-31, 15-19-32, 21-47-10, 21-47-23, 21-48-10, and 21-48-11 amended 1960; § 21-49-38 amended 1988; § 21-48-9 amended 2002.

[S.D. Codified Laws §§ 15-19-10, -18, -21, -23, -31, -32; 21-47-10, -23; 21-48-9, -10, -11; 21-49-38 \(2019\)](#)

Taxing Authorities, South Dakota, Foreclosure Type

Non-judicial sale of tax certificates and issuance of tax deeds, and judicial action for tax deed.

Taxing Authorities, South Dakota, Preconditions to Foreclosure

Notices of Tax Certificate Sale

The county treasurer must send a notice of tax certificate sale at least 14 days before the sale date to any owner of the property at his or her last known address and to any person holding a special assessment certificate which is a lien on the property, and to the municipal finance officer of any municipality in which the property is located.

The county treasurer must also notify both the seller and buyer under a contract for deed of delinquent property taxes if the contract has been recorded.

The notice must state for all real property on which taxes of the preceding year(s) remain that tax certificates will be sold and designate the time and place of sale.

Sale of Tax Certificates

The sale is held on the third Monday of December at the courthouse. If there are no other bidders, the county may bid off the tax certificate as a purchaser for the amount of taxes, penalty, interest and costs due. Thereafter any person may purchase the county's interest in such property by paying the treasurer the taxes, penalty, interest, and costs of sale and transfer, and all unpaid or subsequent taxes, up to the date of purchase.

If any tax certificate remains unsold due to lack of bidders, the treasurer must sell the same at private sale at his office to any person paying the taxes, penalty and costs. The purchaser is entitled to a certificate describing the land, the amount paid and the time when the purchaser will be entitled to a deed.

In the case of any real property sold for taxes and not redeemed, the owner or holder of the tax certificate may proceed to procure a tax deed on the property no sooner than three years from the date of the tax sale, but not later than six years from the tax sale date.

Note: No county may sell tax certificates after July 1, 2006, unless the board of county commissioners adopts a resolution waiving S.D. Codified Laws § 10-23-28.1, which prohibits such sales.

Notices of Intention to Take Tax Deed

A notice of intention to take tax deed must be signed by the lawful holder of the tax sale certificate, or his agent or attorney, stating that the right of redemption will expire and a deed for the property issued upon expiration of 60 days from completed service of the notice, unless the property is redeemed. Service of the notice must be made by personal service upon:

- the property's owner of record;
- the person in possession of the property;
- the person in whose name the real property is taxed; and
- the mortgagee named in any unsatisfied mortgage in force on the real property of record in the office of the register of deeds.

If any of the persons upon whom service is required is deceased, the notice of intention to take tax deed must be served on the person's personal representative, foreign or resident, or upon the resident agent of a foreign personal representative, if any, known to the certificate holder. If no such person is known, the notice must be served upon any known heirs, devisees and legatees of the decedent in the same manner as if they were owners of record.

Service is complete when an affidavit of the service of the notice and the mode of service, signed and verified by the person or officer making the service, has been filed with the county treasurer authorized to execute the tax deed.

Tax Deed

Failure of the owner, any mortgagee, any lienholder or other interested person to redeem the tax certificate within 60 days of the filing of the affidavit of completed service of notice of intent to take tax deed passes all the right, title and interest of each of them to the holder of the tax certificate subject to the taxes, liens and encumbrances.

The person demanding the tax deed must purchase the assignment of all prior certificates held by the county on the real property before the county treasurer may issue the tax deed.

Judicial Action for Tax Deed

In addition to and not in lieu of the procedures described above for the taking of tax deeds, any purchaser of property at tax sale, or his assigns, including the county where property is bid in by the county for lack of bidders, desiring a tax deed for the property or to quiet title for any such property already covered by tax deeds may bring an action in the circuit court for the county in which the property is located at any time after the expiration of four years from the date of the tax certificate, or where the action is commenced upon existing tax deeds, at any time. Before bringing such action, the plaintiff, unless it is the county, must pay delinquent taxes assessed subsequent to the date he or she procured the certificate of sale. See [S.D. Codified Laws ch. 21-42 \(2019\)](#).

Alternate Procedure for Taking of Tax Deed by County

An alternate procedure by which the county may obtain a tax deed on real estate on which unpaid taxes are due and owing for at least six years is set forth in [S.D. Codified Laws ch. 10-26 \(2018\)](#).

Sections amended 2018 except: § 10-25-28.1 enacted 1991; 10-25-8 amended 2008; 10-23-2.2 repealed 2018.

[S.D. Codified Laws §§ 10-23-2, -2.1, -2.4, -3, -7, -12, -18, -24; -25-1, -2, -3, -4, -5, -6, -7, -8, -8.1, -10 \(2019\)](#)

Taxing Authorities, South Dakota, Public Notice and Posting Requirements

Notices of Tax Certificate Sale

The county treasurer must give notice of the sale of the tax certificate by publication once during the week before the sale in the official newspapers of the county. If there is no newspaper published in a county, he must post the notice at the door of the courthouse for two weeks before the sale.

Notices of Intention to Take Tax Deed

A notice of intention to take tax deed must be served on the following persons in the manner provided by law for the service of summons or by publishing the notice once a week for at least two successive weeks in the legal newspapers for the county in the county where the real property is located:

- the owner of record of the real property, the person in possession of the property, the person in whose name the property is taxed, the mortgagee named in any unsatisfied mortgage on the property recorded in the office of the register of deeds of the county in which the property is located, and, if the mortgage has been assigned, and the assignment recorded, upon the assignee in lieu of the mortgagee named in the mortgage;
- any lienholder, creditor of record and other interested person as appears from the records in the office of the register of deeds, the county treasurer or the clerk of courts; and
- if the property is in a municipality, the holder of any special assessment certificate that is a lien on the property, the holder of any tax certificate issued upon sale of any special assessment, the holder of any bonds last maturing, and the city auditor or town clerk of the municipality.

In addition to service by publication, the tax certificate holder must send a copy of the notice by registered or certified mail to any person served by publication, at the person's last known address.

Sections amended 2018.

[S.D. Codified Laws §§ 10-23-2; -25-3, -5 \(2019\)](#)

Taxing Authorities, South Dakota, Preconditions to Eviction

There are no applicable provisions under the tax foreclosure laws, but see [S.D. Codified Laws ch. 21-16 \(2019\)](#) for unlawful detainer actions in general.

Taxing Authorities, South Dakota, Appeals

Redemption

Any person may redeem a tax certificate on real property sold for taxes any time before a tax deed is issued for the property.

Tax Deed Contest

An action by the former owner, or by any person claiming under him, to recover possession of any real property which has been sold or conveyed by deed for nonpayment of taxes or to avoid such deed must be commenced within 180 days after the recording of such deed.

Sections amended 2018.

[S.D. Codified Laws §§ 10-24-1, -5, -25-44 \(2019\)](#)

Tennessee

Lenders, Tennessee, Foreclosure Type

Judicial and non-judicial.

Lenders, Tennessee, Preconditions to Foreclosure

Judicial

No pre-foreclosure requirements were located for judicial foreclosures. Notice of the foreclosure sale must be sent to the debtor either before or at the same time the first notice of sale is published (at least 20 days prior to the sale). Notice must be sent by registered or certified mail, return receipt requested.

Non-judicial

No pre-foreclosure requirements were located for commercial non-judicial foreclosures. Notice of the foreclosure sale must be sent to the debtor either before or at the same time the first notice of sale is published (at least 20 days prior to the sale). Notice must be sent by registered or certified mail, return receipt requested.

The notice of right to foreclose, which was required July 1, 2010 through January 1, 2013, applied only if the property was an owner-occupied residence and has been deleted for any foreclosure notice for which the first publication occurred on or after January 1, 2013.

Section 35-5-101 amended 2011.

Tenn. Code Ann. §§ 35-5-101 (LexisNexis 2020)

Lenders, Tennessee, Public Notice and Posting Requirements

Notice of sale

Notice of sale must be published at least three different times in a newspaper published in the county where the sale will be held. The first publication must be at least 20 days before the sale. (This requirement does not apply if the debt is \$200 or less, in which case the property owner may order that advertisement be by posted written notices.) If no newspaper is published in the county in which the land is to be sold, the advertisement in a newspaper is not required, unless ordered by court.

If the notice cannot be published, notice of the sale is given by posting written notices for 30 days in at least five of the most public places in the county. One of these places must be the courthouse door, and another must in the civil district where the land lies.

Rescheduled sale

Unless prohibited by contract, a sale may be rescheduled one or more times without additional newspaper publication, provided:

- the sale must be held within one year of the original sale date;
- each postponement must be to a specified date and time, and must be announced at the date, time and location of each scheduled sale date;
- if the postponement is for more than 30 days, notice of the new date, time, and location must be mailed no less than 10 calendar days before the sale date by regular mail to the debtor and co-debtor; and
- notice of the right to postpone without additional newspaper publication need not be published in any newspaper.

Section 35-5-102 amended 1932; § 35-5-103 amended 1950; § 35-5-101 amended 2011.

Tenn. Code Ann. §§ 35-5-101, -102, -103 (LexisNexis 2020)

[Lenders, Tennessee, Preconditions to Eviction](#)

A person who has a valid interest in property and the right to possession may bring an action in ejectment to recover possession. No notice to quit is required.

Section amended 1932.

Tenn. Code Ann. § 29-15-102 (LexisNexis 2020)

Lenders, Tennessee, Appeals

Appeal

No specific provisions for appeal or objection were located. As a general rule, a civil appeal must be filed within 30 days of the entry of judgment.

Sale scheduling

The published ending time for auctions conducted on an internet-based bidding platform and the published start time for an in-person auction must be between the hours of 9:00 a.m. and 7:00 p.m. of the day fixed in the notice or advertisement.. The sale date may be any day Monday through Saturday, except a state or federal legal holiday. However, effective May 20, 2015, this requirement does not apply to sales of parcels pursuant to chapter 5 of title 67.

Sale without advertisement

A sale without the required advertisement is not void or voidable.

Redemption rights

The redemption period for real estate sold for debt is two years after the sale date.

Sections 35-5-106 and 66-8-102 amended 1932; § 35-5-109 amended 2019; rule amended 2018.

Tenn. Code Ann. §§ 35-5-106, -109; 66-8-102 (LexisNexis 2020); [Tenn. R. App. P. 4](#)

Taxing Authorities, Tennessee, Foreclosure Type

Judicial and non-judicial.

Taxing Authorities, Tennessee, Preconditions to Foreclosure

Non-Judicial

A lien arises on real property currently or subsequently owned by a taxpayer who neglects or refuses to pay tax owed, plus costs, fees, interest, and penalties, at the time an initial assessment of liability is made.

Notice of the lien must be recorded in the office of the county register of deeds in the county or counties in which the taxpayer's business or residence is located, or where he or she has an interest in property. The recording must be done in the usual manner as liens are recorded in that office. The recording constitutes notice of both the original and all subsequent assessments and is effective 10 ten years from the filing date. A lien notice that is not renewed after 10 years is null and void against all persons.

If a liable taxpayer neglects or refuses to pay the taxed owed within 10 days after notice and demand, the commissioner may collect amount owing by levy on all property belonging to the person or on which there is a lien. This 10-day period does not apply to a levy if the commissioner has made a finding that the collection of the tax is in jeopardy.

As soon as practicable after seizure of property, the commissioner must provide written notice to the owner or leave notice at the owner's usual place of abode or business within the state. If the owner cannot be readily located or has no dwelling or place of business within the state, the notice may be mailed to the owner's last known address. The notice must:

- specify the sum demanded;
- describe with reasonable certainty the property seized; and
- be given no less than 30 days before the seized property is sold.

Judicial

General requirements

The trustee or collector must prepare a list of taxpayers and identification of property for which taxes are delinquent as of June 1 of the current calendar year. The current tax bills sent to property owners must include notice that their property might be sold and that back taxes are owed. (Note that this requirement does not apply to counties with specified populations.)

The notice requirements for tax suits were significantly revised in 2014. The court may award a personal judgment against an owner once proper process has been served. The court may award a judgment enforcing the lien by a sale of the parcel upon determining that:

- proper process has been served on an owner;
- the owner has actual notice of the proceedings by mail or otherwise; or
- constructive notice by publication using a description of the parcel according to present law has been given to unborn, unfound, and unknown owners, and the plaintiff has made a diligent effort before confirming the parcel's sale to give actual notice of the proceedings to persons with an interest in the parcel.

Before confirming a parcel's sale, the court must determine that a diligent effort has been made to give notice of the proceeding to all interested persons.

The notice will also be sufficient if an owner receives it in time to afford the owner a reasonable period to prevent the loss of the owner's interest in the parcel. The loss is deemed to occur upon the redemption period's expiration or termination. Notice of the proceeding's pendency for a parcel constitutes notice of the parcel's pending sale (and vice versa). If process is served on a defendant, the defendant need not receive a copy of the complaint or exhibits. Instead, the plaintiff may furnish a notice identifying the proceedings sufficiently for the defendant to determine the parcel that is subject to the delinquent taxes.

Appointing a receiver for commercial property

For commercial property only, when a suit is brought to enforce a tax lien that secures a delinquent tax, a governmental body with an interest in the tax lien may have the court in which the tax suit is pending appoint a receiver to collect rents on the property. This right exists whether or not the property is being misused, wasted, or neglected, and whether or not the security for the tax is adequate. A property occupied by the owner as the owner's residence, including a farm connected with a residence and cultivated by the owner, is not subject to receivership.

Commercial timber

It is unlawful for any person or entity to "cut, sever, haul or carry away from or saw any timber from land" with liens to secure the payment of delinquent taxes. This restriction does not apply to farm wood lots of no more than 10 acres, if the farm has a greater acreage in cultivation and is improved by a dwelling house and out-buildings. The state courts may enjoin the cutting, severing, hauling, carrying away or sawing of any timber on or taken from any lands subject to liens for delinquent taxes. The remedies for the protection and collection of taxes on timber lands are cumulative and in addition to all other remedies available to the state and its subordinate taxing units.

Mineral interests

An owner of a surface interest in property overlying a mineral interest may record a declaration of the owner's interest in the land. Declaration forms, which are available at the register's office, must include the name of the owner of the mineral interest beneath the surface. If the severed mineral interest property is sold pursuant to § 67-5-2501, the clerk of the court must send, by certified return receipt mail, a notice of proceedings regarding the sale of the mineral interest to any surface-interest owner who has recorded a declaration of surface ownership. A surface-interest owner who has recorded a declaration and who has received a notice of delinquent tax proceeding may, within 120 days after the sale, purchase the mineral interest beneath the owner's tract for a percentage of the total sale amount. That percentage is derived from the percentage that the owner's surface interest bears to the property's total surface area.

Sections 67-5-2202, 67-5-2203, 67-5-2301, 67-5-2305, and 67-5-2307 amended 1950; § 67-1-1414 enacted 1972; §§ 67-1-1405 and 67-1-1406 amended 1981; § 67-1-1415 amended 2013; § 67-1-1403 amended 2014; § 67-5-2415 amended 2017; § 67-5-2502 amended 2018; § 67-5-2402 amended 2016.

Tenn. Code. Ann. §§ 67-1-1403, -1405, -1406, -1414, -1415; -5-2202, -2203, -2301, -2305, -2307, -2402, -2415, -2502 (LexisNexis 2020)

Taxing Authorities, Tennessee, Public Notice and Posting Requirements

Non-Judicial

The post-seizure notice must be published in a newspaper generally circulated in the county and also posted at the county courthouse and in no fewer than two other public places. This notice must specify the property to be sold, and the time, place, manner and conditions of the sale.

Judicial

The trustee or collector must publish a notice of intent to file suit once a week for two consecutive weeks in January. The publication must be in a newspaper of general circulation or in one or more of the newspapers widely distributed in the county.

If a sale is under a decree of the court, the property must be advertised in one sale notice that includes:

- the owners' names;
- the property description; and
- the judgment amount against each defendant.

A notice of the tax sale must be published at least once in a newspaper of general circulation in the county where the parcels are located, or, with court approval, published by printed handbills publicly posted in the county where the parcels are located in a manner determined by the court. Any publication first occur at least 20 days before the sale date.

Once the tax sale date is set, a tax sale notice may be recorded in the register of deeds' office for the county in which the property is located.

Section 67-1-1415 amended 1992; § 67-5-2401 amended 2013; § 67-5-2502 amended 2019.

Tenn. Code. Ann. §§ 67-1-1415; -5-2401, -2502 (LexisNexis 2020)

Taxing Authorities, Tennessee, Preconditions to Eviction

No provisions specifically applicable to evictions in the general context of tax lien foreclosures were located. *See generally* Tenn. Code. Ann. § 29-15-101 *et seq.* (LexisNexis 2020).

Taxing Authorities, Tennessee, Appeals

Non-Judicial

No specifically applicable provisions were located.

If the taxpayer has appealed the commissioner's ruling or if a suit is pending regarding the tax, the taxpayer has the right to post bond equaling the amount of the tax liability owing in lieu of payment until the appeal or suit is finalized.

At any time before the sale, the person whose property has been levied has the right to pay the amount due and expenses. The property must then be restored to the person. All further proceedings in connection with the levy cease from the time of payment.

Judicial

Redemption

A person entitled to redeem property may do so during the redemption period.

The right to redeem must be exercised within the time period established by § 67-5-2701(a), which is in no case longer than one year. Unless the court finds sufficient evidence based on delinquency to order a reduced redemption period, the redemption period is one year. The redemption period determined by delinquency is as follows:

- if the delinquency period is five years or less, the redemption period is one year from the entry of the order confirming the sale;
- if the delinquency period is more than five years, but less than eight years, the redemption period is 180 days from the entry of the order confirming the sale; or
- if the delinquency period is eight years or more, the redemption period is 90 days from the entry of the order confirming the sale; and

For all property for which a reasonable basis exists to believe that the property is vacant or abandoned, the redemption period must be 30 days from the entry of the order confirming the sale without regard to the number of years of delinquent taxes owed on the property.

