

Foreclosure, Residential Procedures - By Jurisdiction

Executive Summary

RESIDENTIAL 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 Of the remaining jurisdictions, only the District of Columbia, which repealed its judicial foreclosure procedure statutes in 2002, allows for exclusively non-judicial lender foreclosures.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;
- Hawaii legislation clarified that a condominium association may foreclose its lien by nonjudicial foreclosure regardless of whether association documents provide a power of sale;
- 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;
- Montana amended its tax lien foreclosure laws for residential properties;
- 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.

Notice regarding redemption (§ 6-5-248)

Effective January 1, 2016, a mortgagee who forecloses residential property on which a homestead exemption was claimed in the tax year during which the sale occurred must give the mortgagor notice regarding redemption as set forth in § 6-5-248(h). This notice must:

- be mailed to the mortgagor at the property's address at least 30 days before the foreclosure date by certified mail with proof of mailing; and
- be included in the notice required by § 35-10-13.

For foreclosed residential property on which a homestead exemption was claimed in the tax year during which the sale occurred, the redemption period does not begin until this notice is given, but in no case may a right of redemption be exercised later than one year after the date of foreclosure.

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; § 6-5-248 amended 2018.

[Ala. Code §§ 6-5-248; 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

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.

Section amended 1940.

[Ala. Code § 6-6-280 \(2019\)](#)

Lenders, Alabama, Appeals

Judicial

Sale scheduling (§ 6-9-86)

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

Appeals (Ala. R. Civ. App. P. 4)

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.

Redemption (§ 6-5-248(b))

Effective January 1, 2016, the redemption period is:

- 180 days from the sale date for residential property on which a homestead exemption was claimed in the tax year during which the sale occurred; and
- one year from the sale date for all other property.

Notice regarding redemption (§ 6-5-248(h))

A defective redemption notice, or the failure to give the notice, does not affect a foreclosure's validity, including the transfer of title to the property. All actions related to the notice requirement must be brought within one year after the foreclosure date.

Non-judicial

Sale scheduling (§ 35-10-14)

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.

Ala. Code § 6-9-86 amended 1940; § 35-10-14 added 1988; § 6-5-248 amended 2018; Ala. R. Civ. App. P. 4 amended 2008.

[Ala. Code §§ 6-5-248, 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

Recordation in "Book of Lands"

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

Notice to Taxpayer

Such 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 agent, by leaving a copy at the residence or place of business of such party or his agent, or by 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 tax collector of the county.

If the party against whom the tax assessment was made has since 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), or a public officer, receiver, or appointee of any court, notice must be served not only on that party or his 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 ten days before the commencement of the next term, 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, 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 door of the courthouse, 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 ten days after sale, the tax collector must make a report of each sale to the probate court and seek confirmation thereof. If after five days no objections have been filed, or if in the opinion of the court the objections are insufficient and it appears to the court that 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 to 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 named property.

If the municipality is not able to identify the interested parties, or is not able 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 therein, 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 or, if no newspaper is published therein, by posting the notice at the county courthouse for three weeks.

"Owner Unknown"

When the owner is unknown, notice must be given by publication once a week for three successive weeks in a newspaper published in the county or, if no newspaper is published therein, 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 for three consecutive weeks, so 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 day of sale, notice must be posted at the courthouse and at some public place in the precinct in which the real estate is situated, describing such portions of the property as are embraced in each decree, and stating the amount for which each decree was rendered and the person against whom the taxes were assessed or, if assessed to "owner unknown," stating that fact.

Expedited Actions

In an expedited action 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 the municipality is not able to identify the interested parties' names and addresses, or is not able to provide the required notice to the interested parties, the municipality must apply to the circuit court for an order to allow notice by publication. If the court orders notice by publication, 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 an 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 enacted in 2010 that apply to foreclosures against a parcel of tax sale property that Class 2 municipalities (Mobile) purchased from the State Land Commissioner, see [Ala. Code § 11-70-1 et seq.](#)

Sections 40-10-4, 40-10-5, and 40-10-12 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, -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, -120.

Section 40-10-74 amended 1940; § 40-10-75 amended 2009; § 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 an 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 subject parcel; and
- post a bond in the amount due to redeem the property.

The appeal stays the circuit court's order with respect to each identified subject parcel. 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 \(2018\)](#)

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 \(2018\)](#)

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 states the names of the parties, 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 enacted 2010; § 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 against a person in possession of property without a lease agreement or written consent of the property owner following service of a written notice to quit. In such cases, there is no length of time set out for the notice, and an action for possession may be commenced immediately after the occupation is deemed illegal.

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.

[Alaska Stat. §§ 09.45.090, .110; 34.20.090 \(2019\)](#)

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. However, a court action may be brought to enjoin a foreclosure sale if the complainant is the trustor of the deed of trust, a guarantor of the obligation secured by the real property, a person with a recorded interest in the real property, an heir to the real property, a devisee of the real property, or the attorney general acting under other legal authority.

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; § 34.020.070 amended 2010; rule amended 2017.

[Alaska Stat. §§ 09.35.150; 34.20.070\(l\) \(2019\); 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 ten 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 thirty 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 thirty days.

Redemption Period Expiration Notice

At least thirty days before the expiration of the redemption period, the clerk must publish a redemption period expiration notice. The notice must contain the date of judgment, the date of expiration, and a warning that all properties ordered sold under the judgment, unless redeemed, will be deeded to the municipality immediately upon expiration of the period of redemption, 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 judgment of foreclosure has been entered and, if the assessed value of the property 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 right of redemption expires thirty 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 Rights

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.

Sections 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 of transfer of the property to the municipality, a person may pay the taxes, penalty, interest, and costs, and the payment must then 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 thirty days before the expiration of the redemption period, the clerk must provide notice as set forth under *Public Notice and Posting Requirements*. The right of redemption expires thirty 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:

- interest not to exceed 15 percent a year from the date of entry of the judgment of foreclosure to the date of repurchase;
- 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.

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 in bold-faced and capitalized type:

"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 33-808 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 day of sale in three public places in the county, one of which shall 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 date of sale 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 in 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 date of publication may not be less than 10 days prior to the date of sale.

For multifamily residential property with fewer than four connected units, if the owner receives a first notice of a trustee's sale or other notice of foreclosure on a property after a tenant has entered into a rental agreement, the owner must provide the tenant with written notice within five business days.

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

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 date of the judgment.

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.

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 2019.

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

Taxing Authorities, Arizona, Foreclosure Type

Judicial and non-judicial foreclosure of tax liens is available.

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 written notice to the last known address of each person or firm that owes delinquent taxes 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, he 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 no more bids are offered by purchasers. 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

Beginning three years after the sale of a tax lien, but not later than ten 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 to the action.

At least 30 days before filing the action, but not 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:

(1) the property owner of record according to the records of the county recorder in the county in which the property is located, or to all the following:

(a) the property owner according to the records of the county assessor in the county in which the property is located,

(b) the situs address of the property, if shown on the tax roll and different from the owner's address under (a), and

(c) the tax bill mailing address according to the records of the county treasurer in the county in which the property is located, if that address is different from the addresses under (a) and (b); and

(2) the treasurer of the county in which the real property is located.

Additional provisions apply to partial payments under § 42-18056(C). The county treasurer may not accept partial payments after the treasurer receives a notice of action to foreclose the right to redeem.

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 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, 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 include the last date for redeeming the property.

Sections 42-18101, 42-18103, 42-18108, and 42-18113 enacted 1997; § 42-18112 amended 2019; §§ 42-18261 and 42-18264 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 date of the sale, the county treasurer must post a copy of the list of delinquent property and notice of tax lien sale near the outer door of his 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 ten 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 the last date for redeeming the property.

If the property is in an incorporated city or town, and it 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, stating that "this property is subject to foreclosure for delinquent taxes" and giving 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 a treasurer's deed conveying to the state the real

property that was assigned at the tax sale. The board of supervisors may then sell such 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 date of the sale and by 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 \(2018\)](#)

Taxing Authorities, Arizona, Preconditions to Eviction

If real property that is held by the state by tax deed is improved and occupied adversely to the title of the state, 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

A tax lien may be *fully* redeemed at any time:

- 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 thereby foreclosed 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.

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 beneficiary 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 prior to the sale.

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 last amended 1947; § 18-49-104 amended 1997; § 18-50-105 amended 2001; §§ 18-50-103 and 18-50-104 amended 2011.

Ark. Code §§ 16-59-101; 18-49-104; 18-50-103, -104, -105 (LexisNexis 2020)

Lenders, Arkansas, Preconditions to Eviction

Judicial

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.

Non-judicial

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; § 18-50-107 amended 2011.

Ark. Code §§ 18-50-107, -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 date of the judgment.

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 conducted 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.

Tax-delinquent lands may not 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, and, 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 below, indicating all taxes, penalties, interest, and costs due and the name and last known address of the tax-delinquent land's owner of record.

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

Generally, tax-delinquent sales must be held in the county where 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 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 ten 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.

Section 26-37-101 amended 2013; § 26-37-202 amended 2017.

Ark. Code §§ 26-37-101, -202 (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 with general circulation in the county where the land is located. The notice must include:

- the assessed value of the land;
- the amount of taxes, interest, penalties, and other costs due on the land;

- the owner's name, the legal description, and the land's 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 unless an owner or interested party did not receive the notice required by Ark. Code § 26-37-301. Only an owner or interested party that did not receive the notice required by Ark. Code § 26-37-301 may challenge the validity of the publication notice.

Notice of Right to Redeem

The county collector in each county must, not less than 30 nor more than 40 days before the certification of the land 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 amount of the taxes, penalties, interest, and cost necessary to be paid to redeem the property;
- the date upon which such period of redemption expires; 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

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 the possession of the premises.

Section enacted 1947.

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

Taxing Authorities, Arkansas, Appeals

Right to Redeem Before and After Sale

Upon 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 the 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 tax-delinquent land 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 tax-delinquent land is certified to the Commissioner.

If the Commissioner receives no proof that the notice sent by certified mail was received by the owner of a *homestead*, the Commissioner must provide actual notice to the owner by personal service of process at least 60 days before the sale date.

If an owner of a homestead did not receive actual notice of the sale of his or her homestead by the Commissioner of State Lands by personal service of process at least 60 days before the sale date, the homestead's owner may redeem the land by tendering all taxes, penalties, interests, and costs within 10 days, excluding weekends and legal holidays, *after* the sale date.

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 a time of war 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.

No deed issued by the Commissioner of State Lands is void or voidable on the ground that the county did not strictly comply with the laws governing tax-delinquent land. However, the law does not prevent a taxpayer from contesting a deed issued by the Commissioner on the ground that taxes have actually been paid.

The validity of a notice required by Ark. Code § 26-37-301 may be challenged only by an owner or interested party of tax-delinquent land that did *not* receive notice in substantial compliance with § 26-37-301.

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 26-37-302 amended 2019; §§ 18-12-609, 26-37-203, 26-37-204, and 26-37-315 amended 2015; 26-37-301 amended 2019.

Ark. Code §§ 18-12-609; 26-37-203, -204, -301, -302, -315 (LexisNexis 2020)

California

Lenders, California, Foreclosure Type

Judicial and non-judicial.

Lenders, California, Preconditions to Foreclosure

Judicial

No preconditions specific to judicial foreclosure were located.

Non-judicial

Before a power of sale may be exercised, notice of the default must be recorded and sent to the borrower. Notice of the sale must also be sent to any person who records a request to receive such notice. Generally, notice may not be recorded until at least 30 days after the borrower has been contacted regarding his or her financial situation and options for avoiding foreclosure, or efforts have been made to contact the borrower.

With respect to residential real property with no more than four dwelling units, a mortgagee, trustee, beneficiary, or authorized agent must provide to the mortgagor or trustor a summary of

the required notice in English and five specified languages. The summary must be attached to a copy of the recorded notice of default and a copy of the notice of sale. The notice of default and notice of sale must also include a statement, in English and five specified languages, that a summary of the key provisions in English and five specified languages is attached. The attached summaries need not be recorded or published.

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.

Foreclosure Alternative Requirements

The following is a brief summary of requirements related to foreclosure alternatives. See *Foreclosure, Alternatives: California: Required Alternative or Preconditions* for a more detailed description of each section.

Pre-default Workout of Delinquencies (§ 2923.5)

Cal. Civ. Code § 2923.5 requires mortgagees and homeowners to try to work out delinquencies before the mortgagee begins foreclosure. Section 2923.5 applies to first lien mortgages or deeds of trust that are secured by owner-occupied residential property containing up to four dwelling units.

Before sending a notice of default, a mortgage servicer must contact the homeowner in person or by telephone to "assess the borrower's financial situation and explore options" for avoiding foreclosure. The mortgage servicer must tell the homeowner that he or she may request a subsequent meeting, which must occur within 14 days, and must give the borrower HUD's toll-free number for finding a housing counselor.

The notice of default cannot be recorded until 30 days after the mortgage servicer contacts the homeowner, and it must include a declaration that the mortgage servicer contacted the borrower or acted with due diligence to contact the borrower, or that no contact was required because the individual did not meet the code's definition of "borrower." The mortgage servicer must also comply with Cal. Civ. Code § 2924.18(1)(a) (if the borrower has provided a complete application) before a notice of default is recorded.

Some exceptions and restrictions apply.

Pre-default Workout of Delinquencies (§ 2923.55)

A mortgage servicer, mortgagee, trustee, beneficiary or authorized agent may not record a notice of default until all the following requirements are satisfied:

- the mortgage servicer has sent the following written information to the borrower: (a) a statement that if the borrower is a servicemember or servicemember's dependent, he or she may be entitled to certain protections under the federal Servicemembers Civil Relief Act; and (b) a statement that the borrower may request copies of the borrower's promissory note or evidence of indebtedness, the deed of trust or mortgage, any assignment, if any, of the borrower's deed of trust or mortgage and a the borrower's payment history since the borrower was last less than 60 days past due;
- either 30 days after the initial contact is made or 30 days after satisfying due diligence requirements; and
- the mortgage servicer complies with § 2923.6(c), if the borrower has provided a completed application.

First-lien loan modification or workout plans (§ 2923.6)

If a borrower submits an application for an offered first lien loan modification, the mortgage servicer, mortgagee, trustee, beneficiary, or authorized agent may not record a notice of default or notice of sale, or conduct a trustee's sale, while the modification application is pending. Also, a mortgage servicer, mortgagee, trustee, beneficiary, or authorized agent may not record a notice of default or a notice of sale or conduct a trustee's sale until specified conditions are met.

Following a denial of a modification application, the mortgage servicer must send a written notice to the borrower identifying the reasons for denial. The notice must include additional information required by statute.

This requirement applies only to mortgages or deeds of trust described in § 2924.15.

Post-modification application procedures (§§ 2924.11)

When a borrower submits a complete first lien modification application, the mortgage servicer must provide written acknowledgment of its receipt within five business days. The acknowledgment must include information specified by statute.

If a foreclosure prevention alternative is approved before a notice of default is recorded, a mortgage servicer, mortgagee, trustee, beneficiary, or authorized agent may not record a notice of default if:

- the borrower complies with the terms of a written trial or permanent loan modification, forbearance, or repayment plan; or
- all parties have approved a foreclosure prevention alternative, and "proof of funds or financing has been provided to the servicer."

If a foreclosure prevention alternative is approved after a notice of default is recorded, a mortgage servicer, mortgagee, trustee, beneficiary, or authorized agent may not record a notice of sale or conduct a trustee's sale if:

- the borrower complies with the terms of a "written trial or permanent loan modification, forbearance, or repayment plan"; or
- all parties have approved a foreclosure prevention alternative, and "proof of funds or financing has been provided to the servicer."

Applicability of above provisions (§ 2924.15)

Cal. Civ. Code §§ 2923.5, 2923.55, 2923.6, 2923.7, 2924.9, 2924.10, 2924.11, and 2924.18 generally apply only to first lien mortgages or deeds of trust that are secured by owner-occupied residential real property containing no more than four dwelling units.

Sections 2923.5 and 2923.6 amended 2018; § 2924 amended 2019; §§ 2924.9, 2924.10, 2924.15, and 2924.18 amended 2018; § 2924b amended 2013; § 2923.3 amended 2015; § 2923.7 repealed 2018 § 2924.11 enacted 2018.

[Cal. Civ. Code §§ 2923.3, .5, .6; 2924; 2924b; 2924.11; 2924.15 \(2019\)](#)

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.

Sale

Notice of the 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. Not less than 20 days before the date of sale, notice of the sale must be served on the mortgagee personally or by mail. 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 seat of 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 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 public notice district in which the property is situated. The first publication must be at least 20 days prior to the date of the sale. Not 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 date of sale. 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 the sale must be posted at least 20 days before the date of sale in one public place in the city or the judicial 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 date of sale, where possible and where not restricted for any reason. The first newspaper publication must be at least 20 days before the date of sale.

A notice of sale given pursuant to a deed of trust or mortgage secured by real property with one to four single-family residences must contain language notifying potential bidders of specified risks involved in bidding on property at a trustee's sale. It must also contain a notice to the property owner informing the owner of how to obtain information regarding any postponement of the sale. 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."

Section 701.545 enacted 1982; § 405.2 enacted 1992; §§ 2924f and 701.540 amended 2016.

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

Lenders, California, Preconditions to Eviction

No specifically applicable provisions were located. 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. See [Cal. Code Civ. Proc. §§ 740-749.5 \(2019\)](#).

A tenant or subtenant who possesses a rental housing unit under a month-to-month lease at the time that property is sold in foreclosure must be provided 90 days' written notice to quit before he or she may be removed from the property. A tenant or subtenant who possesses a rental housing unit under a fixed-term residential lease entered into before the transfer of title at a foreclosure sale may possess the premises until the end of the lease term, unless:

- the purchaser will occupy the housing unit as a primary residence;
- the lessee is the mortgagor or the mortgagor's child, spouse, or parent;

- the lease was not the result of an arms' length transaction; or
- the lease requires the receipt of rent that is "substantially less" than the property's fair market rent, unless the rent is reduced or subsidized by a governmental subsidy or law.

If any of these exceptions apply, the tenancy may be terminated upon 90 days' written notice to quit.

Sections amended 2019.

[Cal. Civ. Proc. Code § 1161c \(2019\)](#)

Lenders, California, Appeals

Judicial

Appeal

No specific provisions for objections to a judicial foreclosure were located. Generally, appeals must be filed within 60 days of the service or filing of a notice of entry of judgment, or 180 days after entry of judgment.

Sale scheduling

Notice of the sale may not be given until 120 days after service of the notice of the levy on the mortgagor.

Non-judicial

Appeal

No provisions for post-sale objection were located.

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. Once notice has been made as provided, there are no additional time limitations.

Section 701.545 enacted 1982; § 2924g amended 2005; rule amended 2017.

[Cal. Civ. Code § 2924g](#); [Cal. Civ. Proc. Code § 701.545 \(2019\)](#); [Cal. Ct. R. 8.104](#)

Taxing Authorities, California, Foreclosure Type

Non-judicial.

Taxing Authorities, California, Preconditions to Foreclosure

Five years or more after a property has become tax defaulted, or three years or more in the case of property suitable for use as low-income housing, the tax collector must attempt to sell all or any portion of the property that has not been redeemed. The tax collector must publish a list of tax-defaulted properties and a notice of power and intent to sell all eligible tax-defaulted properties as described in *Public Notice and Posting Requirements*.

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 collector 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 power of sale, and at least once every six years thereafter should no suitable bids be received.

Not less than 45 days 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, specifying 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 date of the proposed sale, and information concerning interested parties' rights to claim proceeds from the sale.

If the property to be sold is the primary residence of the last known assessee, the collector must also make a reasonable effort to personally contact the owner-occupant not more than 120 days nor less than 10 days before the date of the sale to inform him or her that the property, if not redeemed, shall be offered for sale at a public auction and of his or her redemption rights. 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.

Sections 3366 and 4101 amended 1984; § 3706 amended 1986; § 3365 amended 2018; § 3701 amended 2018; § 3692 enacted 2004; § 3691 amended 2018; § 3704.7 amended 2018.

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

Taxing Authorities, California, Public Notice and Posting Requirements

Public Notice of Impending Default

Annually, on or before June 8, the tax collector shall publish three times on no less than five-day intervals in a newspaper of general circulation, 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. If no newspaper or general circulation is available, 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 shall only include properties that are more than three years delinquent. The notice must show:

- that unless paid, the taxes will be in default;
- when the default will occur;

- that, if in default, the real property may be redeemed by payment of the amount of defaulted taxes with penalties and fees, or under an installment plan; and
- that a publication of a detailed listing of all defaulted properties will be initiated on or before September 30, unless redeemed.

Annually, on or before September 8, the tax collector must publish three times on no less than five-day intervals in a newspaper or general circulation, the affidavit that the property is in default, together with a list of those properties. However, in any county that mails delinquent notices to the assesses of record before June 30, the tax collector shall publish the affidavit and list of all that real property on or before September 8 of the year following the date of default. If the collector sends reminder notices before the end of the fiscal year and annually sends a redemption notice of prior-year due taxes, this delinquent notice shall 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 under an installment plan of redemption;
- the official who will furnish all redemption information;
- the name of the assessee;
- a description of the property; and
- the total amount necessary to redeem the property.

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

Public Notice of Power of Sale

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

- the date of the notice;

- that on July 1, five years or more will have elapsed since the property became in tax default or three or more years have elapsed since the property became in tax default in the case of residential real property that could serve as low-income housing;

- that, unless redeemed in full or by installment plan, the property will be sold;

- that the power to sell the property arises at 12:01 a.m. on July 1;

- that, if sold, the right to redeem the property will terminate;

- the official who will furnish all redemption information;

- the fiscal year for which the defaulted taxes were levied;

- a description of the property;

- the amount necessary to redeem the property;

- the name of the assessee on the current roll; and
- the street address of the property.

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

Public Notice of Intended Sale

The collector shall 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 situated. If there is no newspaper published in the district, notice must be posted in three public places in the county seat. 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;
- a statement that the right of redemption will cease on the last business day before the sale;
- a statement that if excess proceeds result from the sale, interested parties will be notified;

- a statement that if the property remains unsold after the sale, the date, time, and place of a subsequent sale;
- any deposit required to submit a bid; and
- a statement that the right of redemption will revive if full payment of any credit transaction is not received by the close of business on the day of the sale.

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

Section 6063 amended 1959; § 3353 amended 1967; §§ 3363 and 3373 enacted 1967; § 3364 amended 1973; § 3374 amended 1975; § 3351 amended 2004; § 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 §§ 3351–3353, 3361–3364, 3371–3374, 3381, 3384, 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 commence 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.

Lenders, Colorado, Preconditions to Foreclosure

Single point of contact (§ 38-38-103.1)

Effective January 1, 2015, during the first 45 days of a borrower's delinquency, a servicer, unless exempt, must establish a single point of contact for communications with the borrower. Once the single point of contact has been established, the servicer must promptly provide the borrower written notice regarding the direct means of communicating with the single point of contact.

Default notice (§ 38-38-102.5)

If the default on a deed of trust consists solely of a failure to make payments, notice must be sent to the original grantor at least 30 days after default and at least 30 days prior to filing notice of election to foreclose. The notice must:

- give the telephone number of the Colorado foreclosure hotline and of the lender's loss mitigation department; and
- as of January 1, 2015, contain a statement that it is illegal for a foreclosure consultant to charge the borrower an up-front fee for services related to a foreclosure.

Combined notice (§ 38-38-103)

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.

Notice of hearing (§ 38-38-105)

When a public trustee forecloses on a deed of trust the holder of the evidence of indebtedness seeking an order authorizing sale of a residential property must post a notice of hearing as described in Colo. R. Civ. P. 120(b) in a conspicuous place on the property subject to sale. If a person at the residence impedes the posting, the notice may be handed to that person.

Effective January 1, 2015, unless exempt, a servicers' notice must contain or be accompanied by:

- contact information for the Colorado Attorney General's Office and the Federal Consumer Financial Protection Bureau; and
- a statement regarding complaints related to a single point of contact and the prohibition on dual tracking.

Foreclosure deferment program (§ 38-38-808 (repealed))

Colorado's laws that provided an opportunity for foreclosure deferment if the borrower contacted a foreclosure counselor within 20 days were repealed effective September 1, 2015.

Sections 38-38-102.5 amended 2019; § 38-38-105 amended 2014; § 38-38-103.1 enacted 2014; § 38-38-808 repealed 2014, effective 2015; § 38-38-103 amended 2018.

Colo. Rev. Stat. Ann. §§ 38-38-102.5, -103, -103.1, -105 (LexisNexis 2019)

Lenders, Colorado, Public Notice and Posting Requirements

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.

Sale

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 ten 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. 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.

Deed of trust or 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 period of publication is specified in the deed of trust or other lien being foreclosed, once each week for five consecutive weeks. 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.

Notice of hearing

When a public trustee forecloses on a deed of trust the holder of the evidence of indebtedness seeking an order authorizing sale of a residential property must post a notice of hearing as described in Colo. R. Civ. P. 120(b) in a conspicuous place on the property subject to sale. The notice must be posted no later than 14 days before the hearing date. If a person at the residence impedes the posting, the notice may be handed to that person. Effective January 1, 2015, for servicers who are not exempt, the notice must contain or be accompanied by:

- contact information for the Colorado Attorney General's Office and the Federal Consumer Financial Protection Bureau; and
- a statement regarding complaints related to a single point of contact and the prohibition on dual tracking.

Sections 38-35-110 and 38-38-105 amended 2014; §§ 38-38-101 and 38-38-103 amended 2018.

Colo. Rev. Stat. Ann. §§ 38-35-110; 38-38-101, -103, -105 (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.

Section 13-40-104 amended 2019.

Colo. Rev. Stat. Ann. § 13-40-104 (LexisNexis 2019)

[Lenders, Colorado, Appeals](#)

No provisions specifically applicable to appeals 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.

Sale scheduling

For a deed of trust, the sale must be held no less than 110 calendar days nor more than 125 calendar days after the date of recording of the notice of election and demand.

For a mortgage, the sale must be held no less than 110 calendar days after the date of the recording of lis pendens.

Section 38-38-108 amended 2016; rule 4 history unknown.

Colo. Rev. Stat. Ann. § 38-38-108 (LexisNexis 2019); Colo. R. App. P. 4

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

Non-judicial.

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

Notice of Tax Lien & 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, indicating the amount of delinquency and stating that if the delinquency is not paid by the date specified in the notice, which may not be less than fifteen days from the date of mailing, the treasurer will advertise and sell a tax lien on the property at public auction, on the date specified therein, for the delinquent taxes, interest, and applicable fees.

List of Tax Liens

The treasurer must also 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

When the taxes levied for the preceding year or years on any property remain unpaid, the tax liens on such 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 commence the public auction, continuing the auction each week day until the tax liens on each parcel are sold. The public auction must be held at the treasurer's office or 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.

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 such purchase on (1) every person in actual possession or occupancy of the property, (2) the person in whose name the property was taxed, and (3) all persons having an interest or title of record in or to the property. The notice must state when the applicant purchased the tax lien, in whose name the property was taxed, the description of the property, for what year(s) taxes were delinquent, and when the time of redemption will expire or when the deed will be issued.

Section 39-11-104 enacted 1964; § 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. Ann. §§ 39-1-107; -11-101, -103, -104, -108, -115, -128 (LexisNexis 2019)

Taxing Authorities, Colorado, Public Notice and Posting Requirements

Public Lists

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

Notice of Sale

The notice of sale at public auction must contain a description of the property; the date, time, and place of the tax lien sale, including the electronic address if the public auction is conducted by means of the Internet or other electronic medium; if the auction is conducted electronically, the location of computer workstations that are available to the public, and information about how to obtain instructions on accessing the public auction and submitting bids; and, if the auction is conducted electronically, 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 date of sale. 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 date of sale. The treasurer must post a similar written or printed notice in a conspicuous place in the office of the treasurer for not less than four weeks before the date of sale. If no newspaper is published in the county, four weeks' notice on or near the outer door of the treasurer's office will suffice.

Notice of Purchase

After a purchaser of a tax lien at public auction requests a deed to the property, 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, not more than five months nor less than three months before the time at which 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 situated.

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

Colo. Rev. Stat. Ann. §§ 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 for 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 such 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 description of the property, for what year(s) taxes were delinquent, and when the time of redemption 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, on forcible entry and detainer.

Section amended 1996.

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

[Taxing Authorities, Colorado, Appeals](#)

Timing of Sale

The time for remedying a delinquency may not be less than fifteen days from the date of mailing the notice of tax lien and sale. The public auction of tax liens on lands upon which taxes remain delinquent must commence 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 any subsequent day on which it can be held, allowing time for the publication of notice. Real property for which a tax lien is sold may be redeemed in the manner provided by law.

Civil Action

No action for the recovery of land for which a tax deed was issued under the provisions of Article 11 will lie unless it is brought within five years after the execution and delivery of the deed.

Sections 39-11-109 and -110 amended 2005; § 39-11-130 amended 2017.

Colo. Rev. Stat. Ann. §§ 39-11-109, -110, -130 (LexisNexis 2019)

Connecticut

Lenders, Connecticut, Foreclosure Type

Judicial only.

Lenders, Connecticut, Preconditions to Foreclosure

Notice related to foreclosure alternatives

Connecticut has three distinct statutory protections for homeowners facing foreclosure:

- the court-operated mediation program;
- the emergency mortgage assistance program; and

- court restructuring of mortgage debt for unemployed or underemployed homeowners.

The mortgagee has notice obligations in each situation. Before July 1, 2019, in any action for foreclosures of a residential property mortgage with return dates between July 1, 2009, and June 30, 2019, the mortgagee must give the homeowner notice of a mandatory mediation. Before commencing the foreclosure action, the lender must give a homeowner notice that he or she may apply for protection from the foreclosure action and perhaps qualify for a stay of the proceedings. Finally, although a homeowner has 60 days in which (1) to meet with the mortgagee or a consumer credit counseling agency to attempt to resolve the delinquency by restructuring the loan, and (2) to contact the Connecticut Housing Finance Authority to obtain information about, and to apply for, emergency mortgage assistance payments if the parties are unable to resolve the delinquency or default, the burden is on the homeowner to request these protections, effective October 1, 2016. The mortgagee no longer has an affirmative duty to advise the homeowner of the protections.

Where notice of the statutory protections available is required, that notice must be given to the borrower when the foreclosure action is brought. Notice of the availability of foreclosure mediation must be attached to the front of the foreclosure complaint.

See NAR's *Foreclosure, Alternatives* survey for details regarding these preconditions to foreclosure related to foreclosure alternatives.

Vacant property (§ 49-31s)

A mortgagee may file a motion for judgment of foreclosure simultaneously with a motion for default for failure to appear, if the mortgagee proves that the subject real property is not occupied by a mortgagor, a tenant, or another occupant and at least three of the following conditions exist:

- neighbors', delivery persons', or government employees' statements indicate that the property is vacant and abandoned;
- windows or entrances are boarded up or closed off or multiple window panes are damaged;
- doors are broken or continuously unlocked;

- risk to the health, safety, or welfare of the public or any adjoining or adjacent property owner exists because of vandalism, loitering, criminal conduct, or the property's physical destruction;
- an order by municipal authorities declares the property to be "unfit for occupancy" and order it to remain vacant and unoccupied;
- the mortgagee secured or winterized the property because it was deemed vacant and unprotected or in danger of freezing; or
- the mortgagor's or a tenant's written statement expresses "the clear intent of all occupants to abandon the property."

These expedited procedures do not apply if the property has:

- an unoccupied building that is undergoing construction, renovation, or rehabilitation and "proceeding diligently toward completion" in compliance with all applicable ordinances, codes, regulations, and statutes;
- a secure building that is occupied on a seasonal basis; or
- a secure building that is the "subject of a probate action to quiet title or other ownership dispute."

Foreclosure by market sale (§§ 49-24b, -24c, -24d)

If a mortgagee and mortgagor both elect to proceed with further discussions about pursuing a mutually acceptable foreclosure by market sale, the mortgagee must obtain a written appraisal from a licensed appraiser regarding the residential real property's fair market value. As soon as

practicable, the mortgagee must furnish the mortgagor with a copy of the appraisal. If the appraisal indicates that the mortgage would likely be eligible for foreclosure by market sale, the mortgagor and the mortgagee may reach an agreement on mutually acceptable terms and conditions to list the property with a real estate licensee. The listing agreement must require the licensee to report any offer promptly to both the mortgagor and the mortgagee.

Section 49-31s enacted 2013; §§ 49-24c, and 49-24d enacted and amended 2014; §§ 49-24b, 49-31e, and 49-317 amended 2016.

[Conn. Gen. Stat. §§ 49-24b, -24c, -24d, -31e, -31f, -31s \(2019 & Supp. 2020\)](#)

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

On any party's written motion, liens and mortgages affecting real property may be foreclosed:

- by a decree of sale instead of a strict foreclosure at the court's discretion; or
- with respect to first mortgages, by a judgment of foreclosure by market sale upon the mortgagee's written motion and the mortgagor's consent.

No specific provisions relating to scheduling of the sale were located.

Section 49-24 amended 2016; rule amended 2017.

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

Taxing Authorities, Connecticut, Foreclosure Type

Judicial.

Taxing Authorities, Connecticut, Preconditions to Foreclosure

Tax Liens

The interest of each person 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. Such lien exists from the first day of October or other assessment date in the year previous to that in which the tax, or the first installment thereof, became due, until two years after such tax or first installment became due. The lien may be enforced by levy and sale of the real estate.

Continuing Liens

The tax collector of each municipality may elect to continue any tax lien existing against an item of real estate to secure the payment of the tax assessed by the municipality, plus legal interest, fees, and charges, by recording in the office of the town clerk of the town where the real estate is situated a certificate containing the following information: (1) the name of the person against whom the tax appears in the rate bill; (2) a description of the real estate; (3) the principal amount of tax due, the interest, if any, and fees and other charges secured by the lien; (4) the date or dates

when the principal became due; and (5) a statement giving notice of the intention to file a lien against the proceeds of any policy of insurance if loss or damage to the property occurs.

Judicial Foreclosure

The tax collector of any municipality may bring suit for the foreclosure of an undischarged tax lien. The court having jurisdiction of the case 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, the tax collector of any municipality may bring an action in rem to foreclose a tax lien on real estate, the fair market value of which is less than the total amount due, if such amount is not more than \$100,000. No judgment may be rendered in such summary proceedings for the recovery of a personal judgment against the owner of the property.

Summary Foreclosure Process

The tax collector may, not more than twice in 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 in the name of the municipality for the foreclosure of any tax lien, and may include in one petition any number of properties. The petition must be addressed to the court, and must provide a list of the various parcels to be foreclosed; a description sufficient to identify each parcel; the name and address of the owner; the principal tax due thereon; the amount of tax, with interest, fees, and other charges, that is secured by the lien and the date when the principal became due; the name and address of each holder of any interest in, or encumbrance on, the lien property and the nature and amount thereof; and the last day on which such 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 oath of the tax collector that the information contained therein is true to the best of his or her knowledge and belief.