Invalidating a tax deed

A tax deed of conveyance is an "assurance of perfect title to the purchaser." A court may not invalidate the conveyance, except by proof that:

- the land was not liable to sale for taxes;
- the taxes for which the land was sold were paid before the sale; or
- there was "substantial noncompliance with mandatory statutory provisions" related to the sale proceedings.

If any part of the taxes for which the land was sold is illegal or not chargeable against it, but a part is chargeable, the conveyance is not invalidated unless it appears that, before the sale, the amount legally chargeable against the land was paid or tendered to the county trustee.

A suit may not be brought to invalidate a tax title to land until the party suing has paid to the clerk of the court the amount of the bid and all taxes subsequently accrued, with interest and charges. A suit to invalidate a tax title to land must be brought within one year from the entry date of the order confirming the tax sale. The statute of limitations to invalidate the sale of any tax title may be extended to one year after the plaintiff "discovered or with the exercise of reasonable due diligence should have discovered" the existence of the cause of action. However, in no event may an action to invalidate a tax sale title be brought more than three years after the entry of the order confirming the sale.

If the state does not hold legal title to the property bought by it at a tax sale for delinquent state and county taxes, a person desiring to attack the tax sale's validity may make only the holder of the legal or equitable title (and those persons claiming through that holder) parties to the suit. It is not necessary to make the state a party.

Effective May 20, 2015:

- a person successfully challenging the validity of a tax sale is responsible to the tax sale purchaser (and the purchaser's successors in interest) for any increase in the value of the parcel from the date of the entry of the order confirming the sale until the entry of a court order declaring the tax sale invalid (in the alternative, the challenger is responsible to the person purchasing the property at the tax sale and the purchaser's successors in interest, for all amounts spent by the purchaser or the purchaser's successors as set out in § 67-5-2701(b) and (e), if that amount exceeds the parcel's increased value);
- an order confirming a sale is voidable and a court may void a sale after determining the merits of the grounds for the action and any defenses raised; and
- a motion filed pursuant to Rule 60.02 of the Tennessee Rules of Civil Procedure challenging the validity of a tax sale and any independent action for a similar purpose is deemed to be an action to invalidate the sale of a tax title.

Sections 67-1-1411 and 67-1-1417 enacted 1972; § 67-1-1420 amended 1983; §§ 67-5-2504 amended 2017; § 67-5-2701 amended 2019.

Tenn. Code. Ann. §§ 67-1-1411, -1417, -1420; -5-2504, -2701 (LexisNexis 2020)

Texas

Lenders, Texas, Foreclosure Type

Judicial and non-judicial.

Lenders, Texas, Preconditions to Foreclosure

Judicial

No specific pre-foreclosure provisions were located.

Note that the restrictions on mortgage foreclosures of military service members in active duty apply only to mortgages on dwellings.

Non-judicial

Notice of the sale, which must include a statement of the earliest time at which the sale will begin, must be given at least 21 days before the sale date by:

- posting it at the courthouse door;
- filing a copy of the posted notice; and
- serving written notice of the sale, by certified mail, on each debtor who, according to the mortgage servicer's records, is obligated to pay the debt.

See *Foreclosure Alternatives* for mediation requirements, including those that apply to expedited foreclosures.

Additional notices by the mortgage servicer regarding a 20-day cure period, apply only to a lien on real property used as the debtor's residence.

Section 51.015 amended 2011; § 51.002 amended 2017.

[Tex. Prop. Code §§ 51.002, .015 \(2019\)](#)

Lenders, Texas, Public Notice and Posting Requirements

Judicial

A property sale must be advertised by having the notice of the sale published in English once a week for three consecutive weeks before the sale, in a newspaper published in the county. The first publication must appear not less than 20 days immediately before the day of the sale. If there is no newspaper published in the county, or none that will publish the notice of sale for the compensation fixed by rule, the officer in charge of the sale must post written notice in three public places in the county at least 20 days before the sale date. One of the postings must be at the county's courthouse door.

Non-judicial

Public notice of the sale, including a statement of the earliest time at which the sale will begin, must be given at least 21 days before the sale date. Notice is given by:

- posting at the courthouse door of each county in which the property is located a written notice designating the county in which the property will be sold; and
- filing in the office of the county clerk of each county in which the property is located a copy of the notice posted.

A county that maintains an Internet website must post a filed notice of sale on the website on a page that is "publicly available for viewing without charge or registration."

Section 51.002 amended 2017; rule 647 history unknown.

[Tex. Prop. Code § 51.002 \(2019\)](#); [Tex. R. Civ. P. 647](#)

Lenders, Texas, Preconditions to Eviction

A forcible detainer action may be brought against a person who refuses to surrender possession of property after a foreclosure sale. The demand for possession must

- be made in writing by a person entitled to possession; and
- comply with the statutory requirements for notice to vacate.

Three days' written notice to quit must be given before an action may be commenced. However, if the occupant is a residential tenant who is not in default on any term of the lease, 30 days' notice must be given.

A notice to vacate generally must be given in person or by mail at the premises. However, effective January 1, 2016, a landlord may deliver the notice to vacate by securely affixing to the outside of the main entry door a sealed envelope that contains the notice. The envelope must contain the tenant's name, address, and in all capital letters, the words "IMPORTANT DOCUMENT" or substantially similar language. No later than 5 p.m. on the same day, the landlord must deposit in the mail a copy of the notice to the tenant if:

- the premises has no mailbox and has a keyless bolting device, alarm system, or dangerous animal that prevents the landlord from entering the premises to affix the notice to the inside of the main entry door; or

- the landlord reasonably believes that a person would be harmed delivering the notice personally to the tenant or affixing the notice to the inside of the main entry door.

Note that a citation in a suit to evict must include language regarding the rights of a tenant who is serving on active military duty.

Section 24.002 amended 1989; § 24.0051 amended 2011; § 24.005 amended 2015.

[Tex. Prop. Code §§ 24.002, .005, .0051 \(2019\)](#)

Lenders, Texas, Appeals

Judicial

Appeal

No provisions for appeal or objection were located. As a general rule, an appeal in a civil action must be filed within 30 days of the signing of the judgment.

Deficiency actions

If real property is sold at a foreclosure sale under a court judgment and if the price at which the real property is sold is less than the unpaid balance of the debt secured by the real property, a person obligated on the debt, including a guarantor, may bring an action in district court for a determination of the fair market value of the real property as of the date of the foreclosure sale. The suit must be brought no later than 90 days after the sale date or 90 days after a guarantor who did not receive actual notice of the sale before the sale date received actual notice of the sale.

If the fact-finder determines that the fair market value is greater than the sale price of the real property at the foreclosure sale, the persons obligated on the debt are entitled to an offset against the deficiency.

Sale scheduling

The sale must be a public auction held between 10 a.m. and 4 p.m. of the first Tuesday of the month unless the first Tuesday of a month occurs on January 1 or July 4, in which case the sale must be held between 10 a.m. and 4 p.m. on the first Wednesday of the month..

Non-judicial

Appeal

No specific provisions for appeal or objections were located.

If the price at which real property is sold at a foreclosure sale pursuant to § 51.002 is less than the unpaid balance of the debt secured by the real property, a person against whom a deficiency is sought may by motion request that the court determine the fair market value of the real property as of the foreclosure sale date. If the court determines that the fair market value is greater than the sale price of the real property at the foreclosure sale, the persons against whom recovery of the deficiency is sought are entitled to an offset against the deficiency.

Sale scheduling

The sale must be a public auction held between 10 a.m. and 4 p.m. of the first Tuesday of the month unless the first Tuesday of a month occurs on January 1 or July 4, in which case the sale must be held between 10 a.m. and 4 p.m. on the first Wednesday of the month.

Sections 51.003 and 51.004 enacted 1991; § 51.002 amended 2017; rule history unknown.

[Tex. Prop. Code §§ 51.002, .003, .004 \(2019\)](#); [Tex. R. Civ. P. 646a](#); [Tex. R. App. P. 26.1](#)

[Taxing Authorities, Texas, Foreclosure Type](#)

Judicial.

Taxing Authorities, Texas, Preconditions to Foreclosure

Notice of Delinquency

On January 1 of each year, a tax lien attaches to secure payment of all real property taxes, penalties, and interest imposed for the year on the property. At least once each year, the tax collector must deliver a notice of delinquency to each person whose name appears on the delinquent tax roll.

A notice of delinquency must contain specified language. Also, a collector must deliver a notice of default to any person who is in breach of an installment agreement and to any other owner of a property interest whose name appears on the delinquent tax roll before the collector may seize and sell the property or sue to collect a delinquent tax subject to the agreement.

Foreclosure of Tax Lien

Any time after the tax becomes delinquent, the collector may file suit to foreclose the tax lien. The court's judgment of foreclosure must order the property sold in satisfaction of the judgment amount. Upon sale of the foreclosed property, the court must provide for the clerk of court to issue a writ of possession to the purchaser. The writ must also authorize notice to the taxpayer, on the exterior front door of the premises, that the writ will be executed by the sheriff's department no sooner than 10 days from the date of the notice.

Seizure of Real Property by Tax Warrant

After notice, a person's real property is subject to seizure by a municipality or county for payment of ad valorem taxes, penalties, and interest that are more than five years delinquent, if:

- the property is located in the municipality (or in the county if not located in a municipality);
- the property is less than one acre;

- the property has been abandoned for at least one year; and
- seizure is in the municipality's or the county's best interest.

The collector must show that:

- the collector or assessor mailed the taxpayer a tax bill in each of the preceding five years or that each person known to have an interest in the property was served a copy of the application for tax warrant;
- a notice of the assessor's intent to seize the property was published in a county newspaper; or
- a notice of intent to seize was posted in three public places in the county, as described in *Public Notice and Posting Requirements*.

When property becomes subject to seizure, the assessor or collector must file an application for a tax warrant, directing the sheriff to seize the property described in the warrant, subject to the right of redemption. After seizure, the collector must notify all persons with an interest in the property of the time and place of the tax sale.

Tax Sales

Real property seized by a tax warrant or ordered sold by the foreclosure of a tax lien must be sold at a tax sale. Upon receiving the order, the officer charged with the sale must give written notice of the sale to each defendant to the judgment. The notice must include:

- a statement of the officer's authority to sell the property;

- the date, time, and location of the sale; and
- a brief property description.

Mineral Interests

If a mineral estate is severed from a surface estate and if different persons own the mineral estate and the surface estate, the lien resulting from taxes imposed against each mineral interest exists "only for the duration of the interest it encumbers." After an interest in the mineral estate terminates, the lien encumbering it expires and is *not* enforceable against:

- any part of the surface estate not owned by the encumbered mineral interest's owner;
- any part of the mineral estate not owned by the encumbered mineral interest's owner; or
- the owner of the surface estate as a personal obligation, unless he also owns the encumbered mineral interest.

Taxes imposed on a severed interest in a mineral estate that has terminated are the *personal* liability of the person who owned the interest on January 1 of the year for which the tax was imposed.

Alternative Notice for Taxing Units

See Tex. Tax Code § 33.57 for alternative notice provisions that may be invoked by taxing units if:

- the total amount of delinquent taxes, penalties, interest, and attorney's fees owed exceeds the appraised value of the parcel; or

- there are 10 or more years for which delinquent taxes are owed on the parcel.

Section 32.02 enacted 1979; § 33.53 amended 1999; § 32.01 amended 2000; § 33.41 amended 2001; §§ 33.91, 33.911, 33.912, 33.92, 33.93, and 33.94 amended 2003; § 33.51 amended 2005; § 33.57 enacted 2005; §§ 33.02 and 33.04 amended 2015; § 34.01 amended 2019.

[Tex. Tax Code §§ 32.01, .02; 33.02, .04, .41, .51, .53, .58, .91, .911, .912, .92, .93, .94; 34.01 \(2019\)](#)

Taxing Authorities, Texas, Public Notice and Posting Requirements

Publication of Tax Warrant Notice

Before real property can be seized by tax warrant in the absence of personal service on the owner, the collector must publish a notice. The notice must:

- be published in English at least 10 days, but not more than 180 days, before the date of the application for tax warrant is filed;
- be directed to the property owners by name;
- state that the assessor or collector intends to seize the property as abandoned and sell it at public auction without further notice; and
- describe the property.

Section amended 2003.

[Tex. Tax Code § 33.912 \(2019\)](#)

Taxing Authorities, Texas, Preconditions to Eviction

Possession Rights

A purchaser at tax sale may conclusively presume the validity of the sale and takes free of any claim of a party with a prior interest in the property, subject to the right of redemption and certain encumbrances on the land.

If the court orders the foreclosure of the lien and the sale of real property, the clerk of court must issue a writ of possession to the purchaser at the sale no sooner than 20 days following the date the purchaser's deed is recorded. The writ must order the executing officer to deliver possession of the premises to the purchaser 10 days after the writ is ordered by instructing the property's occupants to vacate the premises.

Forcible Detainer Action

Generally, a forcible detainer action may be brought against a person who refuses to surrender possession of property. Three days' written notice to quit must be given before an action may be commenced; however, if the occupant is a residential tenant who is not in default on any term of the lease, 30 days' notice must be given.

A notice to vacate generally must be given in person or by mail at the premises. However, effective January 1, 2016, a landlord may deliver the notice to vacate by securely affixing to the outside of the main entry door a sealed envelope that contains the notice. The envelope must contain the tenant's name, address, and in all capital letters, the words "IMPORTANT DOCUMENT" or substantially similar language. No later than 5 p.m. on the same day, the landlord must deposit in the mail a copy of the notice to the tenant if:

- the premises has no mailbox and has a keyless bolting device, alarm system, or dangerous animal that prevents the landlord from entering the premises to affix the notice to the inside of the main entry door; or

- the landlord reasonably believes that harm to any person would result from personal delivery to the tenant or a person residing at the premises or from delivery to the premises by affixing the notice to the inside of the main entry door.

Section 24.005 amended 2015; § 33.95 amended 1997; § 24.002 amended 1989; § 34.21 amended 2019; § 33.51 amended 2005; § 34.01 amended 2019.

[Tex. Prop. Code §§ 24.002, .005 \(2019\); Tex. Tax Code §§ 33.51, .95; 34.01, .21 \(2019\)](#)

Taxing Authorities, Texas, Appeals

Partition

No later than seven days before a tax sale, the owner of real property subject to a tax sale may file a request with the officer charged with the sale to partition the property and sell only those portions necessary to satisfy the amount of the judgment.

Challenging Tax Sale Validity

A person who either deposits with the court the amount of delinquent taxes, penalties, and interest or files an affidavit of inability to pay may commence an action challenging the validity of a tax sale within one year of the date that the deed was recorded.

Note that effective May 15, 2015, the commissioners court of a county may authorize an officer to conduct a public auction using online bidding and sale.

Redemption

Generally, the owner of real property sold at a tax sale to a purchaser other than a taxing unit, if the property was used as the owner's homestead residence or designated for agricultural use, or the owner of a mineral interest sold at a tax sale to a purchaser other than a taxing unit, may redeem the property on or before the second anniversary of the date on which the purchaser's deed is filed for record. Such owner's may not transfer their right of redemption to another person.

To redeem, the owner must pay:

- the amount the purchaser bid for the property;
- fees;
- the amount paid by the purchaser as taxes, penalties, interest, and costs; and
- a redemption premium of 25 percent if redeemed during the first year of the redemption period, or 50 percent if redeemed during the second year of the redemption period.

The owner of real property sold at a tax sale *other than* property that was used as the owner's residence homestead or that was land designated for agricultural use, or that is a mineral interest, may redeem the property no later than the 180th day following the date on which the purchaser's or taxing unit's deed is filed for record. The redemption premium may not exceed 25 percent.

Section 33.54 amended 1997; § 34.08 amended 1999; § 34.21 amended 2019; § 34.01 amended 2019.

[Tex. Tax Code §§ 33.54; 34.01, .08, .21 \(2019\)](#)

Utah

Lenders, Utah, Foreclosure Type

Judicial and non-judicial.

Lenders, Utah, Preconditions to Foreclosure

Judicial

No pre-foreclosure provisions were located.

Non-judicial

A qualified trustee is given the power of sale after a breach of an obligation for which the trust property is conveyed as security. The trustee may exercise a power of sale without it being expressly provided in the trust deed. At the beneficiary's option, a trust deed may also be foreclosed in the manner provided for foreclosing mortgages on real property.

Section 57-1-23 and 57-1-24 amended 2001.

[Utah Code §§ 57-1-23, -24 \(2020\)](#)

Lenders, Utah, Public Notice and Posting Requirements

Judicial

Notice of the date, time and place of sale and a particular description of the property to be sold must be posted:

- on the property;
- at the place of sale;
- at the district courthouse of the county in which the real property is located; and
- in at least three other public places in the county or city in which the real property is located.

The notice must be posted for at least 21 days.

Notice must also be published at least once a week for three successive weeks immediately preceding the sale in a newspaper of general circulation, if any, in the county in which the real property is located.

Non-judicial

Written notice of the time and place of sale must be given by publishing the notice at least three times, once a week for three consecutive weeks. The last publication must be at least 10 days but not more than 30 days before the scheduled sale date. Notice must also be:

- published in a newspaper with a general circulation in each county in which the property to be sold, or some part of the property to be sold, is situated; and
- posted at least 20 days before the scheduled sale date in some conspicuous place on the property to be sold and at the office of the county recorder of each county in which the property is located.

Effective as of May 11, 2010, through December 31, 2016, if the stated purpose of the obligation is to finance residential *rental* property, notice must be:

- posted (a) on the primary door of each dwelling unit on the property to be sold, if the property has fewer than nine dwelling units, or (b) posted on the primary door of each dwelling unit and in at least two conspicuous places on the property to be sold, if the property to be sold has nine or more dwelling units; or
- by mailing the notice to the occupant of each dwelling unit on the property to be sold.

Notice must also be published on a website established by Utah newspapers for the publication of notice. If the property is located in a first- or second-class county, notice must be posted on the website and may, in addition, be published in a newspaper.

Notice must also be given to any person desiring a copy of a notice of default or notice of sale under any trust deed who files for record a request for a copy of the notice. The notice of default must be sent no later than 10 days after it is recorded, and the notice of sale must be sent at least 20 days before the sale date. The trustee or beneficiary must mail the notice by certified or registered mail, with postage prepaid. A trust deed may contain a request that a copy of any notice of default and notice of sale under the trust deed be mailed to any person who is a party to the trust deed.

Section 57-1-25 amended 2020; § 57-1-26 amended 2016; rule 69B history unknown.

[Utah Code §§ 57-1-25, -26 \(2020\); Utah R. Civ. P. 69B](#)

Lenders, Utah, Preconditions to Eviction

An unlawful detainer action may be brought against a prior owner or mortgagor who remains in possession of the property after a foreclosure sale and after notice to quit is served. No time limit is set out for the notice to quit.

Section enacted 2009.

[Utah Code § 78B-6-802.5 \(2020\)](#)

Lenders, Utah, Appeals

Judicial

Appeal

No specific provisions for objection or appeal were located; however, as a general rule, an appeal in a civil action must be filed within 30 days after the entry of judgment.

Sale scheduling

Sales must be held on Monday through Saturday, legal holidays excluded, between the 9 a.m. and 8 p.m. If the officer finds sufficient cause, he or she may postpone the sale by declaring the postponement at the time and place set for the sale. If the postponement is for longer than 72 hours, notice of the rescheduled sale must be given in the same manner as the original notice of sale.

Non-judicial

Appeal

No specific provisions for objection or appeal were located. However, note that until December 31, 2016, neither the failure to provide the notice required by § 57-1-25(1)(c) and (3)(b) nor a defect in that notice may be the basis for challenging or invalidating a trustee's sale.

Sale scheduling

The sale must be held between 8 a.m. and 5 p.m. on the date set out in the notice of sale. On the date and at the time and place designated in the notice of sale, the trustee may, "for any cause he considers expedient," postpone the sale, by giving notice of the postponement by public declaration, by written notice, or by oral postponement at the time and place for the sale. No other notice of the postponed sale is required, unless the postponement is for more than 45 days. In that case, notice of the rescheduled sale must be given in the same manner as the original notice of sale.

Section 57-1-25 amended 2020; § 57-1-27 amended 2016; history of rules unknown.

[Utah Code §§ 57-1-25, -27 \(2020\); Utah R. App. P. 4, Utah R. Civ. P. 69B](#)

Taxing Authorities, Utah, Foreclosure Type

Judicial and nonjudicial.

Taxing Authorities, Utah, Preconditions to Foreclosure

Notice of Delinquency

On or before December 31 of each year, the county treasurer must mail a notice of delinquency to each delinquent taxpayer, including the record owner of each subdivided lot if the delinquent taxes are assessed on a base lot. The notice must include:

- a statement that delinquent property taxes and tax notice charges are due;
- the amount due of each;
- the taxpayer's name or, if the delinquent taxpayer is a business entity, the business entity's name;
- a property description (or the property identification number); and
- information relating to penalties and interest.

Tax Sale List

The taxpayer has four years in which to pay the delinquent property taxes and tax notice charges and redeem the property. If the taxpayer does not redeem the property by the March 15 following the date four years after the delinquency arose, the treasurer must file a tax sale list with the county auditor. The list sets forth all properties for which the four-year period has passed.

Notice of Sale

The county auditor must select a date in May or June to conduct the tax sale. Notice of the sale must be sent to:

- the last-known record owner;

- the occupant of improved property; and
- all other record interests as of the previous March 15.

The notice must state:

- the name and last-known address of the last-known record owner;
- the delinquent property's parcel, serial, or account number; and
- the property's legal description.

Any person, including persons other than the taxpayer or the record owner, may redeem the property at any time before the tax sale by paying all delinquent taxes, tax notice charges, interest, penalties, and accrued administrative costs. A person may redeem a subdivided lot by paying a proportional share.

Sections amended 2018.

[Utah Code §§ 59-2-1332.5, -1339, -1343, -1346, -1351 \(2020\)](#)

[Taxing Authorities, Utah, Public Notice and Posting Requirements](#)

[Delinquent Tax List](#)

The county treasurer must publish a list of delinquent taxes in print or electronically. If the treasurer decides to use a printed notice, it must be published in one issue of a newspaper of general circulation within the county. The list must be in alphabetical order by the taxpayer's name or, if the

delinquent taxpayer is a business entity, the business entity's name. The list must state the following:

- the amount due;
- the taxpayer's name or, if the delinquent taxpayer is a business entity, the business entity's name;
- the property description (or the property identification number); and
- information relating to penalties and interest.

If the treasurer decides to publish the notice electronically, the publication must occur pursuant to Utah Code § 45-1-101, which establishes a website for that purpose.

Notice of Tax Sale

Notice of the tax sale must be published both electronically and in the newspaper. The electronic notice must be published on the website referred to in Utah Code § 45-1-101. The newspaper notice must be published four times in a newspaper of general circulation within the county, at least once in each week immediately preceding the sale date. If no newspaper is published in the county, the auditor must post the notice in five places in the county at least 25 days, but no more than 30 days, before the sale.

The published notice must state:

- the name and last-known address of the last-known record owner;
- the street address of the delinquent property or its parcel, serial, or account number;

- the date and time of the sale;
- that the sale will be held at the front door of the county courthouse; and
- that bids for less than the amount due, including interest, penalties, and costs, will not be accepted.

Alternately, legal notice may be "published" by serving legal notice, by certified mail or in person, directly on all parties for whom the statute establishing the legal notice requirement requires legal notice, if:

- the direct service of legal notice does not replace publication in a newspaper that primarily distributes publications in a county of the third, fourth, fifth, or sixth class;
- the statute clearly identifies the parties;
- the person can prove that the person has identified all parties for whom notice is required; and
- the person keeps a record of the service for at least two years;

For the statutory form of notice that must be followed, see Utah Code § 59-2-1351.

Sections 59-2-1332.5 and 59-2-1351 amended 2018; § 45-1-101 amended 2019.

[Utah Code §§ 59-2-1332.5, -1351; 45-1-101 \(2020\)](#)

[Taxing Authorities, Utah, Preconditions to Eviction](#)

No specific provisions relating to tax sales were located. For general provisions relating to eviction, see [Utah Code §§ 78B-6-801, et seq. \(2020\)](#)

Taxing Authorities, Utah, Appeals

Injunctions

Tax sales are held on a date in May or June selected by the county auditor. Generally, no injunction can be granted to stop a tax sale unless:

- the tax or tax notice charge is not legally authorized; or
- the property on which the tax or tax notice charge is assessed is exempt from taxation.

Withdrawals and Mistakes

If the county auditor discovers before the sale occurs that sale of a particular parcel should not go forward because of an irregular or erroneous assessment, he or she may issue a written finding that the property should be withdrawn from the sale.

Misnomers or mistakes relating to ownership of the property will not affect the validity of the sale.

Burden of Proof

A certified copy of the record of any tax sale is prima facie evidence of the facts shown in the record. The regularity of all proceedings connected with the assessment, valuation, notice, equalization, levies, tax notices, advertisement, and sale of property is presumed. The burden of showing any irregularity in any proceedings that resulted in the sale of property for the nonpayment of delinquent taxes or tax notice charges is on the person asserting the irregularity.

All sections amended 2018, except § 59-2-1350 amended 1995.

[Utah Code §§ 59-2-1326, -1350, -1351, -1362, -1363 \(2020\)](#)

Vermont

Lenders, Vermont, Foreclosure Type

Judicial; nonjudicial (whether or not a power of sale is contained in the mortgage). However, a foreclosure by non-judicial sale is not available for "farmland or a dwelling house owned by a natural person." "Farmland" means land "devoted primarily to commercial agricultural activities," and a "dwelling house" means a residential property with four units or less, other than a timeshare in a unit.

Section 4961 enacted 2011; § 4931 amended 2013.

[Vt. Stat. tit. 12, §§ 4931, 4961 \(2019\)](#)

Lenders, Vermont, Preconditions to Foreclosure

Judicial

Service of process

A summons and complaint generally must be served on all defendants as provided by Rule 4 of the rules of civil procedure for civil actions.

Notice of sale

The mortgagor must be given 60 days' notice of the sale of the property. Notice must be either by hand-delivery or by registered or certified mail, with delivery restricted to the addressee.

Vermont's statutes that require mediation and the application of HAMP requirements until December 1, 2013, and that require mediation and the application of government loss mitigation program requirements thereafter, apply only to the foreclosure of certain mortgages on a dwelling of four or fewer units, one of which the owner occupies as a principal residence.

In a foreclosure by judicial sale, if the mortgagor has not appeared in the foreclosure action, the plaintiff must mail by first class mail, postage prepaid, a copy of the notice of sale to the mortgagor at the mortgagor's last known address. The notice of sale must:

- include the "specific date, time, and location of the sale"; and
- be mailed after the last date of redemption in the decree, but no fewer than 30 days before the sale date.

A party entitled to be sent this notice may, either before or after the foreclosure sale, waive the party's right to receive notice. However, this provision does not apply to farmland or to a dwelling house unless approved by the court at or before the confirmation of sale.

Non-judicial

Notice of intention to foreclose

At least 30 days before publication of a notice of sale, notice of intention to foreclose must be sent to the mortgagor by registered or certified mail at his or her last known address. The writing must state:

- the mortgage to be foreclosed;
- the breach;
- that the mortgage holder has accelerated maturity of the secured debt, if true;
- the amount to be paid and the time within which the cure must take place, which may not be less than 30 days after the date of the notice of intention to foreclose;

- the intention to foreclose by exercising the mortgage's power of sale, if the breach is not cured within the time and in the manner specified in the notice; and
- that the mortgagor will be entitled to be sent notice of the foreclosure sale at least 60 days before the sale and to redeem the premises at any time before the sale.

Notice of sale

The notice of sale must be published and recorded. See *Public Notice and Posting Requirements* for details.

At least 60 days before the sale, the notice of sale must also be:

- served on the mortgagor or his or her representative;
- sent by registered or certified mail addressed to the mortgagor (or representative) at his or her last known address; or
- sent to the person agreed upon in the mortgage.

No less than 60 days before the sale, a copy of the notice of sale must also be sent to:

- any tenant lawfully occupying the premises; and
- any person having a recorded interest in the premises, if the interest is recorded before the recording of the notice of sale.

Notice of right to enjoin

In the case of a nonjudicial foreclosure by power of sale, the notice of sale must include a notice that the mortgagor has the right to petition the superior court to enjoin the scheduled foreclosure sale and that failure to institute the petition bars certain future actions.

Section 2787 amended 1971; §§ 4952, 4962, and 4965 enacted 2011; §§ 4631 and 4632 amended 2013; rule amended 2019.

[Vt. Stat. tit. 12, §§ 2787, 4631, 4632, 4952, 4962, 4965 \(2019\)](#); Vt. R. Civ. P. 80.1

Lenders, Vermont, Public Notice and Posting Requirements

Judicial

Service of process

Effective July 1, 2012, in an action to foreclose a mortgage, the plaintiff must file a copy of the complaint in the town clerk's office in each town in which the mortgaged property is located.

Notice of sale

Notice of the time and place of sale must be published once in each of three successive weeks before the time of sale. The notice must be published in one or more newspapers published in the county in which the land is located or, if a newspaper is not published in that county, in a newspaper published in an adjoining county. The first publication must be at least 21 days before the sale date.

Non-judicial

Publication of notice of sale

Notice of a non-judicial sale must be published once in each of three successive weeks in a newspaper of general circulation in the town in which the property is located. The first publication must be at least 21 days before the sale date.

Recording notice of sale

In a non-judicial foreclosure, the mortgage holder must record the notice of sale in the land records of the town or city where the land is located at least 60 days before the sale.

Procedure after sale

In the case of a nonjudicial foreclosure sale, the person selling pursuant to the power of sale must, within 90 days after the sale, record:

- the foreclosure deed;
- a copy of the notice of sale; and
- an affidavit setting forth their acts.

Title to the foreclosed premises do not pass to the purchaser until the time of the recording of the deed and affidavit.

Section 2787 amended 1971; §§ 4952, 4963, 4964, and 4967 enacted 2011.

[Vt. Stat. tit. 12, §§ 2787, 4952, 4963, 4964, 4967 \(2019\)](#)

[Lenders, Vermont, Preconditions to Eviction](#)

In a strict foreclosure, if no sale is requested by the plaintiff or ordered by the court, the court may issue a judgment and decree of foreclosure without requiring a judicial sale. If a decree is issued foreclosing the right of redemption without a sale and the property is not redeemed within six months, the clerk of court will issue a writ of possession at the mortgagee's request. If there is a residential tenant on the premises, that tenant has the longer of 30 days after the issuance of the writ or any other time required by federal law to move out.

Sections 4932 and 4941 enacted 2011.

[Vt. Stat. tit. 12, §§ 4932, 4941 \(2019\)](#)

Lenders, Vermont, Appeals

Appeal

Permission of the court is required for an appeal of a foreclosure judgment. Permission must be requested within 14 days of the entry of judgment, not including that date or Saturdays, Sundays, or legal holidays.

Sale scheduling

If there is no equity in the property, the court may order a strict foreclosure, in which case no sale of the property is ordered.

In a foreclosure by judicial sale, the sale must be held at the mortgaged property unless the court directs otherwise. The public sale may be adjourned one or more times for a total of no more than 30 days without further court order and without publication or service of a new notice of sale. The new sale date must be announced to those present at each adjournment or posted in a conspicuous place at the sale location.

In a non-judicial sale, the sale generally must be held at the mortgaged property. However, it may be held elsewhere "if agreed to in writing by the mortgagor and the mortgagee not less than 60 days nor more than 90 days before the sale."

Redemption rights

If a decree is made foreclosing the right of redemption, the time of redemption is six months from the date of the decree unless a shorter time is ordered.

When a power of sale is contained in a mortgage and a sale is ordered with respect to any property other than farmland or a dwelling house with four units or less currently occupied by the owner as his or her principal residence, the court must eliminate the redemption period or reduce it to no more than 30 days. (For farmland and owner-occupied homes, the redemption period is six months, unless the court orders a shorter time.)

Right to petition superior court and waiver

In the case of a non-judicial foreclosure by power of sale, the mortgagor has the right to petition the superior court for the county in which the mortgaged premises are located to enjoin the scheduled foreclosure sale. The mortgagor must also serve the mortgagee and post any bond the court requires. Failure to do so before the sale bars the mortgagor's future right of action based on:

- the foreclosure's validity;
- the mortgage holder's right to conduct the foreclosure sale; and
- the mortgage holder's compliance with the notice requirements and other conditions of § 4965.

An action to recover damages resulting from the sale may be brought at any time within one year following the sale date.

Section 4601 amended 1971; §§ 4939, 4941, 4946, 4953, 4965, and 4966 enacted 2011; rule 80.1 amended 2019.

[Vt. Stat. tit. 12, §§ 4601, 4939, 4941, 4946, 4953, 4965, 4966 \(2019\)](#); Vt. R. Civ. P. 80.1

Taxing Authorities, Vermont, Foreclosure Type

Non-judicial levy and judicial foreclosure of tax lien.

Taxing Authorities, Vermont, Preconditions to Foreclosure

List of Delinquent Taxpayers

On or before January 15, the tax collector for a town or a municipality must make a list of the taxpayers whose real property taxes are unpaid as of the previous December 31. The list must show the amounts due and the years in which they were due. The collector must certify under oath that the list is correct and deliver it to the municipality's treasurer. The list must also be submitted to the municipality's auditors for verification and, if correct, the auditors must so certify.

Notice of Sale

When the collector of taxes of a town or municipality has for collection a tax assessed against real estate in the town and the taxpayer is delinquent, the collector may extend a warrant on the land. The collector must file in the town clerk's office:

- a true and attested copy of the warrant;
- so much of the tax bill as relates to the tax against the delinquent taxpayer;
- a sufficient description of the land; and
- a statement in writing that by virtue of the original tax warrant and tax bill, the collector has levied upon the land.

The tax collector must give the delinquent taxpayer written notice by certified mail requiring a return receipt, directed to the taxpayer's last known address. The notice must state the date and place of sale at least 10 days before the sale if the taxpayer is a town resident and 20 days before the sale if he or she is a nonresident. Written notice must also be given in the same manner to mortgagees or lienholders of record. If the notice by certified mail is returned unclaimed, notice must be provided by re-sending the notice by first-class mail or by personal service.

Conduct of Sale

If the tax, with costs and fees, is not paid before the sale day, the property on which the taxes are due must be sold. The property owner may request in writing not less than 24 hours before the sale, that a portion of the property be sold. The request must clearly identify that portion and must be accompanied by a certification from the district environmental commission and the town zoning administrative officer that the identified portion may be subdivided and meets minimum lot-size requirements. If the portion identified cannot be sold for the tax, the entire property must be sold.

By the mayor's or selectboard's act, if no bid equal to the tax and costs is made at the sale, the city or town by which the tax is assessed may become the purchaser at the tax sale. If there is a release or a potential release of a hazardous substance on land that a municipality purchases at a tax sale, the municipality may, before the redemption period expires, enter the land to assess and remediate the land.

Tax Collector's Deed

When the one-year redemption period has passed, the collector must execute to the tax-sale purchaser a deed, conveying to him or her a title against the person for whose tax it was sold (and those claiming under him or her).

Judicial Foreclosure of Tax Liens

Taxes lawfully assessed on real estate are a lien on that property, and if unpaid more than two years after the creation of the lien, the lien may be foreclosed in the same manner as provided by law for the foreclosure of mortgages on real estate.

In such cases, parties with a record interest in the land must be given notice as directed by the superior court's presiding judge. The judge in his final decree must appoint a commissioner to sell the real estate, with the judge's approval, after the redemption period has expired. The redemption period runs for one year after the date of the decree. The commissioner may execute a conveyance to the purchaser.

Section 5162 amended 1977; § 5252 amended 2017; § 5259 amended 2005; §§ 5061 and 5254 amended 1999; history of §§ 5163 and 5261 unknown.