If an appraisal shows that the fair market value of any parcel of property 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, and such 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 1990; § 12-173 amended 2000; §§ 12-182, -183, and -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

When the list of properties subject to summary foreclosure has been marked, the clerk must immediately give notice in writing to the tax collector of that fact and the tax collector must, within one week of receipt of that notice, give notice of the pendency of the petition for foreclosure by causing a copy of the petition, with the withdrawn parcels deleted, to be published at least once in a newspaper having a general circulation in the municipality where the properties listed are located. The tax collector must also, on or before the date of publication, file a copy of such notice in the office of the town clerk of the town in which the property is situated, and such filing has the same force and effect as the filing of 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 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

When the redemption period expires, the court must make a final judgment of the foreclosure of the tax lien on any properties not withdrawn or redeemed and direct that possession of such properties be given to the municipality having the lien thereon. Upon the rendition of that judgment, all persons having any right, title or interest in or to such property are forever barred and foreclosed of their rights therein. The tax collector must sign and file in the office of the town clerk,

for record, a separate certificate of foreclosure 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 having an interest in or encumbrance on any piece of 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, verified under oath, in duplicate, to the proceeding in respect to his or her property, and 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 such 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

Subject to the foreclosure alternative requirements described below, 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.

Foreclosure Alternatives

The following is a brief summary of requirements related to foreclosure alternatives. See *Foreclosure, Alternatives: Delaware: Required Alternative or Preconditions* for a more detailed description of each section.

Loss mitigation affidavits (§ 5062A)

In a mortgage foreclosure action brought under § 5061 on an owner-occupied one- to four-family primary residential property, the borrower generally must have an opportunity to apply for relief under a federal loss mitigation program. A mortgage foreclosure plaintiff may establish that it provided a borrower with the opportunity to apply for mitigation relief if, "for example, the plaintiff provides the defendant with a list of the applicable loss mitigation programs in which the plaintiff participates and instructions for how to initiate an application for each such program, which list and instructions may be included in the notice of intent to foreclose required by § 5062B."

Required notices (§ 5062B)

A notice of intent to foreclose must contain, among other things:

- a statement that "The Delaware Emergency Mortgage Assistance Program (DEMAP) may be able to help to save your home"; and
- a list of approved DEMAP housing counseling agencies and the contact information for each listed agency.

Residential Mortgage Foreclosure Mediation Program (§ 5062C)

Delaware has established an "Automatic Residential Mortgage Foreclosure Mediation Program." The program applies to mortgage foreclosure actions under § 5061 on owner-occupied one- to four-family primary residential properties, unless the mortgage is held by the property's seller who does not hold more than five mortgages.

A notice of foreclosure mediation must accompany the complaint filed in a mortgage foreclosure action subject to § 5062C and notify the mortgagor of the Automatic Residential Mortgage Foreclosure Mediation Program, among other things.

The Superior Court must schedule a mediation conference and issue a mediation scheduling notice to all necessary parties to the action. The mediation conference must be scheduled for a date that is not less than 45, nor more than 75, days from the date the notice of foreclosure mediation was served.

The mortgagor must meet with a HUD-approved housing counselor and file a certificate of participation no more than 30 days from the date the notice of foreclosure mediation was served. The lender and the borrower must appear in person at the mediation conference and must have authority to agree to a proposed settlement, except that the lender's counsel may appear on behalf of the lender if (a) he or she has the authority to agree to a proposed settlement and (b) a representative of the lender who has decision making and settlement authority is available by telephone. The borrower may be accompanied by a housing counselor and may have legal representation.

No judgment may be entered in any action subject to § 5062C for which a mediation conference has been scheduled until the day after the date the mediation conference was scheduled.

Complaints and answers (§ 5062D)

A complaint to foreclose a mortgage subject to chapter 49 must contain a statement as to whether the mortgage foreclosure action is subject to the Automatic Residential Mortgage Foreclosure Mediation Program. If the mortgage is not subject to the program, the complaint must state the reason.

Section 4973 amended 1996; § 5061 amended 2011; § 5062A enacted 2019; § 5062B amended 2013; §§ 5062C, and 5062D amended 2019.

[Del. Code tit. 10, § 5061, 5062A, 5062B, 5062C, 5062D, 4973 \(2020\)](#)

Lenders, Delaware, Public Notice and Posting Requirements

Public notice of the sale must be posted at least 10 days before the day of sale, in 10 of the most public places of the county where the premises are situated. 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 which 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 wherein the property is situated and a newspaper of general or limited circulation published nearest to the place where the property is situated.

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 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, the 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 the payment of 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 the 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 under 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 who have an interest in the property.

General Posting Requirements

It is not clear from the statute whether any other notice, 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](#).

Under those provisions, if they apply, public notice must be provided by posted advertisement at least ten 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 ten 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." Such certificate must be presented to the sheriff before a bidder may be registered to bid at the sale.

The chief financial officer for the county has discretion to approve or disapprove of 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 1995; § 8726 amended 2017; § 4974 amended 2011.

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

Taxing Authorities, Delaware, Preconditions to Eviction

The statutes relating to execution sales do not cover eviction issues. For provisions 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

Notice of sale

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.

Notice of default and intention to foreclose

As a condition of issuing a notice to foreclose a residential mortgage, a foreclosure sale under a power of sale provision may not occur unless the holder of the note secured by the deed of trust, mortgage, or security instrument:

- gives written notice of default by certified mail, postage prepaid, return receipt requested, and by first-class mail, to the borrower and to the person who holds record title at his or her last known address;
- sends a copy of the notice to the Mayor; and

- obtains a mediation certificate.

The holder of a note secured by a deed of trust, mortgage, or security instrument must also give "written notice of the intention to foreclose, by certified mail, postage prepaid, return receipt requested, and by first-class mail, of the sale to the borrower and, if different from the borrower, to the person who holds the title of record, of the real property encumbered by the deed of trust, mortgage, or security instrument at his last known address." This notice must also be sent to the Mayor at least 30 days before the sale date. The notice must be in the form the Mayor prescribes.

The required mediation certificate required by § 42-815(b)(2) and the notice required by § 42-815(c) must be recorded in the District's land records.

Mediation

The District of Columbia provides homeowners the right to engage in mediation before foreclosure. After a lender has given a borrower a notice of default of a residential mortgage, the lender must engage in mediation if the borrower so elects.

Before foreclosing a residential mortgage or deed of trust, a lender must include with the notice of default the following:

- contact information that the borrower may use to reach an agent or representative of the lender with authority to explain the mediation process;
- a statement recommending that the borrower seek housing counseling services;
- contact information for at least one local housing counseling agency approved by H.U.D.;
- a description of all loss mitigation programs available from the lender and applicable to the subject residential mortgage, and a description of their eligibility requirements;

- an application form for the available loss mitigation programs;
- instructions for completing and mailing the loss mitigation application; and
- a mediation election form.

The lender must also provide a copy of the notice of default to the Mediation Administrator.

No later than seven days after the date the lender mails the form, the Mediation Administrator must mail to the borrower the following:

- a statement that the borrower is subject to foreclosure and must take immediate action to avoid foreclosure;
- a statement that the borrower is eligible to participate in foreclosure mediation;
- contact information for the Mediation Administrator and a statement instructing the borrower to contact the Mediation Administrator to obtain additional information;
- a statement recommending that the borrower seek housing counseling services;
- contact information for at least one H.U.D.-approved local housing counseling agency;
- a statement recommending that the borrower review the mediation election form and the loss mitigation application the lender provided;

- a request for the borrower immediately to contact the Mediation Administrator and the lender if the borrower has not received a loss mitigation application and mediation election form from the lender;
- a request for the borrower to return the mediation election form to the Mediation Administrator and the lender no later than 30 days from the date the lender mailed the form;
- a request for the borrower to return the loss mitigation application to the lender no later than 30 days after the date the lender mailed the form;
- a statement that the borrower will lose the right to mediate if the borrower does not return the mediation election form and the loss mitigation application within 30 days;
- a statement that the borrower must pay a fee to participate in mediation; and
- a statement that mediation will be held 90 days after the date the form required by § 42-815.02(b) is mailed.

See *District of Columbia, Foreclosure, Alternatives* for additional information regarding mediation.

Section 42-815 amended 2011; § 42-815.02 amended 2013.

[D.C. Code §§ 42-815, -815.02 \(2020\)](#)

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 is required to provide written acknowledgement of the receipt.

Section 42-815 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 16-1501 amended 2020.

[D.C. Code § 16-1501 \(2020\)](#)

Lenders, District Of Columbia, Appeals

No specifically relevant provisions were located. 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 sale's terms.

A borrower has the same rights to assert claims for a defective notice of default on a residential mortgage as the law provides for a defective notice of intention to foreclose on a residential mortgage. This provision does not limit a borrower's right to assert a claim for fraud or monetary damages against a lender.

Section 42-815 amended 2011; § 42-815.02 amended 2013.

[D.C. Code §§ 42-815, -815.02 \(2020\)](#)

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 the rights of residential tenants.

Notice to Taxing Agencies (§ 47-1340)

Before the tax sale can occur, the District must (1) determine whether the taxpayer owes other taxes, and (2) send a notice of delinquency to the taxpayer. To determine whether the taxpayer owes other taxes, the District sends a notice of the intended sale to all taxing authorities within the district, and those taxing authorities must certify whether additional taxes are owed. Those amounts are added to the amount due. The notice to District taxing authorities 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 must respond within 30 days.

Notice of Delinquency (§ 47-1341(a))

The District 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 provided in D.C. Code § 47-1341(a)(2). The statutory notice provides notice regarding housing counseling services and alerts the taxpayer that he or she must pay the amount due before May 31 of the year indicated or the property will be sold.

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

At least two weeks before property is offered at a tax sale, the District 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 the form set forth in D.C. Code § 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 the tax sale has 5 days in which to pay the sale price to the District. Once the sale price is paid, the District 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. The 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.

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-Sale Notice (§ 47-1353.01)

The District 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 D.C. Code § 47-1353.01(b).

Section 47-1347 amended 2003; § 47-1340 amended 2017; §§ 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 delinquency notice, 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," (1) the description of the property to be sold, (2) the name of the last record owner, and (3) 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 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.

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 2015; § 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 tax sale date 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.

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, and 47-1372 amended 2015; § 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 the sale is to pay the amount due. The statute generally provides that the District'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 nor invalidate the sale. Similarly, the failure to include the amount of the tax 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, the sale cannot be set aside unless the taxpayer redeems the property. However, the taxpayer can 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; §§ 47-1342 and 47-1380 amended 2015; § 47-1341 amended 2016; § 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. However, in order to expedite the foreclosure process by "ensuring initial disclosure of a plaintiff's status and the facts supporting that status," a complaint to foreclose a mortgage on residential real property (including individual condominium and cooperative units) designed to be occupied by one to four families must:

- contain affirmative allegations that the plaintiff holds the original note; or
- allege "with specificity" the factual basis by which the plaintiff is entitled to enforce the note.

Section enacted 2013.

[Fla. Stat. § 702.015 \(2019\)](#)

Lenders, Florida, Public Notice and Posting Requirements

Notice of lis pendens must be recorded with the Clerk of the Circuit Court. 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 will be 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 702.036 enacted 2013; rule 9.110 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

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

Notices of Delinquency

A tax notice must be mailed by April 30 to each taxpayer whose payment has not been received, which 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.

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 such 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 shall sell tax certificates on all real property having delinquent taxes. Delinquent taxes may be paid after the date of delinquency but before sale of a tax certificate by paying all costs, advertising charges and interest.

On the day designated in the notice of sale, the tax collector starts the sale of tax certificates on the real property 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.

The holder of a tax certificate may not directly, through an agent, or otherwise initiate contact with the property owner to encourage or demand payment until two years after 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, including documentary stamps and recording fees, is made. The person redeeming a tax certificate must pay the face amount plus all 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 after the expiration of seven years from the date of issuance (i.e., the date of the first day of the tax certificate sale as advertised), if a tax deed has not been applied for and no other administrative or legal proceeding, including a bankruptcy, has existed of record.

The holder of a tax certificate 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 197.522 amended 2018; §§ 95.051, 197.332, 197.333, 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 with less than \$250 in delinquent taxes, 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 holder of a tax certificate may file the certificate and an application for a tax deed with the tax collector of the county in which the property is located at any time after two years have elapsed since April 1 of the year of issuance of the certificate but before the certificate is cancelled. At the time of application, the certificateholder 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, if due. The certificateholder 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 certificateholder does not 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. Failure to pay the costs of resale, if applicable, within 30 days after notice from the clerk results in the clerk entering the land on a list entitled "lands available for taxes."

On county-held or individually held certificates for which there are no bidders and for which the certificateholder fails to pay the resale costs or the amounts due for issuing a tax deed within 30 days after the sale, the clerk must enter the land on a list entitled "lands available for taxes" and immediately notify the county commission that the property is available. During the first 90 days after the property is placed on the list, the county may:

- purchase the land for the opening bid; or
- waive its rights to purchase the property.

Thereafter, any person or governmental unit may purchase the property, without further notice or advertising, for the opening bid. If the county or other governmental unit is the purchaser for its own use, the board of county commissioners may cancel omitted years' 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 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 a 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 address of the owner appears on the record of conveyance of 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 which 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; and
- 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.

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 prior to the sale date, must serve a copy of the original notice on the titleholder of record, and if service cannot be made, 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, a copy of the notice must be posted in a conspicuous place on the property to be sold by the sheriff of the county in which the property is located.

When sending or serving such notices, the the circuit court clerk may rely on the addresses provided by the tax collector based on the certified tax roll and property information reports. The clerk has no duty to seek further information as to the validity of such addresses, because property owners are presumed to know that taxes are due and payable annually.

The Sale

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

If there are no bidders at a second tax deed sale and the certificateholder fails to pay the amount due within 30 days after the sale, the clerk must place the property on the "lands available for taxes" list.

Section 197.512 amended 2001; § 197.402 amended 2011; §§ 197.432, and 197.542 amended 2014; §§ 197.502 and 197.522 amended 2018.

[Fla. Stat. §§ 197.402, .432, .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

Any person or entity that is the grantee of any tax deed is entitled to immediate possession of the lands described in the deed, and 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 the responsive pleadings, if any, the matter proceeds as in chancery court. If the court finds in favor of the applicant, the court shall issue an order directing the sheriff to put the grantee in possession.

Termination of Rental Agreement upon Foreclosure (§ 83.561)

If a tenant is occupying residential premises that are the subject of a foreclosure sale, upon issuance of a certificate of title following the sale, the purchaser takes title subject to the tenant's rights provided by § 83.561. The tenant:

- may remain in possession of the premises for 30 days following the date of the purchaser's delivery of a written 30-day notice of termination; and
- is entitled to the protections set forth in [§ 83.67](#).

The 30-day notice of termination must be substantially in the form provided by statute and must be delivered in the same manner as provided by § 83.56(4).

The purchaser at the foreclosure sale may apply to the court for a writ of possession based upon a sworn affidavit that the 30-day notice of termination was delivered to the tenant and that the tenant failed to vacate the premises at the end of that period. If the court awards a writ of possession, the writ must be served on the tenant.

These requirements do *not* apply if:

- the tenant is the mortgagor;
- the tenant is the child, spouse, or parent of the mortgagor;

- the tenant's rental agreement is not the result of an arm's length transaction; or
- the tenant's rental agreement allows the tenant to pay rent that is substantially less than the fair market rent for the premises, unless the rent is reduced or subsidized by a federal, state, or local subsidy.

A purchaser at a foreclosure sale of a residential premises occupied by a tenant does not assume the obligations of a landlord, except as provided above, unless or until the purchaser assumes an existing rental agreement or enters into a new rental agreement with the tenant.

Section 197.562 amended 1985; § 83.561 enacted 2015.

[Fla. Stat. §§ 83.561, 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 the court receives full payment for a deed based upon a certificate issued for nonpayment of taxes, including all recording fees and documentary stamps.

No court may issue any order in an action brought by or on behalf of any landowner to enjoin any tax sale or to set aside or cancel any tax certificate held by any county until the owner pays to the tax collector of the county where the property is assessable 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

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 prior to the date the money is to be paid into the court.

Non-judicial

Notice of the foreclosure proceedings must be given to the borrower no later than 15 days before the proposed sale. Notice must be given by registered or certified mail, or by statutory overnight delivery, return receipt requested. The notice shall consist of a copy of the published legal advertisement or notice of the sale.

Section 44-14-162.2 amended 2008, § 44-14-180 amended 1933.

Ga. Code Ann. §§ 44-14-162.2, -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.

Section 44-14-180 amended 1933, § 44-14-610 amended 1982, § 9-13-140 amended 1999.

Ga. Code Ann. §§ 9-13-140; 44-14-181, -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 possession of property on the affidavit of a person who does have such a good faith claim.

Section 44-11-30 amended 1933.

Ga. Code Ann. § 44-11-30 (LexisNexis 2020)

Lenders, Georgia, Appeals

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 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 Ann. §§ 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 of the delinquency and notice that, unless paid, an execution will be issued. The tax collector or commissioner shall 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 must, before advertising the property for sale, give the owner of the property, 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 or 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 such sale by registered or certified mail or statutory overnight delivery to his or her last known address as listed in the records of the respective county tax commissioner, municipal officer or state officer issuing the execution.

Conduct of sale

Once the tax collector or commissioner places his executions in the hands of any levying officer of the county, 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 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, the holding of 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 any 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 date of sale, 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 upon 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;
- the occupant of the property, if any; and
- all persons having of record in the county in which the property is located any right, title or interest in or lien upon 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 the address of the person 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 enactment of 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 enactment of its own ordinance or resolution, authorize the use such foreclosures for delinquent municipal taxes. Any such resolution or ordinance must set forth criteria for selection of properties subject to judicial in rem tax foreclosures. Such 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 the occupants, if any, and posted on the property.

Court proceedings

The tax collector shall request a judicial hearing on the petition occur not earlier than 30 days following 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, the holding of 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 shall 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 2011; § 48-3-3 amended 2017.

Ga. Code Ann. §§ 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 sales of land executed 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.

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 prior to the week of the redemption deadline date specified in the notice.

If the sheriff is unable to effect service upon 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.

Ga. Code Ann. §§ 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 any sheriff or officer sells any real estate under any execution, or otherwise, it is his duty, upon application to place the purchaser or his 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.

Ga. Code Ann. §§ 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 at any time within 12 months from the date of sale and at 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 referenced in the notice or the title conveyed by the deed until the plaintiff pays or tenders to the grantee in the deed 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 service or 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 shall 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.

Ga. Code Ann. §§ 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 in three public places in the city, town, or village in which the property is to be sold, and during the same time period 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 prior to the sale.

Section amended 2012.

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

Lenders, Guam, Preconditions to Eviction

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

Statutory history unknown.

[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.

Statutory history unknown; rule amended 2007.

[7 Guam Code Ann. § 23115 \(2020\); 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; history of § 24803 unknown.

[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 list of property on which taxes are delinquent and a notice specifying that unless the taxes, penalties and costs are paid, the property on which they are a lien 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 deceased, his personal representative, or if the decedent has no personal representative, all of his known heirs, by placing 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 eviction in general.

Taxing Authorities, Guam, Appeals

Redemption

The property may be redeemed within one year after the automatic sale to the government, and if not redeemed, the property may be sold by the government or deeded to the government. Within one year after any such sale the person who owned the property may redeem the property by paying the amount paid to the government by the purchaser 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 added in 2012, were located. A mortgage foreclosure proceeding is conducted in the manner of a civil action in the circuit court.

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, except that a condominium association may enforce "its claim of an association lien, regardless of whether the association documents provide for a power of sale, a power of sale foreclosure, a power of sale remedy, or a nonjudicial foreclosure."

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 a nonjudicial foreclosure.

Notice of intent to foreclose

A mortgagee's attorney must:

- give notice of the mortgagor's right to elect to participate in the mortgage foreclosure dispute resolution program or to convert the nonjudicial power of sale foreclosure to a judicial foreclosure pursuant to section 657-U; and
- give any notices and do all acts that are authorized or required by the power of sale, as contained in the mortgage.

Note that the statutory section requiring a statement regarding conversion was repealed on December 31, 2012.

Notice of default

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

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 in nonjudicial foreclosures

Hawaii's dispute resolution provisions apply to specified nonjudicial foreclosures conducted by power of sale of residential real property that is occupied by mortgagors who are owner-occupants. A "dispute resolution" is a "facilitated negotiation between a mortgagor and mortgagee" for the purpose of reaching a mortgage loan modification agreement or another agreement in an attempt to avoid foreclosure or to mitigate damages if foreclosure is not avoidable. An "owner-occupant" is a person who, at the time that a notice of default and intention to foreclose is served under a power of sale, meets the following requirements:

- he or she owns an interest in the residential property that is encumbered by the mortgage being foreclosed; and
- he or she has used the residential property as his or her primary residence for a continuous period of not less than 200 days immediately preceding the date on which the notice is served.

Before a mortgagee conducts a public sale for a residential property that is occupied by an owner-occupant, the foreclosing mortgagee must, at the owner-occupant's election, participate in a mortgage foreclosure dispute resolution program to attempt to negotiate an agreement that avoids foreclosure or mitigates damages if foreclosure is not avoidable.

The served foreclosure notice must include notice that the mortgagee is required, at the owner-occupant's election, to participate in the mortgage foreclosure dispute resolution program. Within three days after a mortgagee serves a foreclosure notice on an owner-occupant, the mortgagee must file the foreclosure notice with the department and pay a filing fee. Within 10 days after the mortgagee files a notice of default and intention to foreclose with the department, the department must mail a written notification by registered or certified mail to the mortgagor that a notice of default and intention to foreclose has been filed. The notification must inform the mortgagor of an owner-occupant's right to elect to participate in the foreclosure dispute resolution program and must include the provisions set forth in § 667-77.

The department must receive the borrower's completed form and fee no later than 30 days after the department mails the notification. If the completed form and fee are not received within that time period, the owner-occupant is deemed to have waived any right to participate in the mortgage foreclosure dispute resolution program. If the owner-occupant does not elect to participate

in dispute resolution, the department must notify the mortgagee within 10 days, and the mortgagee may proceed with the nonjudicial foreclosure process.

The written notification of a dispute resolution case opening generally operates as a stay of the foreclosure proceeding.

Hawaii's mortgage foreclosure dispute resolution program became operative no later than October 1, 2011, and the laws establishing the program were repealed effective September 30, 2014.

Residential Mortgage Loan Delinquencies and Loss Mitigation Efforts (§ 454M-5.5)

As of June 1, 2015, a mortgage servicer must make reasonable and good faith efforts to engage in appropriate loss mitigation options, including loan modifications, to assist borrowers in avoiding foreclosure. For details regarding those loss mitigation efforts, see *Foreclosure, Alternatives: Required Alternatives or Preconditions*.

Mortgage servicers must consider a loan modification as an alternative to foreclosure if:

- the borrower demonstrates that he or she has experienced a financial hardship and is either unable to maintain the current payment schedule or is unable to make up delinquent payments; and
- the "net present value of the income stream expected of the modified loan is greater than the net present value of the income stream that is expected to be recovered through the disposition of the property through a foreclosure sale."

Mortgage servicers that are participating in the Home Affordable Modification Program must offer loan modifications in compliance with the program's guidance and directives.

The requirements of Haw. Rev. Stat. § 454M-5.5 do *not* prevent a mortgage servicer from offering or accepting alternative loss mitigation options, a short sale, a deed-in-lieu of foreclosure, or forbearance, if the borrower:

- requests such an alternative;
- is not eligible for or does not qualify for a loan modification under the Home Affordable Modification Program; or
- rejects the mortgage servicer's loss mitigation option proposal.

Section 667-2 amended 1972; §§ 667-22, 667-27, 667-41, 667-55, 667-71, 667-74, 667-75, 667-76, 667-77, 667-78, 667-80, and 667-81 amended 2012; § 667-1 amended 2019; former § 667-1 redesignated in 2012 as § 667-1.5; § 667-83 amended 2013; § 454M-5.5 enacted 2015; § 667-71 amended 2017.

[Haw. Rev. Stat. §§ 454M-5.5; **667-1**, -1.5, -2, -22, -27, -41, -55, -71, -74, -75, -76, -77, -78, -80, -81, -83 \(2019\)](#)

Lenders, Hawaii, Public Notice and Posting Requirements

Judicial

Lis pendens

The party who brings a foreclosure action may file a 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 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

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

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, and contact information for approved housing counselors and budget and credit counselors.

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.

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.

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.

A person who forecloses on a property within a planned community, a condominium apartment or unit, or an apartment in a cooperative housing project must notify, by registered or certified mail, the board of directors of the planned community association, the association of owners of the condominium project, or the cooperative housing project of the foreclosure at the time foreclosure proceedings are started. The notice must include any election by an owner-occupant to participate in the mortgage foreclosure dispute resolution program.

Section 651-43 amended 1955; § 634-51 amended 2013; §§ 667-5.5, 667-21.5, 667-22, and 667-27 amended 2012; § 667-20 enacted 2012; §§ 667-5, 667-6, and 667-26 repealed 2012; § 667-20.1 enacted 2013.

[Haw. Rev. Stat. §§ 634-51; 651-43; 667-5.5, -20, -20.1, -21.5, -22, -27 \(2019\)](#)

Lenders, Hawaii, Preconditions to Eviction

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

Section 667-51 added 2003; § 667-25 amended 2012; previously applicable § 667-35 repealed 2011; rule amended 2018.

[Haw. Rev. Stat. §§ 667-25, -51 \(2019\); Haw. R. App. P. 4\(a\)](#)

Taxing Authorities, Hawaii, Foreclosure Type

[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 imposition of property tax liens and collection of property taxes through foreclosure and other means are governed by the respective 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 procedures for imposition of property tax liens and collection of property taxes through foreclosure and other means are governed by the respective 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.

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 (2015) (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 procedures for imposition of property tax liens and collection of property taxes through foreclosure and other means are governed by the respective 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.

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 (2015) (all repealed by [2016 Haw. Laws ch. 52](#))

Taxing Authorities, Hawaii, Preconditions to Eviction

[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 imposition of property tax liens and collection of property taxes through foreclosure and other means are governed by the respective 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 procedures for imposition of property tax liens and collection of property taxes through foreclosure and other means are governed by the respective 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 have been 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 19856 ; Chapter 246 repealed 2016.

Haw. Rev. Stat. §§ 246-60, -62 (2015) (all repealed by [2016 Haw. Laws ch. 52](#))

Idaho

Lenders, Idaho, Foreclosure Type

Judicial and non-judicial.

Lenders, Idaho, Preconditions to Foreclosure

Judicial

No preconditions were located.

Non-judicial

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 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 are 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.

For any loan that is made by a state or federally regulated beneficiary and that is secured by a deed of trust encumbering the borrower's primary residence, the trustee, before conducting a trustee's sale that was previously postponed, must mail a notice of the trustee sale at least 14 days before conducting the sale. Also, before conducting a trustee's sale, the trustee or beneficiary must record an affidavit of mailing confirming that the notice has been mailed as required.

In the case of a noncommercial loan that is made by a state or federally regulated beneficiary and secured by a deed of trust on a borrower's primary residential property, a notice of the borrower's opportunity to request loan modification must accompany the lender's notice of default. The notice must be printed in at least 14-point type and substantially conform to the form set forth in § 45-1506C(1). This notice must be accompanied by a form to request a loan modification. If the trust deed or any assignments are in Spanish, this notice must also be in Spanish. If a grantor returns the form by the specified date, the beneficiary must evaluate the grantor's request. As soon as reasonably practicable, but no later than 45 days after receiving the form, the beneficiary must notify the grantor in writing whether it approves or denies the request or requires additional information. A trustee's sale for the property may not occur until after the beneficiary responds to the grantor. At least 20 days before the sale date, the trustee must record an affidavit, substantially in the form set forth in § 45-1506C(5), stating that the beneficiary has complied with § 45-1506C.

Section 45-1505 amended 2009; § 45-1506 amended 2016; § 45-1506C enacted 2011.

[Idaho Code §§ 45-1505, -1506, -1506C \(2019\)](#)

Lenders, Idaho, Public Notice and Posting Requirements

Judicial

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.

Non-judicial

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 thirty days prior to the day of sale. The trustee for the trustee's sale may not have a financial interest in the newspaper publishing the notice or profit from the publication.

Section amended 2016.

[Idaho Code § 45-1506 \(2019\)](#)

Lenders, Idaho, Preconditions to Eviction

No statutory provisions were located.

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.

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.

Section 11-304 amended 2018; § 45-1506 amended 2016; rule amended 2011.

[Idaho Code §§ 11-304, 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

Any tax delinquency has the force and effect of a sale to the county tax collector as grantee in trust for the county of the property described. Any 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 for the property 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;
- 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 \(2019\)](#)

Taxing Authorities, Idaho, Public Notice and Posting Requirements

Notice of Issuance 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 and an affidavit of compliance has been recorded.

The tax collector must serve written notice of pending issue of tax deed upon the record owner(s) and parties in interest of record by certified mail return receipt requested at their last known address no more than five months nor less than two months before the time set for the tax deed to issue. If the 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, the last publication to be no more than two months nor less than 14 days before the time set for the tax deed to issue.

The notice must contain among other information the time, date, place at which and by whom the tax deed will issue and a statement summarizing the procedures and deadline for objecting.

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 and the affidavit must be recorded in the county recorder's office.

Section enacted 1996.

[Idaho Code § 63-1005 \(2019\)](#)

Taxing Authorities, Idaho, Preconditions to Eviction

There are no applicable provisions under the tax foreclosure laws, but see [Idaho Code § 6-301 et seq. \(2019\)](#) for 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 or assessment, or the proceedings upon which the tax deed has been issued after such property has been sold by the taxing agency, and the purchaser or his successors in interest have paid all property taxes assessed thereon for one year.

Hearing of Objections and Appeal

If a record owner or party of interest upon whom notice is served, or who has actual knowledge of such 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, which must be sent 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.

Any person aggrieved by a final decision of the county commissioners concerning issuance of a tax deed may have the 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.

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 \(2019\)](#)

Illinois

Lenders, Illinois, Foreclosure Type

Judicial.

Lenders, Illinois, Preconditions to Foreclosure

Counseling notice

If a mortgage secured by residential real estate becomes delinquent by more than 30 days the mortgagee must send via U.S. mail a notice advising that the mortgagor may wish to seek approved housing counseling. The mortgagor and mortgagee may communicate with each other during the initial 30 days of delinquency or reaching agreement on a sustainable loan workout plan, or both. No legal action for foreclosure may be instituted until 30 days after mailing the notice. If an approved counseling agency provides written notice to the mortgagee that the mortgagor is seeking approved counseling services within the 30-day period, no legal action may be instituted for 30 days after the date of that notice.

Notice regarding rights

If a foreclosure action is brought, statutory notice regarding a homeowner's right to remain in possession of foreclosed premises, and a residential mortgagor's redemption and reinstatement rights, must be attached to the summons.

Servicemembers

If the mortgagor defendant is a person who was deployed in a combat or combat support posting and serving overseas within the previous 12 months, the court must stay the proceedings for 90 days upon the mortgagor's application.

Abandoned Residential Property

Upon motion and notice, a mortgagee may elect to use an expedited judgment and sale procedure for abandoned residential property. Notice of the motion to expedite a judgment and sale must be sent by first-class mail to the mortgagor's last known address, and notice must be posted at the property address.

Section 5/15-1504.5 amended 2017; 5/15-1501.5 amended 2011; 5/15-1505.8 amended 2013.

[735 Ill. Comp. Stat. 5/15-1501.5, -1504.5, -1505.8 \(2020\)](#)

Lenders, Illinois, Public Notice and Posting Requirements

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 prior to the sale and the last notice must be published not less than seven days prior to 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 7 days prior to the day of sale. Notice of the sale may be made prior to the expiration of any redemption or reinstatement period.

Notice of confirmation order

A copy of the confirmation order required by § 1508(b) must be sent to the municipality in which the foreclosed property is located (or county, if the foreclosed property is located in an unincorporated territory). The municipality or county must "clearly publish on its website a single address to which such notice shall be sent." If the municipality or county does not maintain a

website, then it must publicly post in its main office a single address to which such notice must be sent.

Abandoned Residential Property

Upon motion and notice, a mortgagee may elect to use an expedited judgment and sale procedure for abandoned residential property. Notice of the motion to expedite a judgment and sale must be posted at the property address.

The notice referenced in § 15-1505.8(l)(1) must be conspicuously posted at the property address at least 14 days before the hearing on the motion requesting an expedited judgment and sale. The notice referenced in § 15-1505.8(l)(2) must be conspicuously posted at the property address at least 14 days before the hearing to confirm the sale of the abandoned residential property. Both notices must be in boldface and at least 12-point type, and in substantially the form provided by statute.

Section 15-1507 amended 2018; § 15-1505.8 amended 2013; § 15-1508 amended 2017.

[735 Ill. Comp. Stat. 5/15-1505.8, -1507, -1508 \(2020\)](#)

Lenders, Illinois, Preconditions to Eviction

Possession

An order confirming a sale shall 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.

A mortgagor may remain in possession following entry of the judgment of foreclosure through the 30th day after confirmation of the foreclosure sale if (1) the mortgagor pays to the mortgagee or purchaser, whichever is applicable, monthly the lesser of the interest due under the mortgage or the fair market rental value of the real estate; or (2) the mortgagor otherwise shows good cause.

Eviction

An eviction proceeding may be brought against a person unlawfully in possession of real property.

Termination of Lease

A mortgagee, receiver, certificate of sale holder, holder of the deed issued pursuant to that certificate, or, if no certificate or deed was issued, the purchaser at a judicial sale, who assumes control of residential real estate in foreclosure generally may terminate a bona fide lease only:

- at the end of the lease term, by no less than 90 days' written notice; or
- in the case of a month-to-month or week-to-week term, by no less than 90 days' written notice.

However, an individual who "assumes control of residential real estate in foreclosure pursuant to a judicial sale and who will occupy a dwelling unit of the residential real estate in foreclosure as his or her primary residence" may terminate the lease "subject to the 90-day notice requirement."

Section 5/9-101 added 1982; § 5/15-1508 amended 2017; 9-207.5 enacted 2013.

[735 Ill. Comp. Stat. 5/9-101, -207.5; /15-1508 \(2020\)](#)

Lenders, Illinois, Appeals

Appeal

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.

Sale scheduling

No specific requirements regarding the scheduling of the sale were found.

Making Home Affordable Program

The court that entered a judgment must set aside a sale held pursuant to § 15-1507, upon a mortgagor's motion at any time before confirmation of the sale, if the mortgagor proves that:

- the mortgagor has applied for assistance under the Making Home Affordable Program; and
- the mortgaged real estate was sold in material violation of the program's requirements for proceeding to a judicial sale.

This provision becomes inoperative "on January 1, 2018 for all actions filed . . . after December 31, 2017, in which the mortgagor did not apply for assistance under the Making Home Affordable Program on or before December 31, 2016."

Section amended 2017.

[735 Ill. Comp. Stat. 5/15-1508 \(2020\)](#)

Taxing Authorities, Illinois, Foreclosure Type

Judicial.

Taxing Authorities, Illinois, Preconditions to Foreclosure

Tax Liens

Except as otherwise provided, 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 (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 a delinquent property tax ledger system, or adopt such a system already prepared, in which all the delinquent taxes due upon the various properties in the county are listed. The resolution or ordinance must also provide that a Property Tax Docket will be installed and maintained by the County Clerk, to list all court proceedings that affect the general property taxes levied upon any property.

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 of (*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 for the sale of property for taxes, 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. Beginning on 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 actual value of the property, the county collector must, on the receipt of such certificate, 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. Such property may be sold under the order of the court by the person having authority to receive county taxes, with notice to interested parties and the right of redemption from the sale. In any such action to foreclose the lien for delinquent taxes, service of process must be made on all owners, interested parties, and occupants of any 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 three million 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 three million 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 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 amended 2018; § 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 "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 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 one million 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 ten days before the day on which judgment will be applied for, and must contain a list of the delinquent properties upon which the taxes or any part thereof remain due and unpaid; the names of owners, if known; the total amount due; and the year or years for which they 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.

In all cities, villages, and incorporated towns in counties with three million or more inhabitants, separate advertisements may be made giving notice of an intended application for judgment and

for an order of sale on account of delinquent special assessments at any time after the first day of August after the special assessments become delinquent. The procedure in such cases must in all other respects, except as to the timing of the advertisement and application for judgment and sale, be the same as in other cases of delinquent taxes.

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 1994; § 21-115 amended 2019; § 22-15 amended 2008; §§ 21-110 and 22-10 amended 2012; 21-145 amended 2013.

[35 Ill. Comp. Stat. 200/21-110, -115, -120, -145; /22-10, -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), 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, 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, 21-350, 21-370 amended 1994; § 21-380 enacted 2017; § 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

Pre-suit notice

Pre-foreclosure requirements generally apply only to foreclosures of first mortgages on residential property. The creditor must send to the debtor by certified mail a presuit notice not less than 30 days before filing a foreclosure action. The notice will be on a form prescribed by the development authority.

The notice must:

- inform the debtor that the debtor is in default;

- inform the debtor that he or she is encouraged to obtain assistance from a mortgage foreclosure counselor;
- inform the debtor of his or her rights before a sheriff's sale;
- provide the contact information for the Indiana Foreclosure Prevention Network; and
- include the statutory cautionary statement regarding foreclosure.

Notice is to be sent to the address of the mortgaged property, or the debtor's last known mailing address if other than the address of the mortgaged property.

Insurance notice

The creditor must also send a copy of the complaint to the insurance company of record for the property.

Settlement conferences

Generally, a creditor that files an action to foreclose a mortgage after June 30, 2009, must include with the summons and complaint a notice that informs the debtor of the debtor's right to participate in a settlement conference as follows:

- with the complaint served on the debtor, in the case of a foreclosure action filed after June 30, 2009, but before July 1, 2011; and
- on the first page of the summons, in the case of a foreclosure action filed after June 30, 2011.

The notice must inform the debtor that he or she may schedule a settlement conference by notifying the court, no later than 30 days after the complaint is served, of the debtor's intent to participate in a settlement conference.

If a creditor files an action to foreclose a mortgage, the creditor must include with the complaint filed with the court the specified information set forth in § 32-30-10.5-8(d)(1). The creditor must also send a copy of the complaint to the subject property's insurance company.

In the case of a foreclosure action filed after June 30, 2011, the court must send the debtor a notice that informs the debtor of his or her right to participate in a settlement conference. The court's notice must:

- inform the debtor that he or she may schedule a settlement conference by notifying the court of the debtor's intent to participate in a settlement conference; and
- specify a date by which the debtor must request a settlement conference, which date must be 30 days after the date the creditor served the complaint.

The notices are not required if the mortgage is secured by a dwelling that is not the debtor's primary residence, the mortgage has been the subject of a prior foreclosure prevention agreement and the debtor has defaulted on that agreement, or bankruptcy law prohibits the creditor from participating in a settlement conference.

The required notices from the creditor need not be sent if:

- the debtor does not use the subject property as his or her primary residence;
- the loan already has been the subject of a foreclosure prevention agreement or the debtor has defaulted on the terms of that prior foreclosure prevention agreement; or
- bankruptcy law prohibits the mortgagee from participating in a settlement conference with respect to the loan.

If the required notice is served, the court may not issue a judgment of foreclosure unless the debtor fails to contact the court to schedule a settlement conference within 30 days of receiving the notice, a settlement conference is held but the parties are unable to reach an agreement, and unless 60 days have elapsed since the service of the notice, unless the property is abandoned. A settlement conference is not required if the court finds that it would be of limited value, based on prior loss mitigation efforts.

Generally, if the debtor has scheduled a settlement conference, the court will stay the granting of any dispositive motion until the court receives notice that:

- the debtor and the creditor have agreed to enter into a foreclosure prevention agreement, and the creditor has elected to dismiss the foreclosure action for as long as the debtor complies with the agreement's terms; or
- the creditor and the debtor are unable to agree on the terms of a foreclosure prevention agreement.

Section 32-30-10.5-11 amended 2011; §§ 32-30-10.5-8 amended 2018; § 32-30-10.5-9 amended 2012.

[Ind. Code §§ 32-30-10.5-8, -9, -11 \(2019\)](#)

Lenders, Indiana, Public Notice and Posting Requirements

Sales of foreclosed property must be advertised by the sheriff for at least 20 days successively before the day of sale. 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 the county, and advertising the sale for three successive weeks successively in a general circulation newspaper published in the county where 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.

Section added 1998.

[Ind. Code § 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.

Section added 2002.

[Ind. Code § 32-30-3-1 \(2019\)](#)

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 such 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.

A homestead that is eligible for a standard deduction pursuant to Ind. Code § 6-1.1-12-37 may not be placed on a list for tax sale for the payment of delinquent current property taxes until at least 12 months after the current property taxes' due date.

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 court judgment against the property for an amount not less than the amount specified in the notice and 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.

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.

Vacant 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 must be sent to the record owner and to "any person with a substantial property interest of public record in the tract or 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

Not less than seven days before the hearing, notice of the date, time and place of the hearing must be provided by the court 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. Such judgment is deemed a judgment against each tract or item of real property. 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 no later than six months after the sale, 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 not later than three months after expiration, the purchaser or the purchaser's assignee, or the county auditor if he has agreed with the county treasurer to perform such 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.

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; §§ 6-1.1-22.6-26, 6-1.1-22.6-26.5 expired Dec. 31, 2016; §§ 6-1.1-24-1, 6-1.1-24-1.2, 6-1.1-24-4, 6-1.1-24-5, 6-1.1-24-9, and 6-1.1-25-4.5 amended 2015; § 6-1.1-24-1.5 amended 2018; §§ 6-1.1-24.5-2, and 6-1.1-24.5-4 amended 2016; § 6-1.1-25-4.6 amended 2017.

[Ind. Code §§ 6-1.1-24-1, -1.2, -1.5, -4, -5, -8, -9; -24.5-2, -4; -25-4.5, -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 § 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.

Notice of Purchase (§ 6-1.1-25-4.5)

If the address of a person with a substantial property interest of public record 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 in the same manner and to the same parties as 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 amended 2018; § 6-1.1-24-3 amended 2016; § 6-1.1-24-6.1 amended 2018; § 6-1.1-25-4.6 amended 2017.

[Ind. Code §§ 6-1.1-24-1.5, -3, -6, -6.1; -25-4.5, -4.6 \(2019\)](#)

Taxing Authorities, Indiana, Preconditions to Eviction

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 shall 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 the 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 specified in Ind. Code § 6-1.1-25-16:

- 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."

Section 6-1.1-24-11 enacted 1975; §§ 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, -5, -11; -25-4, -4.1 \(2019\)](#)

Iowa

Lenders, Iowa, Foreclosure Type

Judicial; non-judicial foreclosures are allowed by mutual agreement of the parties. Involuntary non-judicial foreclosures are not permitted for one- or two- family dwellings occupied by a legal or equitable titleholder.

Section 654.18 amended 2012; § 655A.9 amended 2009.

[Iowa Code §§ 654.18; 655A.9 \(2020\)](#)

Lenders, Iowa, Preconditions to Foreclosure

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 and must set out the performance necessary to cure the alleged default, and the exact date by which the amount must be paid or performance tendered. The notice must also 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 a 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 which occurred within 365 days of the present default.

Before filing a petition to foreclose a mortgage on a one- or two-family dwelling that is the residence of the owner, the creditor must inform the owner of the availability of counseling and mediation. The notice must be made on a form prescribed by the Attorney General and is mailed by ordinary mail to the owner along with the notice of acceleration or other initial communication from the attorney representing the creditor in the action. The notice is also served on the owner with the original notice and petition seeking foreclosure. If the court finds that the notice was not served as required by this subsection and that the owner desires counseling or mediation, the sheriff's sale or the recording of the sheriff's deed may be delayed for up to 60 days.

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.

Section 654.4B amended 2013; § 626.78 amended 2006; § 654.2D amended 1991.

[Iowa Code §§ 626.78; 654.2D, .4B \(2020\)](#)

Lenders, Iowa, Public Notice and Posting Requirements

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 shall 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 date of sale, and the second at a later time before the date of sale.

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

The 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 and the mortgaged property is the residence of the mortgagor and is a one-family or two-family dwelling, the sale is held promptly after the expiration of six months, or three months if the petition includes a waiver of deficiency judgment, from entry of judgment. 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 entry of a deficiency judgment. If the stipulation is filed, the sale shall be held promptly after the filing.

Section 654.21 amended 2018; § 654.22 enacted 1987.

[Iowa Code §§ 654.21, .22 \(2020\)](#)

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 amount of taxes due becomes delinquent thirty days after the date of delivery, or on the delinquent date of the first installment, whichever date occurs later. When taxes are delinquent and not paid as of November 1 of the fiscal year in which the payments are due, 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 must offer at public sale all parcels on which taxes are delinquent. The treasurer may not offer for sale a parcel subject to a pending action as the result of a municipal infraction citation, a petition filed under chapter 657, or a petition filed under chapter 657A, provided certain specified conditions are met. 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 fiscal year. The notice must contain a description of the parcel to be sold, the amount of delinquent taxes, and the amount of interest and fees, all to be incorporated as a single sum. The notice must also contain 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 day of sale, a notice of sale by regular first class mail to any mortgagee having a lien on the parcel, a vendor of the parcel under a recorded contract of sale, a lessor of the parcel who has a recorded lease or memorandum of a recorded lease, and any other person who has an interest of record in the parcel, if the mortgagee, vendor, lessor, or other person having an interest of record has requested, on a form prescribed by the treasurer, that notice of sale be sent to such person.

Conduct of Sale

The county treasurer must, on the day of the sale, offer each parcel separately for the total amount due. The person who offers to pay the total amount due is the purchaser. 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, which have previously been advertised, offered for one year or more, and 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 at the time of sale that the parcel was sold at tax sale. The notice of sale must be sent by regular mail within fifteen days from the date of sale. 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 date of sale, 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, stating the date of sale, the description of the parcel sold, the name of the purchaser, and that the right of redemption will expire and a deed for the parcel will be granted unless redemption is made within ninety 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; § 446.17 amended 2007; § 446.16 amended 2009; § 446.7 amended 2010; § 446.19B amended 2006; §§ 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

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 not more than three weeks, before the day of sale. 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 which the parcel is liable each year, and the amount of interest and fees, all to be incorporated as a single sum.

The publication must also contain 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*.

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

Not until one year and nine months from the date of sale, 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 ninety days from the date of service of such notice. Chapters 445 through 447 do not otherwise address eviction of the occupants of tax-delinquent property, but 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 right of redemption expires (*see Preconditions to Foreclosure*), by paying to the county treasurer the amount for which the parcel was sold, including the fee for the certificate of purchase, plus interest at two percent per month from the month of sale, as well as the total amount paid by the purchaser for any subsequent year's taxes, with interest at the same rate.

Right of Redemption by County

The county in which a tax-delinquent parcel is located has the right to redeem owner-occupied residential parcels if a person who is unable to contribute to the public revenue files a petition with the board of supervisors stating that fact and other information as the board may require. The board of supervisors may order the county auditor to redeem a parcel owned or possessed by the petitioner from the holder of a certificate of purchase upon payment by the county to the certificate holder of the amount necessary to redeem. A county may limit the number of times a taxpayer may file such a petition for assistance.

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 ninety-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, .5, and .8 amended 1991; § 448.6 amended 2018; § 448.12 amended 2005; § 447.9 amended 2012; § 448.3 amended 2008; § 447.8 amended 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.

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 prior to the day of sale. 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 prior to the day of sale.

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 the 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 described in the records of the office of the county clerk or the register of deeds of the county in which the real estate is located. (If any 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 such real estate on the fourth Monday of October.) The county treasurer must prepare an accompanying notice stating that the county treasurer will sell the real estate described in the list to the county for the amount of the delinquent taxes and legal charges due, and that the sale will be on or after the first Tuesday of September following publication of the notice (*see Public Notice and Posting Requirements*). The list must include the names of the owners of the real estate; the description and address, if available, of each tract or parcel of land; and the total of the amount of unpaid taxes on each tract or parcel. No irregularity in the advertisement, nor 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 on which the taxes and legal charges have not been paid, and it is the duty of the county treasurer to bid, in the name of the county, the amount of the delinquent taxes and legal charges due, including the costs of advertising and the fees for selling, and at this initial sale no bid may be received from any other person.

List of Property Sold

The county treasurer must, immediately after the close of the sale to the county, record a list of all real estate in a book prepared for that purpose, with the list to include (1) the date of sale; (2) the name of the owner or owners, if known; (3) the description of each tract or lot; (4) the name of the county as purchaser; (5) the total amount of taxes at the time of sale; (6) columns for entering the name of person redeeming, and date of redemption; (7) columns for showing the total amount paid for redemption; and (8) columns for showing the date of foreclosing 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 having reference to the tax sale.

Sale by City or County

Whenever real estate has been purchased by the county at a delinquent tax sale and 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, in the name of the board of commissioners, against the owners of the real estate and all persons having any interest therein, by filing a petition with the clerk of court. The petition must contain a description of each piece of real estate, 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 having any interest therein; and the year the real estate was sold for delinquent taxes. The petition must also 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 in duplicate 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 rendition of the judgment, the clerk of the district court must issue an execution or order of sale. Such order of sale must be delivered to the sheriff of the county, who must then cause notice of the sale to be published as described in *Public Notice and Posting Requirements*.

On the day fixed for the sale, 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 name of the county. 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 of the proceedings and sale. If the sale cannot be completed on the day fixed by the notice, it may be adjourned from day to day until completed.

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, describing the real estate, giving the location, and requesting 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 current market value of the real estate.

No sale will be confirmed until the purchaser files with the clerk of court an affidavit stating that the purchase of the real estate was not made, either directly or indirectly, for any person having 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 upon which there are delinquent taxes is eligible to purchase property at a tax-delinquency sale.

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 becomes 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.

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, the treasurer must enter, in a column opposite the description of each tract or parcel of land, the amount of unpaid taxes and the date of unredeemed sales, if any, for previous years on such land. 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 cause the notice of sale required by Kan. Stat. § 79-2302 to be published 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 prior to 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 treasurer of the proper county an affidavit of publication.

Court-ordered Sale

After the rendition of the district court judgment (*see Preconditions to Foreclosure*), the clerk of court must issue an execution or order of sale. Such order of sale must be delivered to the sheriff of the county, who must then cause notice of the sale to be published once each week for three consecutive weeks in some newspaper of general circulation in the county. The notice must describe each piece of real estate to be sold and the lien for which it will be sold, as determined by the judgment of the court, and fix the date of sale, which may not be less than thirty days from the date of the first publication. The notice must 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 on which the taxes are not paid has been advertised as provided by law, and has not been sold to the county by reason of an injunction or judicial proceeding, after such injunction has been dissolved it is only necessary for the county treasurer to publish in some newspaper of general circulation in his or her county a notice stating that the real estate was not sold, by reason of the injunction, whereupon the real estate must be sold to the county at the time and place specified, which time may not be less than ten days from the date of publication.

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, describing the real estate, giving the location, and requesting 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 current market value of the real estate.

Negotiated Sales

Upon application of the county, 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 such 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, describing the property, and stating the name of the purchaser or recipient and 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 thereto, including the county.

Section amended 1999.

[Kan. Stat. § 79-2804 \(2019\)](#)

Taxing Authorities, Kansas, Appeals

Pre-sale Redemption

Any person interested in any piece of real estate as owner or holder of the record title, his or her successors, or any mortgagee or his or her assigns may, before the day of sale, make redemption by filing with the clerk of court an application to redeem, identifying the parcel, and paying to the clerk

such amount as the court may order, 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. Such payments constitute a full satisfaction and redemption of the real estate from the lien and stay all further proceedings for collection.

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 date of sale, subject only to the right of redemption. Any owner or holder of the record title, 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 thereon that have accrued after the date of the sale that remain unpaid as of the date of redemption, and costs and expenses of the sale and redemption, including, but not limited to, abstracting costs incurred in anticipation of a tax sale.

In cases where the mortgagor is responsible for paying but 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 so sold.

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, but every such action must be commenced within twelve months after the date the order of sale or sale was confirmed by the court. 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 may cause the money paid on the sale, together with subsequent taxes and charges paid thereon by the purchaser, to be refunded with interest, upon

the delivery of a quitclaim deed from the party holding under the sheriff's deed, executed to such person or persons as the commissioners directs.

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. The court must file the appraisal and enter it on the court's records before the sale.

High-cost loans

A lender may not start a foreclosure or other judicial process to terminate a borrower's interest in residential real property subject to a high-cost home loan without first providing the borrower a written notice of default and of the borrower's right to cure. The lender must provide the notice at least 30 days before initiating the process.

Section 426.520 amended 2012; §§ 426.005 and 426.006 enacted 1953; § 360.100 amended 2010.

[Ky. Rev. Stat. §§ 360.100; 426.005, .006, .520 \(2020\)](#)

Lenders, Kentucky, Public Notice and Posting Requirements

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."

Section 426.005 amended 1953; Rule 73.02 amended 2010.

[Ky. Rev. Stat. § 426.005 \(2020\); 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.

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 after a certificate of delinquency is established, the department or the county attorney must mail a notice by regular mail to the owner. 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 another notice by regular mail to the owner of record at the address on the property valuation administrator's records. This notice must include:

- the name, address, and telephone number of a contact person in the county attorney's office or the department;
- a statement that the county clerk will hold a sale of tax claims, information regarding the sale, and a statement regarding third-party purchasers; 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

Advertisement of sale

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.

An advertisement of a notice of delinquent taxes or the sale of tax claims 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 one-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 city's or county's business and on an identified Internet website. The delinquent tax list must be posted on the Internet website 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

Nothing specific regarding evictions in the context of tax lien foreclosures or collections on certificates of delinquency was located. *See generally*, [Ky. Rev. Stat. § 381.010 et. seq. \(2020\)](#) (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."

Article last modified 2005.

[La. Code Civ. Proc. art. 3721 \(2018\)](#)

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."

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.

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 and the mortgage certificate.

Articles 2332 and 3722 amended 2003; § 13:3886 amended 2005; article 2293 amended 2013; articles 2334 and 3723 last modified 2005.

[La. Code Civ. Proc. art. 2293, 2332, 2334, 3722, 3723 \(2018\); La. Rev. Stat. § 13:3886 \(2018\)](#)

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 \(2018\); La. Rev. Stat. §§ 43:201, :201.1, :202, :203 \(2018\)](#)

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.

During and before entering into a lease agreement for a residential dwelling, the lessor must disclose in writing to the lessee and any prospective lessee a pending foreclosure action. The lessor must also disclose the lessee's right to receive notice of any foreclosure action. Within seven days after being served with a notice of seizure, a lessor of a residential dwelling must provide written notice of the seizure to all lessees.

Article last modified 2005; 9:3260.1 enacted 2013.

[La. Code Civ. Proc. art. 4702 \(2018\); La. Rev. Stat. § 9:3260.1 \(2018\)](#)

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 each February (or as soon after that date as possible), the tax collector must send a written notice of delinquency by 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 provide that, unless all impositions are paid within 20 days after sending the notice, the property will be sold at tax sale, specifying the time and place of the scheduled sale, the debtor's rights of redemption, 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.

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 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.

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 redemptive 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.

Section 2155 amended 2009; § 2157 enacted 2008; §§ 2153 and 2156 amended 2019; § 2154 amended 2012; constitutional section amended effective 2015.

[La. Rev. Stat. §§ 47:2153, :2154, :2155, :2156, :2157 \(2019\); La. Const. art. 7, § 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 shall publish notice of delinquency to the debtors and an advertisement for sale two times within thirty 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 redemptive 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.

Section 2157 enacted 2008; § 2153 amended 2019.

[La. Rev. Stat. §§ 47:2153, :2157 \(2019\)](#)

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 last modified 2005.

[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 shall be redeemable for three years after the recordation of the tax sale, by paying the price given, including costs, 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.

Set aside sales

A tax debtor may file an action to set aside and annul a tax sale within six months after service of the notice of sale, which shall not be served until the expiration of the redemption period, 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 prior to the date of sale.

Statutory section amended 2012; constitutional section amended effective 2015.

[La. Const. art. 7, § 25; La. Rev. Stat. Ann. 47:2154 \(2019\)](#)

Maine

Lenders, Maine, Foreclosure Type

Judicial. Non-judicial foreclosures are available only for commercial property.

Lenders, Maine, Preconditions to Foreclosure

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

No action to enforce a mortgage on residential property may be brought until 35 days after the lender has given notice of the right to cure the default. This notice to the mortgagor and any cosigner must be provided to the last known addresses of the mortgagor and cosigner by both certified mail, return receipt requested and ordinary first-class mail, postage prepaid. The time when the notice is given to the mortgagor or cosigner is the sooner of the date the mortgagor or cosigner:

- signs the receipt or, if the notice is undeliverable, the date the post office last attempts to deliver it; or
- receives the notice.

Within three days of receiving electronic information from the mortgagee (as required by § 6111(3-A)), the Bureau of Consumer Credit Protection must send a written notice to the mortgagor that includes a summary of the mortgagor's rights and available resources, including information concerning the foreclosure mediation program. The notice of right to cure must contain the information and statements set forth in § 6111(1-A).

Mediation

When a plaintiff brings an action to foreclose a mortgage on an owner-occupied residential real property of no more than four units that is the owner-occupant's primary residence, the plaintiff must attach to the front of the foreclosure complaint a one-page form notice explaining foreclosure and the mediation process. The form notice must contain at least the following:

- a statement that failure to answer the complaint will result in foreclosure;
- a sample answer and an explanation that the defendant may fill out the form and return it to the court as the answer to the complaint; and
- a description of the foreclosure mediation program.

If the defendant requests mediation, the court must refer the parties to the court's foreclosure mediation program.

Expedited final hearing in certain foreclosure cases (§ 6321-B)

The court must schedule an expedited final hearing if a plaintiff in an action brought pursuant to § 6321 files a request for an expedited final hearing indicating:

- that mediation did not result in the action's settlement or dismissal and that all of the defendants and all of the parties in interest who have appeared in the action have consented to an expedited final hearing; or
- that the defendant has not filed an answer to the complaint and that all of the parties who have filed an answer in the action have consented to an expedited final hearing.

The request must be accompanied by a consent form that informs defendants that they may consult with an attorney or a housing counselor before consenting to an expedited hearing.

Sections 6321-A and 6111 amended 2019; § 6321 amended 2015; § 6321-B enacted 2015.

[Me. Rev. Stat. tit. 14, §§ 6111, **6321**, 6321-A, 6321-B \(2019\)](#)

Lenders, Maine, Public Notice and Posting Requirements

Certificate of Filing Complaint

In a foreclosure by civil action, the mortgagee must, within 10 days of commencing the foreclosure, record a copy of the complaint or a clerk's certificate of the filing of the complaint in each registry of deeds in which the mortgage deed is or should be recorded. That recording constitutes record notice of commencement of foreclosure.

Notice of Sale

Notice of sale of the premises 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 made not more than 90 days after the expiration of the redemption period.

Abandoned Property

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.

Section 6323 amended 2019; § 6326 enacted 2013; § 6321 amended 2015.

[Me. Rev. Stat. tit. 14, §§ 6321, 6323, 6326 \(2019\)](#)

Lenders, Maine, Preconditions to Eviction

A writ of possession is issued to the purchaser at the foreclosure sale, along with the deed. Notice to quit is not required.

A mortgagee must, however, provide notice of the final judgment of foreclosure, and any subsequent proceedings, to any residential tenant of the premises by first class mail and registered mail. A residential tenant may not be evicted unless a mortgagee institutes an action for forcible entry and detainer after providing such notice and after expiration of the redemption period. Failure to provide the notice does not affect the validity of the foreclosure sale.

Section 6322-A amended 2009; § 6323 amended 2019.

[Me. Rev. Stat. tit. 14, §§ 6322-A, 6323 \(2019\)](#)

Lenders, Maine, Appeals

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 publication date of the notice of sale. Except for sales of abandoned premises, the public sale may be adjourned for up to 60 days. 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. 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.

Section 6323 amended 2019; § 6326 enacted 2013; Rule 2 restyled 2017.

[Me. Rev. Stat. tit. 14, § 6323, 6326 \(2019\); Me. R. App. P. 2\(B\)\(c\)\(1\)](#)

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 the

person's last known address, a notice in writing stating the amount of the tax, describing the real estate and demanding the payment of such 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 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

A civil action for collection of the tax may be brought by the tax collector 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, which shall 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 such 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, and execution shall issue to be enforced by the sale of the property.

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 (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 the person's last known address, a notice in writing stating the amount of the tax, describing the real estate and alleging that a lien is claimed on the real estate to secure payment of the tax and demanding 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 and also file a copy of the certificate with the municipal treasurer. A copy of the certificate must also be hand delivered or sent by certified mail, return receipt requested, to each record holder of a mortgage on the property, and if the property has not been assessed to its record owner, a copy must also be sent to the record owner by certified mail.

The filing of the tax lien certificate in the registry of deeds creates a tax lien mortgage on the property to 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 in a writing 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 of the impending automatic foreclosure and the date thereof. 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 must notify the owner, if a resident, or the occupant, if any, by delivering to him or her in person, or by registered mail with receipt demanded, or by leaving at his last and usual place of abode, a notice stating the time and place of sale and taxes due.

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 holder of record of each such mortgage within 60 days from the date of sale 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, stating that he has purchased the property at a tax sale and request the mortgagee redeem it. If such 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/Unorganized Places

See [Me. Rev. Stat. tit. 36, § 1281 et seq. \(2018\)](#) 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 may also be foreclosed and sold by levy pursuant to [Me. Rev. Stat. tit. 36, § 176-A \(2018\)](#), but the taxpayer's principal residence is exempt from levy, unless the assessor has made a finding that the tax is in jeopardy or the assessor personally approves in writing the levy of such property.

Section 176-A amended 2011; § 941 amended 2009; § 942 amended 2019; § 943 amended 2019; history of §§ 945, 1071, 1073, 1076, 1077, 1080, and 1082 unknown.

[Me. Rev. Stat. tit. 36, §§ 176-A, 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, once a week for three consecutive weeks with the last publication not less than 30 days before the time for the appearance of the defendants. 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-owner 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

A municipality which 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.

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

Abatement

The municipal officers, or the state tax assessor for an unorganized territory, within three years from tax commitment, may, on their own knowledge or on written application, make such abatements as they believe reasonable on the taxes on the primary residence of any person who, by reason of hardship or poverty, is in the officers' judgment unable to contribute to the public charges. They may extend the three-year period within which they may make abatements. The state tax assessor may abate taxes under this procedure only if the governor approves.

If after two years from the date of assessment a tax collector is satisfied that a tax upon real property committed to him for collection cannot be collected by reason of the death, absence, poverty, insolvency, bankruptcy or other inability of the assessed person to pay, must notify the municipal officers in writing, stating the reason why the tax cannot be collected. The municipal officers after due inquiry may abate the tax or any part thereof.

Redemption

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 mortgagee of record of said 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.

Tax Lien Foreclosure Action

In an action to foreclose a tax lien mortgage, a defendant must allege as a defense in his or her answer, and establish, any invalidity or defect in the proceedings from and including the assessment of tax upon which the tax lien mortgage is based to and including the time of filing of the complaint in such action.

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 must 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.

Tax-Acquired Property and Title Actions

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.

Section 941 amended 2010; § 943 amended 2019; § 944 amended 2011; § 946-B enacted 2013; § 841 amended 2017; history of §§ 947 and 1078 unknown.

[Me. Rev. Stat. tit. 36, §§ 841, 941, 943, 944, 946-B, 947, 1078 \(2019\)](#)

Maryland

Lenders, Maryland, Foreclosure Type

Judicial.

Lenders, Maryland, Preconditions to Foreclosure

Notice of intent to foreclose

Generally, 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 in a condition on which the mortgage or deed of trust provides that a sale may be made; or
- 45 days after the notice of intent to foreclose is sent.

Notice must be sent by certified mail, return-receipt requested, and by first-class mail.

An action may be brought immediately upon court order if:

- the loan was obtained by fraud or deception;
- no payments were ever made on the loan;
- the mortgaged property has been destroyed;
- the default occurred after the lifting of a stay in bankruptcy; or
- the property subject to the mortgage or deed of trust is vacant and abandoned property as provided under § 7-105.14.

General loss mitigation procedure

Except as otherwise provided by statute, at least 45 days before filing an action to foreclose a mortgage or deed of trust on residential property, the secured party must send a written notice of intent to foreclose to the mortgagor or grantor and to the record owner. The notice of intent to foreclose must be sent by certified mail, postage prepaid, return-receipt requested, and by first-class mail. (A copy of the notice of intent to foreclose must also be sent to the Commissioner of Financial Regulation.) The notice of intent to foreclose must be in the form the Commissioner of Financial Regulation prescribes and contain the information required by statute, including, among other things:

- specified identifying information;
- the amount required to cure the default and reinstate the loan;
- a statement recommending that the mortgagor or grantor seek housing counseling services;

- the telephone number and web address of nonprofit and government resources available to assist mortgagors and grantors facing foreclosure; and
- an explanation of the Maryland foreclosure process and time line.

For an owner-occupied residential property, the notice of intent to foreclose must also be accompanied by:

- a loss mitigation application;
- instructions for completing the loss mitigation application and a telephone number to call to confirm receipt of the application;
- a description of the eligibility requirements for the secured party's loss mitigation programs that may apply to the loan; and
- an envelope addressed to the person responsible for conducting loss mitigation analysis.

For property that is not 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
- the telephone number to call to contest that determination.

Order to docket or complaint to foreclose

An order to docket or a complaint to foreclose a mortgage or deed of trust on residential property must include or be accompanied by:

- specified identifying information;
- an affidavit stating the date on which the default occurred, the nature of the default, and, if applicable, specified information about the notice of intent to foreclose;
- certain documents related to the mortgage and specified fees;
- if the loss mitigation analysis has been completed, a final loss mitigation affidavit; and
- if the loss mitigation analysis has not been completed, a preliminary loss mitigation affidavit.

Service of process

A copy of the order to docket or complaint to foreclose on residential property must be served by:

- personal delivery of the papers to the mortgagor or grantor; or
- leaving the papers with a resident of suitable age and discretion at the mortgagor's or grantor's dwelling house or usual place of abode.

The service must be accompanied by a separate, clearly marked notice, that states:

- the significance of the order to docket or complaint to foreclose; and

- the borrower's options, including housing counseling services and financial assistance resources; and
- if the mortgagor or grantor has participated in prefile mediation, a statement that the mortgagor or grantor "is not entitled to postfile mediation except as otherwise provided in the prefile mediation agreement."

If at least two good-faith efforts to serve the mortgagor or grantor have failed, the plaintiff may serve by:

- filing an affidavit with the court describing the good-faith efforts to serve the mortgagor or grantor, and mailing a copy of the required documents by certified mail, return receipt requested, and first-class mail to the mortgagor's or grantor's last known address and, if different, to the property's address; and
- posting a copy of all the documents required to be served in a conspicuous place on the residential property.

See Md. Code, Real Prop. § 7-105.14 for requirements applying to foreclosure of vacant and abandoned property.

Loss mitigation

An order to docket or a complaint to foreclose a mortgage or deed of trust on residential property generally must be accompanied by, among other things, the following:

- if the loss mitigation analysis has been completed, a final loss mitigation affidavit in the proper form; and
- if the loss mitigation analysis has not been completed, a preliminary loss mitigation affidavit in the proper form, among other things.

In this context, a "loss mitigation program" is an option in connection with a loan secured by owner-occupied residential property that avoids foreclosure through certain means, such as loan modification or a short sale, or that lessens a foreclosure's harmful impact. "Residential property" means real property improved by four or fewer single family dwelling units.

A final loss mitigation affidavit must be filed no earlier than 28 days after the order to docket or complaint to foreclose is served on the borrower.

Foreclosure mediation (postfile mediation)

In a foreclosure action on owner-occupied residential property, the borrower may file with the court a completed request for postfile mediation no later than:

- if the final loss mitigation affidavit was delivered with service of the order to docket or complaint to foreclose, 25 days after that service; or
- if the final loss mitigation affidavit was mailed, 25 days after that mailing.

Generally, within 60 days after the foreclosure-mediation request is transmitted, the Office of Administrative Hearings must conduct a foreclosure mediation.

A foreclosure sale of residential property may not occur until:

- if the residential property is not owner-occupied residential property, at least 45 days after service of process is made;
- if the residential property is owner-occupied residential property and foreclosure mediation is not held, the later of 45 days after service of process that includes a final loss mitigation affidavit or 30 days after a final loss mitigation affidavit is mailed;
- if the residential property is owner-occupied residential property and foreclosure mediation is requested, at least 15 days after the date the postfile mediation is held; or

- if no postfile mediation is held, the date the Office of Administrative Hearings files its report with the court.

Prefile mediation

For owner-occupied residential property, a secured party *may* offer prefile mediation to a borrower to whom the secured party has delivered a notice of intent to foreclose. If a secured party offers prefile mediation, a borrower may elect to participate in prefile mediation by notifying the secured party by submitting an application no more than 25 days after the date the secured party mailed the notice of intent to foreclose. As a precondition to prefile mediation, a borrower must participate in housing counseling services.

If the parties elect to participate in prefile mediation, the lender may not file an order to docket or complaint to foreclose until the prefile mediation is complete.

Notice of Sale

Written notice of the proposed sale must also be provided to the property's record owner and to any 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 under the Maryland Contract Lien Act. Notice of the time, place, and terms of the sale must be sent by certified mail and by 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 under the Maryland Contract Lien Act, and "Occupant" at the property's address. The mailings must be sent not more than 30 and not less than 10 days before the sale date.

Rule 14-210 amended 2018; § 7-105.2 amended 2019; § 7-105.1 amended 2019; § 7-105.14 renumbered 7-105.18 in 2019; Rule amended 2018.

[Md. Code, Real Prop. §§ 7-105.1, -105.2, -105.18 \(2020\); Md. Rules § 14-210](#)

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

Service of process

If at least two good-faith efforts to serve the mortgagor or grantor have failed, the plaintiff may serve by:

- filing an affidavit with the court describing the good-faith efforts to serve the mortgagor or grantor, and mailing a copy of all required documents by certified mail, return receipt requested, and first-class mail to the mortgagor's or grantor's last known address and, if different, to the property's address; and
- posting a copy of all the documents required to be served in a conspicuous place on the residential property.