[Vt. Stat. tit. 32, §§ 5061, 5162, 5163, 5252, 5254, 5259, 5261 \(2019\)](#)

Taxing Authorities, Vermont, Public Notice and Posting Requirements

Notice of Sale

The tax collector must advertise for sale at public auction land upon which he is levying for unpaid taxes three successive weeks in a newspaper circulating in the vicinity. The last publication must be at least 10 days before the sale. He must also post a notice of the sale in some public place in the town.

Section amended 2017.

[Vt. Stat. tit. 32, § 5252 \(2019\)](#)

Taxing Authorities, Vermont, Preconditions to Eviction

There are no applicable provisions under the tax foreclosure laws, but see [Vt. Stat. tit. 12, ch. 169 \(2019\)](#) for ejectment actions in general.

Taxing Authorities, Vermont, Appeals

Redemption

When the owner or mortgagee of lands sold for taxes, within one year from the day of sale, pays or tenders the sum for which the land was sold, with interest, a deed of the land will not be made to

the purchaser. The amount paid to the collector or clerk by the person redeeming must be paid to the purchaser on demand.

If a municipality purchases contaminated land, the cost to redeem includes all assessment and remediation costs.

Actions Against Grantee in Possession

An action to recover lands, or the possession of lands, may not be maintained against the grantee in a recorded tax collector's deed, or his or her heirs or assignees, if any of them have been in continuous and open possession of the land and have paid the taxes on the property, unless the action is brought within three years after the cause of action accrues to the plaintiff (or those under who he or she claims). Effective July 1, 2018, such an action must be brought within one year.

Defenses to Collection of Taxes

A taxpayer may assert as a defense against collection of the tax lack of notice and opportunity to be heard in all proceedings relating to the levying of such tax, including making of the appraisal and grand list, within six months from the date when collection of the tax might first be enforced if he or she is a Vermont resident, or within one year if a nonresident.

Suit by Taxpayer

Unless brought within one year from the date of the levy on the real estate, a taxpayer may not bring an action questioning the tax collector's acts relating to collection of the tax either before or after the tax became delinquent.

Section 5293 amended 1957; §§ 5294, and 5295 amended 1959; § 5260 amended 2005; § 5263 amended 2017.

[Vt. Stat. tit. 32, §§ 5260, 5263, 5293, 5294, 5295 \(2019\)](#)

Virgin Islands

Lenders, Virgin Islands, Foreclosure Type

Judicial.

Lenders, Virgin Islands, Preconditions to Foreclosure

No pre-foreclosure requirements were located, except the notice and posting requirements set forth in *Public Notice and Posting Requirements*.

Lenders, Virgin Islands, Public Notice and Posting Requirements

If service of a summons in an action to foreclose, satisfy, or redeem from a mortgage cannot be made as required by Rule 4 of the Federal Rules of Civil Procedure, and the defendant cannot be found in the Virgin Islands after due diligence, service may be made by publication.

Before the sale of the property, a written or printed notice of the time and place of sale must be posted in a public place in or near the office of the clerk of the court in the judicial division or jurisdiction in which the sale is to take place. The notice must be posted for four weeks before the sale.

In addition, notice must be published in a newspaper published in the judicial division in which the sale is to take place. The notice must be published once a week for four weeks before the sale.

Section 112 amended 1978; history of section 484 unknown.

V.I. Code tit. 5, §§ 112, 484 (LexisNexis 2020)

Lenders, Virgin Islands, Preconditions to Eviction

Any person with a legal estate in property and the right to possession of the property may bring an action to recover the possession of real property. There is no requirement that a notice to quit be served before bringing the action.

History of section unknown.

V.I. Code tit. 28, § 281 (LexisNexis 2020)

Lenders, Virgin Islands, Appeals

Appeal

The mortgagee may file objections to the sale within five days of the sale. If no objections are filed within such five days, the clerk will issue an order confirming the sale.

If the mortgagee files objections, the court must, within 30 days of the sale date, rule on the objections or hear arguments and rule within 30 days of the hearing.

Sale scheduling

Sales of property must be held between 9 a.m. and 4 p.m. If the marshal cannot attend the sale or deems it "for the advantage of all concerned" to postpone the sale, the marshal may postpone the sale by giving notice of the adjournment by public proclamation made at the scheduled time of sale.

Redemption

The judgment debtor or his or her successor may redeem at any time before the confirmation of sale or within six months from the confirmation order.

Section 489 and 496 amended 2005; history of other sections unknown.

V.I. Code tit. 5, §§ 485, 486, 489, 496 (LexisNexis 2020)

Taxing Authorities, Virgin Islands, Foreclosure Type

Non-judicial.

Taxing Authorities, Virgin Islands, Preconditions to Foreclosure

Notice of Tax Delinquency

Taxes and public sewer system user fees are due and payable on June 30th of each year and become delinquent if not paid by August 30th of each year, unless the Lieutenant Governor has arranged a quarterly installment schedule or another collection method. The Lieutenant Governor collects delinquent taxes by attachment and sale of the taxpayer's property. In addition to the published notice of tax delinquency described in *Public Notice and Posting Requirements*, the Lieutenant Governor must prepare a written notice of attachment of real property. The notice must contain:

- the amount of delinquent taxes and interest;
- the public auction date; and
- the date upon which the owner's redemption right expires.

The notice must inform the real property owner that the subject property will be sold at public auction unless payment of the delinquent amount is made within three weeks of the notice date.

Notice of Attachment

The notice of attachment must be served personally on the debtor or left with a family member of legal age. If the debtor or the debtor's family cannot be located, the Lieutenant Governor must leave the notice with two of the debtor's neighbors who will serve as witnesses of service. If no witnesses can be found, the Lieutenant Governor must mail a copy of the notice to the debtor's last known address and post the notice in either the nearest post office location or on the bulletin board of the Superior Court of the Virgin Islands, whichever is reasonably calculated to notify the debtor of the attachment.

After the levy of attachment, the Lieutenant Governor must attach to the notice a certificate containing:

- the delinquent taxpayer's name;
- the property's assessed value;
- the amount of taxes, interest, fees, penalties, and costs owed; and
- the property's description.

The notice, along with the certificate, must be filed with the recorder in the real property register in the recorder of deeds' office.

Notice of Sale

The time and place at which the auction sale will take place must be plainly stated in the required advertisement and notice. At the expiration of the three weeks, or as soon thereafter as practicable, the Lieutenant Governor will sell the property at public auction.

The Lieutenant Governor must obtain from the Recorder of Deeds a certificate of the recorded liens against real property offered for sale at public auction and must read the certificate aloud before offering the specific piece of real property for sale.

Sections amended 2007.

V.I. Code tit. 33, §§ 2494, 2496, 2541, 2547 (LexisNexis 2020)

[Taxing Authorities, Virgin Islands, Public Notice and Posting Requirements](#)

[Notice of Tax Delinquency](#)

Within 60 days after the date on which property taxes become delinquent, the Lieutenant Governor must publish the names of all delinquent real property owners once in a newspaper of general circulation on each island, notifying the taxpayer that, unless the delinquent taxes and accrued interest are paid within 30 days of the publication date, the real property will be attached and sold at public auction.

Notice of Sale

After the levy of attachment, the Lieutenant Governor must advertise the property for sale at least once in a different newspaper of general circulation on each island. The advertised notice of sale must plainly state the time and place of the auction, which must be held in three weeks, or as soon thereafter as practicable.

Sections amended 2007.

V.I. Code tit. 33, §§ 2546, 2547 (LexisNexis 2020)

[Taxing Authorities, Virgin Islands, Preconditions to Eviction](#)

No specifically relevant provisions were located. However, pursuant to the general laws regarding eviction at V.I. Code tit. 28, § 281 *et seq.* (LexisNexis 2020), generally, any person owning a legal estate in real property and a present right to possess it may recover possession, with damages, by bringing an action against a person in actual possession of the property.

[Taxing Authorities, Virgin Islands, Appeals](#)

Redemption

The owner of property sold for non-payment of real property taxes may redeem the property within one year of the auction sale date by paying the delinquent taxes, interest, penalties, costs, and fees to the Office of the Lieutenant Governor. Upon redemption, the Lieutenant Governor will issue a certificate of redemption, which releases all claims by the auction purchaser to the subject property. The Lieutenant Governor must notify the auction purchaser of the redemption within 30 days of issuing the certificate.

Payment Under Protest

A person against whom a proceeding or steps are instituted for the collection of taxes due or alleged to be due must pay the taxes claimed due under protest if the person believes them to be unjust or illegal. The person may, within 60 days after making the payment, sue the Lieutenant Governor for recovery of the amount paid.

Contesting the Validity of Tax Sale Deeds

The public notice of tax sale must include a statement that suits to contest the certificate of purchase's validity must be filed within 90 days of the certificate's recording date. Upon the expiration of that 90-day period, the certificate's validity and all proceedings in connection with it are conclusively presumed to have been legally taken, and no court has the authority to inquire into the matters. Suits to contest the validity of any deed conveyed may not be instituted and is forever barred if not filed within 90 days of recording the certificate of purchase in the Office of the Recorder of Deeds.

Reconveyance of Property at an Irregular Tax Auction

If any real property sold to the Virgin Islands for nonpayment of taxes in a sale that is later discovered to be irregular and the property owner was improperly deprived of his or her property, the Lieutenant Governor may cancel the sale and issue a certificate of redemption, which acts as a reconveyance of the property to the owner.

Time for commencement of action

An action to set aside a sale of real property for non-payment of real property taxes must be brought within two years after the cause of action accrues.

Section 31 amended 1977; § 2521 amended 1989; §§ 2522, 2552, 2553, 2581, and 2584 amended 2007.

V.I. Code tit. 5, § 31; tit. 33, §§ 2521, 2522, 2552, 2553, 2581, 2584 (LexisNexis 2020)

Virginia

Lenders, Virginia, Foreclosure Type

Judicial and non-judicial.

Lenders, Virginia, Preconditions to Foreclosure

Judicial

Notice provisions

No specifically applicable notice provisions were located.

Limitation of enforcement

No deed of trust or mortgage given to secure the payment of money may be enforced after 10 years from the time the original obligation became due and payable, without regard to any provision for acceleration of that date. However, the period of one year from the death of any party in interest is excluded from computing that time. Notwithstanding this limitation, a deed of trust or mortgage that became due and payable between July 1, 1988, and July 1, 2000, generally may not be enforced after July 1, 2010. These limitations may be extended by recording a certificate before the limitation period expires, executed by the party "in whom the beneficial title to the property so encumbered is vested" or his or her agent. Recording the certificate extends the limitations of the right to enforce the lien for 10 years from its recording date.

Unless the deed executed pursuant to the foreclosure of any mortgage or to the execution of or sale under any deed of trust is recorded within one year after the time the right to enforce the mortgage or deed of trust has expired, the deed or deeds is void as to all purchasers for valuable consideration without notice and to lien creditors who purchase the land or acquire a lien on it before the time the deed is recorded.

Non-judicial

Notice of sale

Written notice of the time, date, and place of any proposed sale must be given by certified or registered mail no less than 14 days before the sale. Notice must be sent to the present owner of the property to be sold at his last known address. See § 55-59.1 for notice requirements if property owner is deceased and for subordinate lienholders, property owners' associations or proprietary lessees' associations, their assigns and condominium unit owners' associations.

Section 55-59.1 renumbered in 2019 as 55.1-321; § 8.01-241 amended 2009.

[Va. Code §§ 8.01-241; 55.1-321 \(2019\)](#)

Lenders, Virginia, Public Notice and Posting Requirements

Judicial

No generally applicable statutory provisions relating to advertising a sale were located.

The notice to a tenant in event of foreclosure required by § 55.1-1237 applies only to the landlord of a single-family residence as defined in [Va. Code § 55.1-1200](#). In that case the landlord must give written notice to tenants or prospective tenants of a mortgage default, mortgage acceleration, or foreclosure sale relative to the loan on the dwelling unit within five business days after the landlord receives written notice from the lender or managing agent. This requirement does not apply:

- to a managing agent who does not receive a copy of the written notice from the lender; or
- if the tenant or prospective tenant provides a copy of the written notice from the lender to the landlord or the managing agent.

Non-judicial

Notice of sale

Written notice of the time, date, and place of any proposed sale must be given by certified or registered mail no less than 14 days before the sale. Notice must be sent to:

- any subordinate lienholder;
- any assignee of a note secured by a deed of trust;
- any condominium unit owners' association which has filed a lien;
- any property owners' association that has filed a lien; and
- any proprietary lessees' association that has filed a lien.

In order to receive notice, lienholders must have recorded their liens at least 30 days before the proposed sale.

Advertisement of the sale must be published as follows in a newspaper with a general circulation in the city or county in which the property to be sold is located:

- if the deed of trust provides for the number of publications of the newspaper advertisement, no other advertisement is necessary, provided that, if the advertisement is inserted on a weekly basis it must be published not less than once a week for two weeks and if the advertisement is inserted on a daily basis it must be published not less than once a day for three days, which may be consecutive days;
- if the deed of trust provides for advertising on other than a weekly or daily basis, either of the foregoing provisions must be complied with in addition to those provided in such deed of trust;

- if the deed of trust does not provide for the number of publications of the advertisement, the sale must be advertised once a week for four successive weeks; and
- if the property is located in a city or county immediately contiguous to a city, publication of the advertisement on five different days, which may be consecutive days, will be deemed adequate.

Sections renumbered/amended 2019.

[Va. Code §§ 55.1-321, -322; -1237 \(2019\)](#)

Lenders, Virginia, Preconditions to Eviction

Judicial

When judgment is issued for the recovery of specific real property, the judgment may include a writ of eviction for the property. Notice of intent to execute the writ must be served at least 72 hours before the writ is executed.

Note that § 16.1-107 was amended in 2010 to add unlawful detainer cases against a former owner based on a foreclosure against that owner to the list of actions for which an indigent individual must post an appeal bond. In 2019 provisions regarding filing of appeal bonds by renters were added to the statute.

Non-judicial

No statutory provisions were located.

Sections amended 2019.

[Va. Code §§ 8.01-470; 16.1-107 \(2019\)](#)

Lenders, Virginia, Appeals

Judicial

Appeal

No provisions relating to scheduling of the sale or appeal or objection were located. As a general rule, notice of appeal in a civil case must be filed no later than 30 days after the entry of judgment.

Sale scheduling

No relevant provisions were located.

Non-judicial

Appeal

No provisions relating to appeal or objection were located.

Sale scheduling

The sale may be held on any day after the day of the last advertisement, which is no earlier than eight days after the first advertisement or more than 30 days after the last advertisement. The trustee, in his or her discretion, may postpone the sale, and no new or additional notice need be given, but advertisement of the postponed sale must be in the same manner as the original advertisement of sale.

When written notice of the proposed sale is given as provided in § 55.1-321, there is a rebuttable presumption that the lienholder has complied with any requirement to provide notice of default contained in a deed of trust. Failure to comply with those notice requirements does not affect the sale's validity of the sale.

Sections renumbered 2019; rule amended 2019.

[Va. Code §§ 55.1-321, -322 \(2019\); Va. Sup. Ct. R. 5A:6](#)

Taxing Authorities, Virginia, Foreclosure Type

Judicial and nonjudicial. (Nonjudicial is available only for the sale of tax delinquent real properties of minimal size and value.)

Taxing Authorities, Virginia, Preconditions to Foreclosure

Judicial

Delinquency list

The county or city treasurer must prepare for the governing body a list of real estate with delinquent taxes. (Properties with delinquencies of less than \$20 need not be listed.) The delinquency list is based on the facts existing as of June 30 of the year the list is submitted to the governing body.

Date of sale

Generally, if taxes are delinquent on the December 31 following the two-year anniversary of the date the taxes were due, the real estate may be sold. However, if the property is worth less than \$100,000 or has been condemned, it may be sold after the December 31 following the one-year anniversary of the due date. Special provisions also exist for derelict, blighted, or nuisance properties. A city may pass an ordinance allowing it to commence proceedings to sell real estate with delinquent taxes after the December 31 following the one-year anniversary of the due date.

Statement to beneficiary

The beneficiary in any deed of trust or mortgage, or other interested persons, may give to the county or city treasurer written notice that he or she is the beneficiary under a lien. The notice, which must clearly designate the lands affected by the lien and the names of the grantor, may be given at any time during the period for the collection of taxes for any year. Upon receipt of such notice, the treasurer, at least 10 days before the date of his report of delinquent taxes for the current collection year, must mail to the person who gave the notice a statement showing:

- whether the taxes on the specified lands or lots have been paid; and
- stating the amount of the taxes, including penalties.

Notice to tenants in possession

When real estate is advertised for leasing for the taxes and there is a tenant in possession of the advertised property, the treasurer, sheriff, or other collecting officer making the lease must, at least 15 days before the lease date, serve on the tenant a copy of the notice of leasing.

Pre-sale notice to owner

At least 30 days before filing a petition to sell the property, the tax collector must send notice to the last-known property owner at the owner's last-known address. The notice must advise the owner that the taxes are delinquent and that the collector intends to bring judicial proceedings to sell the property. The notice must also be sent to the property address, if different from that of the owner, and to the last-known address of any trustee of a deed of trust, mortgagee, or other lien creditor not required to be a party to the action. Effective July 1, 2013, the notice must advise the taxpayer that he or she may request the treasurer to enter into a payment agreement to permit payment of the delinquent amounts over a period of up to 36 months.

While an action is pending, the circuit court may refer the parties to a dispute resolution proceeding.

The owner may redeem the property at any time before the sale occurs by paying all taxes, penalties, reasonable attorneys' fees, interest, and costs. Partial payment will not redeem the property and will not stop the sale. If, however, the treasurer or tax collector agrees to accept payments in installments over 36 months, the sale may be suspended.

Legal proceeding

The legal proceeding begins with the filing of a "bill in equity" in the circuit court of the county or city in which the property is located. Any party with an interest in the property must file a claim within 90 days after notice of the proceedings; late claims will not be heard. All necessary parties must be named as defendants, including a guardian ad litem for persons with legal disabilities and persons proceeded against by publication as parties unknown. Beneficiaries under a deed of trust, security interest, or mortgage are not necessary parties, provided the trustee, mortgagee, or lien creditor are given notice of the intention to file the action, unless those persons are financial institutions, in which case they must be named as defendants.