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.

The person authorized to make the sale must also notify the county or municipal corporation where the property subject to the lien is located, not less than 15 days prior to sale, of the name, address, and telephone number of said person authorized and the time, place, and terms of sale.

The person authorized to make a sale in a foreclosure action on residential property must send notices of the foreclosure sale by mail addressed to "all occupants" at the address of the property being foreclosed. The party purchasing at the sale must also send notice after the sale to "all occupants."

Section 14-126 renumbered 7-105.3 in 2019; rule 14-210 amended 2018; § 7-105.1 amended 2019; § 7-105.9 renumbered 7-105.11 in 2019.

[Md. Code, Real Prop. §§ 7-105.1, .3; -105.11 \(2020\); Md. Rules § 14-210](#)

Lenders, Maryland, Preconditions to Eviction

Action for Possession

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.

Assumption of Interest

In the case of a foreclosure of residential property, an immediate successor in interest who has acquired title under the foreclosure assumes the interest in any lease, subject to the right of the tenant to occupy the premises until the end of the remaining lease term or, if there is no lease or it is terminable at will, until the effective date of a notice to vacate sent to the tenant by certified mail at least 90 days before that date.

Notice of Impending Sale

The person authorized to sell the property must send a bona fide tenant both a notice of the foreclosure action and a notice of impending foreclosure sale.

Protected Resident of Residential Property

A party claiming the right to possess residential property generally may not take possession or threaten to take possession from a protected resident by:

- locking the resident out of the property;
- engaging in "willful diminution" of services; or

- taking any other action that "deprives the protected resident of actual possession."

Generally, a party claiming the right to possession of residential property generally may take possession from a protected resident "only in accordance with a writ of possession issued by a court and executed by a sheriff or constable." However, a party claiming the right to possess residential property may use nonjudicial self-help to possess the property, if the party:

- reasonably believes the protected resident has abandoned or surrendered possession of the property based on a reasonable inquiry;
- provides notice; and
- receives no response within 15 days after the later of posting or mailing the notice.

If a party claiming the right to possess residential property reasonably believes, based on a reasonable inquiry, that all protected residents have abandoned or surrendered possession of the property, the party claiming the right to possess may post on the property's front door and mail by first-class mail a written notice addressed to "all occupants" at the property's address. The notice must be in substantially the form provided by statute. Note that although this section does not apply if the parties are governed by Title 8, Subtitle 2 or, Title 8A of the Real Property article, [2013 Md. Laws chs. 514](#) and [515](#) added similar provisions to those titles.

In this context, "party claiming the right to possession" means a person (or successor) who:

- does not have actual possession of a residential property; and
- has or claims to have legal right to possess the residential property pursuant to the terms of a contract or foreclosure sale, a residential lease or sublease that has an initial term of "99 years renewable forever and that creates a leasehold estate" subject to the payment of periodic annual installments, or a court order.

"Protected resident" means "an owner or former owner in actual possession of residential property," and "residential property" includes a "building, structure, or portion of a building or structure that is designed principally and is intended for human habitation."

Section 7-105.6 renumbered 7-105.8 in 2019; § 7-105.9 renumbered 7-105.11 in 2019; § 7-113 amended 2015; § 14-108.1 amended 2016.

[Md. Code, Real Prop. §§ 14-108.1; 7-105.8, .11, -113 \(2020\)](#)

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.

Rule amended 2015; statutory section renumbered 2019.

[Md. Code, Real Prop. § 7-105.4 \(2020\); Md. Rules § 8-202](#)

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, including, *inter alia*, Baltimore County, Calvert County, Cecil County, Frederick County, Garrett County, Kent County, Montgomery County, Prince George's County, Queen Anne's County, St. Mary's County, Washington County, and Wicomico County.

Taxing Authorities, Maryland, Preconditions to Foreclosure

Notice of sale

At least 60 days before mailing final statements to the 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, each tax collector must mail a statement to the property's record owner at that person's last known address on the tax roll, setting forth the person's name and the amount of taxes due. The statement also must state, "This is a Final Bill and Legal Notice to the Person Whose Name Appears on this Notice," followed by notice that unless the delinquent taxes are paid within 30 days, the property will be sold to satisfy the debt. The mailing must also include information summarizing the tax sale process and information about the assistance that is available from the state or county tax sale ombudsman.

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 Ann., Hum. Servs. § 10-1-101.

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

After the sale, the record owner has the right to redeem the property and continue possessing it until the property is redeemed or the post-sale right to redeem is foreclosed.

Generally, an action to foreclose the right to redemption may be brought any time after six months have elapsed since the tax sale, provided, however, that the certificate holder (the purchaser or an assignee) has also sent two required notices to either (1) the last record owner, or (2) "the current holder of a beneficial interest in a deed of trust recorded against the property."

Except as otherwise provided for residential property located in specified geographic areas, 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 by certified mail, return-receipt requested, 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.

For provisions relating to the form of complaint to foreclose the right of redemption and other procedural requirements, see [Md. Code Ann., 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, including, *inter alia*, Baltimore County, Calvert County, Cecil County, Frederick County, Garrett County, Kent County, Montgomery County, Prince George's County, Queen Anne's County, St. Mary's County, Washington County, and Wicomico County. For example, the governing bodies of counties and municipalities may file a complaint to foreclose all rights of redemption in certain abandoned property at any time after the sale date.

Section 14-830 amended 2008; § 14-812 amended 2019; § 14-810 amended 1995; § 14-833 amended 2018; § 14-836 amended 2017; § 14-817.1 amended 2019.

[Md. Code, Tax-Prop. §§ 14-810, -812, -817.1, -830, -833, -836 \(2020\)](#)

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

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:

- 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, (1) the property's street address, along with the depth and frontage of the lot, as it appears in the tax records, (2) the name of the last record owner, (3) the amount of all taxes due and unpaid on the property, and (4) 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.

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 (1) describe the property as it is described in the tax-sale certificate, and (2) 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.

Maryland Rules also require that notice of the foreclosure proceeding be posted in a conspicuous place on the property, either by the sheriff or a "competent private person, appointed by the plaintiff." Also, if all or part of the property is a common area owned or legally dedicated to a homeowners' association, notice must be sent to the homeowners' association.

Note: Special provisions may apply to sales, fees, and other requirements within Baltimore City and certain counties, including, *inter alia*, Baltimore County, Calvert County, Cecil County, Dorchester

County, Frederick County, Garrett County, Kent County, Montgomery County, Prince George's County, Queen Anne's County, St. Mary's County, Washington County, and Wicomico County.

Section 14-814 amended 1985; § 14-840 amended 2000; § 14-813 amended 2012; § 14-812 amended 2019.

[Md. Code, Tax-Prop. §§ 14-812, -813, -814 \(2020\)](#); see [Md. Rules 14-501 to -506](#)

Taxing Authorities, Maryland, Preconditions to Eviction

Generally, a person who acquires a deed through an action to foreclose on the right of redemption is 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. Some 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 (1) 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; (2) the tenant has the right to pay the taxes and costs to avoid termination of the lease; and (3) 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 identity of the tenant 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, including, *inter alia*, Baltimore County, Calvert County, Cecil County, Frederick

County, Garrett County, Kent County, Montgomery County, Prince George's County, Queen Anne's County, St. Mary's County, Washington County, and Wicomico County.

Section 14-850 amended 1986; § 14-836 amended 2017.

[Md. Code, Tax-Prop. §§ 14-836, -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.

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 default

A mortgagee may not accelerate maturity of the unpaid balance of a residential mortgage obligation or otherwise enforce the mortgage because of a default consisting of the mortgagor's failure to make a payment until at least 90 days after the date a written notice is given by the mortgagee to the mortgagor. The notice is deemed to be delivered to the mortgagor when:

- delivered by hand to the mortgagor; or
- sent by first class mail and certified mail or similar service by a private carrier to the mortgagor at the mortgagor's last known address.

The statutory provision creating a 150-day cure period and shortening that period if the lender had engaged in a good faith effort to negotiate an alternative to foreclosure expired on January 1, 2016.

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. No deficiency judgment may be had unless the mortgagee serves notice of intention to foreclose and to seek a deficiency on the mortgagor at least 21 days before the sale date.

Foreclosure Alternatives

A creditor may not publish notice of a foreclosure sale, as required by § 14, unless it has first "taken reasonable steps and made a good faith effort to avoid foreclosure." A creditor is deemed to have taken "reasonable steps and made a good faith effort to avoid foreclosure" if it has considered:

- the borrower's ability to make an affordable monthly payment;
- the "net present value of receiving payments under a modified mortgage loan as compared to the anticipated net recovery following foreclosure"; and
- the creditor's interests.

A creditor is presumed to have acted in good faith if, before publishing notice of a foreclosure sale, the creditor:

- determines a borrower's current ability to make an affordable monthly payment;

- identifies a modified mortgage loan that achieves the borrower's affordable monthly payment;
- conducts a compliant analysis comparing the modified mortgage loan's net present value and the creditor's anticipated net recovery that would result from foreclosure; and
- either (A) if the modified loan's net present value exceeds the anticipated net recovery at foreclosure, agrees to modify the loan in a manner that provides for affordable monthly payments; or (B) if the modified mortgage loan's net present value is less than the foreclosure's anticipated net recovery or does not meet the borrower's affordable monthly payment, notifies the borrower that no modified mortgage loan will be offered and provides a written summary.

Section 4 amended 1973; § 1 amended 1991; § 17B amended 1998; § 11 history unknown; § 35A amended 2010; § 14 amended 2012; § 35B enacted 2012.

[Mass. Gen. Laws ch. 244, §§ 1, 4, 11, 14, 17B, 35A, 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, after the sale, file in the clerk's office a copy of the notice and an affidavit.

Non-judicial

Notice of the sale must be published once a week for three successive weeks, the first publication not less than 21 days before the sale date, in a newspaper published in the city or town where the land lies or in a newspaper with general circulation in the city or town where the land lies. 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 3 enacted 2010; § 14 amended 2012; § 15 amended 2015.

[Mass. Gen. Laws ch. 244, §§ 14, 15; 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 period is 60 days.

Sale scheduling

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 relating to appeals or sale scheduling were located.

Statutory history unknown; rule amended 2019.

[Mass. Gen. Laws ch. 244, § 5 \(2019\); Mass. R. App. P. 4](#)

Taxing Authorities, Massachusetts, Foreclosure Type

Judicial.

Taxing Authorities, Massachusetts, Preconditions to Foreclosure

Liens

Taxes assessed upon land along with incidental charges and fees shall be 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

If an owner/mortgagee designates a place at which all papers relative to the taxes on the land are to be served on him, the collector must serve any notice, demand for payment, or other paper relating to the taxes on the land, on him at such place. The collector must not advertise the sale of such land for two months after time of a demand is made.

A collector may take land for taxes when a demand for their payment has been made and fourteen days have passed without them being paid. The notice and publication requirements for a taking are the same as for a sale.

Notice of Pending Petition

Following the filing of a petition for foreclosure, a title examination must be done to ascertain the names of interested persons and they must all be notified of the pendency of the petition by registered mail, return receipt required. The notice must contain the name of the petitioner, names of all known respondents, a description of the land and statement of nature of the petition, fixing the time in which appearance may be entered, and must contain a statement that unless the party notified shall appear and answer within the time fixed, a default will be recorded, the petition taken as confessed, and the right of redemption forever barred. Notice by publication or otherwise may be ordered by the court.

Sections 39 and 66 amended 1933; § 53 amended 1970; § 37B enacted 1977; § 37 amended 1996.

[Mass. Gen Laws. Ann. ch. 60 §§ 37, 37B, 39, 53, 66 \(2019\)](#)

Taxing Authorities, Massachusetts, Public Notice and Posting Requirements

The collector must give notice by publication of the time and place of sale. This notice must contain a substantially accurate description of the several rights, lots or divisions of the land to be sold, the amount of tax assessed on each, 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 assessed generally to his 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.

Section 42 amended 1933; § 79 amended 2000; § 40 amended 2002.

[Mass. Gen Laws. Ann. ch. 60 §§ 40, 42, 79 \(2019\)](#)

Taxing Authorities, Massachusetts, Preconditions to Eviction

If the taxes owed are not paid fourteen days following their demand, the collector may take the land for the town by first giving fourteen days' notice of his intention of so doing. The notice may be served in the manner required by law for the service of subpoenas on witnesses in civil cases or may be published as specified above in Public Notice and Posting Requirements. After such time the collector, in the name of the city or town, may take immediate possession of the land.

Section amended 1970.

[Mass. Gen Laws. Ann. ch. 60, § 53 \(2019\)](#)

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 to judicial foreclosure were located.

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 properly 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.

Counseling notice

Michigan's counseling-notice requirements were repealed effective June 30, 2014.

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.

Loss Mitigation

Michigan's loss-mitigation requirements were repealed effective June 19, 2014.

Section 600.3201 amended 1981; §§ 600.3185 and 600.3285 enacted 2008; previously applicable § 600.3205a repealed effective June 30, 2014; § 600.3204 amended 2018; previously applicable § 600.3206 repealed effective June 19, 2014.

[Mich. Comp. Laws §§ 600.3185, .3201, .3204, .3285 \(2020\)](#)

Lenders, Michigan, Public Notice and Posting Requirements

Judicial

Publication and notice

A person authorized by court order to sell real estate "in pursuance of any judgment, except as otherwise provided by order of the court or by a rule of court," must give notice of and conduct the sale as a sale of real estate on execution.

A sale under a foreclosure judgment may not be ordered on less than 42 days' notice. 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 600.6052 amended 1974; § 600.6091 amended 1975; § 600.3208 amended 1972; rule chapter updated 2015; § 600.3212 amended 2019.

[Mich. Comp. Laws §§ 600.3208, .3212, .6052, .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.

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.

Sections 3115 and 3216 enacted 1962; § 3125 amended 1974; rule chapter 3.4 updated 2015; rule chapter 7.1 updated 2016.

[Mich. Comp. Laws §§ 600.3115, .3125, .3216 \(2020\); 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. Not 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 owner of the property, 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: (1) the unpaid delinquent taxes, interest, penalties and fees due on the property and a schedule of any additional such amounts that will accrue; (2) a statement of the person's redemption rights and when they will expire; and (3) 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.

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 must 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 or 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 \(2020\)](#).

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 211.78k 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.

Sections 211.78f and 211.78i amended 2014; § 211.78m amended 2015.

[**Mich. Comp. Laws §§ 211.78f, .78i, .78m \(2020\)**](#)

[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.

If the property is classified as residential real property, if the property is a principal residence exempt from the tax levied by a local school district for school operating purposes, and if a tax foreclosure avoidance agreement is in effect, the following apply while the tax foreclosure avoidance agreement is effective:

- the property must be withheld from the petition for foreclosure under § 211.78h; and
- the additional interest under § 211.78g(3)(b) does not apply. Instead, interest computed at a noncompounded rate of 1/2 percent per month on the taxes that were originally returned as delinquent applies to the property.

Financial Hardship

A foreclosing governmental unit may withhold from the foreclosure action property the title of which is 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 § 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

Judicial and non-judicial

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.

Effective for foreclosures in which the notice of pendency or the lis pendens for foreclosure is recorded on or after August 1, 2009, the foreclosure advice and redemption rights notice described below applies to foreclosures by advertisement and foreclosures by action on property consisting of one- to four-family dwellings, one of which is owner-occupied.

Minnesota law also requires additional notices regarding mediation for agricultural property. See **Foreclosure, Commercial Procedures: Lenders: Preconditions to Foreclosure** for details. (Note

that Minnesota's legislature had extended the expiration date for several agricultural mediation statutes to June 30, 2022.)

Judicial

Generally, judicial foreclosures are governed by the same rules as other civil actions, except as otherwise provided in chapter 581. Note that many notices described below must be provided in both foreclosure of mortgages by advertisement and foreclosure of mortgages by action on property consisting of one- to four-family dwelling units, one of which is owner-occupied.

Non-judicial

Before a party may bring a non-judicial foreclosure, the following conditions are required:

- some default in a condition of the mortgage has occurred, causing the power to sell to become operative;
- either (a) no action or proceeding has been brought to recover the remaining debt, (b) if an action or proceeding has been instituted, it has been discontinued, or (c) an execution on the judgment rendered in the action has been returned unsatisfied;
- the mortgage has been recorded or registered;
- the party has complied with § 580.021 before the notice of pendency is recorded; and
- if applicable, the party has complied with § 582.043 (regarding loss mitigation) before the sale.

Non-judicial and some judicial

Foreclosure advice and redemption rights notices

A lender must provide foreclosure advice and a redemption rights notices to owners. The requirement applies to foreclosure of mortgages by advertisement and foreclosure of mortgages by action on property consisting of one- to four-family dwelling units, one of which is owner-occupied.

The foreclosure advice notice must:

- be printed on colored paper that is other than the color of the notice of foreclosure and the notice of redemption rights;
- be on its own page;
- be delivered with the notice of foreclosure required by sections 580.03 and 580.04; and
- be delivered with each subsequent written communication regarding the foreclosure mailed to the mortgagor by the foreclosing party up to the foreclosure sale.

A foreclosing mortgagee will be deemed to have complied with this requirement if it sends the foreclosure advice notice at least once every 60 days up to the foreclosure sale date.

The notice of redemption rights must:

- be printed on colored paper that is other than the color of the notice of foreclosure required by sections 580.03 and 580.04 and the foreclosure advice notice;
- be on its own page; and

- be delivered with the notice of foreclosure required by sections 580.03 and 580.04.

Foreclosure prevention counseling

Minnesota's foreclosure prevention counseling requirements apply to foreclosure of mortgages by advertisement and foreclosure of mortgages by action on property consisting of one- to four-family dwelling units, one of which is owner-occupied. Before the notice of pendency or the lis pendens for a foreclosure is recorded, a party foreclosing a mortgage must provide to the mortgagor information contained in the form set forth in § 580.022. The notice must state that:

- foreclosure prevention counseling services provided by an authorized foreclosure prevention counseling agency are available; and
- the party will transmit the homeowner's name, address, and telephone number to an approved foreclosure prevention agency.

This notice may be provided concurrently with a written notice of default.

Foreclosure mitigation

Effective for foreclosures on residential property with a notice of pendency or a lis pendens for foreclosure recorded on or after August 1, 2013, a servicer generally must notify a mortgagor in writing of available loss mitigation options that the servicer offers and that are applicable to the mortgagor's loan before the servicer refers the loan to an attorney for foreclosure.

Sections 582.039 amended 2017; § 582.021 amended 2009; § 581.01 added 1940; §§ 580.02 and 580.041 amended 2013; § 582.043 amended 2014; § 583.215 amended 2017.

[Minn. Stat. §§ 580.02, .021, .041; 581.01; 582.039, .041, .043; 583.215 \(2019\)](#)

Lenders, Minnesota, Public Notice and Posting Requirements

Judicial

No specifically relevant provisions were located. However, note that effective for foreclosures in which the notice of pendency or the lis pendens for a foreclosure is recorded on or after August 1, 2009, the tenant foreclosure advice notice requirements apply to the foreclosure of mortgages by advertisement and to the foreclosure of mortgages by action on property consisting of one- to four-family dwelling units, one or more of which a tenant occupies as a residence.

Non-judicial

Notice of the proposed sale must be published for six weeks. Notice of the sale must be mailed at least four weeks before the sale to every person with a redeemable interest in the property who requests notice. If there are tenants on the property, notice of the foreclosure must be provided to them.

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 property is 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 property is located.

Section 580.032 amended 2005; § 580.042 amended 2009; § 580.03 amended 2010; § 580.033 enacted 2015.

[Minn. Stat. §§ 580.03, .032, .033, .042 \(2019\)](#)

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

With respect to residential real property or a dwelling if the person holding the real property after the expiration of the redemption period was a tenant during the redemption period, and the lease began after the date the mortgage was executed but before the expiration of the redemption period, the immediate successor in interest must provide at least 90 days' written notice to vacate. The notice must be given no sooner than the date of the expiration of the redemption period and effective no sooner than 90 days after that date.

See § 504B.285 for additional notice provisions that apply to specific types of leases under various conditions.

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 lacks the mental capacity to make decisions or has 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.

Section 580.21 amended 1927; § 580.28 amended 2008; rule 104.01 amended 2010; § 580.06 amended 2011; § 580.20 amended 2013.

[Minn. Stat. §§ 580.06, .20, .21, .28 \(2019\); 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 of each year, the county auditor must file with the court administrator of the district court for the county a list of the delinquent taxes on real estate within the county, which list must contain a legal description of the land and tax parcel or identification number of each parcel on which taxes are delinquent, names of the taxpayers and fee owners, and the total amount of taxes and penalties with the years for which the properties are delinquent. The filing of the list has the same effect as filing a complaint in an action by the county against each parcel of land described to enforce payment of the taxes and penalties, and is deemed the institution of such an action. 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 upon any of the parcels of land described. The notice must state that:

- each interested party is required to file, in the office of the court administrator, on or before the twentieth day after publication of the notice and list, an answer, in writing, setting forth any objection or defense;
- if no answer is filed, judgment will be entered against the land for the taxes against it, and for all penalties, interest, and costs; and
- based on that judgment, the land will be sold to the state of Minnesota on the second Monday in May.

The notice must also contain a "narrative description" of the various redemption periods specified by Minnesota law.

Sale

On the second Monday of May in each year, the county auditor must sell all parcels of land against which judgment has been entered and remains unsatisfied for the taxes of the preceding year(s). The auditor must bid, on behalf of the state, 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 being on or before the March 20 immediately following the filing of the list with the court administrator, and the second 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 therein and partly in a supplement issued therewith.

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 period of redemption, the county must give notice of expiration of the time for redemption, which notice must include the tax parcel identification numbers and legal descriptions of parcels subject to the notice, the names of taxpayers and fee owners, and the amount of payment necessary to redeem as of the date of the notice. 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. Such publication must occur as soon as practicable after the posting of the notice, and must continue for two successive weeks in the official newspaper of the county. Immediately after the commencement of publication or mailing, the county auditor must also deliver to the sheriff a sufficient number of copies of 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

Immediately after publication or mailing of the notice of redemption-period expiration, the county auditor must deliver to the sheriff copies of such notice for service on the persons occupying the land. No actual transfer of the land may occur until the full period of redemption expires and sixty days have elapsed since service of the notice of expiration. 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 ten 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

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 many exceptions. For example, the redemption period for lands located in certain targeted communities is one year. No actual transfer of the land may occur until the full redemption period expires.

Section 279.22 enacted 1939; § 279.17 amended 1986; § 279.25 amended 2014; § 281.17 amended 2017.

[Minn. Stat. §§ 279.17, .22, .25; 281.17 \(2019\)](#)

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

Mississippi's S.A.F.E. Mortgage Act provides that it is unlawful during a residential mortgage loan transaction for a mortgage lender not to mail, at least 45 days before power-of-sale foreclosure auction is conducted, a notice addressed to the borrower at the borrower's last-known address. The notice must contain:

- an "itemization of all past-due amounts causing the loan to be in default" and any other charges that must be paid to bring the loan current;
- a statement that the borrower may have other options available and that he or she may discuss the options with the mortgage lender or a HUD-approved counselor;

- contact information for the mortgage lender or the agent authorized to attempt to work with the borrower to avoid foreclosure;
- contact information for one or more HUD-approved counseling agencies that assist Mississippi borrowers to avoid foreclosure; and
- contact information for the Mississippi Department of Banking and Consumer Finance's consumer complaint section.

In this context, a "mortgage lender" is any person who "originates, makes, funds or purchases or offers to originate, make, or fund or purchase a residential mortgage loan or who services residential mortgage loans."

These provisions are scheduled to be repealed effective July 1, 2020.

Section 81-18-3 reenacted eff. July 1, 2016; § 81-18-55 reenacted and amended eff. July 1, 2016.

Miss. Code §§ 81-18-3, -55 (LexisNexis 2019)

Lenders, Mississippi, Public Notice and Posting Requirements

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 amended 1934.

Miss. Code § 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.

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; rule amended 1998.

Miss. Code § 11-5-93 (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 and in arrears have not been paid. *See Public Notice and Posting Requirements*, below.

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 door of the county courthouse 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.

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, and the sale is subject to all the provisions of law applicable to such sales at the time appointed by law.

Sale Lists

On or before the second Monday of May and the second Monday of October of each year, the tax collector must transmit to the clerk of the county chancery court separate certified lists of the lands struck off to the state and that sold to individuals, specifying to whom assessed, the date of sale, the amount of taxes for which the sale was made, each item of cost incident thereto, and, where sold to individuals, the name of the purchaser, with such sales to individuals to be separately recorded by the clerk in a book kept for that purpose. All such 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 period of and 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 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 to the reputed owner in the same manner as set out above, except that notice served by the sheriff is not required.

If the notice by mail is returned undelivered and returned not found, the clerk must make further inquiry to determine 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

Section 27-43-7 amended 1942; § 27-43-1 amended 1975; § 27-43-5 amended 1995; § 27-43-3 amended 2013; § 27-41-59 amended 2016; § 27-41-79 amended 2011; § 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 notice of tax sale must be advertised on the last Monday of August. Such 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, and in counties having 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 option of the tax collector, 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, and all of the provisions that relate to tax sales held in August will apply.

If there is no newspaper 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, in addition to the list posted at the courthouse. If there is no newspaper published in the judicial district of the county where the land is located, or 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 having a circulation in the appropriate judicial district, in addition to the posting required.

Notice to Record Owner of Land Sold

The clerk must publish the name and address of the reputed owner of the property and the legal description of such property in a public newspaper of the county in which the land is located, or if no newspaper is published in the county, then in a newspaper having a general circulation in the county. Such publication must be made at least forty-five days prior to the expiration of the redemption period.

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](#)

When the period of redemption has expired, the chancery clerk must, on demand, execute deeds of conveyance to individuals purchasing lands at tax sales. Such conveyance must be attested by the seal of the office of the chancery clerk and be recordable when acknowledged as all land deeds are recorded, and such conveyance vests in the purchaser perfect title, with the immediate right of possession to the land.

Section amended 1908.

Miss. Code § 27-45-23 (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

No relevant provisions located.

Non-judicial

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, to the owner of the property as of 40 days before the scheduled sale date, and to 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.

Section 443.310 amended 1989; § 443.325 amended 1975.

[Mo. Rev. Stat. §§ 443.310, .325 \(2019\)](#)

Lenders, Missouri, Public Notice and Posting Requirements

Judicial

Prior to the sale of the property, notice must be published for 20 days in a newspaper in the county; if there is no such newspaper, the sale is advertised by posting at least six printed handbills.

Non-judicial

Notice is given by advertisement, inserted at least twenty times, up to the day of the sale, in some daily newspaper in counties having cities of 50,000 inhabitants or more. In all other counties notice is given by advertisement in a weekly newspaper published in such county for four successive issues, the last insertion not more than one week prior to the day of sale, or in some daily, triweekly or semiweekly paper published in such county at least once a week for four successive weeks. If the property to be sold lies wholly or in part within the corporate limits of any city with a population of 50,000 or more, then the notice is published in a daily newspaper in such 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 some weekly newspaper published in such counties for four successive issues, the last insertion to be not more than one week before the sale date.

Section 443.320 amended 1989; § 513.205 amended 1978.

[Mo. Rev. Stat. §§ 443.320; 513.205 \(2019\)](#)

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 ten days notice before beginning an unlawful detainer action.

Section amended 2009.

[Mo. Rev. Stat. § 534.030 \(2019\)](#)

Lenders, Missouri, Appeals

Judicial

Appeal

No specific provisions relating to appeals in foreclosure actions were located. Generally, an appeal in a civil action must be filed no later than 10 days after the judgment becomes final.

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 were located.

Sale scheduling

Unless the deed of trust specifies a time or place for the sale, scheduling the sale is left to the discretion of the trustee to schedule the sale for a commercially reasonable time. A sale between 9 a.m. and 5 p.m. is deemed commercially reasonable.

Section 443.327 amended 1994; § 513.235 amended 1939; Rule 81.04 amended 2016.

[Mo. Rev. Stat. §§ 443.327, 513.235 \(2019\); 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 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 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 commenced within three years after delinquency. No real property 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 owner of record 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 assessed valuation of the property is greater than \$1000. If the second notice 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 the same from day to day until each parcel assessed is sold to pay the taxes, interest, and charges thereon. The person offering to pay the required sum for a tract is considered the purchaser, but no sale may be made to any 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 an agreement in writing consenting to the jurisdiction of the circuit court of the county in which the sale is made, and appointing some 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 of sale, it must be offered again at the next sale. If at the second offering no one bids a sum equal to the delinquent taxes with interest, penalties and costs, the clerk of the sale must note that fact in his records, and the county collector must record the fact in the back tax book. Whenever any 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 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 the issuance and delivery of 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 discretion, need not again advertise or offer such lands 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 the 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 any person who holds a publicly recorded deed of trust, mortgage, lease, lien, judgment or claim on the property of the latter's right to redeem the interest. Notice must be sent by both first class mail and certified mail return receipt requested to such person's last known available address.

If any real estate is purchased at a third-offering tax auction has a publicly recorded unreleased deed of trust, mortgage, lease, lien, or 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 their 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, then the county collector must comply with all 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

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 held in or adjacent to the courthouse of the county, 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 office of the county's recorder of deeds.

The county collector may maintain a separate list of lands, without legal descriptions and the names of the 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

The purchaser of any property at a sale for delinquent taxes, except for homesteads, may at any time after one year from the date of sale be entitled to the immediate possession of the premises, unless sooner redeemed, but the owner or occupant of such property 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.

Any purchaser at a tax sale of any real property who takes possession within the redemption period is required to pay the taxes subsequently assessed on such property during the period of occupancy and within the redemption period, and upon failure to do so, or 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

Whenever the owner of any land is deprived of title thereto or incurs expenses, damages, costs, or charges by reason of the failure of the county collector to give proper credit for any taxes paid, or whenever any land is assessed to two or more persons and the entire tax is paid by either of them and the collector sells such land as delinquent, the party damaged may bring an action against the officer by whose act or omission caused such damages. A successful plaintiff may recover a judgment for the amount of all the damages, costs, and charges to which the owner has been subjected, 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).

Lenders, Montana, Preconditions to Foreclosure

Judicial

No preconditions to foreclosure were located.

Non-judicial

If the mortgage contains a power of sale, notice of the sale must be served personally at least 30 days before the date of the sale upon the occupant of the property, the lender if within the state of Montana, and upon every person having or claiming an interest of record in the property who may be found within the state of Montana.

For a trust indenture: at least 120 days before the date of the sale, 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 having a recorded lien or interest subsequent to the interest of the trustee.

Section 71-1-224 amended 1963; § 71-1-315 amended 2009.

[Mont. Code Ann. §§ 71-1-224, -315 \(2019\)](#)

Lenders, Montana, Public Notice and Posting Requirements

Judicial

No relevant provisions were located.

Non-judicial

If the mortgage contains a power of sale, at least 30 days before the date of the sale in a newspaper in the county in which such 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 said land is situated, one in a

conspicuous place in the county that will be most likely to give notice to all persons interested in said sale, and one posted in a conspicuous place at the front door of the county courthouse.

For a trust indenture: 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 prior to the sale. At least 20 days before the date of the sale, 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 3 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 property or some part thereof is situated. The posting or the last publication shall be made at least 20 days before the date fixed for the sale.

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

Trust indenture: 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.

[Mont. Code Ann. §§ 70-27-104; 71-1-319 \(2019\)](#)

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.

Trust indenture: the sale may not be less than 120 days after the date on which the notice of sale was filed for record, and must be held between the hours of 9 a.m. and 4 p.m., Mountain Standard Time.

Section 71-1-313 amended 1963; rule amended 2015.

[Mont. Code Ann. § 71-1-313 \(2019\); 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, below.*

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 county treasurer, or the assignee of a tax deed on property other than property provided for in § 15-18-219(1)(b) 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.

Pursuant to § 15-18-219, the assignee of a tax lien attached to property classified as residential, agricultural or forest property and on which a dwelling is located, may apply for a tax deed if the property has not been redeemed in the time allowed by law. Prior to applying for a tax deed, the assignee must notify the parties that a tax deed will be auctioned unless the property tax lien is redeemed before the date of the auction. The notice must be in the form required by § 15-18-215(1) and be made by certified mail, return receipt requested, to the current occupant, if any, of the property and to each party, other than a utility, listed on a litigation guarantee.

Upon receipt of an application for a tax deed], the county treasurer must hold a public auction in the county in which the property is located within 60 days of receipt of the application.

Statutory section 7-1-2121 amended 2015; §§ 15-17-122, and 15-17-323 amended 2017; §§ 15-18-212 and 15-18-215 amended 2019; §§ 15-18-219 and 15-18-220 enacted 2019.

[Mont. Code Ann. §§ 7-1-2121; 15-17-122, -125, -323; -18-212, -215, -219, -220 \(2019\)](#)

Taxing Authorities, Montana, Public Notice and Posting Requirements

Notice of Pending Tax Lien Attachment

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 date on which the county will attach a property tax lien to property on which the taxes are delinquent; that the penalties, interest and costs are a lien on the property; and that unless they are paid before the specified date, a tax lien will be attached and may be assigned to a third party. The notice must also state that a list of each property on which taxes are delinquent is on file in the county treasurer's office and open to inspection.

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 notice must be provided 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.

Sections 15-17-122 and 15-18-212 amended 2019.

[Mont. Code Ann. §§ 15-17-122, -18-212 \(2019\)](#)

Taxing Authorities, Montana, Preconditions to Eviction

A tax deed conveys to the grantee absolute title to the property as of the tax deed date and is deemed prima facie evidence of the right of possession accruing as of the date upon which a 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 owner, the holder of an unrecorded or recorded interest, the occupant of the property, a mortgagee, a vendor of a contract for deed, a lienholder or other person with a properly recorded interest in the property.

The time for redemption is by the first working day in August:

- two 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
- three 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 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, recipient or purchaser of the the tax deed. If the purported true owner is not successful in the action and the purchaser's title is sustained, the money must be returned to the purported true owner.

Section 27-2-210 amended 1985; §§ 15-17-326 and 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

No pre-foreclosure requirements were located. Notice of the availability of the homestead exemption must be given to the mortgagor at least ten days prior to the sale.

Non-judicial

Notice of default must be sent by registered or certified mail to the parties to the deed of trust no more than ten 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 prior to the sale. Notice of the sale must be sent by registered or certified mail.

Section 25-1531 amended 2018; § 76-1008 amended 2006.

[Neb. Rev. Stat. Ann. §§ 25-1531; 76-1008 \(2019\)](#)

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, or, if there is no newspaper printed in the county, 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 Neb. Rev. Stat. § 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. Failure to provide this information does not void or invalidate a complaint for the foreclosure or satisfaction of a mortgage filed under § 25-2142.

Non-judicial

Notice of default

Notice of default must first be filed with the County Recorder for the county in which the property is located. Notice must be sent by registered or certified mail to any person who has filed a request for notice no more than ten 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 prior to the sale. Notice of the sale must be sent by registered or certified mail. No less than one month after the filing of the notice of default, notice of the sale 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 ten days, but not more than 30 days, before the sale.