Non-judicial

Eligible property

The treasurer or other collecting officer may sell, at public auction, any real property parcel that is assessed at less than \$5,000 (\$10,000 or less, effective July 1, 2020), if the parcel's taxes are delinquent on December 31 following the third anniversary of the date on which the taxes became due; and

The treasurer or other officer responsible for collecting taxes may sell, at public auction, a parcel that is assessed at no less than \$5,000 but less than \$20,000 (more than \$10,000 but not more than \$25,000, effective July 1, 2020), if the parcel's taxes are delinquent on the December 31 following the third anniversary of the date on which the taxes became due; and the parcel and it is not subject to a recorded mortgage or deed of trust lien, and the parcel:

- is unimproved and measures less than 4,000 square feet (no more than one acre, effective July 1, 2020);

- is unimproved and is determined by the locality's zoning administrator (or by another official designated to administer zoning ordinances) to be unsuitable for building because of its size, shape, zoning, floodway, or other environmental designations;
- has a structure on it that has been condemned by the local building official;
- has been declared a nuisance by the locality;
- contains a derelict building; or
- has been declared blighted by the locality.

Pre-sale notice of tax-delinquent properties of minimal size and value

At least 30 days before conducting the sale, the treasurer or other collecting officer must send, at the last-known address contained in the public records, notice by certified or registered mail to

- the property's record owner or owners; and
- anyone "appearing to have an interest in the property."

The publication requirements described in "Public Notice and Posting Requirements" must also be met.

Sale of tax-delinquent properties of minimal size and value

At the time of sale, the treasurer or other collecting officer must sell to the highest bidder at public auction each parcel that has not been redeemed by the owner. If the sale proceeds are insufficient

to pay the taxes in full, the remaining delinquent tax amount remains the former owner's personal liability.

Sections 58.1-3926 and 58.1-3948 amended 1984; § 58.1-3922 amended 1997; § 58.1-3965.1 amended 2000; § 58.1-3967 amended 2009; § 58.1-3965 amended 2015; § 58.1-3921 amended 2017; § 58.1-3975 amended 2020.

[Va. Code §§ 58.1-3921, -3922, -3926, -3948, -3965, -3965.1, -3967 \(2019\), -3975](#) (as amended by [2020 Va. Laws ch. 257](#))

Taxing Authorities, Virginia, Public Notice and Posting Requirements

Judicial

Delinquent tax list

The treasurer, after determining which assessed taxes have not been collected, must, within 60 days of the end of the fiscal year, prepare a list of real estate that is delinquent for the nonpayment of taxes. The governing body may cause this list, or parts thereof as deemed advisable by the treasurer, to be:

- published in a newspaper of general circulation in the county, city, or town; or
- made available on an Internet site maintained by or for such county, city, or town.

Notice of lease of real estate for collection of taxes

If the collector intends to lease real estate belonging to the person assessed with taxes due, he or she must post a notice either at the front door of the courthouse, on the premises, or at some public place in the community in which the premises are located. The notice must also be given for not less than 15 days by printed or written notice posted at the front door of the courthouse and at three or more places in the neighborhood of the real estate to be leased.

Pre-sale notice

When the tax collector sends out the 30-day notice to owners, it also must publish a list of the real estate that will be offered for sale. The list must be published at least once in a newspaper of general circulation in the locality at least 30 days before commencing the legal proceeding. A statutory form of notice is set forth in Va. Code § 58.1-3965.

Order of publication

Certain persons who cannot be served with process may be served by "order of publication" pursuant to Va. Code § 8.01-316. The statute requires a party seeking to serve process to file an affidavit stating that certain grounds have been met, such as that the party to be served is a foreign entity or a nonresident individual or that the serving party has diligently tried to serve the other person and that the sheriff was unable to make personal service. The order must give the case caption, provide a brief description of the case, and state that the defendants or unknown parties against whom the order is entered must appear to protect their interests within a specified time, no sooner than 24 days after entry of the order. The order must be published at least once a week for two successive weeks. No additional notice is required, unless specifically ordered by the court.

Nonjudicial

Pre-sale notice for tax-delinquent properties of minimal size and value

Before conducting a sale, the treasurer or other collecting officer must post, at least 30 days before the sale, the notice of sale sent to the record owner and other interested parties as follows:

- at the property location, if the property has frontage on any public or private street; and
- at the locality's circuit courthouse.

Notice of sale for tax-delinquent properties of minimal size and value

The treasurer or other collecting officer must also cause a notice of sale to be published in the legal classified section of a newspaper of general circulation at least seven days, but no more than 21 days, before the sale. The collector may advertise and sell multiple parcels at the same time and place pursuant to one notice of sale.

Sections 8.01-318 amended 1977; § 8.01-321 amended 2018; § 58.1-3947 amended 1984; § 8.01-317 amended 1996; § 8.01-316 amended 2010; § 58.1-3965 amended 2015; §§ 58.1-3921 and 58.1-3924; § 58.1-3975 amended 2020.

[Va. Code §§ 8.01-316, -317, -318, -321; 58.1-3921, -3924, -3965 \(2020\), -3975](#) (as amended by [2020 Va. Laws ch. 257](#))

Taxing Authorities, Virginia, Preconditions to Eviction

No provisions specifically relating to tax sales were located. Generally, when a judgment is issued for the recovery of specific real property, the judgment may include a writ of eviction for the property. Notice of intent to execute the writ must be served at least 72 hours before the writ is executed.

The statute requiring a landlord to give tenants notice of foreclosure proceedings does not explicitly include tax sales. See Va. Code § 55.1-1237 (2019). For general provisions relating to terminating a tenancy, other than for nonpayment of rent or breach of lease, see Va. Code § 55.1-1410 (2019).

Section 8.01-470 amended 2019; §§ 55.1-1237 and 55-1410 amended/renumbered 2019.

[Va. Code §§ 8.01-470; 55.1-1237, -1410 \(2019\)](#)

Taxing Authorities, Virginia, Appeals

Judicial

Redemption

The owner may redeem property until it is sold by paying the taxes, penalties, interest, and costs. The right to redeem ends when the property is sold. Partial payment will not redeem the property and will not stop the sale. However, if the treasurer or tax collector agrees to accept payments in installments over 36 months, the sale may be suspended.

Property improperly placed on delinquent land books

If any parcel that is improperly placed on the delinquent land books is sold, the purchaser is entitled to a refund of the entire amount paid for the parcel.

Nonjudicial

Redemption

The owner of any listed property may redeem it at any time before the date of the sale by paying all accumulated taxes, penalties, interest, and costs. Partial payment is insufficient to redeem the property and does not suspend the sale.

Sections 58.1-3971 and 58.1-3974 amended 2012; § 58.1-3965 amended 2015; § 58.1-3975 amended 2020.

[Va. Code §§ 58.1-3965, -3971, -3974 \(2019\); -3975](#) (as amended by [2020 Va. Laws ch. 257](#))

Washington

Lenders, Washington, Foreclosure Type

Judicial and non-judicial. Property that is used principally for agricultural purposes must be foreclosed judicially.

Section amended 2018.

[Wash. Rev. Code § 61.24.030 \(2019\)](#)

Lenders, Washington, Preconditions to Foreclosure

Judicial

Default

If there has been a default in the performance of any condition contained in a mortgage, the mortgagee (or his or her assigns) may bring a foreclosure action in the superior court of the county in which some part of the land is located.

Notice of sale

Before the sale of real property under execution, order of sale, or decree, the judgment creditor must give notice of the sale as follows:

- not less than 30 days before the sale date, cause a copy of the notice to be either (a) served on each judgment debtor in the same manner as a summons in a civil action or (b) transmitted both by regular mail and by certified mail, return receipt requested, to the judgment debtor;
- not less than 30 days before the sale date, mail a copy of the notice of sale to the judgment debtor's attorney, if any; and
- file an affidavit with the court, stating that the judgment creditor has complied with the above notice requirements.

The sheriff must:

- post a notice of the sale; and
- publish a notice of the sale.

See *Public Notice and Posting Requirements* for details regarding the publication and posting requirements.

Generally, the notice of sale must be substantially in the form set forth in § 6.21.040.

Notice during redemption period

The redemption-period notice required by § 6.23.030 applies only if the property is "subject to a homestead." If it is "subject to a homestead," the purchaser must send a notice at least 40, but not more than 60, days before the judgment debtor's redemption period expires. The notice must be sent both by regular mail and by certified mail, return receipt requested, to:

- each judgment debtor; and
- "occupant" at the property address.

The party who sends the notice must file a copy of the notice and an affidavit of mailing with the clerk of court and deliver or mail a copy to the sheriff.

Failure to comply with this notice requirement extends the judgment debtor's redemption period by six months.

Non-judicial

Overview

The requisites to a trustee's sale are as follows:

- the deed of trust must contain a power of sale and a statement that the real property is not used principally for agricultural purposes;
- a default must have occurred, making the power to sell operative;
- the beneficiary may not have brought a related pending action;
- the deed of trust must have been recorded in each county in which some part of the land is located;
- the trustee must maintain a street address in Washington where personal service of process may be made, and the trustee must maintain a physical presence and telephone service at that address; and
- notice of sale must have been given.

Other requirements apply for residential real property.

Notice of default

At least 30 days before notice of sale is recorded, transmitted, or served, written notice of default must be transmitted to the borrower and grantor at their last known addresses by both first-class and either registered or certified mail, return receipt requested. A copy of the notice of default must either be posted in a conspicuous place on the premises or personally served on the borrower and grantor.

The notice must contain, in addition to specified information regarding the deed of trust and the default, a statement that the effect of the sale will be to deprive the grantor of all interest in the property and that the borrower has recourse to the courts to contest the alleged default on any proper ground. Additional statements apply if the property is owner-occupied residential property.

Effective June 7, 2018, special requirements apply to notices of default in cases where the grantor or borrower is deceased.

The letter advising borrowers to contact a housing counselor or an attorney, as required by § 61.24.031, applies only to deeds of trust that are recorded against *owner-occupied residential* real property. The requirements do not apply to deeds of trust that secure:

- a commercial loan;
- the obligations of a grantor who is not the borrower or a guarantor; or
- a purchaser's obligations under a seller-financed sale.

Notice of sale

At least 90 days before a sale, the trustee must record a notice of sale in the office of the auditor in each county in which the deed of trust is recorded. A copy of the notice of sale must be transmitted by both first-class and either certified or registered mail, return receipt requested, to

- the borrower and grantor, or if the grantor or borrower is deceased, their successors in interest;
- the beneficiary of any subsequent deed of trust or mortgagee of any mortgage;

- the vendee in any real estate contract;
- other specified interested parties;
- the occupants of property consisting solely of a single-family residence, or a dwelling unit in a building containing fewer than five residential units;
- the plaintiff or the plaintiff's attorney of record in any court action to foreclose a lien or other encumbrance on the property; and
- any person who has recorded a request for notice.

A copy of the notice of sale must also be posted in a conspicuous place on the property or served on any occupant of the property and published. See *Public Notice and Posting Requirements* for details regarding publication and posting requirements.

Effective June 7, 2018, the notice of sale when foreclosing on a commercial loan must be in the form set forth in Wash. Code § 61.24.040.

Notice to guarantor

The beneficiary may give the notices of default, trustee's sale, and foreclosure to any one or more of the guarantors of a commercial loan at the time they are given to the grantor. In addition to the information contained in the grantor's notices, these notices must state that:

- the guarantor may be liable for a deficiency judgment;

- the guarantor has rights to reinstate the debt, cure the default, or repay the debt in order to avoid the trustee's sale;
- the guarantor will have no right to redeem the property after the trustee's sale;
- generally, any action brought to enforce a guaranty must be brought within one year after the trustee's sale; and
- in any action for a deficiency, the guarantor will have the right to establish the property's fair value as of the date of the trustee's sale.

Requests for notice of sale

A person desiring a copy of a notice of sale, other than a person entitled to receive the notice, must file for record, in the office of the auditor of any county in which the deed of trust is recorded, a duly acknowledged request for a copy of any notice of sale.

Notices regarding foreclosure of tenant-occupied property

If the trustee elects to foreclose the interest of any occupant of tenant-occupied property, upon posting a notice of trustee's sale, the trustee must post and mail, at the same time in an envelope addressed to the "Resident of property subject to foreclosure sale," the following notice:

The foreclosure process has begun on this property, which may affect your right to continue to live in this property. Ninety days or more after the date of this notice, this property may be sold at foreclosure. If you are renting this property, the new property owner may either give you a new rental agreement or provide you with a sixty-day notice to vacate the property. You may wish to contact a lawyer or your local legal aid or housing counseling agency to discuss any rights that you may have.

Also, a tenant or subtenant in possession of residential real property at the time the property is sold in foreclosure must be given 60 days' written notice to vacate before the tenant or subtenant may be removed from the property.

Section 6.21.030 enacted 1987; § 61.24.042 enacted 1998; § 61.24.045 amended 2018; §§ 61.24.143 and 61.24.146 enacted 2009; §§ 61.24.030, and 61.24.040 amended 2018; 61.24.031 amended 2014; §§ 6.21.040 and 6.23.030 amended 2016.

[Wash. Rev. Code §§ 6.21.030, .040; 6.23.030; 61.24.030, .031, .040, .042, .045, .143, .146 \(2019\)](#)

Lenders, Washington, Public Notice and Posting Requirements

Judicial

For a period of not less than four weeks before the sale, the sheriff must post a notice of sale in two public places in the county in which the property is located, one of which must be at the courthouse door. If the property to be sold is improved, one copy of the notice must be posted at the front door of the principal building.

The sheriff must also publish a notice of sale once a week, consecutively, for the same four-week period, in any daily or weekly legal newspaper of general circulation published in the county in which the real property is located. If there is no qualified legal newspaper published in the county, then the notice must be published in a qualified legal newspaper published in a contiguous county.

Non-judicial

A copy of the notice of sale must be recorded in the office of the county auditor at least 90 days before the sale. (In comparison, 120 days' notice is required for certain owner-occupied property.) In addition, notice of the sale must be posted in a conspicuous place on the property, or in lieu of posting, a copy of the notice must be served upon any occupant of the property. A copy of the notice of sale must also be published in a legal newspaper in each county in which the property is situated, once on or between the 35th and 28th day before the sale date, and once on or between the 14th and 7th day before the sale date.

Section 6.21.030 added 1987; §§ 61.24.040 and 61.24.030 amended 2018.

[Wash. Rev. Code §§ 6.21.030; 61.24.030, .040 \(2019\)](#)

Lenders, Washington, Preconditions to Eviction

Judicial

Action in ejectment

A person who has a valid interest in property, and the right to possess that property, may bring an action in ejectment to recover possession. No notice to quit is required.

Possession rights

Generally, the purchaser from the day of sale until a resale or redemption, and the redemptioner from the day of redemption until another redemption, is entitled to possess the property, unless it is in the possession of a tenant holding under an unexpired lease. If a mortgage contains a stipulation that in case of foreclosure the mortgagor may remain in possession of the mortgaged premises after sale and until the period of redemption has expired, the court must include such provision in its decree.

If the land sold is used for farming purposes, the judgment debtor may retain possession during the redemption period. If the judgment debtor does not redeem, the purchaser has a lien on the crops raised or harvested during the redemption period.

Non-judicial

Possession rights and proceedings

The purchaser is entitled to possess the property on the twentieth day following the sale. The purchaser may then bring summary proceedings to obtain possession.

Tenants

If the property is occupied by tenants, the buyer must give written notice that he or she has purchased the property and that the purchaser may either evict tenants on 60 days' notice to quit, or enter into new rental agreements.

Section 61.24.060 amended 2009; § 61.24.146 enacted 2009; §§ 7.28.010 and 6.23.110 amended 2011.

[Wash. Rev. Code §§ 6.23.110; 7.28.010; 61.24.060, .146 \(2019\)](#)

Lenders, Washington, Appeals

Judicial

Appeal

No specific provisions for appeal from a judicial foreclosure were located. As a general rule, an appeal in a civil action must be filed within 30 days of the entry of judgment.

Stay of proceedings

If a complaint is filed for the foreclosure of a mortgage upon which amounts are due and other installments are not due, the court must stay the proceedings if the defendant pays into the court the amounts due at any time before the final judgment.

Objections to sale

The judgment creditor or successful purchaser at the sheriff's sale is entitled to an order confirming the sale at any time after more than 20 days have elapsed from the mailing of the notice of the filing of the sheriff's return, unless the judgment debtor or any nondefaulting party to whom notice was sent files objections to confirmation with the clerk. The objections must be filed within 20 days after the mailing of the notice of the filing of the return. If objections to confirmation are filed, the

court must allow the order confirming the sale, unless upon hearing, it appears that there were substantial irregularities in the proceedings concerning the sale, to the objecting party's probable loss or injury. In that case, the court must disallow the motion and direct that the property be resold.

Sale scheduling

The sale must be held on a Friday, or if Friday is a legal holiday on the following Monday, between 9 a.m. and 4 p.m. If the sheriff is prevented from attending or deems it "for the advantage of all concerned" to postpone the sale, the sheriff may postpone the sale up to one week, by giving notice of the adjournment by public proclamation at the original sale time, and by posting written notices of the adjournment under the notices of sale originally posted. The sheriff may also adjourn the sale from time to time, for no more than 30 days beyond the day at which the writ is made returnable, with the plaintiff's consent.

Redemption rights

The sale of a real property estate of less than a leasehold of two years and the sale of a vendor's interest in real property being sold under a real estate contract are absolute. In all other cases, the sale is subject to a redemption period of:

- eight months after the sale date, if the mortgage declares that the mortgaged property is not used principally for agricultural or farming purposes and the judgment creditor has expressly waived any right to a deficiency judgment; or
- in other cases, within one year after the sale date.

However, in actions to foreclose mortgages on improved real property that the mortgagor has abandoned for six months or more, the purchaser at the sheriff's sale takes title free from all redemption rights, unless the property is used primarily for agricultural purposes.