Notices regarding ordinance violations

After filing a notice of default pursuant to Neb. Rev. Stat. § 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. Failure to provide this information does not void or invalidate a complaint for the foreclosure or satisfaction of a mortgage filed under § 76-1006.

Section 25-1529 amended 1971; §§ 76-1007 and 76-1008 amended 2006; §§ 25-2142 and 76-1006 amended 2015.

[Neb. Rev. Stat. Ann. §§ 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 prior to 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 1972; § 25-2124 amended 2002; § 25-21,220 amended 2016.

[Neb. Rev. Stat. Ann. §§ 25-2124, -21,220, -21,221 \(2019\)](#)

Lenders, Nebraska, Appeals

Judicial

Appeal

The 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.

A mortgagor may object to the sale of the property if the mortgagee did not give him or her notice of the availability of the homestead exemption at least ten days prior to the sale. Application to set aside the sale must be made within 60 days of the confirmation of the sale.

Sale scheduling

No specific provisions relating to the scheduling of a sale were located.

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.

Section 25-1531 amended 2018; § 25-1506 amended 2002; § 76-1007 amended 2006.

[Neb. Rev. Stat. Ann. §§ 25-1506, -1531; 76-1007 \(2019\)](#)

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 not been paid in full on or before the first Monday of March, after they have become delinquent, 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 prepare a list of all real property subject to sale and the amount of delinquent taxes against each property. A notice must accompany the list stating that so much of such property as described on the list as may be necessary, will be sold at public auction on the first Monday in March at the county treasurer's office for the taxes, interest, and costs owing.

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 taxes then delinquent. Final confirmation of sale cannot be had until two years have expired from the date of the sale held by the sheriff in the foreclosure proceedings.

Within nine months 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 represented by the tax sale certificate or the tax deed in the same manner and with like effect as in the foreclosure of a real estate mortgage, except as otherwise provided by law. Final confirmation of sale may be had immediately after the sheriff's sale.

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. Ann. §§ 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 his or her office. 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 cannot 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

Nothing specific regarding evictions in the context of tax lien foreclosures. *See generally*, [Neb. Rev. Stat. § 76-301 et. seq. \(2019\)](#)

Taxing Authorities, Nebraska, Appeals

Non-Judicial

Effective January 1, 2015, 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 that 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.

The real property of minors 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

Twenty days after the court's decree, the plaintiff shall be entitled to an order of sale of the real property remaining unredeemed. This order must only be issued at the request of the plaintiff or the holder of an unredeemed lien and shall be issued within ten years from the date of the decree. After ten years, no order of sale shall issue, the decree shall be deemed satisfied, and no further action shall lie 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.

Any time prior the institution of foreclosure proceedings, any person entitled to redeem may do so at by paying the county treasurer for the use of such hold of a tax sale certificate, with interest, from the date of purchase to the date of redemption, together with all other taxes subsequently paid, whether for any year(s) previous or subsequent to the sale, and interest thereon from the date of such payment to the date of redemption.

After the decree of foreclosure and before the final confirmation of sale, any person entitled to redeem may do so by paying to the district court clerk the amount due against the property, with interest and costs to the date of redemption, and in addition, if sold at sheriff's sale to a person other than the plaintiff any subsequent taxes paid by such purchaser with interest from the date of sale to the date of redemption.

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 thirty 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.

Section 77-1844 amended 1943; § 77-1936 enacted 1947; § 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; § 77-1912 amended 2010; § 77-1914 amended 2011; §§ 77-1824 and 77-1827 amended 2013.

[Neb. Rev. Stat. Ann. §§ 77-1806, -1824, -1826, -1827, -1843, -1844, -1855, -1911, -1912, -1913, -1914, -1917 \(2019\)](#)

Nevada

Lenders, Nevada, Foreclosure Type

Judicial and non-judicial.

Lenders, Nevada, Preconditions to Foreclosure

Servicemembers

Notwithstanding any other provision of law and except as otherwise ordered by a court, if a borrower is a servicemember or a dependent of a servicemember, a person may not initiate or direct or authorize another person to initiate a foreclosure sale during any period that the servicemember is on active duty or deployment or for a period of one year immediately following the end of such active duty or deployment.

Generally, in any civil action for a foreclosure sale involving a failure to make a payment required by a residential mortgage loan that is filed against a servicemember or a dependent of a servicemember, while the servicemember is on active duty or deployment or during the one-year period immediately following the end of such active duty or deployment, "the court may, on its own motion after a hearing, or shall, on a motion or on behalf of the servicemember or dependent of the servicemember, as applicable, do one or both of the following:

- stay the proceedings in the action until at least one year after the end of the servicemember's active duty or deployment; or
- adjust the obligation to preserve the parties' interests.

Judicial

Notice of the sale must be given by personal service or service by registered mail on each person liable on the mortgage.

For a judicial foreclosure action concerning owner-occupied property that is brought on or after October 1, 2013, the mortgagor may elect to participate in the state's foreclosure mediation program. If a civil action for a foreclosure sale affecting owner-occupied housing, the copy of the complaint served on the mortgagor must include a separate document containing:

- contact information that the borrower may use to reach a person with authority to negotiate a loan modification on the lender's behalf;
- contact information for at least one local housing counseling agency approved by the United States Department of Housing and Urban Development;
- notice by the mediation administrator (i.e. Home Means Nevada, Inc. or its successor organization) indicating that the mortgagor has the right to seek mediation; and
- a form upon which the mortgagor may indicate an election to enter into or waive mediation.

Pursuant to 2015 Nev. Stat. ch. 517, the existing statutes providing for Nevada's foreclosure mediation program were repealed, effective on June 30, 2017, "effectively ending the program on

that date." However, 2017 Nev. Stat. ch. 571 removed the prospective expiration thereby making the program permanent with certain amended provisions.

Non-judicial

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 service date to cure the default. In addition, if the trust agreement became effective on or after October 1, 2003, no later than 60 days before the sale date, the trustee must serve on the property owner a notice advising the owner of the availability of consumer credit counseling.

The notice must also include information regarding the state's foreclosure mediation program.

Effective July 1, 2013, this notice requirement does not apply if the notice includes an affidavit and a certification indicating that the lender has elected to use the expedited foreclosure procedure for abandoned residential property.

The notice must be served personally, or by any other manner reasonably calculated to give notice. The trustee must include with the notice of default and election to sell:

- contact information that the borrower may use to reach a person with authority to negotiate a loan modification on the lender's behalf;
- contact information for at least one local housing counseling agency approved by the United States Department of Housing and Urban Development;
- a notice provided by the mediation administrator (i.e. Home Means Nevada, Inc. or its successor organization) indicating that the grantor or title-holder will be enrolled to participate in mediation, if he or she pays his or her share of the required fee; and
- a form to be used to indicate an election to waive mediation.

The trustee must also provide the grantor or the title-holder the above information "concurrently with, but separately from, the notice of default and election to sell which is mailed to the grantor or the person who holds the title of record" as required § 107.080(3).

If the borrower elects to waive mediation, he or she must complete the waiver and return it to the lender no later than 30 days after the service of notice. If the borrower does not waive mediation, he or she must pay his or her share of the required fee. Upon receipt of that fee amount, the mediation administrator notifies the trustee of the borrower's participation in mediation, and the administrator assigns the matter for mediation. The lender may take no further action to exercise the power of sale until the mediation is completed. The trustee must notify the beneficiary of the deed of trust and every other person with an interest of the grantor's or title-holder's enrollment to participate in mediation. If the grantor or title-holder is enrolled to participate in mediation, but fails to attend, the mediation administrator must, no later than 30 days after the scheduled mediation, certify to the trustee that no mediation is required.

Note that the mediation requirements set forth in § 170.086 and described above, do not apply if the notice includes an affidavit and a certification indicating that the lender has elected to use the expedited procedure for abandoned residential property.

A power of sale generally may not be exercised until at least three months have elapsed after the notice is recorded. However, if the notice includes an affidavit and a certification indicating that the lender has elected to use the expedited procedure for for abandoned residential property, only at least 60 days must have elapsed after the notice is recorded.

In addition to the requirements set forth in §§ 107.080, 107.085 and 107.086, a power of sale for residential foreclosure may not be executed until:

- in the case of owner-occupied housing, the grantor, the title holder a beneficiary under a subordinate deed of trust or other person with a subordinate lien or encumbrance of record must have failed to make the deficiency in payment or performance for a period that commences on the first day following the day on which a notice of default and election to sell is recorded and a copy thereof is mailed to the grantor or title holder and ends five days before the sale date; and

- the beneficiary, the beneficiary's successor in interest, or the trustee executes and has recorded a notice of breach and election to sell and an affidavit of authority to exercise the power of sale meeting statutory requirements.

Pursuant to 2015 Nev. Stat. ch. 517, the existing statutes providing for the state's foreclosure mediation program were repealed, effective on June 30, 2017, "effectively ending the program on that date." However, 2017 Nev. Stat. ch. 571 removed the prospective expiration thereby making the program permanent with certain amended provisions.

Foreclosure Prevention Alternatives

For trust agreements for which a notice of default is recorded on or after October 1, 2013, the notice must contain the declarations required by the residential property foreclosure alternative laws enacted in 2013, provided the property is subject to the act. The act generally establishes additional requirements regarding foreclosure alternatives that apply to the foreclosure of owner-occupied housing securing a residential mortgage loan. However, these requirements do not apply to a financial institution that has foreclosed on 100 or fewer owner-occupied homes in Nevada during its immediately preceding annual reporting period.

At least 30 calendar days before recording a notice of default and election to sell or before bringing a judicial foreclosure action, and at least 30 calendar days after a borrower's default, the mortgage servicer, mortgagee, or trust deed beneficiary must provide the borrower with:

- a statement regarding service members' protections against foreclosure;
- specified information concerning the borrower's account;
- a statement of the facts supporting the lender's right to foreclose;
- the foreclosure prevention alternatives offered; and

- a list of the documents the borrower may request.

A lender may not record a notice of default and election to sell or bring a judicial foreclosure action involving a failure to make payment until the mortgage servicer contacts or attempts to contact the borrower to discuss foreclosure alternatives. See *Foreclosure, Alternatives* for a more detailed description of this act.

Sections 107.510, and 107.530 enacted 2013; § 21.130 amended 2019; §§ 107.080, .107.085 107.086, 107.460, 107.500 amended 2019.

[Nev. Rev. Stat. §§ 21.130; 107.080, .085, .086, .460, .500, .510, .530 \(2019\)](#); see also [Nev. Rev. Stat. § 40.439 \(2019\)](#)

Lenders, Nevada, Public Notice and Posting Requirements

Judicial

Notice of the sale must be posted for 20 days successively, in three public places of the township or city where the property is situated 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. For the sale of property in a residential foreclosure, a copy of the notice must be posted in a conspicuous place on the property. The notice must not be defaced or removed until the transfer of title is recorded or the property becomes occupied after completion of the sale, whichever is earlier. A separate notice must be served by personal delivery or by certified mail, return receipt requested, to any tenant or subtenant, other than the judgment debtor, who is occupying the premises at the same time the other notice of the sale is given. The separate notice must include a statement informing the tenant or subtenant that a notice of the sale of the property has been issued and that the tenant or subtenant may either terminate the lease or rental agreement or, if he or she chooses to continue to occupy the premises, the tenant or subtenant will be subject to eviction proceedings.

Non-judicial

Notice of default and election to sell

Notice of the default and the election to sell the property generally must be filed with the County Recorder no less than three months before the sale. However, if the notice includes an affidavit and a certification indicating that the lender has elected to use the expedited procedure for abandoned residential property, a power of sale may not be exercised until at least 60 days have elapsed after the notice is recorded. 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 successive days in a public place in the county in which the property is situated.

The notice must also be published three times, once each week for three consecutive weeks, in a newspaper of general circulation in the county in which the property is situated. 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.

If the sale of property results from a residential foreclosure, a copy of the notice of default, election to sell, and the notice of sale must be posted in a conspicuous place on the property no later than:

- for a notice of default and election to sell, 100 days before the sale date; or
- for a notice of sale, 15 days before the sale date.

The notices must not be defaced or removed until the transfer of title is recorded or the property becomes occupied after completion of the sale, whichever is earlier. Separate notice must also be served on any tenant or subtenant occupying the premises no later than 15 days before the sale date. The separate notice must include a statement informing the tenant or subtenant that a notice of the sale of the property has been issued, and that the tenant or subtenant may either terminate the lease or rental agreement or, if he or she chooses to remain in occupation of the premises, the tenant or subtenant will be subject to the eviction process.

Notices regarding mediation

The trustee may not exercise a power of sale pursuant to § 107.080 unless the trustee, among other things, records:

- the certificate provided to the trustee by the mediation administrator providing that no mediation is required in the matter; or
- the certificate provided to the trustee by the mediation administrator providing that mediation has been completed.

The mediation requirements set forth in § 170.086 and described above, do not apply if the notice includes an affidavit and a certification indicating that the lender has elected to use the expedited procedure for abandoned residential property. See § 107.130 for additional provisions related to the state's expedited procedure for exercising a trustee's power of sale involving abandoned residential property.

Pursuant to 2015 Nev. Stat. ch. 517, the existing statutes providing for the state's foreclosure mediation program were repealed, effective on June 30, 2017, "effectively ending the program on that date." However, 2017 Nev. Stat. ch. 571 removed the prospective expiration thereby making the program permanent with certain amended provisions.

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 trustee's deed upon sale, must cause a copy of the trustee's deed upon sale to be posted conspicuously on the property.

Sections amended 2019.

[Nev. Rev. Stat. §§ 21.130; 107.080, .086, .087, .090, .130 \(2019\); see also 2017 Nev. Stat. ch. 571 \(S.B. 490\), § 1](#)

Lenders, Nevada, Preconditions to Eviction

Generally, 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 surrender.

However, if the property has been sold as a residential foreclosure, a tenant or subtenant occupying the premises, other than a person whose name appears on the mortgage or deed, who holds over and continues in possession of real property or a mobile home in any of the situations set forth in § 40.255(1)(b) or (c) may be removed after receiving a notice of the change of ownership and after the expiration of a notice period:

- beginning on the date the tenant or subtenant received the notice;
- expiring for all periodic tenancies with a period of less than one month, after no less than the number of days in the period; and
- expiring for all other periodic tenancies or tenancies at will, after no less than 60 days.

During the notice period,

- the new owner has the rights, obligations, and liabilities of the previous owner or landlord under the lease or rental agreement; and
- the tenant or subtenant continues to have the rights, obligations, and liabilities that the tenant or subtenant had under the lease or rental agreement.

The notice must contain a statement:

- providing the new owner's contact information to whom rent should be remitted;
- notifying the tenant or subtenant that the lease or rental agreement continues in effect through the notice period described above; and
- notifying the tenant or subtenant that failure to pay rent to the new owner or comply with any other term of the agreement or applicable law constitutes a breach of the lease or rental agreement and may result in eviction proceedings.

Section 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

Apart from the notice requirements, no restrictions on the date for a foreclosure sale were located.

Violation of Foreclosure Alternative Provisions

If a trustee's deed upon sale has not been recorded or if a sheriff has not recorded the certificate of sale, a borrower may bring an action for injunctive relief to enjoin a material violation of the state's

foreclosure alternatives act. The issued injunction remains in place and any foreclosure sale must be enjoined until the court determines that the mortgage servicer, mortgagee, or trust deed beneficiary has corrected and remedied the violation.

After a deed upon sale or certificate of sale has been recorded, a borrower may bring a civil action in the district court in the county in which the property is located to recover his or her actual economic damages resulting from a material violation of the state's foreclosure prevention alternative laws, if the material violation was not corrected and remedied before the recording of the deed upon sale or the certificate of sale. If the court finds that the material violation was intentional or reckless, or resulted from willful misconduct, the court may award the borrower the greater of treble actual damages or \$50,000.

A violation of the state's foreclosure alternative laws does not affect "the validity of a sale to a bona fide purchaser for value and any of its encumbrancers for value without notice."

These requirements do not apply to a financial institution that, during its immediately preceding annual reporting period, has foreclosed on 100 or fewer owner-occupied homes in Nevada.

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 90 days after the sale date.

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

If a court action is filed claiming an unfair lending practice in connection with the trust agreement, the sale date may not be less than 30 days after the date the most recent such action is filed.

In all other cases, the sale generally may be held no sooner than three months following the recording of the notice of default and election to sell. However, if the notice includes an affidavit and a certification indicating that the lender has elected to use the expedited procedure for abandoned residential property, a power of sale may not be exercised until at least 60 days have elapsed after the notice is recorded. The sale must be held 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.

Violation of Foreclosure Alternative Provisions

If a trustee's deed upon sale has not been recorded or if a sheriff has not recorded the certificate of sale, a borrower may bring an action for injunctive relief to enjoin a material violation of the state's foreclosure alternatives act. The issued injunction remains in place and any foreclosure sale must be enjoined until the court determines that the mortgage servicer, mortgagee, or trust deed beneficiary has corrected and remedied the violation.

After a deed upon sale or certificate of sale has been recorded, a borrower may bring a civil action in the district court in the county in which the property is located to recover his or her actual economic damages resulting from a material violation of the state's foreclosure prevention alternative laws, if the material violation was not corrected and remedied before the recording of the deed upon sale or the certificate of sale. If the court finds that the material violation was

intentional or reckless, or resulted from willful misconduct, the court may award the borrower the greater of treble actual damages or \$50,000.

A violation of the state's foreclosure alternative laws does not affect "the validity of a sale to a bona fide purchaser for value and any of its encumbrancers for value without notice."

These requirements do not apply to a financial institution that, during its immediately preceding annual reporting period, has foreclosed on 100 or fewer owner-occupied homes in Nevada.

Section 107.081 amended 2017; rule 4 amended 2015; § 107.560 enacted 2013; §§ 107.080, 107.085 and 107.460 amended 2019.

[Nev. Rev. Stat. §§ 107.080, .081, .085, .460, .560 \(2019\); Nev. R. App. P. 4; see also 2017 Nev. Stat. ch. 571 \(S.B. 490\), § 1](#)

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 within one year if the property has been 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 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 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.

Except as otherwise provided, 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, 361.595, 361.5648, and 361.570 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 also 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 at 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 the form set forth in [Nev. Rev. Stat. § 361.680](#) 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](#)

Any 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, and entitles the holder of the deed to possession of such property. 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

Postponement of Payment of Tax

A delinquent taxpayer owner of a single-family residence may qualify for postponement of the payment of all or part of the property tax accrued against his residence if he meets the requirements of [Nev. Rev. Stat. § 361.7376](#).

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 or within one year if the property has been determined to be abandoned and is subject to expedited procedures.

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 361.7376 added 2003; § 361.600 amended 1993; §§ 361.5648 amended 2019; § 361.590 amended 2019; § 361.585 amended 2015.

[Nev. Rev. Stat. §§ 361.5648, .585, .590, .600, .7376 \(2019\)](#)

New Hampshire

Lenders, New Hampshire, Foreclosure Type

Judicial and non-judicial.

Lenders, New Hampshire, Preconditions to Foreclosure

Judicial

No pre-foreclosure provisions were located. 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 and which is 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 mortgagor's rights (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

A copy of the 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 45 days

before the sale in the case of a residential mortgage. The same notice must be sent to any person with a record lien on the mortgaged premises not less than 21 days before the sale, provided the lien is recorded at least 50 days before the sale date, in the case of a residential mortgage. The notice must contain:

- the date, time, and place of sale;
- the address of the mortgaged premises;
- the mortgage's date;
- the volume and page of the recorded mortgage; and
- the terms of the sale.

Statutory provisions effective January 1, 2016, require a notice of sale regarding owner-occupied dwellings with four or fewer dwelling units to contain additional information and statements.

A 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.

Section 479:19 history unknown; § 479:25 amended 2015.

[N.H. Rev. Stat. §§ 479:19, :25 \(2019\)](#)

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

Judicial

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 commenced, the object of such possession, the name of the mortgagor and mortgagee, the date of the mortgage and a description of the premises. The first publication must be at least six months before the right to redeem would be foreclosed. If foreclosure is based on publication by a mortgagee in possession, notice must be published in a newspaper for three successive weeks a notice 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. If sale of the foreclosed property is ordered, the court's decree will set out the notice and advertisement requirements.

Non-judicial

In the case of a residential mortgage, a notice of sale must be sent to any person who has a recorded lien on the mortgaged premises that was recorded at least 50 days before the sale date.

Notice of the 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 date of sale, excluding the date of publication of the first notice and the date of sale.

Sections 479:19 and 479:22 history unknown; § 479:25 amended 2015.

[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.

The time and place of the sale are as set out in the power of sale.

A 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.

Section 479:22 history unknown; § 479:25 amended 2015.

[N.H. Rev. Stat. §§ 479:22, :25 \(2019\)](#)

Taxing Authorities, New Hampshire, Foreclosure Type

Non-judicial.

Taxing Authorities, New Hampshire, Preconditions to Foreclosure

Notice of Sale

The tax collector must, before posting notice of the sale, but not more than 30 days before the posting, 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 description of the property as recorded by the selectmen, the amount of the tax and interest due thereon and costs and fees incident to advertising and posting, and the place, day and hour of the sale.

Conduct of Sale

Every 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 town where the land is located and between the hours of 10:00 a.m. and 6:00 p.m., but 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 date of sale, notify all persons holding mortgages on such property as recorded in the office of the register of deeds. The notice must be in writing and a copy given to each mortgagee in hand, or left at his usual place of abode, or sent by registered mail to his last known post-office address.

No tax sale of real estate 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 of New Hampshire unless the purchaser at the tax sale notifies in writing the Commissioner of Health and Human Services, within 45 days from the date of sale.

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 prior to executing the deed, the collector must notify the current owner of the property or his 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

In 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 such 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, and tax sales to private individuals are prohibited.

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 day of sale. The notice must state the name of the owner or the person to whom the property was taxed, the description of the property as recorded by the selectmen, the amount of the tax and interest due

thereon and 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, any 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 upon the town treasurer to refund to the person making partial payments the sum so paid.

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 based thereon 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 prior to a municipality offering for sale a property which 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 owner of the property 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 \(2018\)](#)

New Jersey

Lenders, New Jersey, Foreclosure Type

Judicial.

Lenders, New Jersey, Preconditions to Foreclosure

Notice of Intent to Accelerate

A mortgagee must give a residential mortgage debtor notice of the intention to accelerate the maturity of a residential mortgage and commence any foreclosure or other legal action at least 30 days, but not more than 180 days in advance of such action. The notice must be in writing, sent to the debtor by registered or certified mail, return receipt requested, at the debtor's last known address, and, if different, to the address of the property that is the subject of the residential mortgage.

Notice to Municipal Clerk

A creditor serving a summons and complaint in a foreclosure action on residential property must, within 10 days of serving the summons and complaint, notify the municipal clerk, and mayor or other executive officer, that a summons and complaint to foreclose has been filed against the subject property. If the municipality has appointed a public officer pursuant to N.J. Stat. § 40:48-2.3, the municipal clerk must forward a copy of the notice to the public officer or otherwise provide the

notice to any other local official responsible for administering any property-maintenance or public-
nuisance code.

A creditor that has initiated a residential foreclosure proceeding that is pending in Superior Court must provide to the municipal clerk a listing of all residential properties in the municipality for which the creditor has pending foreclosure actions. If the municipality has appointed a public officer pursuant to N.J. Stat. § 40:48-2.3, the municipal clerk must forward a copy of the notice to the public officer or otherwise provide it to any other local official responsible for administering any property-maintenance or public-
nuisance code.

Notice of Judgment

If an action to foreclose is uncontested, and the plaintiff chooses to proceed with the sale of the property, the mortgagee applies for entry of final judgment. The mortgagee must also provide the debtor with a notice, mailed at least 14 calendar days before submitting proofs for entry of a foreclosure judgment, with the name and address of the lender and the telephone number of a representative that the debtor may contact to obtain the amount required to cure the default. The notice must also advise that, without response from the debtor, proper proofs will be submitted for entry of final judgment and that upon entry of final judgment, the debtor will lose the right to cure the default. The lender must attach a copy of the required 14-day notice to the application for final judgment.

If an action is uncontested and the lender chooses to use the optional procedure for the disposition of the foreclosed premises without sale, the lender must give the debtor notice, mailed at least 14 calendar days before filing an affidavit or certification with the office or court. The notice must contain specified contact information and advise the debtor that, absent a response from the debtor, the lender will file an affidavit or certification with the office or court requesting the office or court to enter an order of redemption and that upon the entry of the order of redemption the debtor will lose the right to cure the default.

When a property is deemed vacant and abandoned, the lender need not serve the debtor with the notice to cure required by § 2A:50-58. Also, for vacant and abandoned property, in addition to the service of process required by the Rules of Court, the lender must establish that a process server has made two unsuccessful attempts to serve the mortgagor or occupant at the residential property. The attempts must be at least 72 hours apart and during different times of the day.

The Save New Jersey Homes Act of 2008

The Save New Jersey Homes Act of 2008 (the "Act"), N.J. Stat. §§ 46:10B-36 to -48, has detailed provisions relating to foreclosure of certain loans that were underwritten with a low introductory rate and a built-in rate increase. Generally, if the loan goes into default, the borrower may be able to suspend foreclosure for three years by continuing payments in accordance with the loan's original terms. The loan also may have to be renegotiated and modified.

The Act protects "eligible foreclosed borrowers" with "introductory rate mortgages." An "eligible foreclosed borrower" is "a borrower who is obligated to repay a loan secured by an introductory rate mortgage and who receives a notice of intention to foreclose . . . pursuant to the 'Fair Foreclosure Act,' [N.J. Stat. §§ 2A:50-53 to -68]," unless that borrower has previously exercised his or her right to obtain a three-year extension of introductory rate as provided in N.J. Stat. § 46:10B-40. For a definition of "introductory rate mortgage" and related terms, see N.J. Stat. § 46:10B-38. Loans that are not eligible for the Act's protections include those that (1) have a fixed rate for five years or longer, or (2) have an introductory rate below the "fully indexed rate"—another defined term—because the borrower paid bona fide discount points at the time the loan was originated.

A creditor who intends to foreclose the loan an eligible foreclosed borrower's loan must mail the borrower written notices, distinct from all other correspondence. The notices must be sent (1) within 10 days of issuing the notice of intent to foreclose, and (2) at the time the creditor applies for entry of final judgment of foreclosure under N.J. Stat. § 2A:50-58. The notices must be sent in an envelope with specified statutory language printed on the front.

The notices must include:

- a statement that the notice is being provided pursuant to the Act, which provides certain rights to borrowers whose mortgages are subject to foreclosure;
- a list of alternatives to foreclosure the borrower might pursue;
- an explanation of the borrower's right to obtain a three-year extension, along with an explanation of what the borrower must do to obtain the extension;
- a statement that the borrower should read the notice carefully and might want to consult with an attorney to understand his or her rights; and

- a “certification of extension form” for the borrower to complete in order to obtain the three-year extension.

To obtain the extension—and the suspension of the foreclosure proceeding—the borrower must return the “certification of extension form” to the creditor within 90 days. The form requires the borrower to agree to (1) keep making the monthly payments; (2) pay the creditor any deferred interest, fees and costs incurred in connection with the foreclosure, and arrearages; (3) accept the creditor’s placement of a modified mortgage on the property to secure the payments of deferred interest, fees, costs and arrearages; and (4) sign a modification of the mortgage that contains the terms of the period of extension and any documentation needed to establish or record the modification.

Once the creditor receives the certification of extension form, it must (1) grant a three-year extension to the borrower, which period must begin no later than 30 days after the creditor receives the form, and (2) suspend the foreclosure proceedings. If the borrower does not return the form on time, the creditor has discretion as to whether to grant the extension and suspend the foreclosure proceedings.

Mortgage Stabilization and Relief Act

New Jersey has also established a “Mortgage Stabilization Program” to help homeowners facing foreclosure. The “Mortgage Stabilization and Relief Act,” N.J. Stat. §§ 55:14K-82 to -92, establishes an agency and fund to provide foreclosure-prevention counseling and refinancing. The Mortgage Stabilization and Relief Act also established the six-month forbearance period for high risk mortgages.

N.J. Stat. § 46:10B-50, gives borrowers with “high risk” mortgages a six-month forbearance period, upon the borrowers' request, and an opportunity for mediation before the mortgage can be foreclosed.

Section 2A:50-56 amended 2019; § 2A:50-58 amended 2006; §§ 46:10B-40, 46:10B-41, and 46:10B-42 enacted 2008; §§ 46:10B-38, 46:10B-50, and 55:14K-86 amended 2009; §§ 2A:50-73 and 46:10B-51 amended 2014.

[N.J. Rev. Stat. §§ 2A:50-56, -58, -73; 46:10B-38, -40, -41, -42, -50, -51, 55:14K-86 \(2020\)](#)

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

Notice of the time and place of the sale must be posted in the office of the sheriff of the county or counties where the real estate is located at least three weeks before the time appointed for the sale. The notice need not be set up at any other place. In addition, 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 where the real estate to be sold is located. One of the newspapers must be published either at the county seat of the county or in the municipality in the county having the largest population. The first publication must be at least 21 days prior to the sale, and the last publication must be not more than eight days prior to the sale of the property.

Section amended 1979.

[N.J. Rev. Stat. § 2A: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 her term has expired. Three months' notice to quit must be given before the action may be brought.

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 ten 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.

If there is no equity in the residential property, or the mortgagor has abandoned or voluntarily surrendered the property, or there are no recorded restrictions on affordability on the property, the mortgagee may proceed with an alternate foreclosure procedure that does not involve the sale of the property.

Sections 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.

For provisions relating to a municipality's foreclosure on a taxpayer's right of redemption, see [N.J. Stat. §§ 54:5-104.29 to -104.75 \(2020\)](#).

Taxing Authorities, New Jersey, Preconditions to Foreclosure

Delinquency

If property taxes remain in arrears at the close of the fiscal year, the tax collector must enforce the lien by selling the property by holding a standard tax sale in the following fiscal year.

If property taxes are in arrears on the 11th day of the 11th month of the fiscal year in which the taxes became in arrears, the tax collector must enforce the tax lien by selling the property by conducting an accelerated tax sale, provided the sale is conducted and completed no earlier than in 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 collector must make a list of the lands subject to sale. The list must state (1) the name of the owner, (2) a description of the properties being offered for sale, and (3) the amounts, interest and costs due. 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.

In the case of a standard sale, the list must be prepared at least 50 calendar days prior to the sale date. The tax collector may prepare the list after the 11th day of the 11th month of the fiscal year, and prior to the close of the fiscal year, in order to start advertising the standard tax sale prior to the close of the current fiscal year. In the case of an accelerated sale, the list must be prepared as of the 11th day of the 11th month of the current fiscal year and must include only those taxes, assessments and other municipal charges delinquent as of that date.

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.

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

After completing the tax-sale list, the collector must provide public notice of the sale, stating (1) the time and place, (2) the descriptions of the properties being sold, (3) the owner's name, and (4) the total amount due. The notice also must state, in substance, that the lands will be sold to recover the amounts due, with interest to the date of the sale and the costs of the sale.

Copies of the notice of a tax sale 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. If this option is used, the newspaper-published notice only needs to run twice. Costs of mailing are added to the cost of the sale. 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.

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—that is, those “whose interests appear of record at the time of the tax sale”—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 54:5-25 amended 1991; §§ 54:5-26 and 54:5-97.1 amended 2009; § 54:5-27 history unknown.

[N.J. Stat. §§ 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 residential eviction, see [N.J. Stat. §§ 2A:18-61.1 to -61.6 \(2020\)](#).

Taxing Authorities, New Jersey, Appeals

The collector has discretion to adjourn the sale, whether because there are no bidders or because persons interested in the sale ask for an adjournment.

Generally, the only way to avoid losing the property is to pay the tax due, interest and any costs covered by the lien. However, the taxpayer can 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.

Section 54:5-100 amended 2009; § 54:5-28 history unknown.

[N.J. Stat. §§ 54:5-28, -100 \(2020\)](#)

New Mexico

Lenders, New Mexico, Foreclosure Type

Judicial and non-judicial.

Lenders, New Mexico, Preconditions to Foreclosure

Judicial

No preconditions to foreclosure, other than publication requirements, were located.

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.

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.

Sections 48-10-12 and -19 amended 1987; § 48-10-10 amended 2006; § 48-10-11 amended 2007.

[N.M. Stat. §§ 48-10-10, -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 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 may deem 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. Notice must be sent to all persons who have filed a request for notice within 30 days after recording the notice of sale.

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

A person who is legally entitled to possession of premises is entitled to bring an action for ejection. There is no notice to quit requirement.

Section enacted 1907.

[N.M. Stat. § 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. See [N.M. R. App. P. 12-201](#).

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/Redemption

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.

Section 39-5-17 amended 1971; § 48-10-10 amended 2006; § 48-10-16 amended 2007.

[N.M. Stat. §§ 39-5-17; 48-10-10, -16 \(2019\)](#)

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, which lien runs in favor of the state.

Property taxes become delinquent 30 days after the due date unless a timely protest has been made, in which case the taxes attributable to the net taxable value of the property that is not in controversy becomes 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 owner of the property as shown on the property tax schedule at the address as

shown on the schedule and to 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 issued.

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 receipt of 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 at any time after expiration of three years from the first date on which 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 shall execute a deed to the purchaser, which deed conveys all of the former property owner's interest in the property as of the date of the state's lien for property taxes arose, subject only to interests perfected before the lien arose.

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 when 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 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 a newspaper in a contiguous or nearby county, at least once a week for 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, but see [N.M. Stat. § 42-4-1 et seq. \(2019\)](#) for ejectment actions in general.

Taxing Authorities, New Mexico, Appeals

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 for the tax years for which 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 prior to the sale; or
- the claimant had entered into an installment agreement to pay all delinquent taxes, penalties, interest and costs prior to sale and that 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

Notice of Foreclosure Assistance

Generally, a plaintiff in a foreclosure action related to residential dwellings must provide a "Help for Homeowners in Foreclosure" notice when the plaintiff serves the summons and complaint. The notice, which must be given if the action involves an owner-occupied, one-to-four family dwelling, must contain information about the foreclosure process and the availability of foreclosure assistance. The notice must be delivered with the summons and complaint and must be on paper of a different color than the paper used for the summons and complaint.

Notice requirements that previously applied only to "high-cost home loans" or "subprime home loans," now apply to all "home loans." Effective until January 14, 2020, at least 90 days before filing a foreclosure action with respect to a "home loan," the lender or mortgage loan servicer must send a notice to the borrower setting forth the fact and consequences of a default on the loan and information about what the borrower should do to avoid foreclosure.

The above notices must advise the borrower of the availability of housing counseling services and recommend that the borrower to try to reach a settlement with the lender. The notice must be sent

by both registered or certified mail and first-class mail. The notice must contain a list of at least five approved housing counseling agencies. The notice and the 90-day period need only be provided once in a 12-month period to the same borrower in connection with the same loan.

For residential mortgages, notice of the availability of housing counseling must be served with the summons and complaint in the foreclosure action. The summons must also include language advising the mortgagor that he or she is in danger of losing his or her home, that judgment by default may be entered if the mortgagor does not reply, and that sending a payment will not stop foreclosure.

Required Certificate

In a residential foreclosure action involving a home loan in which the defendant is a resident of the subject property, the complaint must be accompanied by a certificate, signed by the plaintiff's attorney, stating:

- that the attorney has reviewed the facts of the case; and
- that based on consultation with identified representatives of the plaintiff and the attorney's review of all pertinent documents, to the "best of such attorney's knowledge, information and belief there is a reasonable basis for the commencement of such action" and that the plaintiff is the creditor entitled to enforce rights under the relevant documents.

A copy of the mortgage, security agreement, note or bond underlying the mortgage, any assignment documents, and "any other instrument of indebtedness," such as any modification, extension, and consolidation must be attached to the certificate, if they are not attached to the summons and complaint.

Mandatory Settlement Conference in Residential Foreclosure Actions

Effective until February 13, 2020, within 60 days after proof of service of the summons and complaint is filed, the parties must attend a mandatory settlement conference, pursuant to court rule N.Y.C.P.L.R. 3408, which applies to foreclosure actions involving home loans. The court must

conduct the conference with the objective of settling the parties' rights and obligations under the mortgage and loan documents. The conference may cover, among other things, "determining whether the parties can reach a mutually agreeable resolution to help the defendant avoid losing his or her home, and evaluating the potential for a resolution in which payment schedules or amounts may be modified or other workout options may be agreed to" The court may intervene if it determines that one or more parties have not negotiated in good faith.

Section 1320 amended 2007; § 6-L amended 2011; § 3012-B enacted 2013; § 3408 amended 2017; § 1303 amended 2016; § 1304 amended in 2018.

[N.Y. Banking Law § 6-L](#); [N.Y. Real Prop. Acts. Law §§ 1303, 1304, 1320](#); [N.Y. C.P.L.R. §§ 3012-B, 3408 \(2020\)](#)

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, or, if there is none, in a newspaper published in an adjoining county. Publication may be either once in each week for four successive weeks or at least twice in each week for three successive weeks preceding the original date fixed for the sale. If the property is situated wholly outside a city or an incorporated village, notice of the

sale must also be given by posting a copy of the notice of sale at least 28 days preceding the date fixed for the sale in three public places in the town in which the property is located, and, if the sale is to be held in another town or in a city, in three public places therein.

Section 231 amended 1983; § 1331 enacted 1962.

[N.Y. Real Prop. Acts. Law §§ 231, 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 into 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

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 any gas, oil, or mineral rights) with or without advertising for bids.

Alternatively, a taxing district may—if it is authorized to do so—sell the lien to the New York Municipal Bond Bank, and the Bond Bank can foreclose on the lien as if it were a mortgage.

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 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

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). For properties subject to three- or four-year redemption periods, which includes residential and farm properties (see [N.Y. Real Prop. Tax § 1111](#)), a petition of foreclosure cannot be filed until 33 or 45 months after the tax lien arose, respectively. The enforcing officer files the petition with the county clerk, following the form set forth in the statute (see [N.Y. Real Prop. Tax § 1123](#)). The petition may incorporate the statutory notice of foreclosure (see [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; this information may be attached to the petition instead.

The enforcing officer also must mail personal notice of the foreclosure action to (1) all owners or persons who have a record interest in the property, whose names and addresses are reasonably ascertainable from the public record, (2) any person who has filed a declaration of interest in the property, and (3) the enforcing officer of any other tax district with the right to enforce the payment of a tax against the property. 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.

Any person with an interest in the property—including a different tax district—may redeem the property or answer the petition. The answer must be verified and must set forth (1) the nature and amount of the person's interest, and (2) 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 that person.

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 which had local authority to collect delinquent property taxes on January 1, 1993, could opt to continue using that authority rather than 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 2006; § 1122 amended 2019

[N.Y. Real Prop. Tax Law §§ 1122, 1123, 1125, 1131, 1136 \(2020\)](#)

Taxing Authorities, New York, Public Notice and Posting Requirements

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 the statute (see [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 can 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.

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 any 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 which had local authority to collect delinquent property taxes on January 1, 1993, could opt to continue using that authority rather than 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 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 §§ 600–661](#). 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 which had local authority to collect delinquent property taxes on January 1, 1993, could opt to continue using that authority rather than 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. 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. 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 1995; § 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 preconditions to foreclosure were located.

Hybrid

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, and must serve that notice on any person obligated to repay the indebtedness and on every record owner of the real estate. The notice must specify a time and place for a hearing before the Clerk of Court and is served not less than ten 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 date of the hearing. 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 prior to the date of hearing.

At least 45 days before filing the notice of hearing in a foreclosure of a primary residence, the mortgage servicer must send written notice by mail to the last known address of the borrower to inform the borrower of the availability of resources to avoid foreclosure. The hearing is held before the Clerk of Court in the county where the property is located. At the hearing, the Clerk will authorize the mortgagee or trustee to proceed if the Clerk finds the existence of a valid debt held by the party seeking to foreclose, default, a right to foreclose under the instrument, and notice to those entitled to receive notice.

If a sale is ordered, the notice of sale must 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. It must also be mailed by first-class mail to any party desiring a copy of the notice of sale who has complied with N.C. Gen. Stat. § 45-21.17A. If the property is residential and contains fewer than 15 rental units, including single-family residential real property, the notice of sale must also be mailed by name to any person who occupies the property pursuant to a residential rental agreement 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 property's address.

Military Servicemembers

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 period of military service.

Section 45-21.12A amended 2011; §§ 45-21.16, 45-101, and 45-102 amended 2012; § 45-21.17 amended 2015.

[N.C. Gen. Stat. §§ 45-21.12A, .16, .17, -101, -102 \(2019\)](#)

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

Judicial

A sale may be either public or private, at the discretion of the court.

If the sale is public, notice of public sale of real property shall 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 preceding 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; or if there is no newspaper qualified for legal advertising published in the county, in a newspaper having 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 ten days before the date of the sale. In addition to the other notice requirements, other notice of public sale shall be posted or advertised as may be required by the judge or clerk.

Hybrid

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 preceding 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 interest of the parties. Notice of the sale must be mailed to each party entitled to notice of the hearing.

If the property is residential and contains less than 15 rental units, including single-family residential real property, the notice of sale shall 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.

Section 45-21.16 amended 2012; § 1-339.17 amended 2013; § 1-339.3A amended 1997; § 45-21.17 amended 2015.

[N.C. Gen. Stat. §§ 1-339.3A, .17; 45-21.16, .17 \(2019\)](#)

Lenders, North Carolina, Preconditions to Eviction

Judicial (§ 1-339.29)

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. An order for possession granted pursuant to the preceding subsection 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 (§ 45-21.29)

The Clerk of Court may issue an order for possession after the sale if:

- ten days' notice is given to the parties in possession, provided, if the property is residential property with 15 or more units, 30 days' notice must be given;
- the property is covered by the federal Protecting Tenants at Foreclosure Act (PTFA), the provisions the PTFA have been satisfied; and
- application is made by petition to the clerk by the mortgagee, the trustee, the purchaser of the property, or any of their authorized representatives.

Section 1-339.29 amended 1987; § 45-21.29 amended 2019; § 45-21.33A repealed 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 thirty days of the notice of entry of judgment.

Sale scheduling

Sales must be held between 10 a.m. and 4 p.m. No other specific scheduling requirements were located.

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 to which convenes ten or more days after the hearing before the Clerk.

The appealing party must post a "bond with sufficient surety as the clerk deems adequate to protect the opposing party from any probable loss by reason of appeal." Upon posting of the bond, the clerk must stay the foreclosure pending appeal. If the appealing party owns and occupies the property as his or her principal residence, the clerk must require a bond in the amount of one percent of the principal balance due. The clerk may require a lesser amount in cases of undue hardship or for other good cause and a greater amount if there is a likelihood of waste or damage to the property or for other good cause.

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 the hours of 10 a.m. and 4 p.m. on any day other than Sunday or a legal holiday when the courthouse is closed for transactions.

Section 1-339.5 enacted 1949; § 45-21.34 amended 1993; § 45-21.16 amended 2012; § 45-21.23 amended 2003; § 1-339.21 amended 1997; rule 2018.

[N.C. Gen. Stat §§ 1-339.5, .21; 45-21.16, .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](#)

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 to 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 of 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 owner of record 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 with the clerk of the superior court, no earlier than 30 days after the tax liens were advertised, a certificate of taxes due. Upon docketing and indexing of 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 prior to docketing, the tax collector must send notice of the tax lien foreclosure, by registered or certified mail, return receipt requested, to the taxpayer at the taxpayer's last known address and to all lienholders of record, stating that a judgment will be docketed and 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 shall be issued at the tax collector's request and the real property shall be sold by the sheriff in the

same manner as other real property under execution, except that 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; § 105-375 amended 2011.

[N.C. Gen. Stat. §§ 105-369, -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 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

Notice of the sale of property ordered by the 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 date of the sale.

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, then 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. He 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, 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 of the notice in a conspicuous place on the property. He 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, stating that a judgment will be docketed against the taxpayer.

Section 105-375 amended 2011; §§ 105-369 and 105-374 amended 2006; § 1-339.17 amended 2013.

[N.C. Gen. Stat. §§ 1-339.17; 105-369, -374, -375 \(2019\)](#)

[Taxing Authorities, North Carolina, Preconditions to Eviction](#)

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 shall authorize 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 having 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 in the best interests of the parties.

In rem Method of Foreclosure

At any time prior to the issuance of execution, any 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 shall any 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 held by the State of North Dakota or a state agency.

Statutory history unknown.

[N.D. Cent. Code § 35-22-01 \(2019\)](#)

Lenders, North Dakota, Preconditions to Foreclosure

Judicial

Written notice of foreclosure must be served on the record owner of the property at least thirty days and not more than ninety days before the commencement of any action or proceeding for the foreclosure of a mortgage on real estate. Notice may be served by mail.

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

Before a non-judicial foreclosure is commenced, a notice of intention to foreclose such mortgage must be served on the record title owner of the real estate described in the mortgage. Proof of service must be recorded with the notice and certificate of sale. Notice must be served at least thirty days and not more than ninety days before the commencement of proceedings for the foreclosure of a mortgage on real estate.

Section 35-22-03 amended 1933; § 35-22-02 amended 1943; § 35-22-01 amended 1983; § 32-19-20 amended 2005; § 32-19-22 amended 2007.

[N.D. Cent. Code §§ 32-19-20, -22; 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, the last publication to be at least ten days before the making of 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 where the premises intended to be sold are located.

Section 35-22-06 amended 1943; § 28-23-04 amended 2007.

[N.D. Cent. Code §§ 28-23-04, 35-22-06 \(2019\)](#)

Lenders, North Dakota, Preconditions to Eviction

An action for eviction may be brought against a party who continues in possession after the sale of the foreclosed property and after the expiration of the sixty day time period for redemption. 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, then by the sheriff of the county or a process server posting the notice conspicuously upon the premises.

Sections amended 2009.

[N.D. Cent. Code §§ 47-32-01, -02 \(2019\)](#)

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.

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 such 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.

Sale scheduling

Sales must be made at public auction to the highest bidder, between the hours of nine a.m. and four p.m.

Section 35-22-04 amended 1931; § 35-22-08 amended 1943; § 28-23-07 amended 2007; rule 4 amended 2018.

[N.D. Cent. Code §§ 28-23-07; 35-22-04, -08 \(2019\); 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](#)

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 stating that there are delinquent taxes that constitute a lien against the property. The notice must also state that unless the delinquent taxes and special assessments, 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 current assessment records show a residential building on the property the notice must be delivered to the sheriff who must serve it personally on the owner, if known to be a state resident. 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 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 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 (or the state if the state engineer has made an assessment against the property), 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 former owner, the former owner's executor or administrator, or any parent, spouse or child or the former owner may repurchase any property forfeited to the county under the tax deed proceedings, so long as the tax title to the property remains in the county.

Section 57-20-01 amended 1985; §§ 57-28-13, -17, and -17.1 amended 1991; §§ 57-28-02 and -22 amended 1999; § 57-28-09 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 date of sale; and
- publishing a notice in the official newspaper of the county once, not less than ten 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 \(2019\)](#) for eviction in general.

Taxing Authorities, North Dakota, Appeals

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 of such properties. 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 governing body of any taxing district may appear with reference to the fair market value of the property, and the board may make changes in 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, with any penalty and interest due on the portion, on payment of the remainder. The commissioners may not compromise the tax after the county auditor has issued a tax deed to the county.

Section 57-23-07 amended 1999; § 57-28-10 amended 2003.

[N.D. Cent. Code §§ 57-23-07, -28-10 \(2019\)](#)

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

A plaintiff must record a preliminary judicial report if the judicial sale is 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 \(2019\)](#)

Lenders, Ohio, Public Notice and Posting Requirements

The officer must give public notice of the sale date, time, and place once a week for at least three consecutive weeks before the sale date. The notice must be by advertisement in a newspaper that is of general circulation in the county and that meets other statutory requirements. The court ordering the sale may designate in the order of sale the newspaper in which this public notice shall be published. If public notice is made in a newspaper published weekly, it is sufficient to insert it for three consecutive weeks.

Section 2329.27 amended 2008; § 2329.26 amended 2016.

[Ohio Rev. Code §§ 2329.26, .27 \(2020\)](#)

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 or a private selling officer 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. 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.

Sections 2329.20 and 2329.45 enacted 1953; § 2329.18 amended 2016; § 2329.27 amended 2008; rule amended 2014.

[**Ohio Rev. Code §§ 2329.18, .20, .27, .45 \(2020\); Ohio R. App. P. 4**](#)

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

Judicial.

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

A delinquent land list must be prepared containing the description of the property, the name of the person in whose name it 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 prior to seven days before the first publication of the list pays the delinquent taxes in full, may be stricken from the list. If payment is made in full after the first publication of the list, but prior to seven days before the second publication, his name must be eliminated from the second publication.

If the taxes have not been paid for one year after having been certified as delinquent, the state must institute foreclosure proceedings unless otherwise provided. One year after making the delinquent land list, the auditor must make a delinquent land certificate of each delinquent tract or lot listed in the delinquent land list upon which amounts due and owing have not been paid and stating that the amount has been certified to the county prosecuting attorney as delinquent. The certificate must be filed with the prosecuting attorney. If compiled, twenty-eight days after the final publication of the delinquent vacant land tax list a certificate of the same must be made for each tract contained in the delinquent vacant land list, stating that the land identified has been certified for foreclosure and filed with the prosecuting attorney.

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 prior to the time a complaint is filed.

Except for non-resident delinquent taxes and in rem proceedings, tax foreclosure proceedings shall be instituted and prosecuted in the same manner as foreclosures on mortgages, except that if service by publication is necessary, such publication shall be made once a week for three consecutive weeks and service shall 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.

Section 5721.13 enacted 1991; § 5721.02 enacted 2000; § 5721.10 amended 2008; § 5721.011 amended 2009; §§ 5721.03 and 5721.18 amended 2014.

[Ohio Rev. Code §§ 5721.011, .02, .03, .10, .13, .18 \(2020\)](#); see also [Ohio Rev. Code § 319.20 et seq. \(2020\)](#)

Taxing Authorities, Ohio, Public Notice and Posting Requirements

The delinquent land list is to be published twice in a newspaper of general circulation in the county within sixty days after the county auditor delivers the list to the county treasurer. 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 payment of 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 November 30 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 twenty-eight days after the final publication of the notice.

Section amended 2014.

[Ohio Rev. Code § 5721.03 \(2020\)](#)

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

All delinquent land upon which the 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 sufficient, as determined by the court, to pay said amounts due and unpaid, and the costs incurred in any proceeding against such land under the general laws for the collection of taxes.

After a foreclosure proceeding has been instituted, but before the filing of any entry of confirmation of sale pursuant to the proceeding, any person entitled to redeem the land may do so by tendering the amounts referred to above and by demonstrating that the property is in compliance with all applicable zoning regulations, land use restrictions, and building, health, and safety codes. Additionally, if any such person has not previously defaulted on a delinquent tax contract under certain circumstances, he may enter into a delinquent tax contract with the county treasurer for the amounts owing.

Notwithstanding any other provisions regarding tax foreclosures on delinquent land, the county treasurer of a county in which a county land re-utilization operates may invoke an alternate redemption period for abandoned land.

Section 5721.16 enacted 1994; § 5721.25 amended 2008; § 323.78 amended 2014.

[Ohio Rev. Code §§ 5721.16, .25; 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

Property taxes become liens on the property for seven years after taxes become due. When taxes remain unpaid for three or more years from the date on which unpaid taxes first became due, the county treasurer shall advertise and sell the property at a tax resale. 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 stating the amount of taxes due and the property description, and informing the owner that the property will be sold if the taxes are not paid.

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 thirty days before the date of the resale, give notice by certified mail to the property owner and to all mortgagees of record, of the time and place of the sale, the description of the property to be sold, and the owner's right to claim an age or disability exemption from sale as described in *Appeals*.

Section 3101 amended 1992; § 3125 amended 2008; § 3127 amended 2010; §§ 3105 and 3106 amended 2020.

[Okla. Stat. tit. 68, §§ 3101, 3105, 3106, 3125, 3127 \(2020\)](#)

Taxing Authorities, Oklahoma, Public Notice and Posting Requirements

Notice of Tax Delinquency

The treasurer must give notice of delinquent taxes by publication in a newspaper in the county once a week for the two consecutive weeks after April 1, but before the end of September following the year in which the taxes were first due and payable, including notification that all lands on which taxes are delinquent will be sold, a list of those lands to be sold, the name of the last property owners of record, and the amount of delinquent taxes. 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 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 where no such paper exists, once a week for four consecutive weeks preceding the sale, containing:

- a property description;
- the name of last record owner(s) as of the preceding December 31 or later;
- the time and place of sale;
- 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](#)

Within 30 days after a property is sold at tax resale, the treasurer shall file with the county clerk a resale return and issue a deed of conveyance. The notice of resale and return shall be presumptive evidence of regularity, legality, and validity of all official acts leading up to and including the resale. The deed of conveyance shall effectively cancel all delinquent taxes due on the property and shall vest in the grantee absolute and perfect title in fee simple.

Section amended 2014.

[Okla. Stat. tit. 68, § 3131 \(2020\)](#)

[Taxing Authorities, Oklahoma, Appeals](#)

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.

In counties with a population of 100,000 or more, a property owner may make an application for an exemption from tax collection with the county treasurer, who shall not conduct a tax resale as long as:

- the property contains a single-family residence;

- the property resident is 65 years of age or older or has been classified as totally disabled;
- the property is not used as a rental property;
- the property resident has an annual income below federal poverty guidelines; and
- the fair market value of the property is less than \$125,000.

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. No action to avoid or set aside the deed may be commenced more than twelve months after the deed is filed or recorded.

Whenever an action is brought to prevent or restrain the collection of a tax, 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.

Sections 3133, 3138, 3140, and 3141 amended 1992; § 3105 amended 2020; § 3113 amended 2009; § 3131 amended 2014.

[Okla. Stat. tit. 68, §§ 3105, 3113, 3131, 3133, 3138, 3140, **3141 \(2020\)**](#)

Oregon

Lenders, Oregon, Foreclosure Type

Judicial and non-judicial.

Lenders, Oregon, Preconditions to Foreclosure

Judicial

A complaint in a suit to foreclose a residential trust deed on the lien debtor must include as an attachment a copy of a notice to lien debtors, in substantially the following form:

"WARNING: You may get offers from people who tell you they can help you keep your property. You may get offers from people who want to buy your 'redemption rights' or 'all rights under ORS chapter 18.' You should be careful about those offers, as a sale of your rights to a property in foreclosure may include your right to claim any surplus funds arising from the foreclosure sale. Make sure you understand any papers you are asked to sign. If you have any questions, talk to a lawyer or one of the organizations mentioned below before signing.

There are government agencies and nonprofit organizations that can give you information about foreclosure and help you decide what to do. For the name and telephone number of an organization near you, please call the statewide telephone contact number at _____. You may also wish to talk to a lawyer. If you need help finding a lawyer, you may call the Oregon State Bar's Lawyer Referral Service at _____ or toll-free in Oregon at _____ or you may visit its website at: _____. Legal assistance may be available if you have a low income and meet federal poverty guidelines. For more information and a directory of legal aid programs, go to _____."

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

Before the sale is conducted, the sheriff must mail a copy of the notice of sale to the judgment debtor at least 28 days before the sale date.

Effective January 1, 2015, this notice must 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

- a prospective purchaser of residential property should be aware of this potential danger before placing a bid at a trustee's sale.

If a person purchases residential real property after a complaint has been filed to foreclose a lien on the property and before the end of the redemption period, the purchaser must provide the following notice to the seller before purchasing the real property:

"WARNING: You should be careful about this kind of transfer of property. Make sure you understand the documents that you sign. You may still own interests in this property. If you sign the deed to transfer this property, you may be giving up all of your interests in this property, such as redemption rights and rights to "surplus funds." "Surplus funds" are any extra money if the property is sold at the sheriff's execution sale for more than what is owed on the property. If you have questions, talk to a lawyer before signing."

At or before the time of recording the deed transferring such property, the purchaser must file for recording in the official record of the county or counties in which the property described in the deed is located an affidavit stating that the person complied with this notice requirement

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 the 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;
- the beneficiary has recorded a valid and unexpired certificate of compliance issued to the beneficiary pursuant to Or. Rev. Stat. § 86.736 or an affidavit claiming that an exemption from the resolution requirements has not expired;
- the beneficiary has recorded a signed affidavit from the Director of Veterans' Affairs that states that the Department, in its capacity as a beneficiary of loans made under Or. Rev. Stat. § 407.125, is exempt from the requirement under Or. Rev. Stat. § 86.726 to request or participate in a resolution conference with a grantor;
- the beneficiary has complied with the requirements set forth in Or. Rev. Stat. § 86.748;
- the grantor has not complied with the terms of any agreed foreclosure avoidance measures; and
- subject to certain exceptions, an action has not been brought to recover the debt secured by the trust deed, or, if an action has been brought, the action has been dismissed.

Notice of sale

Notice of the default of a residential trust deed must be sent on or before the date notice of the sale is served. The notice of default must be sent to the grantor of the trust deed by certified and by first-class mail, and must notify the grantor of the amount necessary to cure the default and contain certain contact information.

Notice of the sale must be served on an occupant of the property described in the trust deed by personal service or mailed by both first class and certified mail, return receipt requested, at least 120 days before the sale date. Generally, this notice must also be served or mailed to the last-known address of the following persons (or their legal representatives):

- the grantor in the trust deed;
- any successor in interest to the grantor "whose interest appears of record, or of whose interest the trustee or the beneficiary has actual notice";
- any person, including the Department of Revenue or other state agency, with lien or interest subsequent to the trust deed, if the lien or interest appears of record or if the beneficiary has actual notice of the lien or interest; and
- a person that requests notice.

The notice of sale required by § 86.745 must be served on an occupant of the property described in the trust deed in the manner in which a summons is served at least 120 days before the day the trustee conducts the sale. If service cannot be effected on the first attempt, the person attempting 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 attempting 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 attempting 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 attempting 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 the 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, the required notices must be given to the beneficiary designated on the deed.

If a notice of default is recorded for a property subject to a residential trust deed, the sender of the notice of sale must on or before the date the notice of sale is served or given, give the grantor, by both first class and certified mail and in the prescribed form, notice of the sale and information regarding loan modification programs.

Preconditions related to required foreclosure alternatives

General notice requirements

Before foreclosing a trust deed on a residential property after a debtor's default, the trustee must record a notice of default and a notice of sale. On or before the notice of sale is served or mailed to the borrower, the trustee must send the debtor a notice stating in plain language that the borrower is in danger of losing his or her home and describing what the borrower can do to prevent that from happening. The notice must follow the form prescribed by the legislature and must:

- advise the borrower that there are government agencies and nonprofit organizations that can assist him or her in deciding what to do;
- provide a telephone number for obtaining information about those agencies and organizations; and
- include the contact number and website address for the Oregon state bar's lawyer referral service.

The notice must also include statutory language about loan modification.

Foreclosure avoidance overview

Oregon enacted foreclosure avoidance measures effective July 11, 2012, and significantly revised

those requirements effective June 4, 2013. A "foreclosure avoidance measure" means "an agreement between a beneficiary and a grantor that uses one or more of the following methods to modify an obligation" secured by a residential trust deed:

- the beneficiary defers or forbears from collecting one or more payments;
- the beneficiary modifies the obligation's terms;
- the beneficiary accepts a deed in lieu of foreclosure;
- the grantor conducts a short sale; or
- the beneficiary provides the grantor with other assistance that enables the grantor to avoid a foreclosure.

See *Foreclosure, Alternatives: Oregon: Required Alternative or Preconditions* for additional information regarding required mediation.

Mediation requirement

The Oregon legislature repealed or deleted in 2013 extensive provisions it enacted in 2012 that required mandatory mediation. The legislature replaced those mediation requirements with "resolution conference" requirements.

Resolution conference requirement overview

Generally, a beneficiary that intends to foreclose a residential trust deed must first request a resolution conference before the beneficiary or the trustee files a notice of default or brings suit to foreclose.

The requirement to request or participate in a resolution conference does not apply to:

- certain lenders that during the preceding calendar year did not bring (or cause its affiliates or agents to bring) more than 175 actions to foreclose residential trust deeds by advertisement or residential mortgages by suit; or
- effective January 1, 2016, the Department of Veterans' Affairs in its capacity as a beneficiary of loans made pursuant to Or. Rev. Stat. § 407.125.

Resolution conference notice

Within 10 days after a service provider receives a request for a resolution conference, the service provider must schedule the conference and mail a notice to the beneficiary and the grantor. The service provider must schedule the resolution conference to occur within 75 days after the date the service provider sends the notice.

Within 25 days after the date on which the service provider sends the above notice, the grantor must pay to the service provider a fee that may not exceed \$200.

The grantor must consult a housing counselor before attending the resolution conference unless the grantor cannot obtain an appointment before the conference date.

Certificate of compliance

The service provider must issue, within five days after receiving a facilitator's report, a certificate of compliance to the beneficiary. A certificate of compliance expires one year after the date on which it was issued.

The service provider must notify a beneficiary that failed to meet a conference requirement that the service provider will not issue a certificate of compliance, explaining why the service provider will not issue the certificate of compliance. The service provider must provide a copy of this notice to the grantor and the Attorney General.

Ineligible grantors

Whether or not a beneficiary participates in a resolution conference, if the beneficiary determines

that a grantor of a residential trust deed is not eligible for a foreclosure avoidance measure or has not complied with the terms of a foreclosure avoidance measure, the beneficiary must mail a written notice to the grantor within 10 days. At least five days before the trustee sells the property, the beneficiary must record an affidavit that states that the beneficiary has complied with the above requirements.

Section 88.110 amended 1997; § 18.924 amended 2019; § 86.815 enacted 1959 and renumbered 2013; § 86.756 amended 2019; § 86.761 amended 2009 and renumbered 2013; §§ 86.752, 86.729 and 86.764 amended 2017; §§ 86.707 and 86.729 enacted 2013; § 86.736 amended 2013; §§ 86.771 and 86.774 amended 2014; § 86.726 amended 2015; § 18.965 enacted 2019; § 88.010 amended 2019.

[Or. Rev. Stat. §§ 18.924, .965; 86.707, .726, .729, .736, .748, .752, .756, .761, .764, .771, .774, .815; 88.010, .110 \(2019\)](#)

Lenders, Oregon, Public Notice and Posting Requirements

Judicial

Before conducting a real property execution sale, a sheriff must:

- for execution sales for which the sheriff receives instructions on or after August 1, 2013, 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

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. Publication must be made once a week for four successive weeks. The last publication must be made more than 20 days prior to the date the trustee conducts the sale.

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.

Notice to tenants

If the property includes one or more dwelling units, any person who occupies the property and who is or might be a residential tenant must receive notice.

Owner's notice

An owner must post "a durable notice in a conspicuous location on the foreclosed residential real property that lists a telephone number for the owner or for the local government that a person may call" to report neglect. The owner must replace the notice if it is removed from the foreclosed residential property during a period when the property is vacant.

Section 18.924 amended 2019; § 18.995 enacted 2013; §§ 86.771 and 86.774 amended 2014.

[Or. Rev. Stat. §§ 18.924, .995; 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) and 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. The notice must:

- explain that the dwelling unit has been sold at a foreclosure sale and that the purchaser is the new owner;
- include the foreclosure sale date;
- include the purchaser's name, address, and telephone number;

- provide information regarding the statutory rights of bona fide residential tenants; and
- include contact information for the Oregon State Bar and a person or organization that provides legal help to individuals at no charge to the individual.

If the property purchased at the trustee's sale includes a 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 1999; § 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 must be conducted between 9 a.m. and 4 p.m.

Non-judicial

Appeal

If notice of the default is not sent at least 25 days before the sale, and the property owner does not actually receive a copy of the notice at least 25 days prior to the date the trustee conducts the sale, the owner may object to the sale and request that the court order another sale.

Failure to receive notice of sale

A grantor has the same rights that the holder of a junior lien or interest who was omitted as a party defendant in a judicial foreclosure proceeding if:

- the notice required by Or. Rev. Stat. § 86.740 is not sent to the grantor; and
- the grantor does not actually receive a copy of the notice at least 25 days before the sale date.

The omitted person is entitled to damages if he or she proves that:

- the trustee did not give notice of the sale to the omitted person in the required manner;

- 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. However, then the defendant has the burden of proving that the omitted person did have notice.

Sale scheduling

The sale must be held on the date in the notice of sale. The sale must be held between 9 a.m. and 4 p.m.

Section 18.948 enacted 2005; § 19.255 enacted 2003; § 18.930 amended 2011; § 86.767 amended 2012 and renumbered 2013; § 86.782 amended 2017.

[Or. Rev. Stat. §§ 18.930, .948; 19.255; 86.767, .782 \(2019\)](#)

Taxing Authorities, Oregon, Foreclosure Type

Judicial.

Taxing Authorities, Oregon, Preconditions to Foreclosure

Delinquency

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.

Foreclosure List

Within two months after the day of delinquency each year, the tax collector must prepare a list of all real properties then 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, 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 on each property; and
- the principal amount of the delinquent taxes for each year and the interest accrued as of the publication date.

Notice of Delinquent Taxes

In addition to public notice, notice of the foreclosure proceeding must be sent by certified and regular first class mail to the owner(s), as shown in the county deed records, of each property included on the foreclosure list at the address(es) reflected in the county records.

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 and it will not be 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, shall institute proceedings to foreclose the liens for all the delinquent taxes against each of the several properties included in the foreclosure list.

One general proceeding shall be brought on the part of the county to foreclose the tax liens against each of the properties included in the foreclosure list.

Section 312.010 amended 1965; § 312.040 amended 1987; § 312.050 amended 2077; § 312.030 amended 2019.

[Or. Rev. Stat. §§ 312.010, .030, .040, .050 \(2019\)](#)

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. A copy of the newspaper notice must be mailed by the county to each incorporated city in the county.

Notice of Expiration of Redemption Period

Between 10 and 30 days prior to the expiration of the redemption period, the tax collector must publish a general notice relative to the expiration of the period of redemption. The notice must contain the date of the judgment, the date of expiration of the period of redemption, and warning

to the effect that all the properties ordered sold under the judgment, unless sooner redeemed, will be deeded to the county immediately on expiration of the period of redemption and that every right or interest of any person in the properties will be forfeited forever to the county.

The notice must be published in two weekly issues of a duly designated newspaper of general circulation in the county within the period of 20 days as specified above. Proof of publication shall be attached to and made a part of the deed issued to the county. The published notice may be a general notice and it is not necessary to include descriptions of the several properties or the names of the respective owners.

Section 312.040 amended 1987; § 312.190 amended 2007.

[Or. Rev. Stat. §§ 312.040, .190 \(2019\)](#)

Taxing Authorities, Oregon, Preconditions to Eviction

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 period of redemption. However, any waste of the property, committed by the former owner or by anyone acting under his/her permission or control, shall work a forfeiture to the county of the right to such possession and, in addition, shall be punished for not less than twice the value of the waste.

The county shall be 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 interested person in any real property included in the foreclosure list may file an answer and defense, under oath, in writing, and specifying their objection, to the application for judgment within 30 days after the date of the first publication of the foreclosure list, exclusive of the day of the first publication. If an answer and defense is filed, the matter shall be heard in a summary manner without other pleading. The court shall give judgment for the delinquent taxes and interest due on the real property described in the application, and shall enter a judgment requiring that the liens of such taxes be foreclosed.

The court shall order that the properties, against which judgment is entered, be sold directly to the county for the respective amounts of taxes and interest for which the properties severally are liable.

Removal from List

At any time prior to judgment, any parcel of real property may be removed from the foreclosure proceeding by payments that would have prevented inclusion of the property in the foreclosure list, plus interest or penalty accrued. If payments are received prior to the filing of the application for judgment, the tax collector must remove the property from the foreclosure list and proceeding. If received, after the filing application for judgment, no property may be removed from the foreclosure list and proceeding except on order entered by the court.

Redemption

Unless a shorter redemption period is warranted due to waste or abandonment, all real properties sold to the county under the tax lien foreclosure laws must be held by the county for the period of two years after the date of the judgment of foreclosure, unless sooner redeemed.

During the two-year period any interested person at the date of the judgment of foreclosure may redeem the property by payment of the full amount applicable to the property under the judgment, with interest as provided by law, plus a penalty of five percent of the total amount applicable to the property under the judgment and any applicable fees.

Appeal Timing

Appeal from any judgment or from any final order in the proceeding, 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 thereof 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

Notice of the default must be sent at least 30 days before taking any action regarding a mortgage. The notice must be sent by registered or certified mail and must set out what the debtor must do in order to cure the default. The notice must also state the time within which the default must be cured. The default may be cured at any time up to one hour before the foreclosure sale.

If the mortgage loan was made by the Pennsylvania Housing Finance Agency, no action may be commenced unless the mortgagor is at least 60 days in default. A pre-foreclosure notice, in a form developed by the agency, must be sent at least 30 days before the mortgagee asks for full payment of any mortgage obligation, or begins any legal action, including foreclosure. The notice must state that the recipient of the notice may qualify for financial assistance under the Homeowner's Emergency Mortgage Assistance Program, and must contain the telephone number and the address of a local consumer credit counseling agency. The notice must also include a statement that the mortgagor must have a face-to-face meeting with one of the designated consumer credit counseling agencies within 30 calendar days plus three additional days for mailing. This notice is in lieu of any other notice required by law.

If the mortgagor meets with a consumer credit counseling agency, the agency must notify all of the mortgagees secured by the mortgagor's real property, and no mortgagee who receives notice may commence any legal action for a period of not more than 30 calendar days from the date that the mortgagor first meets with the consumer credit counseling agency. If the mortgagor applies for mortgage assistance payments, the agency must make a determination of eligibility within 60 calendar days of receiving the application. While the application is pending, no mortgagee may commence legal action to foreclose upon its mortgage with the mortgagor.

If the mortgagor fails to meet with the mortgagee or consumer credit counseling agency or meet any of the time limitations specified in the notice or if the mortgagor's application for mortgage assistance payments is denied, the mortgagee may, at any time thereafter, take any legal action to enforce the mortgage without any further restriction or requirements.

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.

Sections 403 and 404 added 1974; § 1680.403c amended 2008.