Non-judicial

Appeal

A person with a legal interest in the property to be sold may apply for a court order restraining the sale. The hearing on the application will be held on five days' notice, and the order will be issued on the showing of "any proper legal or equitable ground."

The court must require as a condition of granting the restraining order or injunction that the applicant pay to the clerk of the court the sums that would be due on the secured obligation if the deed of trust was not being foreclosed.

Curing defaults before sale and discontinuance

At any time before the 11th day before the sale date, the borrower, grantor, guarantor, any beneficiary under a subordinate deed of trust, or any person having a recorded subordinate lien may cause a discontinuance of the sale proceedings by curing the default.

Sale scheduling

The sale must be held on a Friday, or if Friday is a legal holiday on the following Monday, between 9 a.m. and 4 p.m.

Redemption rights

No person has the right to redeem property sold at a trustee's sale.

Failure to bring civil action to enjoin foreclosure

Section 61.24.127, which addresses a borrower's or grantor's failure to bring a civil action to enjoin a foreclosure sale and provides that it is not a waiver of certain specified claims for damages,

applies only to the foreclosure of owner-occupied residential real property and explicitly does *not* apply to the foreclosure of a deed of trust used to secure a commercial loan.

Section 61.12.130 amended 1881; § 61.12.095 amended 1965; §§ 6.21.050, 6.21.080, and 6.23.020 amended 1987; § 61.24.090 amended 1998; § 61.12.093 amended 2012; § 61.24.127 amended 2011; rule 5.2 amended 2010; §§ 61.24.040, 61.24.050 and 61.24.130 amended 2018; § 6.21.110 amended 2014.

[Wash. Rev. Code §§ 6.21.050, .080, .110; 6.23.020; 61.12.093, .095, .130; 61.24.040, .050, .090, .127, .130 \(2019\); Wash. R. App. P. 5.2](#)

Taxing Authorities, Washington, Foreclosure Type

Judicial.

Taxing Authorities, Washington, Preconditions to Foreclosure

Delinquency

Taxes upon real property are due and payable to the treasurer on or before the April 30 and are generally delinquent after that date.

Certificates of Delinquency

At the request of any holder of a certificate of delinquency, the county prosecuting attorney must prosecute to final judgment all actions brought for the foreclosure of tax liens.

After three years from the delinquency date, when any property remains on the tax rolls for which no certificate of delinquency has been issued, the county treasurer must issue a certificate of delinquency to the county for all years' taxes, interest, and costs. However, with the county legislative authority's consent, the county treasurer may issue a certificate for fewer than all years' taxes, interest, and costs, to a minimum of the taxes, interest, and costs for the earliest year. At this time, the treasurer must file the completed certificates, and, with the county prosecuting attorney's assistance, foreclose the tax liens.

Certificates of delinquency issued to the county may be issued in one general certificate in book form that includes all property. The lien foreclosure proceedings may be brought in one action.

Effective January 1, 2020, except for those parcels where the local governing entity has declared and/or certified the parcel a nuisance, or other similar code provision, in no case may a certificate of delinquency be filed on property where the tax delinquency is \$100 or less in total excluding interest and penalties

Service of Notice

Notice and summons must be served or notice must be given in a manner reasonably calculated to inform the owner and any person with a recorded interest in or lien on the property of the foreclosure action. The notice must state that the party must appear within 30 days after service and defend the action or pay the amount due. Either personal service or publication, as set forth in *Public Notice and Posting Requirements*, is sufficient. The notice must include:

- the legal description, as on the tax rolls;
- the years for which the taxes were assessed;
- the amount of tax and interest due;
- the owner's (or reputed owner's) name, if known; and
- any local street address.

Pre-Sale Searches

Before the sale, a title search must be done to determine the property's legal description and the record title holder. If the record title holder differs from the person appearing on the treasurer's rolls as the owner, the record title holder must be considered and treated as the owner for purposes of the tax lien foreclosure. As such, he or she is entitled to the required notice discussed above and in *Public Notice and Posting Requirements*.

Removal of timber or improvements on which tax is delinquent

It is unlawful for a person, firm, or corporation to remove any timber from timbered lands, if no portion of the property is occupied for farming purposes by the owner thereof, or to remove any building or improvements from lands, upon which taxes are delinquent.

Section 84.56.200 amended 1961; §§ 84.64.040 amended 2013; § 84.64.050 amended 2019; § 84.56.020 amended 2019.

[Wash. Rev. Code §§ 84.56.020, .200; .64.040, .64.050 \(2019\)](#)

Taxing Authorities, Washington, Public Notice and Posting Requirements

Notice of Foreclosure

If notice is not served personally, notice of foreclosure may be given by

- publication once in a newspaper of general circulation that is circulated in the area of the property; and
- mailing the notice by certified mail to the owner and any person with a recorded interest in or lien on the property.

If a mailing address is unavailable, personal service on the property's occupant is sufficient. If that notice is returned as unclaimed, the treasurer must send the notice by regular first-class mail.

Notice of Sale

Immediately upon receipt of an order and judgment from the court for the property's sale, the treasurer must proceed to sell the property to the highest and best bidder. (As amended effective July 24, 2015, Washington law no longer requires this bid to be for cash.) The acceptable minimum bid must equal the total of "taxes, interest, and costs." The property must be sold "as is." There is no express or implied guarantee or warranty of any kind relative to: title, eligibility to build upon or subdivide the property; zoning classification; size; location; fitness for any use or purpose; or any other feature or condition of a foreclosed property.

All sales must be made a location in the county on a date and time (except Saturdays, Sundays, or legal holidays) and continue from day to day during the same hours until all lots or tracts or sold. The county treasurer must first give notice of the sale's time and place for 10 days, successively posting the notice in three public places in the county, one of which must be the treasurer's office. Unless the sale is conducted by electronic media, the notice must be substantially in the form provided by statute.

Effective July 24, 2015, a county treasurer may conduct a public auction sale by electronic media. Notice of a public auction sale by electronic media must be substantially in the form set forth in § 84.64.225. Effective January 1, 2020, in the case of an online public auction sale, a winning bidder is allowed no less than 48 hours to pay the winning bid by electronic funds transfer.

Section 84.64.050 amended 2019; § 84.64.080 amended 2019; § 84.64.225 amended 2019.

[Wash. Rev. Code §§ 84.64.050, .080, .225 \(2019\)](#)

Taxing Authorities, Washington, Preconditions to Eviction

No provisions specifically applicable to evictions in the context of tax lien foreclosures were located. However, generally, a person who has a valid interest in property, and the right to possession of that property, may bring an action in ejectment to recover possession. No notice to quit is required.

Section amended 2011.

[Wash. Rev. Code § 7.28.010 \(2019\)](#)

Taxing Authorities, Washington, Appeals

Redemption

Real property may be redeemed at any time before the close of business the day before the sale date. If real property of any minor or legally incompetent person is sold for nonpayment of taxes, it may be redeemed at any time within three years of the sale date.

Defenses in Action

A person interested in land for which a judgment foreclosing a tax lien is sought may offer a defense against the action. The court must hear and determine the matter in a summary manner and pronounce judgment. However, the court may, in its discretion, continue the case to secure substantial justice.

A judgment for the deed to real property sold for delinquent taxes estops all parties from raising any objections to it, or to the tax title, if the objection existed at or before the judgment was rendered and could have been presented as a defense in the court that rendered the judgment.

Appellate Review

Appellate review of the superior court's judgment may be sought as in other civil cases. However, the appealing party must:

- seek the review within 30 days after the entry of the judgment; and
- deposit a sum equal to all taxes, interest, and costs with the clerk of the court.

The appellant must pay the amount of any taxes, interest, and costs that may be finally adjudged against the real property involved in the appeal.

Deeds as Evidence

Deeds executed by the county treasurer, are prima facie evidence that:

- the property conveyed was subject to taxation and was listed and assessed in the time and manner required by law;
- the taxes were not paid before the deed was issued;
- the property conveyed had not been redeemed;
- the property was sold for taxes, interest, and costs;
- grantee was the purchaser (or the purchaser's assignee); and
- the sale was conducted as required by law.

The judgment itself is conclusive evidence of its regularity and validity, *except* in cases where the tax has been paid or the real property was not liable for the tax.

Injunctions Prohibited

Injunctions and restraining orders are not granted to restrain the collection of tax or the sale of property for the nonpayment of tax, unless

- the law under which the tax is imposed is void;
- the taxed property is exempt from taxation; or
- the sale is a result of an error made by a county officer or employee, and a county legislative authority issues an order.

Tender Required

A party may not bring an action or proceeding to recover property sold for taxes unless that party pays, causes to be paid, or tenders to the officer entitled to receive the funds, an amount equal to all taxes, penalties, interest, and costs "justly due and unpaid" on the property the party seeks to recover.

Complaint

In an action to recover property sold for taxes, the complainant must state in the complaint:

- the tax that is "justly due," penalties, interest, and costs;
- that the taxes for that and previous years have been paid; and
- if the action is against the party in possession, that all taxes, penalties, interest, and costs paid at the tax sale have "been fully paid or tendered, and payment refused."

Section 84.68.080 amended 1961; § 84.68.090 amended 1994; § 84.68.010 amended 2000; § 84.64.120 amended 1999; §§ 84.64.050, 84.68.110, and 84.64.180 amended 2013; §§ 84.64.070 and 84.64.080 amended 2015; §§ 84.64.050 and 84.68.080 amended 2019.

[Wash. Rev. Code §§ 84.64.050, .070, .080, .120, .180, .68.010, .080, .090, .110 \(2019\)](#)

West Virginia

Lenders, West Virginia, Foreclosure Type

Judicial and non-judicial.

Lenders, West Virginia, Preconditions to Foreclosure

Judicial

The sale must be advertised in a newspaper and posted, if no qualified newspaper is available. See *Public Notice and Posting Requirements* for details regarding the publication and posting.

Non-judicial

Default

After the amount due to a creditor has become payable and is in default and if all other conditions precedent to sale (as set forth in the trust deed) have occurred, the trustee may sell the property conveyed by the deed at public auction, after first giving notice of the sale.

Notice of sale

A copy of the notice of sale must be served on the borrower by certified mail, return receipt requested. The notice must also be served by certified mail, at least 20 days before the sale, on any subordinate lienholder who has previously notified the primary lienholder by certified mail of the existence of a subordinate lien.

The notice of sale must include:

- the time and place of the sale;

- the names of the parties to the deed;
- the deed's date;
- recording information;
- the quantity and description of the property conveyed; and
- the terms of sale.

In addition to (but not instead of) the above service, the notice may be also made by any other method authorized for the service of original process in the circuit courts.

Notice of the sale must also be published in a qualified newspaper in the county or posted, if there is no qualified newspaper. See *Public Notice and Posting Requirements* for details regarding the publication and posting.

Section 38-1-3 amended 1891; § 55-12-2 amended 1969; § 38-1-4 amended 1987.

[W. Va. Code §§ 38-1-3, -4; 55-12-2 \(2019\)](#)

Lenders, West Virginia, Public Notice and Posting Requirements

Judicial

An advertisement for a sale must be published once a week for three successive weeks in a qualified newspaper published in the county in which the property is located. If there is no qualified newspaper published in the county or if no qualified newspaper published in the county will publish the advertisement at the rates specified by statute, the advertisement must be posted in at least

three public places in the county, one of which postings must be at or near the front door of the county courthouse.

Non-judicial

A copy of the notice of sale that is served on the borrower must also be served by certified mail, at least 20 days before the sale, on any subordinate lienholder who has previously notified the primary lienholder by certified mail of the existence of a subordinate lien.

Notice of the sale must also be published once a week for two successive weeks in a qualified newspaper published in the county. If there is no qualified newspaper or if no qualified newspaper will publish the legal advertisement at the rates specified by statute, the notice must be posted in at least three public places in the county, one of which must be at or near the front door of the county courthouse.

Section 55-12-2 amended 1969; § 38-1-4 amended 1987.

[W. Va. Code §§ 38-1-4; 55-12-2 \(2019\)](#)

Lenders, West Virginia, Preconditions to Eviction

An ejectment action may be brought by a person who has a subsisting interest in the property, and a right to recover the possession of the property. Notice to quit is not required.

Section amended 1923.

[W.Va. Code § 55-4-3 \(2019\)](#)

Lenders, West Virginia, Appeals

Judicial

Appeal

No provisions specifically relating to appeals of judicial foreclosures were located. As a general rule, appeals in civil actions must be filed within 30 days of the entry of judgment.

Also, generally, if a property sale was made under a court decree or order and the sale is confirmed but later reversed or set aside, the purchaser's title is not affected, but the entitled parties may receive restitution.

Sale scheduling

No provisions relating to the scheduling of the sale were located

Non-judicial

Appeals

Provided the grantor on the trust deed is provided the required notice, no action or proceeding to set aside a trustee's sale due to the failure to follow any notice, service, process, or other procedural requirement relating to the sale of trust property may be brought more than one year after the sale date.

Sale scheduling

No provisions relating to the scheduling of the sale were located.

Section 55-12-8 amended 1923; § 38-1-4a enacted 2006; rule amended 2002.

[W. Va. Code §§ 38-1-4a; 55-12-8 \(2019\); W. Va. R. App. P. 5](#)

Taxing Authorities, West Virginia, Foreclosure Type

Non-judicial sale of tax liens.

Taxing Authorities, West Virginia, Preconditions to Foreclosure

Delinquent List

The sheriff, after determining which taxes in the county are delinquent, must, on or before May 1 of the next year, prepare delinquent lists. The list must be arranged by districts and alphabetically by name of the person charged and must show the taxes remaining unpaid for each on April 30.

Notice of Delinquency

On or before September 10, the sheriff must prepare a second list of delinquent lands, which must include all real estate in the county remaining delinquent as of September 1. The sheriff must also prepare a notice of sale stating in the prescribed form that the tax liens on the listed property will be offered for sale at public auction at the specified time and place for not less than the specified amount of taxes, interest, and charges.

No less than 30 days before the sale, the sheriff must send notice of the delinquency and the date of sale by certified mail to:

- the last known address of each person listed in the land books whose taxes are delinquent;
- each person with a lien on the real property upon which the taxes are due, as disclosed by a statement filed with the sheriff;
- each other person with an interest in the property or with a fiduciary relationship to a person with an interest in the property, who has delivered to the sheriff, on a prescribed form, a request to receive a notice of delinquency; and

- if the property includes a mineral interest but not an interest in the surface other than to develop the minerals, each person who has delivered to the sheriff, on a prescribed form, a request to receive the notice, which request must identify the person as an owner of an interest in the surface of the real property that is included in the property's boundaries.

Any person claiming a lien against real property is deemed to have waived the right to receive the notice unless he files with the sheriff a statement declaring the interest. The statement must be filed upon creation of the lien, release of the lien, and any change in the lienholder's address.

Tax Lien Sale

The sheriff must sell the tax lien on each unredeemed tract or lot, or each unredeemed part of or undivided interest in the property, in the same order as in the delinquent tax list at public auction to the highest bidder between the hours of 9:00 a.m. and 4:00 p.m. on any business day after October 14 and before November 22, for at least the minimum bid. If the sale is not completed on the day designated in the notice, it is continued from day to day until the property is sold.

If no person bids the minimum amount due on any property offered for sale, the sheriff must certify the real estate to the auditor for disposition subject to the right of redemption.

The sheriff must issue a certificate of sale to the successful bidder for the purchase money. The certificate of sale is assignable by endorsement. No lien evidenced by the certificate of sale issued by the sheriff on account of any delinquent property taxes may remain a lien for longer than 18 months after it is originally issued. The purchaser's rights are forfeited and no tax deed may be issued where the certificate has ceased to be a lien and application for the tax deed is not pending when that 18-month period expires.

Notice to Redeem

At any time after October 31 of the year following the sheriff's sale and on or before December 31 of the same year, the purchaser or his or her heirs or assigns, in order to obtain a tax deed, must prepare a list of those to be served with notice to redeem and request that the State Auditor prepare and serve the notice. The notice must be served before the 30th day following the request. All persons residing or found in West Virginia must be served in the manner provided for

serving process to begin a civil action or by certified mail, return receipt requested, or other types of delivery service courier that provides receipt. If any person entitled to service is not a West Virginia resident, but the purchaser knows the nonresident's address, the nonresident must be served at that address by certified mail, return receipt requested.

Section 11A-3-17 amended 1994; § 11A-3-3 amended 1995; § 11A-3-5 amended 2000; § 11A-2-11 amended 2004; § 11A-3-2 amended 2007; §§ 11A-3-8 and 11A-3-19 amended 2010; §§ 11A-3-18 and 11A-3-22 amended 2020.

[W. Va. Code §§ 11A-2-11; -3-2, -3, -5, -8, -17, -18](#) (as amended by [2020 W. Va. Acts ch. 336 \(H.B. 4452\)](#)),, [-19, -22](#) (as amended by [2020 W. Va. Acts ch. 336 \(H.B. 4452\)](#))

Taxing Authorities, West Virginia, Public Notice and Posting Requirements

Notice of Delinquency

On or after April 1, the sheriff may prepare and publish a list stating that the taxes assessed the previous year have become delinquent and that, unless paid by April 30, they will be included for publication in the forthcoming delinquent lists. If published, the notice must be published once a week for two successive weeks in two qualified newspapers of opposite politics published in the county. If there are not two such newspapers in the county or if they will not both publish the notice, it must be published in one qualified newspaper in the county. If there is not one such newspaper, the notice must be published in one qualified newspaper outside the county. If there is no qualified newspaper outside the county or if that newspaper refuses to publish the notice, the notice must be posted in at least three public places in the county, one of which is at or near the front door of the county courthouse.

Delinquent Tax Lists

A copy of the delinquent tax lists must be posted at the front door of the county courthouse at least two weeks before the session of the county commission at which they are to be presented for examination. At the same time, a copy of the lists must be published once in two qualified newspapers of opposite politics published in the county. If there are not two such newspapers in the county or if they will not both publish the notice, it must be published in one qualified newspaper in the county. If there is not one such newspaper, the notice must be published in one qualified newspaper outside the county. If there is no qualified newspaper outside the county or if it refuses to publish the notice, the notice must be posted in at least three public places in the county, one of which is at or near the front door of the county courthouse.