[35 Pa. Stat. & Cons. Stat. § 1680.403c; 41 Pa. Stat. & Cons. Stat. §§ 403, 404 \(2020\)](#)

Lenders, Pennsylvania, Public Notice and Posting Requirements

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. Written notice must be served at least 30 days before the sale on the owner of the property and all persons with an interest in the property.

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 the legal publication, if any, designated by rule of court for publication of notices. The first publication must be made not less than 21 days before the date of sale.

Section amended 1999.

[231 Pa. Code § 3129.2 \(2020\)](#)

Lenders, Pennsylvania, Preconditions to Eviction

No specific statutory provisions were located. See [Pa. R. Civ. P. 1051–1057](#) and [3160–3165](#) for rules generally relating to ejectment actions.

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.

Section 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 receiver or collector of taxes within each taxing district must file a return with the Tax Claim Bureau between January 1 and April 30 each year, listing all properties for which taxes from the previous year remain unpaid. The return must provide (1) a description of the property, (2) the

name and address of the owner as it appears in the record, and (3) the amount of taxes 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 record owner of the property. The notice must be sent by U.S. registered or certified mail sent to the record address. The mailing envelope may contain a claim for only a single delinquent property; thus, a taxpayer with delinquencies on multiple properties should receive 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.

The mailed notice also must state that the owner of owner-occupied property can apply for an extension of time to discharge the claim, for up to 12 additional months. A special extension of time is available for persons at least 65 years old who reside in the property subject to sale.

Absolute Claims

If the claim is not paid by the January 1 following the mailed notice, and if no legal action challenging to 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.

Sale Requirements

The property may be sold if (1) the claim has become absolute, (2) 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% payment), and (3) the property has not been sequestered.

For the specific information that the claim must contain, see Pa. Stat. tit. 72, § 5860.309 (2009).

For provisions relating to the 12-month extension of time to discharge the claim, see 72 Pa. Stat. §§ 5860.502a, .503a, .504 (extension for elderly persons).

Sections 5860.306, .307, .602, .603, and .610 amended 1986; § 5860.504 amended 1990; §§ 5860.308, .502a, and .503a 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, .502a, .503a, .504, .601, .602, .603, .610, .611, .612 \(2020\)](#)

Taxing Authorities, Pennsylvania, Public Notice and Posting Requirements

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 same notice also 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.

Owner-occupied property may not be sold unless the Bureau has given the owner written notice of the sale at least 10 days in advance. The notice must be personally served by the Sheriff or a

deputy. If service cannot be made within 25 days, the Bureau may ask the court of common pleas to waive the service requirement.

The notice also must be posted on the property at least ten 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.

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 re-advertised.

The Bureau also may conduct a private sale if the "upset price" is not bid at the sale.

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.

For provisions relating to post-sale notices to the taxpayer, see 72 Pa. Stat. § 5860.607.

For provisions relating to situations in which there is "significant doubt" as to whether notice of a pending tax sale has been received, see 72 Pa. Stat. § 5860.607a.

For provisions relating to private sales by the Bureau, see 72 Pa. Stat. § 5860.613.

Section 5860.611 enacted 1947; §§ 5860.602, .607, .607a, .610, .613, and .616 amended 1986; § 5860.308 amended 1993; § 5860.612 amended 2004.

[72 Pa. Stat. & Cons. Stat. §§ 5860.308, .602, .607, .607a, .610, .611, .612, .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 relating to actions in ejectment.

Taxing Authorities, Pennsylvania, Appeals

Filing an Exception

The taxpayer can prevent the sale by attacking the validity of the claim before the claim becomes absolute, that is, 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 shall become 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 (1) pays the taxes in full, along with all charges and interest due, or (2) 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.

The Bureau shall schedule the sale "no earlier than the second Monday of September and before October 1." The sale may be adjourned and continued, and no additional notice of the sale is required if the sale is in fact held by the end of the calendar year. "So long as the agreement is being fully complied with by the taxpayer, the sale of the property covered by the agreement shall be stayed." If the owner or lien creditor defaults, however, the sale may proceed at the next scheduled sale date.

Challenging a Sale

A taxpayer may challenge the 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

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.

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.

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 constitutes the borrower's main dwelling.

Sections 2710 and 2712 added 1979; § 2703 amended 1980; compulsory mediation act passed 2012.

P.R. Laws tit. 30 §§ 2703, 2710, 2712 (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 2018)

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

The internal revenue collector shall proceed to collect delinquent taxes by attachment and sale of the debtor's real property.

When taxes become delinquent, the collector shall 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 upon the debtor a written notice of attachment of the debtor's real property, specifying the total amount of the debt, including interest, surcharges, and service of process fees, and notifying the debtor that his or her real property will be attached and sold at public auction thirty days later or as soon thereafter as possible. 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 is sent by registered mail with return receipt requested to the address appearing in the collector's records.

The collector must prepare an attachment certificate describing the real property attached and shall present the certificate for recording in the proper registry of property. The certificate must contain:

- the name of the delinquent taxpayer, if known;
- the number in the registry of deeds to the real property attached;
- the amount of 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 shall serve it on the debtor or a member of his family in possession of the real property, or by registered mail as described above.

Within 30 days of the sale of the property at public auction, the Secretary of the Treasury shall apply the proper amount to the payment of the debt and notify the taxpayer of any surplus amount and whether the grantee was a third person or the Commonwealth. Any surplus must be delivered to the taxpayer within one year of the sale, at the taxpayer's request, which prescribes the taxpayer's right of redemption.

Within 60 days of the auction, the collector shall prepare and deliver to the purchaser a certificate of purchase containing the purchaser's name and address, the date of the sale, the purchase price, a statement acknowledging receipt of payment from the purchaser, the amount of taxes, penalties, and costs owed on the property by the debtor, and the folio and volume number of the registry in which the property has been recorded.

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 shall 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 and the recording of 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](#)

The time, place and conditions of the public auction shall be publicly advertised at least three times a week for a period of one week in two newspapers of general circulation in Puerto Rico, and

notices posted to that same effect. Upon expiration of the period of publication, the property shall 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

Owners of real property or persons entitled to the enjoyment of such property may commence an action of unlawful detainer by filing and serving a civil complaint in the court in which the property is situated.

Sections 2821 and 2824 amended 2007; § 2823 amended 1998.

See generally 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

No pre-foreclosure requirements were located. Notice of the intended sale of the real estate must be sent by certified mail return receipt requested to the record owner of the real estate as of the date 60 days prior to the scheduled sale date.

Non-judicial

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 contain a notice printed in not less than 14-point type regarding service members' 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.

As of September 13, 2013, and until July 1, 2023, a mortgagee may not initiate a real estate foreclosure pursuant to R.I. Gen. Laws § 34-27-4(b) unless it has met the mediation-conference requirements of § 34-27-3.2. Before initiating a foreclosure pursuant to § 34-27-4(b), the mortgagee must provide written notice to the mortgagor, stating that the mortgagee may not foreclose on the mortgaged property without first participating in a mediation conference.

Effective October 6, 2014, and through July 1, 2023, if the mortgagee fails to mail this notice within 120 days after the default date, it generally must pay a penalty of \$1,000 per month for each month

until the mortgagee sends the mortgagor the required written notice. The total penalty may not exceed \$125,000.

The state's mandatory mediation requirement applies only to foreclosures of first-lien mortgages on owner-occupied, residential real property that has no more than four dwelling units and that is the mortgagor's primary dwelling. See *Foreclosure, Alternatives* for additional details regarding mandatory mediation conferences.

Section 9-26-16 amended 1992; § 34-27-4 amended 2012; § 34-27-3.2 amended 2018.

[R.I. Gen. Laws §§ 9-26-16; 34-27-3.2, -4 \(2020\)](#)

Lenders, Rhode Island, Public Notice and Posting Requirements

Judicial

Public notice of the sale of the real estate must be published once a week for three weeks next before the time of the sale in a public newspaper published in the county where the real estate lies. If there is no such newspaper, notice is published in some 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. Notice must be mailed at least 14 days prior to the scheduled sale date.

Non-judicial

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 day of sale, and the third publication of the notice must be no fewer than seven days and no more than 14 days before the original date of sale listed in the advertisement, including the day of the third publication in the computation.

See *Preconditions to Eviction* for public notice requirements related to tenants of foreclosed residential property.

Section 9-26-16 amended 1992; § 34-27-4 amended 2012.

[R.I. Gen. Laws §§ 9-26-16; 34-27-4 \(2020\)](#)

Lenders, Rhode Island, Preconditions to Eviction

Action to Recover

A person entitled to possession of real property may bring an action to recover possession. No notice to quit is required.

After Redemption

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.

Landlord's Notice

A landlord who becomes delinquent for 120 days on a mortgage securing real estate containing a dwelling unit must notify a tenant that the property may be subject to foreclosure. Until the foreclosure occurs, the tenant must continue to pay rent to the landlord as required by the rental agreement.

Just Cause

Just cause is required to evict a foreclosed residential property's tenants. A foreclosing owner may not evict a tenant:

- except for just cause;
- "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, and the foreclosing owner has disclosed to the third-party purchaser that said purchaser may be responsible for evicting the current occupants of the housing accommodation after the sale occurs"; or
- with respect to housing insured by the Federal Housing Administration, "unless HUD denies a request by any tenant for an occupied conveyance or if a tenant does not submit to HUD a request for continued occupancy before the deadline set forth in a notice to occupants of pending acquisition delivered to the tenant by the foreclosing owner."

Within 30 days of a foreclosure, the foreclosing owner must post in a prominent location in the building a written notice that includes, among other required information, a statement that "in order to remain on the premises as a tenant of the foreclosing owner, the household must submit, within thirty (30) days, a completed form to be provided with said written notice to the same address where rent charges shall be sent." This requirement is satisfied if the foreclosing owner has:

- posted the notice in a prominent location in the building;
- mailed the notice by first class mail to each unit; and
- slid the notice under the door of each unit in the building a document stating the contact information of the foreclosing owner, the building manager, or other representative of the foreclosing owner, and stating the address to which the tenant must send rent.

A foreclosing owner may not evict a tenant, except for actions that constitute just cause. Also, a foreclosing owner may not evict a tenant for the following actions that constitute just cause until 30 days after the foreclosing owner has posted, mailed, and delivered the above notice:

- the tenant has failed to pay the rent in effect before the foreclosure, provided the foreclosing owner notified the tenant in writing of the amount of rent that was to be paid and to whom it was to be paid;
- the tenant has materially violated an obligation or covenant, other than the obligation to surrender possession upon proper notice;
- a tenant, who had a written lease that terminated on or after July 1, 2014, has refused, after the foreclosing owner's written request, to execute a written extension or renewal for an additional term "of like duration and in such terms that are not inconsistent" with § 34-18-38.2; and
- the foreclosing owner either: (a) seeks to board up permanently or to demolish the premises because a housing code enforcement agency has cited the premises for substantial violations affecting tenants' health and safety, and it is not "economically feasible" for the foreclosing owner to eliminate the violations; (b) seeks to comply with a housing code enforcement agency that has cited the premises for substantial violations affecting the tenants' health and safety, and it is not feasible to comply without removing the tenant; or (c) seeks to correct an illegal occupancy because the premises has been cited by a housing code enforcement agency or zoning officials, and it is not feasible to correct the illegal occupancy without evicting the tenant.

A foreclosing owner may not evict a tenant for the following actions that constitute just cause until the notice described above is posted and delivered:

- the tenant is committing a nuisance, permitting a nuisance to exist, causing substantial damage, or creating a "substantial interference" with the other occupants' quiet enjoyment;
- the tenant is using or permitting the unit to be used for an illegal purpose; or
- the tenant has refused the foreclosing owner reasonable access to the unit to make necessary repairs or improvements required by law or to show the unit to a prospective purchaser or mortgagee.

The following specific procedures must be followed to evict a tenant:

- for evictions pursuant to § 34-18-38.2(c)(1)(i), the foreclosing owner must follow the procedures set forth in § 34-18-35;
- for evictions brought pursuant to § 34-18-38.2(c)(1)(ii) or § 34-18-38.2(c)(2), the foreclosing owner must follow the procedures set forth in § 34-18-36; and
- for evictions brought pursuant to § 34-18-38.2(c)(1)(iii) or § 34-18-38.2(c)(1)(iv), or other specified evictions, the foreclosing owner generally must follow the procedures for terminating a month-to-month tenancy, as set forth in § 34-18-37.

A foreclosing owner may evict any person other than a tenant using the procedures for terminating a month-to-month tenancy set forth in § 34-18-37.

The following foreclosing owners are exempt from the above requirements:

- the foreclosing owner is headquartered in Rhode Island and maintains a physical office in Rhode Island from which office it carries out full-service mortgage operations and where Rhode Island staff have the authority to approve loan restructuring and other loss mitigation strategies; or
- the foreclosing owner conducted fewer than 15 foreclosures in Rhode Island during the previous calendar year, excluding any conveyances by a deed in lieu of foreclosure.

In this context, "foreclosing owner" means an entity that holds title in any capacity to a housing accommodation that has been foreclosed upon and either:

- held or owned a mortgage or other security interest in the housing accommodation at any point before the foreclosure of the housing accommodation (or is the subsidiary, parent, trustee, or agent thereof);

- is an institutional mortgagee that acquires or holds title to the housing accommodation within three years of the foreclosure deed's filing date; or
- is the federal national mortgage association or the federal home loan mortgage corporation.

"Housing accommodation" means a building or structure containing four or fewer dwelling units, "or part thereof of land appurtenant thereto, and any other real or personal property used, rented, or offered for rent for living or dwelling purposes, together with all services connected with the use or occupancy of such property."

"Just cause" means:

- the tenant has failed to pay rent in effect before the foreclosure, provided the foreclosing owner notified the tenant in writing of the amount of rent that was to be paid and to whom it was to be paid;
- the tenant has materially violated an obligation or covenant of the tenancy or occupancy, other than the obligation to surrender possession upon proper notice, and has failed to cure the violation within 30 days after receiving written notice from the foreclosing owner;
- the tenant is committing a nuisance, permitting a nuisance to exist, causing substantial damage, or creating a "substantial interference" with the other occupants' quiet enjoyment;
- the tenant is using or permitting the unit to be used for an illegal purpose;
- a tenant who had a written lease that terminated on or after July 1, 2014, has refused, after written request, to execute a written extension or renewal for an additional term of like duration and "in such terms that are not inconsistent with this chapter [38-18]";

- the tenant has refused reasonable access to the unit to make necessary repairs or improvements required by law or to show the unit to a prospective purchaser or mortgagee; or
- the foreclosing owner: (a) seeks to board up permanently or to demolish the premises because a housing code enforcement agency has cited the premises for substantial violations affecting tenants' health and safety, and it is not "economically feasible" for the foreclosing owner to eliminate the violations; (b) seeks to comply with a housing code enforcement agency that has cited the premises for substantial violations affecting the tenants' health and safety, and it is not feasible to comply without removing the tenant; or (c) seeks to correct an illegal occupancy because the premises has been cited by a housing code enforcement agency or zoning official, and it is not feasible to correct the illegal occupancy without evicting the tenant.

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 1956; § 34-18-20 amended 2014; § 34-27-7 amended 2016; §§ 34-18-38.1 and 34-18-38.2 enacted 2014.

[R.I. Gen. Laws §§ 34-18-20, -38.1, -38.2; 34-20-2, -4; 34-27-7 \(2020\)](#)

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 prior to the last publication of the notice of sale.

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.

Servicemembers

A sale, foreclosure, or seizure of property because of a breach by a servicemember 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 in the sum of \$1000, imprisonment for up to one year, or both.

Section 9-26-16 amended 1992; § 34-27-4 amended 2012; appellate rules revised 2019.

[R.I. Gen. Laws §§ 34-27-4; 9-26-16 \(2020\); 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, 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 of the city or town where the real estate is located;
- any other address the taxpayer designates in writing to the assessor;
- the address of the taxpayer stated on the deed recorded in the land evidence records of the city or town where the real estate is located; or
- the last known address of the taxpayer.

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 adjournments 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.

Copies of the notices must also be sent or hand-delivered at the same time prescribed above to the Rhode Island Housing and Mortgage Finance Corporation, which has a right of first refusal to acquire the tax lien at tax sale where the property subject to sale is owner-occupied residential property of three or less units.

Notice of Sale to Mortgagees and Other Parties in Interest

If the collector advertises the sale of any real property in which any 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;
- holders of tax title;
- federal agencies with a recorded lien on the property;
- holders of life estates of record; and
- holders of vested remainders 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.

Effective July 15, 2015, if the Rhode Island Housing and Mortgage Finance Corporation pays unpaid taxes and acquires a lien on property, it must, within 90 days of making the tax payment, notify those mortgagees of record and mortgagee assignees whose property interests were of record at least 90 days before the tax sale date of the fact that the Housing and Mortgage Finance Corporation has:

- paid the taxes; and
- acquired a tax lien.

Conduct of Sale

The tax collector shall, at the time and place appointed for the sale, sell by public auction for the amount of taxes, assessments, rates, liens, interest and necessary intervening charges, the smallest undivided part of the land which will bring the amount, but not less than one percent, or the whole for the amount 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, and 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 of the levy and sale. 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 prior to the assignment, but 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 redemption right of the owner of record.

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, and 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 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 rights of redemption. 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 an examination of the title 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 tax collector of the municipality where the subject property is located, of the pendency of the petition. 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, and also, if the property is residential, petition the court for leave to serve the addressee by tacking the notice to the front door of the property. Other or further service by publication or otherwise may be ordered by the court.

Foreclosure Proceeding

After the fixed return day, which must be at least 20 days after the actual issuance of notice by the petitioner, the court shall, if satisfied that the notice has been properly given, on motion of the petitioner 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 upon the terms fixed by the court. The court may in discretion 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 which 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 1956; §§ 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 2018; § 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 and if there is no such newspaper, then in some public newspaper published in the county. The notice must include the time and place of sale, the real estate liable for payment of taxes, and the name of the person against whom the real estate was assessed, with a list of the parcel(s) to be offered for sale by recorded plat and lot number, or by assessor's plat and lot number, or by other adequate description. The notice giving a full description must be published at least three weeks prior to the sale date, and thereafter a weekly formal legal notice, between the date of the original advertisement and the time of sale must be inserted, stating that the collector

will sell at public auction the real estate advertised, with a reference to 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 its right to redemption and explain to such party the manner in which the right shall be exercised and inform the party of the penalties and forfeitures that may occur if the right is not exercised.

Section amended 2003.

[R.I. Gen. Laws § 44-9-9 \(2020\)](#)

Taxing Authorities, Rhode Island, Preconditions to Eviction

Generally, no tax sale gives the purchaser any right to possession until expiration of one year after the sale date. See [R.I. Gen. Laws § 34-16-1](#) 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

Any 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 prior to the filing of the petition for foreclosure. 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 agent of the purchaser or assignee. The right of redemption 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, any person having an interest in land sold for nonpayment of taxes at any time prior to the filing of a petition for foreclosure may redeem the land. The right of redemption 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

No decree of foreclosure may be vacated except in a separate action commenced within six months following the entry of the decree, and then only for inadequacy of the notice of the petition for foreclosure amounting to a denial of due process or for 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 from the payment of such taxes.

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. 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 §§ 44-9-19, -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

As of June 2, 2014, a mortgagee bringing a motion to proceed with an expedited foreclosure of a mortgage on abandoned property must, in addition to other notices required by law or rule, 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."

However, this provision does not "supersede or limit procedures adopted by the South Carolina Supreme Court to resolve 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 \(2019\)](#)

Lenders, South Carolina, Public Notice and Posting Requirements

Sales of property must be advertised for three weeks before the date of the sale. The advertisement must be posted at three public places in the county, one of which shall be at the courthouse door.

If the sale is to take place in a county in which a newspaper is published, the advertisement must be published before the day of sale in a newspaper.

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 \(2019\)](#)

Lenders, South Carolina, Preconditions to Eviction

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.

Section 27-37-10 amended 2000.

[S.C. Code § 27-37-10 \(2019\)](#)

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.

Section 15-39-680 amended 1988; § 15-39-690 amended 1991; rule 203 amended 2018.

[S.C. Code §§ 15-39-680, -690 \(2019\); 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, and they must be collected as required by S.C. Code ch. 51.

Notice of Delinquent Property Taxes

After the county treasurer has issued his 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 a 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 any grantee of record at the address shown on the tax receipt or an address of which the officer has acknowledge. 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."

Conduct of Sale

The person officially charged with the collection of 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. 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.

Notice of End of Redemption Period

Not more than 45 days or 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, stating 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; § 12-51-50 amended 2012; §§ 12-45-180, 12-51-40, and 12-51-55 amended 2015.

[S.C. Code §§ 12-45-180; -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, reading "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 description of the property, a reference to the county auditor's map-block-parcel number being a sufficient description.

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

If the defaulting taxpayer, a grantee from the owner, a mortgagee, a judgment creditor or a lessee of the property fails to redeem realty within the period allowed for redemption, the person charged with collection of 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 mortgage 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. 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.

Civil Action

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.

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

No pre-foreclosure requirements were located.

Non-judicial

Notice of the foreclosure sale must be served on the mortgagor at least 21 days prior to the date of the sale.

Section amended 2002.

[S.D. Codified Laws § 21-48-6.1 \(2019\)](#)

Lenders, South Dakota, Public Notice and Posting Requirements

Judicial

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 situated. Notice must be published once each week for four consecutive weeks prior to 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.

Non-judicial

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 where 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 be given to any lien holder or encumbrancer whose interest in the property would be affected by the foreclosure.

Section 15-9-8 added 1942; §§ 21-48-6, -6.1 amended 2002.

[S.D. Codified Laws §§ 15-19-8; 21-48-6, -6.1 \(2019\)](#)

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 commenced.

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 the sale within ten 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.

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.

Sections amended 1960.

[S.D. Codified Laws §§ 15-19-10, -21; 21-48-10 \(2019\)](#)

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 \(2019\)](#).

Sections amended 2018 except: § 10-25-8.1 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

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.

Section 35-5-101 amended 2011.

Tenn. Code Ann. §§ 35-5-101 (LexisNexis 2020)

Lenders, Tennessee, Public Notice and Posting Requirements

Notice of the sale must be published at least three different times in some newspaper published in the county where the sale will be held. The first publication must be at least 20 days before the sale.

If notice cannot be published, notice of the sale is given by written notices posted 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 be in the civil district where the land lies.

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 35-5-103 amended 1950; § 35-5-101 amended 2011.

Tenn. Code Ann. §§ 35-5-101, -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, but not a state or federal legal holiday. However, this requirement does not apply to sales of parcels pursuant to chapter 5 of title 67 (regarding property taxes).

Section 35-5-109 amended 2019; rule amended 2018.

Tenn. Code Ann. § 35-5-109 (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, and interest, at the time an initial proposed assessment is made.

Notice of such lien must be recorded in the office of the county register of deeds in the county(ies) 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. Such recording constitutes notice of both the original and all subsequent assessments and is effective for ten years from the date of filing. Any notice of lien that is not renewed after ten years is null and void against all persons. If it is renewed within ten years, then it shall continue with priority based on the date of its original filing.

If a liable taxpayer neglects or refuses to pay the taxed owed within ten days after notice and demand, the commissioner can collect amount owing by levy upon all property, or rights to property, belonging to the person or on which there is a lien provided. This ten 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 such notice at the owner's usual place of abode or business if the owner has such within the state. If the owner cannot be readily located or has no dwelling or place of business within the state, notice may be mailed to the owner's last known address. The notice must specify the sum demanded and a description with reasonable certainty of the property seized. This notice must be given not less than thirty days before the seized property is sold.

Judicial

Tennessee law requires the trustee or collector to 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.

Section 67-1-1414 enacted 1972; §§ 67-1-1405 and 67-1-1406 amended 1981; § 67-1-1415 amended 1992; §§ 67-1-1403 and 67-5-2415 amended 2017; § 67-5-2402 amended 2016.

Tenn. Code. Ann. §§ 67-1-1403, -1405, -1406, -1414, -1415; -5-2402, -2415 (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 not less than two other public places. This notice must specify the property to be sold, and the time, place, manner and conditions of the sale of the property.

Judicial

The trustee or collector is required to publish 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.

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 were located that specifically applied to evictions in the context of tax lien foreclosures. See Tenn. Code. Ann. §§ 29-15-101 *et. seq.* (LexisNexis 2020) for generally applicable provisions.

[Taxing Authorities, Tennessee, Appeals](#)

Non-Judicial

If the taxpayer has appealed the ruling of the commissioner or a suit is pending regarding the subject of the tax, they have the right to post bond equaling the amount of the tax liability owing in lieu of payment until the appeal or suit is finalized.

The time of sale must not be less than 10 days or more than 40 days from the time the public notice is given.

The sale must be within the county in which the property is seized except by special order of the commissioner.

At any time before the sale, the person whose property has been levied has the right to pay the amount due, together with the expenses of the proceeding. The property must then be restored to the person and all further proceedings in connection with the levy cease from the time of such payment.

Judicial

Redemption

A taxpayer may redeem the property during the one-year redemption period.

Effective July 1, 2015, the right to redeem must be exercised within the time period established by § 67-5-2701(a). Unless the court finds sufficient evidence to order a reduced redemption period, the redemption period is one year. The redemption period is determined by delinquency 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.

For all property for which a reasonable basis exists to believe that the property is vacant or abandoned, the redemption period is 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 an amount equal to the bid plus 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 -1417 enacted 1972; § 67-1-1420 amended 1983; §§ 67-5-2701 amended 2019; § 67-5-2504 amended 2017.

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

Service members

Special conditions apply to obligations secured by a mortgage, deed of trust or other contract lien on a dwelling owned by a military service member that originated before the service member's active duty commences and for which he or she is still obligated. If a foreclosure action is filed during the debtor's active duty, or during the nine-month period following the date on which that service concludes, the court may after a hearing and on its own motion, or must on the application of a service member whose ability to comply with the contractual obligations is materially affected by his or her military service, either stay the proceedings as justice may require or adjust the obligations of the contract secured by the lien to preserve the interests of all parties.

A sale, foreclosure or seizure of property under a mortgage, deed of trust or other contract lien may not be conducted during the debtor's active service or during the nine months following conclusion of that service period unless it is conducted under a court order issued before the sale, foreclosure or seizure or the service member debtor waives his above rights in writing. A dependent of the service member is entitled to the same protection upon application to the court. If a stay or other relief is issued, the court may grant a similar stay or take similar action with respect to a surety, guarantor, endorser, accommodation maker, comaker or other person who is or may be primarily or secondarily obligated.

A notice served under § 51.002 must contain, among other things, a conspicuous statement alerting the borrower to his or her rights as a member of the armed forces.

Non-judicial

At least 20 days before giving notice of a sale of the property, the mortgage servicer of the debt must serve a debtor in default written notice by certified mail stating that the debtor is in default and giving the debtor at least 20 days to cure the default. Written notice of the sale must be served by certified mail on each debtor who, according to the records of the mortgage servicer of the debt, is obligated to pay the debt. Notice must be served at least 21 days before the date of the sale.

See *Foreclosure Alternatives* for mediation requirements, including those that apply to expedited foreclosures.

Section 51.015 amended 2011; 51.002 amended 2017.

[Tex. Prop. Code §§ 51.002, 51.015 \(2019\)](#)

Lenders, Texas, Public Notice and Posting Requirements

Judicial

The sale of the property 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 which 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 date of the sale. One of the postings must be at the courthouse door of the county.

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 date of the sale. 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 by 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. Three days' written notice to quit 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 a 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.

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.

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 occurs on January 1 or July 4, in which case it must be held on the first Wednesday of the month.

Non-judicial

Appeal

No specific provisions for appeal or objections were located.

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 occurs on January 1 or July 4, in which case it must be held on the first Wednesday of the month.

Rescission of nonjudicial foreclosure sales

Effective September 1, 2015, no later than the 15th calendar day after a foreclosure sale, a mortgagee, trustee, or substitute trustee may rescind the sale if:

- the statutory requirements for the sale were not satisfied;
- the default leading to the sale was cured before the sale;

- a receivership or dependent probate administration was pending at the time of the sale;
- a condition specified in the conditions of sale prescribed before the sale and made available in writing to prospective bidders at the sale was not met;
- the mortgagee or mortgage servicer and the debtor agreed before the sale to cancel the sale based on the debtor's enforceable written agreement to cure the default; or
- at the time of the sale, a court-ordered or automatic stay of the sale was in effect.

On or before the 15th day after the date of the sale, the party rescinding the sale must serve a written notice of rescission that describes the reason for the rescission and includes recording information for any affected trustee's deed that was recorded on:

- the purchaser, if the mortgagee is not the purchaser; and
- each debtor who, according to the mortgage servicer's records, is obligated to pay the debt.

That party must also file each notice for recording in the real property records of the county in which the property is located.

No later than the fifth calendar day after the date a foreclosure sale is rescinded, the mortgagee must return to the purchaser the amount of the bid paid by the purchaser for the property at the sale. The debtor must return to the trustee the amount of any excess proceeds received by the debtor from the sale.

The rescission of a foreclosure sale restores the mortgagee and the debtor to their respective title, rights, and obligations under any instrument relating to the foreclosed property that existed immediately before the sale.

These rescission provisions apply only to a nonjudicial foreclosure sale of residential real property conducted pursuant to § 51.002. In this context, "residential real property" means:

- a single family home, duplex, triplex, or quadraplex; or
- a unit in a multiunit residential structure in which a unit's title is transferred to the unit's owner under a condominium or cooperative system.

Section 51.002 amended 2017 § 51.016 enacted 2015; rule history unknown.

[Tex. Prop. Code §§ 51.002, .016 \(2019\); Tex. R. Civ. P. 646a; Tex. R. App. P. 26.1](#)

Taxing Authorities, Texas, Foreclosure Type

Judicial.

Taxing Authorities, Texas, Preconditions to Foreclosure

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 shall deliver a notice of delinquency to each person whose name appears on the delinquent tax roll.

A notice of delinquency must contain specified language, including a statement that the taxpayer should contact the tax collector regarding the right to enter into an installment agreement if the property is the taxpayer's residence homestead.

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 on the tax lien. The court's judgment of foreclosure shall order the property sold in satisfaction of the amount of the judgment. Upon sale of the foreclosed property, the court shall provide for the clerk of court to

issue a writ of possession to the purchaser, that authorizes 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 ten 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), is less than one acre, has been abandoned for at least one year, and is in the best interest of the municipality or county. The collector shall show that the collector or assessor had 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 true and correct 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 shall file an application for tax warrant directing the sheriff to seize the property described in the warrant, subject to the right of redemption. After seizure, the collector shall notify all persons with an interest in the property of the time and place of the tax sale.

Tax Sales

Real property seized by tax warrant or ordered sold by foreclosure of tax lien shall be sold at tax sale. Upon receiving the order, the officer charged with the sale shall give written notice of the sale to each defendant to the judgment, including a statement of the officer's authority to sell the property, the date, time, and location of the sale, and a brief property description.

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.

A sale of real property, other than a sale conducted by means of a public auction using online bidding, must take place between 10 a.m. and 4 p.m. on the first Tuesday of a month or, if the first Tuesday of a month occurs on January 1 or July 4, between 10 a.m. and 4 p.m. on the first

Wednesday of the month. A sale conducted by means of a public auction using online bidding may begin at any time and must conclude at 4 p.m. on the first Tuesday of a month or, if the first Tuesday of a month occurs on January 1 or July 4, at 4 p.m. on the first Wednesday of the month.

Section 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; §§ 33.02 and 33.04, amended 2015; § 34.01 amended 2019.

[Tex. Tax Code §§ 32.01; 33.02, .04, .41, .51, .53, .91, .911, .912, .92, .93, .94; 34.01 \(2019\)](#)

Taxing Authorities, Texas, Public Notice and Posting Requirements

Before real property can be seized by tax warrant in the absence of personal service upon the owner, the collector must give notice by publication or posting. The notice must:

- be published or posted at least ten days but not more than 180 days before the filing date of the application for tax warrant;
- be directed to the property owners by name, or, if unknown, to "the unknown owners of the property described below";
- 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.

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.

Section 33.95 amended 1997; § 24.002 amended 1989; § 33.51 amended 2005; § 34.21 amended 2019; §§ 24.005 and 33.02 amended 2015; § 34.01 amended 2019.

[Tex. Prop. Code §§ 24.002, .005 \(2017\); Tex. Tax Code §§ 33.02, .51, .95; 34.01, .21 \(2019\)](#)

Taxing Authorities, Texas, Appeals

Partition

Not later than seven days before a tax sale, the owner of real property subject to 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 or within two years if the property was the residence homestead of the former owner.

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

An owner of a residential homestead sold at a tax sale may redeem the property within two years from the date on which the deed was recorded by paying the purchaser the amount the purchaser bid for the property, the amount of the deed recording fee, and the amount paid by the purchaser as taxes, penalties, interest, and costs on the property, plus a redemption premium of 25 percent of the aggregate total if the property is redeemed during the first year of the redemption period or 50 percent of the aggregate total if the property is redeemed during the second year of the redemption period.

An owner may not transfer the right of redemption to another person.

Abatement

A person may abate a sale for foreclosure of a tax lien by delivering an affidavit to the chief appraiser, the collector, and the officer charged with selling the property stating that the owner is 65 years of age or older, is disabled or is qualified to receive an exemption as a disabled veteran, and that the tax was imposed against the owner's residence homestead. After an affidavit is delivered under this subsection, the property may not be sold at a tax sale until the 181st day after the date the individual no longer owns and occupies the property as a residence homestead.

Section 33.54 amended 1997; § 34.08 amended 1999; § 34.21 amended 2019; § 33.06 amended 2017; § 34.01 amended 2019.

[Tex. Tax Code §§ 33.06, .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 power of sale may not be exercised until at least three months after notice of default is filed in the office of the recorder of each county in which the property is situated. The notice must set out the nature of the default.

Opportunity to negotiate foreclosure relief

Before filing a notice of default, a beneficiary or servicer must:

- designate a "single point of contact"; and
- send a written notice regarding the default and foreclosure relief to the default trustor at the default trustor's current address or, if a current address is not provided, at the property's address.

A "single point of contact" means a person who is authorized, as the beneficiary's or servicer's designated representative:

- to coordinate and "ensure effective communication" with a default trustor concerning foreclosure proceedings and any foreclosure relief offered by or acceptable to the beneficiary or servicer; and
- to represent the beneficiary or servicer in all foreclosure proceedings the beneficiary or servicer initiates related to the trust property.

The notice must, among other things:

- "direct the default trustor to contact the single point of contact regarding foreclosure relief available through the beneficiary or servicer for which a default trustor may apply, if the beneficiary or servicer offers foreclosure relief"; and
- establish a date, at least 30 days after the day on which the beneficiary or servicer sends the notice, by which the default trustor must cure the default to avoid the filing of a default notice.

These provisions do not require a beneficiary or servicer to establish foreclosure relief or approve a default trustor's application for foreclosure relief.

Section 57-1-24 amended 2001; § 57-1-24.3 amended 2014.

[Utah Code §§ 57-1-24, -24.3 \(2020\)](#)

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. 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

The trustee must give written notice of a sale's time and place by publishing a notice at least three times, at least once a week for three consecutive weeks. The last publication must be at least ten days but not more than 30 days before the date for which the sale is scheduled. 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 must be posted at least 20 days before the date the sale is scheduled 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.