Second Delinquent Tax List

On or before September 10, the sheriff must prepare a second list of delinquent lands, which must include all real estate in the county remaining delinquent as of September 1, together with a notice of sale. The notice of sale must state, in the prescribed form, that the tax liens on the listed property will be offered for sale at public auction at the specified time and place for not less than the specified amount of taxes, interest, and charges.

This list and notice must be published before the sale date once a week for three successive weeks in two qualified newspapers of opposite politics published in the county. If there are not two such newspapers in the county or if they will not both publish the notice, it must be published in one qualified newspaper in the county. If there is not one such newspaper, the notice must be published in one qualified newspaper outside the county. If there is no qualified newspaper outside the county or if that newspaper refuses to publish the notice, the notice must be posted in at least three public places in the county, one of which is at or near the front door of the county courthouse.

Sheriff's Sales List

Within one month after the tax lien sale, the sheriff must prepare a list of all sales and certifications made by him or her. He or she must publish that list once a week for two successive weeks in two qualified newspapers of opposite politics published in the county. If there are not two such newspapers in the county or if they will not both publish the notice, it must be published in one qualified newspaper in the county. If that newspaper does not exist, the notice must be published in one qualified newspaper outside the county. If there is no qualified newspaper outside the county or if it refuses to publish the notice, the notice must be posted in at least three public places in the county, one of which is at or near the front door of the county courthouse.

Notice to Redeem

If the address of any person entitled to notice to redeem is not known to the purchaser and cannot be discovered by the purchaser's due diligence, the notice must be served by publishing it once a week for three consecutive weeks in two qualified newspapers of opposite politics published in the county in which the property is located. If there are not two such newspapers in the county or if

they will not both publish the notice, it must be published in one qualified newspaper in the county. If there is not one such newspaper, the notice must be published in one qualified newspaper outside the county. If there is no qualified newspaper outside the county or if that newspaper refuses to publish the notice, the notice must be posted in at least three public places in the county, one of which is at or near the front door of the county courthouse. Publication must begin on or before the 30th day following the purchaser's request for the notice.

A copy of the notice must at the same time be sent by certified mail, return receipt requested, to the last known address of the person to be served.

Section 11A-2-10a amended 1967; §§ 11A-2-13 and 11A-3-13 amended 2006; § 11A-3-2 amended 2007; § 11A-3-22 amended 2020.

[W. Va. Code §§ 11A-2-10a, -13; 11A-3-2, -13 \(2019\); -22](#) (as amended by [2020 W. Va. Acts ch. 336 \(H.B. 4452\)](#))

Taxing Authorities, West Virginia, Preconditions to Eviction

No specifically applicable provisions were located. However, an individual purchaser to whom a tax deed has been issued may institute and prosecute actions to quiet title.

Section amended 2010.

[W. Va. Code § 11A-3-30\(b\) \(2019\)](#)

Taxing Authorities, West Virginia, Appeals

Redemption

Any real estate included in the second published list of delinquent taxes may be redeemed at any time before sale.

After the sale of a tax lien on real estate, the owner of, or any other person who was entitled to pay the taxes on, real estate for which a tax lien was purchased by an individual may redeem at any time before a tax deed is issued for the real estate.

Right to Set Aside Sale or Deed When Taxes Paid Before Sale

An owner of real estate for which a tax lien was sold for nonpayment of taxes, when all taxes had in fact been paid before the sale, or his heirs and assigns, may, before expiration of three years following the sale, institute a civil action to set aside the sale and to enjoin the proper official from taking further action, or if a deed has been delivered to the purchaser, before the expiration of three years following delivery of the deed, commence a civil action to set aside the deed.

Right to Set Aside Deed Improperly Obtained

If the county has delivered a deed to the purchaser after the time limit established by law or has delivered a deed to a purchaser who was not entitled to it, either because the property was redeemed or the requirements for the deed were not met, the owner or the person who has redeemed may commence a civil action to set aside the deed within three years following the delivery of the deed.

Right to Set Aside Deed When Notice Not Given

If any person entitled to notice to redeem is not served with the notice and does not have knowledge that the notice has been given to others in time to protect his or her interests by redeeming the property, he or she may institute a civil action to set aside the deed within three years following delivery of the deed.

Sections 11A-4-2 and 11A-4-3 enacted 1994; § 11A-4-4 amended 2020; § 11A-3-23 amended 2020; § 11A-3-5 amended 2000.

[W. Va. Code §§ 11A-3-5, -23; -4-2, -3, -4 \(2019\)](#)

Wisconsin

Lenders, Wisconsin, Foreclosure Type

Judicial.

Lenders, Wisconsin, Preconditions to Foreclosure

No provisions specific to pre-foreclosure were located.

Lis pendens filing

A judgment of foreclosure and sale may not be entered until 20 days after the lis pendens has been filed.

Notice of sale

The sheriff or referee must give notice of the time and place of sale in the manner provided by law for the sale of real estate upon execution or in such other manner as the court directs in the judgment. If the department of veterans affairs is also a party, the judgment must also direct that notice of sale be given by registered mail, return receipt requested, to the department at Madison at least three weeks before the sale date. Except as otherwise provided for sales in populous counties, the sheriff or referee must, within 10 days, file with the clerk of the court a report of the sale. As of January 1, 2016, additional requirements apply if the mortgaged premises are located in a county with a population of at least 750,000.

Timing of notice of sale for abandoned premises

If the court finds that the mortgagor has abandoned the mortgaged premises, the sale of the mortgaged premises must be more than five weeks from the date the judgment is entered. Placement of the notice may begin when the judgment is entered.

Timing of notice of sale for commercial properties and multifamily residences

Generally, no foreclosure sale involving real property (other than an owner-occupied one- to four-family residence, a farm, a church, or a tax-exempt nonprofit charitable organization) may be held until after six months from the date the judgment is entered. Notice of the time and place of sale may be given within that six-month period, except that the first printing must be no less than four months after the date the judgment is entered.

Application for confirmation of sale

A sale on a mortgage foreclosure judgment may not be confirmed unless five days' notice has been given to all parties that appeared in the action. Such notice must be given either personally or by registered mail, mailed at least five days before the date the motion for confirmation is to be heard. If a party's address is not known, no mailing is required, but an affidavit must be filed with the court stating that the address is not known.

The notice must state, among other things:

- the judgment amount;
- the amount realized upon the sale;
- information regarding any personal judgments that will be sought; and
- the time and place of the hearing.

Protections for tenants

If the property is residential *rental* property, the plaintiff must provide the following notices to the tenants in possession of each rental unit:

- no later than five days after the foreclosure action is filed, notice that the plaintiff has brought a foreclosure action;

- no later than five days after the judgment of foreclosure is entered, notice that the plaintiff has been granted a judgment of foreclosure with respect to the rental property and notice of the date the redemption period expires; and
- at the time the confirmation of sale hearing has been scheduled, notice of the date and time of the hearing.

These notices may be given by personal service or by certified mail with return receipt requested. Notice is considered completed when it is mailed, unless the envelope is returned unopened to the plaintiff. The envelope must contain the plaintiff's or the plaintiff's attorney's return address and a request to return the envelope to that address.

Wis. Stat. § 846.35, which previously provided for notices that a plaintiff must give to tenants of residential rental property that is the subject of a foreclosure action, has been repealed.

Section 846.165 amended 1975; other sections amended 2018.

[Wis. Stat. §§ 846.01, .102, .103, .16, .165 \(2020\)](#)

Lenders, Wisconsin, Public Notice and Posting Requirements

Notice of sale

The time and place of the sale of real estate on execution must be publicly advertised by posting a written notice describing the real estate to be sold as follows at least three weeks before the sale date:

- in one public place in the town or municipality where the real estate is to be sold;
- if the county where the real estate is to be sold maintains a website, by posting a notice on the website;

- in one public place in the town or municipality in which the real estate is situated, if it is not in the town or municipality in which the sale is to be held; and
- if the county in which the real estate is situated maintains a website, posting a notice on the website.

If the town or municipality in which the real estate is situated or is to be sold maintains a website, the town or municipality may also post a notice on its website. In any public place or on any Internet site where the sheriff or referee posts a notice of sale, the sheriff or referee must also post an explanation regarding the minimum bidder qualifications under § 846.155(2) that a participant in the sale must meet and a statement that, before the sale may be confirmed, a purchaser that is not a party in the foreclosure action must submit an affidavit to the court affirming that the purchaser meets those minimum bidder qualifications.

A county may enact an ordinance that requires the sheriff or referee to conduct, or to engage registered auctioneer to conduct sales of mortgaged premises in the county using an Internet-based auction. If the county enacts such an ordinance, all sales of mortgaged premises in the county must be conducted using Internet-based auctions.

A copy of the notice of sale must also be printed each week for three successive weeks before the sale date in a newspaper of the county. If there is no newspaper published in the county and the property is not occupied by the mortgagor or by a tenant or purchaser, the notice must be published in a paper printed at Madison.

Notice and report of sale

The sheriff or referee who sells mortgaged premises under a judgment must give notice of the time and place of sale in the manner provided by law for the sale of real estate upon execution or in such other manner as the court directs. The sheriff or referee shall include in the notice of sale the street address, if any, of the real estate to be sold and the sum of the judgment. Upon sale of the mortgaged premises and upon compliance with its terms, the sheriff or referee must make and execute to the purchaser, the purchaser's assigns, or personal representatives a deed of the premises sold that includes each parcel of land sold to the purchaser and the purchase price. As of January 1, 2016, additional requirements apply if the mortgaged premises are located in a county with a population of at least 750,000.

Section 815.31 amended 2018; § 846.16 amended 2018; § 846.155 enacted 2018.

[Wis. Stat. §§ 815.31; 846.155, .16 \(2020\)](#)

Lenders, Wisconsin, Preconditions to Eviction

A civil action of eviction may be brought by a person entitled to the possession of property against any person who is not entitled to either the possession or occupancy of the property. There is no requirement that a notice to be quit be served.

An eviction action against the occupant of a foreclosed property will be stayed on a showing that:

- the occupant has started an action relating to a foreclosure reconveyance or the occupant makes a claim that a foreclosure reconveyance was fraudulent, misleading, or deceptive;
- the occupant owned the foreclosed property;
- the occupant conveyed title to a third party based on a promise that the occupant would be allowed to retain possession of the property and that the property would be the subject of a foreclosure reconveyance; or
- the occupant had occupied the property continuously.

The stay will be in effect for 90 days, if the occupant has not commenced an action regarding the reconveyance. If an action has been commenced or is commenced within 90 days of the issuance of the stay, the stay remains in effect until the court hearing the reconveyance action renders a final decision.

Section 846.40 enacted 2009; § 799.40 amended 2018.

[Wis. Stat. §§ 799.40; 846.40 \(2020\)](#)

Lenders, Wisconsin, Appeals

Appeal

No specific provisions for appeal from a foreclosure were located. As a general rule, an appeal in a civil action must be filed within 45 days of the entry of final judgment.

Sale scheduling

A sale of residential *or farm* property may not be held less than 12 months after the entry of judgment, unless the property is abandoned or the mortgagee has agreed to waive any deficiency after the sale. Sales must be held between 9 a.m. and 5 p.m. If the sheriff considers it in all parties' interests, he or she may adjourn the sale from time to time, not exceeding three months in total. In case of an adjournment, public notice must be given at the time and place fixed for the sale. If the adjournment is for more than one day, further notice must be given by posting or publication.

Redemption

The mortgagor may redeem the mortgaged premises at any time before the sale.

Section 808.04 amended 2017; §§ 846.01 amended 1997; § 846.13 amended 1993; § 815.31 amended 2018.

[Wis. Stat. §§ 808.04; 815.31; 846.01, .13 \(2020\)](#)

Taxing Authorities, Wisconsin, Foreclosure Type

Judicial.

Taxing Authorities, Wisconsin, Preconditions to Foreclosure

Notice of Delinquency

On September 1 of each year, the county treasurer must issue to the county a tax certificate that includes all real property for which taxes remain unpaid. Within 90 days after the tax certificate issues, the county treasurer must mail notice to each property owner of record that:

- taxes remain unpaid on the property;
- records showing the delinquency are available for inspection in the treasurer's office;
- a tax certificate was issued; and
- failure to pay the delinquent taxes within two years will result in the eventual transfer of the property's ownership to the county.

Redemption Notices

Any person may redeem the land described in the tax certificate by paying the unpaid taxes, interest, and penalties to the county treasurer any time before a tax deed is recorded. During the redemption period, the county treasurer must publish and post statutory notices as described in *Public Notice and Posting Requirements*.

If the property has not been redeemed within two years after the tax certificate issues, the county may:

- take the property by tax deed;
- bring an action to foreclose the certificate; or
- bring an action to foreclose the tax lien represented by the certificate.

Notice of Application for Tax Deed

No tax deed may be issued on any property subject to a tax certificate unless a written notice of application for tax deed has been served on the owner (or one of the owners of record). The notice must also be served on the occupant if the lot or tract:

- is improved by a dwelling house or a building used for business purposes or agricultural purposes, and the building has been actually occupied for that purpose specified for 30 days immediately before the date of service of the notice of application for tax deed; or
- has been occupied and cultivated for agricultural purposes for 30 days within the six-month period immediately before the service date of the notice.

If the records show that the property is encumbered by an unsatisfied mortgage, the notice must also be served on the mortgagee in each mortgage, or the last assignee if the assignment is recorded.

The notice must contain:

- the tax certificate's date;
- the description of the lands covered;
- the delinquency amount; and
- notice that the county intends to claim a tax deed no sooner than three months from the application date.

The treasurer or his agent must serve the notice in the manner of a court summons or by certified mail, return receipt requested, no earlier than 88 days before the county is entitled to claim the deed. If notice cannot be given in either manner, notice by publication may be given as described in *Public Notice and Posting Requirements*. Upon filing proof of service of the notice of application for tax deed and upon approval by the county tax board, the county clerk must issue a tax deed to the county. The tax deed must be taken no later than one year after the date of service of the application for tax deed.

A county may perfect its tax deed at any time within three years after the deed was issued by bringing an action in the circuit court of the county in which the property is situated to bar any right, title, interest, or claim of the former owner or others.

Foreclosure of the Tax Certificate

Instead of taking a tax deed, a county holding a tax certificate may, at any time after two years from the date of the certificate, foreclose the certificate under the laws and rules of practice governing mortgage foreclosures.

Foreclosure of the Tax Lien

A county may elect to take title to property described in a tax certificate by adopting an ordinance entitling the county to foreclose on the tax lien represented by the tax certificate. Upon adoption of such an ordinance, the treasurer may, two years after the tax certificate issues, file with the clerk of the circuit court in the county, one or more lists of property affected by unpaid tax liens as shown on the tax certificates in the treasurer's office. As to each parcel, the list must contain:

- a brief description identifying the parcel affected by the tax lien;
- the name of the last known owner and mortgagee;
- a statement of the amount of the principal sum of the tax lien, the date on which interest began to accrue, and the interest rate;

- a petition to the court for judgment vesting title to the property in the county; and
- the names of all municipalities having a right, title, or interest in the land.

A copy of the petition and identifying portions of the list of tax liens must be delivered by registered or certified mail to each last-known property owner and mortgagee of record and others having any right, title or interest in the property. The county treasurer must publish and post statutory notices as described in *Public Notice and Posting Requirements*.

Redemption

Any person with a right, title, interest in, or lien upon the property may redeem it by paying the full amount of the claimed tax lien, plus interest and accrued costs or may file an answer to the petition with the clerk of the circuit court. Failure to redeem or file an answer within the time required forecloses all rights to the property and judgment of foreclosure may be entered by default.

Mineral Rights

Generally, the failure of an owner of a fee simple interest in surface rights to pay property taxes on land does not extinguish the rights of a holder of a fee simple interest in severed mineral rights related to that land.

Timber

It is unlawful for any person or corporation to cut, destroy, or remove any logs, wood, or timber or any buildings, fixtures and other improvements assessed as real property from any land included in a tax certificate for the nonpayment of taxes while the taxes remain unpaid.

Sections 75.01, .14, .37, .39, and .40 enacted 1987; § 75.67 amended 1987; § 75.19 amended 1989; § 74.59 amended 1991; § 75.115 enacted 1993; § 75.12 amended 1995; § 75.16 amended 1999; § 74.57 amended 2003; § 75.521 amended 2017.

[Wis. Stat. §§ 74.57, .59; 75.01, .115, .12, .14, .16, .19, .36, .37, .39, .40, .521 \(2019\)](#)

Taxing Authorities, Wisconsin, Public Notice and Posting Requirements

Redemption Notices

During the redemption period, the county treasurer must, at least six and not more than 10 months before the redemption period expires, publish twice in the county in which the property is situated, a list of all unredeemed properties. The list must specify:

- each tract;
- the name of the person who was assessed a tax;
- the delinquent tax amount; and
- the date by which the land must be redeemed.

If no newspaper is published in the county in which the land is situated, the county treasurer must also, at least three months before the expiration of the redemptive period, post copies of the list and notice in at least four public places in the county, one of which must be the treasurer's office.

Notice of Application for Tax Deed

In the event the county cannot give a property owner notice of its application for tax deed by personal service or certified mail, the treasurer must publish notice of its application at least three times in a newspaper in the county.

Notice of Foreclosure

In a county adopting an ordinance allowing the county to foreclose on the tax lien represented by a tax certificate, the county must publish a notice, at least three times in a newspaper in the county, that the list of tax liens and accompanying petitions have been filed with the court.

Section 985.07 enacted 1975; §§ 75.07 and .09 enacted 1987; § 75.12 amended 1995; § 75.521 amended 2017.

[Wis. Stat. §§ 75.07, .09, .12, .521; 985.07 \(2019\)](#)

Taxing Authorities, Wisconsin, Preconditions to Eviction

Ejectment

Generally, an ejectment action must be brought within three years after the recording of the tax deed. However, this limitation period does not apply unless:

- the original owner failed to pay or redeem all of the taxes levied on the lands between the time of the levy and the recording of the tax deed; and
- the grantee in the tax deed has paid all taxes levied on the land for the three years after the recording of the tax deed.