If the stated purpose of the obligation for which a trust deed was given as security is to finance residential rental property, the notice of sale must also be (1) posted on each door of each dwelling unit on the property to be sold if there are less than nine units, or in at least three conspicuous places on the property if there are more than nine units; or (2) mailed to the occupant of each unit on the property.

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.

Section 57-1-25 amended 2020; rule 69B history unknown.

[Utah Code §§ 57-1-25 \(2020\); 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.

[Utah Code § 57-1-25.5](#), which allowed, under certain circumstances, a preexisting tenant to continue to occupy, for a limited time, residential rental property after a forced sale at public auction, was repealed effective July 1, 2018.

Section added 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 9 a.m. and 8 p.m.

Non-judicial

Appeal

No specific provisions for objection or appeal were located. However, note that 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.

Sections 57-1-25 amended 2020; history of rules unknown.

[Utah Code § 57-1-25 \(2020\)](#); [Utah R. App. P. 4](#), [Utah R. Civ. P. 69B](#)

Taxing Authorities, Utah, Foreclosure Type

The primary means for foreclosing on a lien for delinquent property taxes or tax notice charges is a nonjudicial auction sale conducted by the county auditor.

Counties have the option of using a judicial action for foreclosure to collect "general taxes levied against real estate." This judicial action is described as one similar to an action to foreclose on a mortgage.

Taxing Authorities, Utah, Preconditions to Foreclosure

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 and tax notice charges are assessed on a base lot. The notice must include:

- a statement that delinquent taxes and tax notice charges are due;
- the amount due;
- the taxpayer's name;
- a description of the property or the property identification number; and
- information relating to penalties and interest.

The taxpayer has four years in which to pay the delinquent 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 tax sale list sets forth all properties for which the four-year period has passed.

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 improved property's occupant; and
- all other record interests of the previous March 15.

The notice must state:

- the name and last known address of the last-known record owner;
- the parcel, serial, or account number of the delinquent property; and
- the property's legal description.

Any person—including a person other than the taxpayer or the record owner—can 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 of the delinquent taxes, tax notice charges, interest, penalties, and administrative costs.

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 and tax notice charges, and may choose between publishing 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 name of the taxpayer, and state: (1) the amount due; (2) the taxpayer's name; (3) a description of the property (or the property identification number); and (4) information relating to penalties and interest.

Notice of 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 not more than 30 days, before the sale.

The published notice must include: (1) the name and last-known address of the last-known record owner; and (2) the street address of the delinquent property or its parcel, serial or account number. The notice also must state: (1) the date and time of the sale; (2) that the sale will be held at the front door of the county courthouse; and (3) that bids for less than the amount due, including interest, penalties and costs, will not be accepted. 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 to -816 \(2020\)](#).

Taxing Authorities, Utah, Appeals

Tax sales are held on a date selected by the county auditor in May or June.

Generally, no injunction may be granted to stop a tax sale unless: (1) the tax or tax notice charges are not legally authorized, or (2) the property on which the tax or tax notice charges are assessed is exempt from taxation.

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.

Section 59-2-1350 amended 1995; §§ 59-2-1326, -1351, -1363 amended 2018.

[Utah Code §§ 59-2-1326, -1350, -1351, -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 (other than a time-share unit) no more than four units.

Section 4961 enacted 2011; § 4931 amended 2014.

[Vt. Stat. tit. 12, §§ 4931, 4961 \(2019\)](#)

Lenders, Vermont, Preconditions to Foreclosure

General foreclosure provisions

The officer levying an execution must give the mortgagor 60 days' notice of the property's sale. Notice must be given either by hand delivery or by registered or certified mail, with delivery restricted to the addressee.

Mediation

As of December 1, 2013, Vermont law requires mediation and the application of government loss mitigation program requirements in a foreclosure of a mortgage on a dwelling with four or fewer units that the owner occupies as a principal residence. During the mediation, the parties must address the available foreclosure prevention tools and any dispute regarding the amount due. The mediation requirements apply to all foreclosure actions on residential property unless:

- the loan is not subject to a government loss mitigation program requirement;
- before bringing the foreclosure action, the mortgagee (or its representative) met with or made reasonable efforts to meet with the mortgagor in person to discuss applicable loss mitigation options; and
- the plaintiff certifies in a separate document filed with its complaint that the above requirements have been satisfied and "describes its efforts to meet with the mortgagor in person to discuss applicable loss mitigation efforts."

The mortgagee must serve the mortgagor with two copies of the notice described in § 4632(d) with the summons and complaint. The Supreme Court may, by rule, consolidate this notice with other foreclosure-related notices.

Foreclosure by judicial sale

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.

Section 2787 amended 1971; previously applicable § 4532a repealed 2012; § 4952 enacted 2011; § 4933 repealed 2019; §§ 4631 and 4632 amended 2013.

[Vt. Stat. tit. 12, §§ 2787, 4631, 4632, 4952 \(2019\)](#)

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

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.

A summons and complaint served on any person occupying the premises pursuant to a residential rental agreement must contain a specified notice regarding his or her right to remain on the premises.

Notice of a sale must be published "once in each of three successive weeks in a newspaper of general circulation in the town where the land lies, the first publication to be no fewer than 21 days" before the sale date. A copy of the notice of sale must be mailed by first class mail, postage prepaid, to all parties who appeared in the foreclosure action or to their attorneys of record.

Section 2787 amended 1971; §§ 4932 and 4952 enacted 2011.

[Vt. Stat. tit. 12, § 2787, 4932, 4952 \(2019\)](#)

Lenders, Vermont, Preconditions to Eviction

Generally, if property is not redeemed within six months of a foreclosure sale, 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 30 days after the issuance of the writ (or other time required by federal law) to move out. Upon receipt of the complaint, the owner of the mortgaged property must notify each residential tenant that:

- the premises are the subject of a pending foreclosure action; and
- in the event the owner is unable to redeem the premises, the tenant may be required to vacate the premises upon the longer of 30 days' notice or such other notice as is required by federal law.

Sections 4941 and 4932 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 the judgment date, Saturdays, Sundays, or legal holidays). The running of the time of redemption is tolled and the effectiveness of the judgment stayed when a motion for permission to appeal is filed

Sale scheduling

In a foreclosure by judicial sale, the sale must be held at the mortgaged property unless the court directs another place. 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 strict foreclosure, if there is no equity in the property, the court may issue a judgment and decree of foreclosure without requiring a judicial sale.

Section 4601 amended 1972; §§ 4939, 4941, and 4953 enacted 2011; rule 80.1 amended 2017.

[Vt. Stat. tit. 12, §§ 4601, 4939, 4941, 4953 \(2019\)](#); 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 within it, must make a list of the taxpayers whose real property taxes are unpaid as of December 31 next preceding, showing 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 treasurer of the municipality. The list must also be submitted to the auditors of such municipality for verification and if correct be so certified by the auditors.

Notices of Sale

When the collector of taxes of a town or municipality within it has for collection a tax assessed against real estate in the town and the taxpayer is delinquent, the collector may extend a warrant on such land, and if he does he must file in the office of the town clerk a true and attested copy of the warrant and so much of the tax bill as relates to the tax against the delinquent taxpayer, a sufficient description of the land so levied upon 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, direct to the last known address of the taxpayer, of the date and place of sale at least 10 days prior to the sale if the taxpayer is a town resident and 20 days prior thereto if he or she is a nonresident. Written notice must also be given in the same manner to the mortgagee or lienholder 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 to pay such amounts. The owner of the property 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 act of the mayor or selectboard, 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.

Tax Collector's Deed

When the one-year redemption period has passed, the collector must execute to the tax-sale purchaser a deed, which conveys 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 upon real estate are a lien thereon, and if unpaid more than two years after the creation of the lien, such lien may be foreclosed in the same manner as provided by law for the foreclosure of mortgages on real estate.

In such cases, the parties with an interest in the land on record in the town clerk's office must be given notice as directed by the presiding judge of the superior court. 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 shall be empowered to 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 to 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 to the tax collector who made the sale, or the town clerk if the collector has died or removed from the town, the sum for which the land was sold, with interest, a deed of the land shall not be made to the purchaser, and the money paid to the collector or clerk by the person redeeming must be paid to the purchaser on demand.

Actions Against Grantee in Possession

An action to recover lands, or the possession thereof, may not be maintained against the grantee in a tax collector's deed, duly recorded, or his or her heirs or assignees, when any of them have been in continuous and open possession of the land conveyed in the deed and have paid the taxes thereon, unless commenced 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 commenced 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 commenced within one year from the date of the levy on the real estate, an action may not be commenced wherein a taxpayer may question the acts of the tax collector 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 2018.

[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.

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 after due diligence cannot be found in the Virgin Islands, 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 prior to the sale.

In addition, notice must be published in a newspaper published in the judicial division in which the sale is to take place. Notice must be published once a week for four weeks prior to the sale.

Section 112 amended 1978; history of § 484 unknown.

V.I. Code tit. 5, §§ 112, 484 (LexisNexis 2020)

Lenders, Virgin Islands, Preconditions to Eviction

An action to recover the possession of real property may be brought by any person with a legal estate in property and the right to possession of the 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.

Sale scheduling

Sales of property must be held between 9 a.m. and 4 p.m.

Section 489 amended 2005; statutory history of § 485 unknown.

V.I. Code tit. 5, §§ 485, 489 (LexisNexis 2020)

Taxing Authorities, Virgin Islands, Foreclosure Type

Non-judicial.

Taxing Authorities, Virgin Islands, Preconditions to Foreclosure

The Lieutenant Governor shall proceed to collect delinquent taxes by attachment and sale of the property of the taxpayer.

In addition to the published notice of tax delinquency described in *Public Notice and Posting Requirements*, the Lieutenant Governor shall prepare a written notice of attachment of real property containing the amount of delinquent taxes and interest, the date of the public auction, and the date upon which the owner's right to redeem the property expires. The notice shall inform the real property owner that the subject property will be sold at public auction unless payment of all delinquent amounts is made within three weeks of the date of the notice. The notice of attachment shall be served personally on the debtor or left with a member of his or her family of legal age. If the debtor or 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, or, if no witnesses can be found, by mailing a copy of the notice to the debtor's last known address and posting 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 affix to the notice a certificate containing:

- the name of the delinquent taxpayer;
- the assessed value of the property;
- the amount of taxes, interest, fees, penalties, and costs owed; and
- a property description.

The notice, along with the certificate, must be filed with the recorder in the real property register in the office of the recorder of deeds.

Sections amended 2007.

V.I. Code tit. 33, §§ 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 shall 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 thirty days of the date of publication, their real property will be attached and sold at public auction.

After the levy of attachment, the Lieutenant Governor shall 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 at the expiration of three weeks or as soon thereafter as may be practicable.

Sections amended 2007.

V.I. Code tit. 33, § 2546, 2547 (LexisNexis 2020)

Taxing Authorities, Virgin Islands, Preconditions to Eviction

Any person owning a legal estate in real property and a present right to possess it may recover possession, with damages, by commencing an action against a person in actual possession of the property or, if not in the actual possession of anybody, against the person acting as owner thereof.

See *generally* V.I. Code tit. 28, § 281 et seq. (LexisNexis 2020)

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

No additional notice provisions were located.

Non-judicial

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 or her last known address. See Va. Code § 55.1-321 for notice requirements when the property owner is deceased.

Section 55-59.1 renumbered as 55.1-321 in 2019.

[Va. Code § 55.1-321 \(2019\)](#)

Lenders, Virginia, Public Notice and Posting Requirements

Judicial

No statutory provisions relating to advertising the sale were located.

Non-judicial

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 prior to 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 which has filed a lien, and any proprietary lessees' association which 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 in a newspaper with a general circulation in the city or county wherein the property to be sold. 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 shall 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. If the property is located in a city or in a county immediately contiguous to a city, publication of the advertisement five different days, which may be consecutive days, will be deemed adequate.

Sections 55-59.1 and 55-59.2 renumbered as §§ 55.1-321 and 55.1-322 respectively.

[Va. Code §§ 55.1-321, .-322 \(2019\)](#)

Lenders, Virginia, Preconditions to Eviction

Judicial

When judgment is issued for the recovery of specific real property, the judgment may include a writ of possession 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 upon 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 provisions relating to appeal or objection 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 thirty days after the last advertisement.

Section 55-59.2 renumbered as 55.1-322 in 2019; rule amended 2019.

[Va. Code § 55.1-322 \(2019\)](#); [Va. Sup. Ct. R. 5A:6](#)

Taxing Authorities, Virginia, Foreclosure Type

Judicial and nonjudicial for unimproved parcels of minimal size and value.

Taxing Authorities, Virginia, Preconditions to Foreclosure

Non-judicial

Eligible property

The treasurer or other officer responsible for collecting taxes may sell, at public auction, a real estate parcel that is assessed at less than \$5,000 (effective July 1, 2020, \$10,000 or less), if the parcel's taxes are delinquent on the December 31 following the third anniversary of the date on which the taxes became due.

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 (effective July 1, 2020, more than \$10,000,, but no more than \$25,000), 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 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 (.0918 acre) (effective July 1, 2020, no more than one acre);

- 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 officer responsible for collecting taxes must send notice by certified or registered mail to:

- the property's record owner; and
- anyone "appearing to have an interest in the property."

The notice must also be posted and published, as described in more detail in *Public Notice and Posting Requirements*.

Judicial

Delinquency list

The treasurer for a county or city must prepare a list of real estate with delinquent taxes for the governing body. (Properties with delinquencies 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. If the property is worth less than \$100,000, it may be sold after the December 31 following one-year anniversary of the date the taxes were due. If the property 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 also 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.

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 advising the owner that the taxes are delinquent and that the collector intends to commence judicial proceedings to sell the property. The notice also must be sent to the property address, if that address is different than 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. 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 commences with the filing of a "bill in equity" in the circuit court of the county or city where 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 for all 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.

The action is similar to that of an action to sell real estate by a creditor's bill in equity to subject the real estate to a judgment creditor's lien, pursuant to Va. Code § 8.01-321.

Section 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, -3965, -3965.1, -3967 \(2019\); -3975](#) (as amended by [2020 Va. Laws ch. 257](#))

Taxing Authorities, Virginia, Public Notice and Posting Requirements

Non-judicial

Pre-sale notice of tax-delinquent properties of minimal size and value

The treasurer or other officer responsible for collecting taxes may sell, at public auction, unimproved parcels of a specified minimal size and value. At least 30 days before the sale, a notice of sale must be posted:

- at the property's location, if the property has frontage on a public or private street; and

- at the circuit courthouse.

Notice of sale for tax-delinquent properties of minimal size and value

The treasurer or other officer responsible for collecting taxes must also publish a notice of sale in the legal classified section of a newspaper of general circulation at least seven, but no more than 21, days before the sale. The publication and mailing costs become a part of the tax and will be collected if the owner redeems the property.

Judicial

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 that a party seeking to serve process file an affidavit saying that the party has diligently tried to serve the other person and that the sheriff was unable to make personal service and has returned the papers. 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. If the property is assessed in the local tax records for \$50,000 or less, the order need not be published more than once. No additional notice is required, unless specifically ordered by the court.

Sections 8.01-318 amended 1977; § 8.01-321 amended 2018; § 8.01-317 amended 1996; § 8.01-316 amended 2010; § 58.1-3965 amended 2015; § 58.1-3975 amended 2020.

[Va. Code §§ 8.01-316, -317, -318, -321; 58.1-3965 \(2019\); -3975](#) (as amended by [2020 Va. Laws ch. 257](#))

Taxing Authorities, Virginia, Preconditions to Eviction

No specific provisions relating to tax sales were located. The statute requiring a landlord to give tenants notice of foreclosure proceedings does not explicitly include tax sales. See Va. Code § 55.1-1237. For general provisions relating to terminating a tenancy, other than for nonpayment of rent or breach of lease, see Va. Code § 55.1-1410.

Sections 55-225.10 and 55-222 renumbered 2019 as §§ 55.1-1237 and 55.1-1410.

[Va. Code §§ 55.1-1237, -1410 \(2019\)](#)

Taxing Authorities, Virginia, Appeals

The owner may redeem the property up until the property is sold by paying the taxes, penalties, interest and all costs. The right to redeem ends when the property is sold. 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.

Section 58.1-3974 amended 2012; § 58.1-3965 amended 2015.

[Va. Code §§ 58.1-3965, -3974 \(2019\)](#)

Washington

Lenders, Washington, Foreclosure Type

Judicial and non-judicial.

Lenders, Washington, Preconditions to Foreclosure

Judicial

No pre-foreclosure requirements were located.

Non-judicial

General notice requirements

At least 30 days before notice of sale is recorded, transmitted or served, written notice of default and a beneficiary declaration 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 the default must either be posted in a conspicuous place on the premises, or personally served on the borrower and grantor. The notice must contain specified warnings and information regarding foreclosure alternatives. Effective July 7, 2018, alternate notice requirements, set forth in § 61.24.030 apply if the borrower or grantor is deceased.

Generally, a notice of default may not be sent until 30 days after the borrower is contacted by letter and by telephone in order to assess the borrower's financial ability to pay the debt secured by the deed of trust and explore options for the borrower to avoid foreclosure. The lender must advise the borrower that he or she has the right to request a subsequent meeting and, if requested, the lender must schedule the meeting. A notice of default may be issued if the borrower was not contacted despite the due diligence of the lender. Due diligence requires first sending a letter to the borrower by both first-class and either registered or certified mail, return-receipt requested, and then attempting to contact the borrower by telephone at least three times at different hours and on different days. If the borrower does not respond within fourteen days after the telephone call attempts, the lender must send a certified letter, with return receipt requested, to the borrower at the address in the beneficiary's records for sending account statements to the borrower and to the address of the property encumbered by the deed of trust.

Notice regarding counseling and meetings (§§ 62.24.030 and .031)

Washington home loans are typically secured using a deed of trust. For owner-occupied residential real property, before the beneficiary records, transmits, or serves the notice of the trustee's sale, the beneficiary must comply with § 61.24.031 and, if applicable, the foreclosure mediation program.

The beneficiary may not send a notice of default until:

- 30 days after satisfying the due diligence requirement, if the borrower has not responded; or
- 90 days after the initial contact with the borrower was initiated, if the borrower responds to the initial contact.

A beneficiary must make initial contact with the borrower by letter and by telephone to provide required information. The letter must be sent by first class mail to the address used for sending account statements and to the property address. It must include the following information, among other things:

- a bolded statement that the borrower must respond within 30 days of the date of the letter, and that if he or she does not respond, a notice of default may be issued, using the language set forth in § 61.24.031(1)(c);
- HUD's toll-free telephone number for finding HUD-certified housing counseling agencies;
- a statement that the borrower "may contact the Department of Financial Institutions, the Washington State Bar Association, or the statewide civil legal aid hotline for possible assistance or referrals"; and
- a paragraph explaining how the borrower may respond to the letter and stating that, after responding, the borrower will have an opportunity to meet with his or her beneficiary to try to work out an alternative to the foreclosure, and that after 90 days from the date of the letter, a notice of default may be issued.

The beneficiary must also provide:

- the lender's website address listing options for borrowers who cannot afford their mortgage payments and wish to avoid foreclosure;

- a list of financial documents the borrowers should collect to help prepare for discussions with the lender; and
- a toll-free number for the lender for borrowers to call to discuss foreclosure-avoidance options, among other things.

If the beneficiary has exercised due diligence as required by § 61.24.031(5) and the borrower does not respond within 30 days of the initial contact, the beneficiary may issue a notice of default. If the borrower requests a meeting, the beneficiary must schedule the meeting to occur before the notice of default is issued.

If the borrower does not respond within 14 days of the required telephone calls, the lender or designated agent must send a certified letter, return receipt requested, to the borrower. The letter must contain the same information as was provided in the initial letter sent by first-class mail. The letter must also include the following statement: "Your failure to contact a housing counselor or attorney may result in your losing certain opportunities, such as meeting with your lender or participating in mediation in front of a neutral third party."

A notice of default may be issued under § 61.24.030(8) if a beneficiary has initiated contact with the borrower and the failure to meet with the borrower occurred despite the due diligence of the beneficiary or authorized agent.

These pre-default-notice procedures do not need to be followed if the borrower has already surrendered the property to the trustee, the lender, or its agent.

Mediation (§§ 61.24.005, .163, .165, .166)

Washington statutes address mediation during foreclosure procedures. Washington's foreclosure mediation program applies only to borrowers who have been referred to mediation by a housing counselor or an attorney. The referral to mediation may be made any time after a notice of default has been issued, but no later than 20 days after the date a notice of sale has been recorded. If the borrower did not elect to mediate within the applicable time frame, the borrower and the beneficiary "may, but are under no duty to," agree in writing to enter the foreclosure mediation program. The mediation program is not governed by chapter 7.07 and does not preclude mediation

required by a court or other provisions of law. A housing counselor or attorney referring a borrower to mediation must send a notice to the borrower and the department of commerce, stating that mediation is appropriate.

The mediation provisions apply only to deeds of trust that are recorded against owner-occupied residential real property containing no more than four units. A borrower under a deed of trust on owner-occupied residential real property who has received a notice of default on or before July 22, 2011, may be referred to mediation by a housing counselor or attorney.

In this context, "residential real property" means "property consisting solely of a single-family residence, a residential condominium unit, or a residential cooperative unit." For the purposes of applying § 61.24.163, "owner-occupied residential real property" includes residential real property containing up to four units.

The above mediation provisions do not apply to:

- deeds of trust securing a commercial loan, the obligation of a grantor who is not the borrower or a guarantor, or a purchaser's obligations under a seller-financed sale;
- certain association beneficiaries; or
- a federally insured depository institution that certifies that it was not a beneficiary of deeds of trust in more than 250 trustee sales of owner-occupied residential real property that occurred during the preceding calendar year.

Sections 61.24.030 amended 2018; § 61.24.166 enacted 2011; §§ 61.24.005, 61.24.031, and 61.24.165 amended 2014; § 61.24.163 amended 2018.

[Wash. Rev. Code §§ 61.24.005, .030, .031, .163, .165, .166 \(2019\)](#)

Lenders, Washington, Public Notice and Posting Requirements

Judicial

Not less than 30 days before the date of the sale, the mortgagee must serve a copy of the notice of sale on the mortgagors in the same manner as a summons in a civil action, or transmitted both by regular mail and by certified mail, return receipt requested, to the mortgagors. For a period of not less than four weeks before the sale, the sheriff must post a notice of the sale in two public places in the county in which the property is located, one of which shall 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 constituting such improvement. The sheriff must also publish a notice of the 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 to be sold is situated. 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 sent by both first-class and either certified or registered mail, return receipt requested, to

- borrower and grantor, and if the vendor or grantor is deceased, their successors in interest;
- any person who claims a lien on the property that was recorded after the deed of trust;
- the occupants of the property;
- any person who has requested notice; and
- the vendee or lessee of the property, if their interest was recorded after the deed of trust.

The notice must also be recorded in the office of the county auditor.

Notice must be mailed and recorded at least 90 days before the sale. If a letter is required pursuant to § 61.24.031, the notice must be mailed and recorded at least 120 days before the sale, and the notice must contain additional language regarding foreclosure alternatives. 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 date of sale, and once on or between the 14th and 7th day before the date of sale.

Section 6.21.030 added 1987; § 61.24.040 amended 2018.

[Wash. Rev. Code §§ 6.21.030; 61.24.040 \(2019\)](#)

Lenders, Washington, Preconditions to Eviction

Judicial

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.

Non-judicial

The purchaser is entitled to possession of the property on the twentieth day following the sale. The purchaser may then bring summary proceedings to obtain possession. 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; § 7.28.010 amended 2011.

[Wash. Rev. Code §§ 7.28.010; 61.24.060 \(2019\)](#)

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.

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.

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."

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.

Sections 61.24.040 and 61.24.130 amended 2018; § 6.21.050 amended 1987; Rule 5.2 amended 2010.

[Wash. Rev. Code §§ 6.21.050; 61.24.040, .130 \(2018\) Wash. R. App. P. 5.2](#)

Taxing Authorities, Washington, Foreclosure Type

Judicial.

Taxing Authorities, Washington, Preconditions to Foreclosure

At the request of any holder of certificate(s) of delinquency, the county prosecuting attorney must prosecute to final judgment all actions brought by such holders 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 certificates of delinquency on the property 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.

Notice and summons must be served or notice given in a manner reasonably calculated to inform the owner(s), and any person having a recorded interest in or lien of record upon the property, of the foreclosure action to appear within thirty days after service of such notice and defend such action or pay the amount due. Either personal service or publication as set forth in *Public Notice and Posting Requirements* is sufficient to afford such notice. The notice must include the legal description on the tax rolls, the year(s) for which assessed, the amount of tax and interest due, and the name of owner, or reputed owner, if known, and include the local street address, if any, for informational purposes only.

The certificates of delinquency issued to the county may be issued in one general certificate in book form including all property and the lien foreclosure proceedings may be brought in one action.

Prior to the sale, a title search must be done to determine the legal description of the property and the record title holder. If the record title holder differs from the person(s) appearing on the treasurer's rolls as the owner(s), the record title holder(s) must be considered and treated as the owner(s) for purposes of the tax lien foreclosure and is entitled to the required notice as discussed above and in *Public Notice and Posting Requirements*.

Except for those parcels where the local governing entity has declared and/or certified the parcel a nuisance affecting public peace, safety, and welfare, or other similar code provision, a certificate of delinquency may not be filed on property where the total tax delinquency is \$100 or less, excluding interest and penalties.

Section 84.64.040 amended 2013; § 84.64.050 amended 2019.

[Wash. Rev. Code §§ 84.64.040, .050 \(2019\)](#)

Taxing Authorities, Washington, Public Notice and Posting Requirements

Notice of Foreclosure (§ 84.64.050)

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 (§§ 84.64.080, .225)

Immediately upon receipt of an order and judgment for a property's sale, the treasurer must proceed to sell the property to the highest and best bidder. (As amended effective July 24, 2015, Washington's statutes no longer require this bid to be for cash.) The acceptable minimum bid must equal the total of "taxes, interest, and costs." All sales must be made at a location in the county on the date and time (except Saturdays, Sundays, or legal holidays) the county treasurer directs and must continue from day to day during the same hours until all lots or tracts are 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.

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.

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 Wash. Rev. Code § 84.64.225. Effective January 1, 20120, 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.

Sections 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 amended 2019; §§ 84.64.180, and 84.68.110 amended 2013; § 84.64.070 amended 2015; § 84.64.080 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

The sale must be advertised in a newspaper by the person appointed to make the sale. The advertisement must be published once a week for three successive weeks in a qualified newspaper published in the county in which the property is located or 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 shall be at or near the front door of the county courthouse.

Non-judicial

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 prior to 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 action in ejectment 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 relating to appeals were located. As a general rule, appeals in civil actions must be filed within 30 days of the entry of judgment.

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 ascertaining which of the taxes in the county are delinquent shall, on or before May 1 next succeeding the year for which the taxes were assessed, prepare, under oath, delinquent lists,

arranged by districts and alphabetically by name of the person charged, and showing with respect to each the taxes remaining unpaid 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, together with 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 prior to 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 having a lien on 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 in writing delivered to the sheriff on a prescribed form a request for such 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 for such notice which identifies the person as an owner of an interest in the surface of the real property that is included in the boundaries of such property.

Any person claiming a lien against real property is deemed to have waived the right to such notice unless he files with the sheriff a statement declaring the interest. The statement must be filed upon creation of the lien and upon release of the lien and upon any change in the lienholder's address since the original filing of the statement.

Tax Lien Sale

The sheriff shall sell the tax lien on each unredeemed tract or lot, or each unredeemed part thereof or undivided interest therein 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 disposition of the property is complete.

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 on the property 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 at the time the 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 provide a receipt. If any person entitled to service is a 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 in effect that the taxes assessed the previous year have become delinquent and that unless paid by April 30 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, or 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 the county courthouse at or near the front door.

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, or 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 the county courthouse at or near the front door.

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 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.

The list and notice must be published prior to 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, or 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 the county courthouse at or near the front door.

Sheriff's Sales List

Within one month after the completion of the tax lien sale, the sheriff must prepare a list of all the sales and certifications made by him or her, and publish the 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, or 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 the county courthouse at or near the front door.

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 notice once a week for three consecutive weeks in two qualified newspapers of opposite politics published in the county where 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, or 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 the county courthouse at or near the front door. Publication must begin on or before the 30th day following the purchaser's request for such 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-3-22 amended 2020; §§ 11A-2-13 and 11A-3-13 amended 2006; § 11A-3-2 amended 2007.

[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

Any individual purchaser to whom a tax deed has been issued may institute and prosecute actions to quiet title in any such real estate conveyed by the tax deed.

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 any tax lien on any real estate, the owner of, or any other person who was entitled to pay the taxes on, any 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

Any owner of real estate for which a tax lien was sold for nonpayment of taxes, when all taxes thereon had in fact been paid before the sale, his heirs and assigns, or the person the taxes, 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

Whenever the clerk of the county commission has delivered a deed to the purchaser after the time limit established by law, or within that time, has delivered a deed to a purchaser who was not entitled thereto either because the property was redeemed or the requirements for the deed were not met, the owner of such property, his heirs and assigns 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 such notice has been given to others in time to protect his interests by redeeming the property, he or she, his heirs and assigns, 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 and 11A-3-23 amended 2020; § 11A-3-5 amended 2000.

[W. Va. Code §§ 11A-3-5, -23; 11A-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 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 property is located in a county with a population of at least 750,000.

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 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.

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.

Sections 846.155 and 846.16 amended 2018; § 846.01 amended 1997.

[Wis. Stat. §§ 846.01, .155, .16 \(2020\)](#)

Lenders, Wisconsin, Public Notice and Posting Requirements

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.

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 in Madison.

Section amended 2018.

[Wis. Stat. § 815.31 \(2020\)](#)

Lenders, Wisconsin, Preconditions to Eviction

A civil eviction action may be brought by a person entitled to possess property against any person who is not entitled to possess or occupy the property. There is no requirement that a notice to 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 that the occupant makes a claim that a foreclosure reconveyance was fraudulent, misleading, or deceptive, that the occupant owned the foreclosed property, that 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, and that 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 846.35, which previously addressed a writ of assistance or restitution for the removal of a tenant whose tenancy is terminated because of a foreclosure judgment and sale, has been repealed.

Section 846.35 repealed 2011; § 846.40 added 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 twelve months after the entry of judgment, unless the property is abandoned or unless the mortgagee has agreed to waive any deficiency after the sale. Sales must be held between 9 a.m. and 5 p.m.

Section 808.04 amended 2017; § 815.31 amended 2018; § 846.01 amended 1997.

[Wis. Stat. §§ 808.04, 815.31, 846.01 \(2018\)](#)

Taxing Authorities, Wisconsin, Foreclosure Type

Judicial.

Taxing Authorities, Wisconsin, Preconditions to Foreclosure Notice of Delinquency

On September 1 of each year, the county treasurer shall issue to the county a tax certificate which 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 eventual transfer of ownership of the property 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 shall 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 is entitled to either take the property by tax deed, commence an action to foreclose the certificate, or commence an action to foreclose the tax lien represented by the certificate.

Taking Property by Tax Deed

Before the county can take property by tax deed, the property owner, occupant, or mortgagee, as applicable, must be provided written notice of application for tax deed, containing the date of the tax certificate, the description of the lands covered, the amount of the delinquency, and notice that the county intends to claim a tax deed no sooner than three months from the date of the application. The application shall be served by the treasurer or his agent 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 shall issue a tax deed to the county. A tax deed must be taken no later than one year after the date of service of the application for tax deed.

Upon acquisition by tax deed of property used as the taxpayer's homestead at any time in the previous five years, the treasurer shall notify the former owner, by registered or certified mail, that the former owner may be entitled to a share of the proceeds of any future sale of the property if claimed in writing within sixty days of receipt of the notice.

A county may perfect its tax deed at any time within three years after the deed was issued by commencing 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 shall 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 shall 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 shall 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.

Sections 75.01, .14, .39, and .40 enacted 1987; § 75.67 amended 1987; § 75.19 amended 1989; § 74.59 amended 1991; § 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 \(2020\)](#)

Taxing Authorities, Wisconsin, Public Notice and Posting Requirements

During the redemption period, the county treasurer shall, at least six and not more than ten months before the expiration of the redemptive period, twice publish in the county in which it is situated, a list of all unredeemed properties, specifying each tract, the name of the person who was assessed a tax, the amount of the delinquent tax, 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 shall 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 shall be the treasurer's office.

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 shall publish notice of its application at least three times in a newspaper in the county.

In any county adopting an ordinance allowing the county to foreclose on the tax lien represented by a tax certificate, the county shall 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 \(2020\)](#)

Taxing Authorities, Wisconsin, Preconditions to Eviction

An action of ejectment must be brought within three years after the recording of the tax deed 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 \(2020\)](#)

Taxing Authorities, Wisconsin, Appeals

Limitation Period

Any action brought by the taxpayer to recover possession of real property conveyed by deed for the nonpayment of taxes or to avoid such a deed generally must be brought within three years after the recording of the tax deed.

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 \(2020\)](#)

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 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 2006; § 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

Before publication of the notice of sale, a copy of the notice must be served by certified mail with return receipt requested upon 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 given by publishing the notice for four consecutive weeks, at least once each week, in a newspaper printed in the county where the property is situated. If no newspaper is printed in the county, notice must be published in a paper printed in the state and of general circulation in the county.

Sections amended 2005.

Wyo. Stat. §§ 1-18-101; 34-4-104 (LexisNexis 2020)

Lenders, Wyoming, Preconditions to Eviction

Judicial

An action for forcible entry and detainer may be brought when the mortgagee was in possession of the property at the time the decree ordering the sale was made. Notice to quit must be served at least three days prior to bringing the action.

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 prior to bringing the action.

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.

Sections amended 2005; rule 2.01 amended 2017.

Wyo. Stat. §§ 1-18-101, 34-4-106 (LexisNexis 2020); [Wyo. R. App. P. 2.01](#)

Taxing Authorities, Wyoming, Foreclosure Type

Judicial and non-judicial.

Taxing Authorities, Wyoming, Preconditions to Foreclosure

Each year, the county treasurer must declare taxes remaining unpaid on May 11 delinquent and before May 21 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, and if they remain unpaid, the treasurer must proceed to collect the delinquent taxes, interest and costs by levying distress against the real or personal property of the taxpayer, except a homestead may only be sold for taxes due upon it exclusively.

Notices of Sale

When the county treasurer collects taxes by sale of real property, he must advertise notice of the sale by publication thereof, once a week for three weeks in a legal newspaper in the county, the first publication at least four weeks before the day of sale and prior to the first week in September. If there is no legal newspaper in the county, he must post a written notice of the sale at least 30 days prior to 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.

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. Certificates of purchase may be assigned by endorsement by the original purchaser. 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.

Section 39-13-109 amended 2015; §§ 39-13-107 and 39-13-108 amended 2019.

Wyo. Stat. §§ 39-13-107, -108(e), -109(e) (LexisNexis 2020)

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

Non-judicial

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.* (LexisNexis 2020) for ejectment actions in general.

Section amended 2017.

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; and
- 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)