Section amended 1997.

[Wis. Stat. § 75.29 \(2019\)](#)

Taxing Authorities, Wisconsin, Appeals

Limitation Period

An action brought by the taxpayer to recover possession of real property conveyed by deed for the nonpayment of taxes or to avoid the deed generally must be brought within three years after the recording of the tax deed. However, this limitation period does not apply unless:

- the original owner failed to pay or redeem all of the taxes levied on the lands from the time of the levy of the tax for the nonpayment of which the tax deed was issued to the time of the recording of the tax deed; and
- the grantee in the tax deed has paid or redeemed all of the taxes levied on the lands for the three years after the recording of the tax deed.

The above limitation does not apply if:

- the taxes were paid before the land was included in the tax certificate;
- the land was redeemed as provided by law;
- the land was exempt from taxation; or
- a single tax deed has been issued and the original owner has, before the tax deed was issued, paid all taxes levied against the land for the three years after the year for which the land was returned delinquent and sold.

Actions for Improper Notice

The former owner may not bring an action based on the invalidity of any tax certificate or tax deed due to the failure of the county treasurer to give proper notice, as required by § 74.59, unless he or she deposits with the clerk of circuit court, at the time the action is brought, an amount equal to either:

- the full amount of all delinquent taxes currently outstanding against the property, plus interest and penalties; or
- if the county has taken a tax deed, the full amount payable.

Action by Original Owner if Deed is Void

The original owner may not bring an action for the recovery of lands purporting to be conveyed for the nonpayment of taxes by a deed void on its face more than five years from the date of the recording of the tax deed, if the grantee has:

- taken actual possession of the land within two years after the recording of the tax deed; and
- "actually and continuously maintained possession of the lands to the end" of the five-year period.

Other Actions

Certain actions, such as those to set aside the inclusion of land in a tax certificate for the nonpayment of taxes or to cancel any tax certificate for an assessment error that affects "the groundwork of such tax," must be brought within one year from the date of issuance of the tax certificate. In those actions, the plaintiff must pay into the court the amount for which the land is delinquent, plus interest.

Public Lands

The original owner may not bring or maintain an action to recover possession of or involving title to any lands conveyed to the state, unless the person has paid into the county treasury all taxes levied

and assessed on the lands from the date of the sale by the state, plus all legal charges and interest.

Section 75.285 amended 1987; § 74.51 enacted 1987; § 75.27 enacted 1991; § 75.28 amended 2017; §§ 75.29 and 75.30 enacted 1997; § 75.61 amended 1999; § 75.63 amended 2005.

[Wis. Stat. §§ 74.51; 75.27, .28, .285, .29, .30, .61, .63 \(2019\)](#)

Wyoming

Lenders, Wyoming, Foreclosure Type

Judicial and non-judicial.

Lenders, Wyoming, Preconditions to Foreclosure

Judicial

No specific pre-foreclosure requirements were located. Generally, when a mortgage is foreclosed, the court must order a sale of the premises. The decree directing the sale is sufficient warrant for the sheriff to advertise and conduct the sale. Neither an order of sale issued by the court nor an appraisal are necessary.

The notice must state:

- the names of the plaintiff and defendant in the action;
- the time and place of the sale;
- a property description; and
- the statement, "The property being foreclosed upon may be subject to other liens and encumbrances that will not be extinguished at the sale and any prospective purchaser should research the status of title before submitting a bid."

Upon the sale of the premises, a purchaser has a limited right of entry to ensure the property does not significantly deteriorate during the full redemption period. "Limited right of entry" means entrance into the premises which is not occupied by a legal inhabitant.

Non-judicial

Power of sale

A non-judicial foreclosure is available to mortgages containing a power of sale.

Timing

A real estate mortgage containing a power of sale upon default may be foreclosed by advertisement within 10 years after

- the maturing of the mortgage or the debt it secures; or
- the recording date.

Prerequisites

Before a party gives a notice for a foreclosure by advertisement,

- some default of the mortgage must have occurred, causing the power to sell to become operative;

- no suit or proceeding may have been instituted to recover the debt secured by the mortgage, any such suit has been discontinued, or an execution on the judgment rendered in the suit was returned unsatisfied in whole or in part;
- the mortgage containing the power of sale must have been duly recorded;
- if the mortgage has been assigned, all assignments must have been recorded; and
- written notice of intent to foreclose the mortgage by advertisement must have been served.

Notice of intent to foreclose

Written notice of intent to foreclose a mortgage by advertisement must be served on the record owner and the person in possession of the mortgaged premises, if different than the record owner. The notice must be served by certified mail with return receipt, mailed to the last known address, at least 10 days before commencing publication of the notice of sale.

Notice of trustee's sale

A notice of a trustee's sale under a deed of trust must contain:

- the time and place of the sale;
- the names of the parties to the deed;
- the deed's date;
- recording information;

- a property description;
- the names of the persons secured or indemnified by the deed;
- the amount secured and when payable;
- the amount of any credits; and
- the amount of the principal and interest due and unpaid.

This notice of sale is "in every case . . . the same as the notice provided in W.S. 34-4-104," which is the notice that a mortgage will be foreclosed by a sale of mortgaged premises, described above.

Notice of intent to foreclose

Written notice of the intent to foreclose and sell must be served on the record owner and the person in possession of the mortgaged premises if different than the record owner, by certified mail with return receipt. The notice must be mailed at least 10 days before the first publication of the notice of sale.

Sections 34-3-102, 34-3-103, and 34-4-101 amended 1957; § 34-4-102 amended 1971; § 1-18-111 amended 2019; § 1-18-101 amended 2005; § 34-4-103 amended 2006.

Wyo. Stat. §§ 1-18-101, -111 (as amended by [2019 Wyo. Laws ch. 183 \(H.B. 290\)](#)); 34-3-102, -103; 34-4-101, -102, -103 (LexisNexis 2020)

Lenders, Wyoming, Public Notice and Posting Requirements

Judicial

The time and place of the sale must be advertised for four consecutive weeks in a legal newspaper of general circulation in the county in which the property is located.

Non-judicial

Notice of sale

Before publication of a notice of sale, a copy of the notice must be served by certified mail with return receipt requested upon the following, in addition to the record owner of the property:

- the person in possession of premises, if different than the record owner; and
- all holders of recorded subordinate mortgages and liens that appear of record at least 25 days before the scheduled foreclosure sale.

Notice of the sale must be published for four consecutive weeks, at least once each week, in a newspaper printed in the county in which the property is located. If no newspaper is printed in that county, notice must be published in a paper printed in the state and of general circulation in the county.

The notice must include:

- the names of the mortgagor, the mortgagee, and any assignees;
- the date of the mortgage and when recorded;
- the amount claimed to be due;

- a description of the mortgaged premises;
- the time and place of the sale; and
- the statement, "The property being foreclosed upon may be subject to other liens and encumbrances that will not be extinguished at the sale and any prospective purchaser should research the status of title before submitting a bid."

Sections amended 2005.

Wyo. Stat. §§ 1-18-101; 34-4-104, -105 (LexisNexis 2020)

Lenders, Wyoming, Preconditions to Eviction

Judicial

An action for forcible entry and detainer may be brought when the mortgagee is in possession of the property at the time the decree ordering the sale is made. Notice to quit must be served at least three days before the action is brought.

Generally, the mortgagor or owner is entitled to possess the lands sold and to receive rents and profits for three months after the sale. If the property is agricultural property, the mortgagor or owner is entitled to possess the lands sold and to receive the rents and profits for 12 months after the sale. At the expiration of that three- or 12-month period, as applicable, the purchaser is entitled to possession and the rents and profits until redemption.

Non-judicial

An action for forcible entry and detainer may be brought when real estate has been sold under a power of sale and the purchaser or the purchaser's assignee demands possession. Notice to quit must be served at least three days before the action is brought.

Section 1-21-1002 amended 2005; § 1-21-1003 amended 1977; § 1-18-104 amended 2011.

Wyo. Stat. §§ 1-18-104; -21-1002, -1003 (LexisNexis 2020)

Lenders, Wyoming, Appeals

Judicial

Appeal

No specific provisions for objection or appeal were located. However, as a general rule, an appeal in a civil action must be filed within 30 days of the entry of the order.

Sale scheduling

The sale must be held between 10 a.m. and 5 p.m. on the date ordered for the sale.

Non-judicial

Appeal

No specific provisions for objecting to a sale were located.

Sale scheduling

The sale must be held between 10 a.m. and 5 p.m. on the date set out in the notice of sale. The sale must be postponed if the foreclosing lienor is not present at the sale or has not previously waived in writing its right to appear and bid at the sale. A foreclosure sale may also be postponed by

inserting a notice of the postponement as soon as practicable in the newspaper in which the original advertisement was published and continuing the publication until the new sale date. The original advertisement must have been published at least once a week for four consecutive weeks, and the notice of postponement must be published at least once a week for two consecutive weeks.

Redemption

Generally, a person whose real property has been sold by execution, decree of foreclosure, or foreclosure by advertisement and sale may redeem the real estate within three months from the sale date. In the case of a mortgage on one or more real estate parcels, any of which were *agricultural* real estate on the date the mortgage was executed, the redemption period is 12 months from the sale date. "Agricultural real estate" is any single parcel of land greater than 80 acres that is outside the boundaries of an incorporated city, town, or recorded subdivision, or or any property that is used substantially for agricultural purposes, which, if combined with other property in the mortgage that is used substantially for agricultural purposes, equals 80 acres or more in aggregate.

Sections 1-18-101, 34-4-106, 34-4-108, and 34-4-109 amended 2005; § 1-18-103 amended 2019; rule 2.01 amended 2017.

Wyo. Stat. §§ 1-18-101, -103 (amended by [2019 Wyo. Laws ch. 183 \(H.B. 290\)](#)); 34-4-106, -108, -109 (LexisNexis 2020); [Wyo. R. App. P. 2.01](#)

Taxing Authorities, Wyoming, Foreclosure Type

Judicial and non-judicial.

Taxing Authorities, Wyoming, Preconditions to Foreclosure

Delinquency

Each year, the county treasurer must declare taxes remaining unpaid on May 11 delinquent and, before May 21, must certify a list of delinquent taxes and taxpayers. After certification of the list, the treasurer must demand payment of all delinquent taxes on the list. If they remain unpaid, the treasurer must levy distress against the taxpayer's real or personal property.

Notices of Sale

When the county treasurer collects taxes by sale of real property, he or she must advertise notice of the sale by publication. See *Public Notice and Posting Requirements* for additional information regarding publication requirements.

Sale Requirements

Real property sales must be held at the county courthouse or another county building between 9:00 a.m. and 5:00 p.m., Sundays excluded. The sale may be adjourned from day-to-day until all lands are sold.

Certificates of Purchase

Following completion of the sale, the county treasurer must sign and deliver a certificate of purchase to the purchaser, or to the county if the property was bid in for the county because it could not otherwise be sold. The original purchaser may assign by endorsement certificates of purchase. The county commissioners may sell and assign any certificates the county holds at any time at public or private sale.

Holders of certificates of purchase may apply for tax deeds pursuant to the procedure described in *Public Notice and Posting Requirements*. Real property sold for delinquent taxes may be redeemed after the date of sale but before a valid tax deed application has been filed and accepted by the county treasurer. A mortgagee or a purchaser of real property at a mortgage foreclosure sale has the right to partially redeem a certificate of purchase as to the portion of the property in which the mortgagee or purchaser holds an interest.

Tax Deed to County

Following four years after the date of sale, the county treasurer must issue and record a tax deed to the county conveying real property for which the county holds unredeemed certificates of purchase. At least 60 days before executing the deed, the county clerk must provide notice, by personal service or registered or certified letter, to the person in whose name the property was assessed and mortgagees, if any, that a tax deed will be made.

Application for Tax Deed by Non-County Purchaser

The county treasurer must accept applications and issue tax deeds for unredeemed real property subject to a certificate of purchase not less than four years nor more than six years from the date of the original sale for taxes. A tax deed will issue upon proper application, return of the certificate of purchase, payment of fees and proof:

- that at least three months before the application, notice was served on each person in actual possession or occupancy of the property and the person in whose name the property was taxed or assessed, if upon diligent inquiry the persons can be found in the county;
- if no person is in actual possession or occupancy of the property and if the person in whose name it was taxed or assessed cannot be found in the county, that notice was properly published; and
- that notice was sent by certified or registered mail to the record owner and mortgagees, if any, if their addresses are known or disclosed by the public records.

The notice must state, among other information, when the time for redemption expires and when application for a tax deed will be made.

Mineral Production Liens

All taxes, fees, penalties, and interest imposed on mineral production are an automatic and continuing lien in favor of the county in which the mineral was produced. On or after January 1, 2021, the county lien is perpetual against all persons, excluding the United States and the State of Wyoming, and attaches and is perfected immediately upon production of the mineral subject to all prior existing liens. The lien is generally on all of the delinquent taxpayer's property in the county. The lien is also a lien on all of the delinquent taxpayer's interests in the mineral estate from which the production was severed.

On or after January 1, 2021, a county lien arising is superior and paramount to all other liens, claims, mortgages or any other encumbrance of any kind except as provided above and the lien survives foreclosure actions until paid in full or until released by the lienholder. Generally any lien related to mineral production before January 1, 2021 is superior and paramount to all other liens, claims, mortgages or any other encumbrance of any kind held by any person except a lien, claim, mortgage or other encumbrance of record held by a bona fide creditor and properly perfected, filed or recorded under Wyoming law prior to the filing of a lien, if the county fails to:

- not later than 90 days after the date the tax became delinquent or was billed, whichever is later, provide notice of delinquent taxes due by certified mail to any bona fide creditor that holds a properly perfected, filed or recorded lien and that provided a copy of its properly perfected, filed or recorded lien to the county treasurer; and
- not later than 120 days after the date the tax became delinquent or was billed, whichever is later, file its lien.

One notice of a tax lien is sufficient to cover all taxes, together with interest, fees, and penalties, of the same nature that may accrue after the notice was filed.

Helium

The state's real property tax foreclosure procedures described above apply to taxes assessed on

- any person producing helium; or
- to the extent of his or her interest ownership, any person owning or producing an interest in the helium, by lease or other contract right.

Sections 39-13-112 enacted 2009; § 39-13-109 amended 2015; §§ 39-13-107 and 39-13-108 amended 2019.

Taxing Authorities, Wyoming, Public Notice and Posting Requirements

Nonjudicial

Application for Tax Deed by Non-County Purchaser

The county treasurer must accept applications and issue tax deeds for unredeemed real property subject to a certificate of purchase not less than four years nor more than six years from the date of the original sale for taxes. If no person is in actual possession or occupancy of the property and if the person in whose name it was taxed or assessed cannot be found in the county, the treasurer must publish notice in a newspaper printed in the county. If no such newspaper exists, then the notice must be published in a newspaper printed in Wyoming nearest to the county seat of the county in which the property is located. The notice must be published once a week for three weeks, with the first publication no more than five months and the last publication no less than three months before the application.

The notice must state, among other information, when the redemption period expires and when application for a tax deed will be made.

Notices of Sale

When the county treasurer collects taxes by sale of real property, he or she must advertise notice of the sale by publication. The notice must be published once a week for three weeks in a legal newspaper in the county. The first publication must be at least four weeks before the day of sale and before the first week in September. If there is no legal newspaper in the county, the treasurer must post a written notice of the sale at least 30 days before the sale date within and near the front door of the courthouse and in three public places in the county in which the major portion of the property is located.

If the same individual or entity has more than one piece of real property located in the same school assessed to it, all such property must be advertised and appear under one insertion of that person or entity's name.

Judicial

A person or political subdivision holding a certificate of purchase or tax deed issued for delinquent taxes has a lien against the real property that is the subject of the certificate or deed to the extent of taxes, costs, penalties, interest, and value of improvements made by the lienholder or his assigns while in possession of the premises. The lien may be enforced in the district court in the county where the property is located in an action conducted in a manner similar to foreclosure of mortgages and sales thereunder.

The decree may contain an order of sale directing the sheriff to advertise and sell the real property without appraisal and make a return of the proceedings within 60 days. Upon the court's confirmation of the sale, the sheriff must execute a deed conveying the property's title to the purchaser in fee simple, subject only to the rights of lienholders from junior tax sales. Any person with an interest in the property may redeem prior to confirmation by the court by paying all sums owing the lienholder.

Section amended 2019.

Wyo. Stat. § 39-13-108(d), (e) (LexisNexis 2020)

[Taxing Authorities, Wyoming, Preconditions to Eviction](#)

Possession Rights

A grantee of a tax deed or a county commissioner's deed, and his or her successors in title, are entitled to possession of the property conveyed by the deed.

Ejectment

No provisions specifically applicable to eviction under the tax foreclosure laws were located. However, see Wyo. Stat. § 1-32-201 *et seq.* (2018) for ejectment actions in general.

Section amended 2019.

Wyo. Stat. § 39-13-108(e)(vii)(B) (LexisNexis 2020)

Taxing Authorities, Wyoming, Appeals

Action for Recovery of Property

An action for the recovery of real property sold for the nonpayment of taxes must be brought within six years after the date of sale for taxes.

No irregularity or informality in the advertisement of sale affects the legality of the sale or the title to any real property conveyed by a subsequent treasurer's tax deed. The burden of proof is on any person seeking to invalidate title conveyed by a tax or county commissioner's deed in any action in a Wyoming court.

Redemption

Real property sold for delinquent taxes may be redeemed by the legal owner after the date of sale but before a valid tax deed application has been filed and accepted by the county treasurer. The redeeming party must pay the following amounts, excluding attorney's fees, before being entitled to a certificate of redemption:

- the amount for which the property was sold at the tax sale;
- three percent of that amount;
- interest;
- actual expenses, not to exceed \$250, incurred by the certificate holder if redemption occurs after the holder has given notice of his intent to apply for a treasurer's deed.

Section 39-13-110 enacted 1998; § 39-13-108 amended 2019; § 39-13-109 amended 2015.

Wyo. Stat. §§ 39-13-108(e)(vii), -109(e), -110 (LexisNexis 2020)