

Foreclosure, Residential Property Maintenance - By Jurisdiction

Executive Summary

RESIDENTIAL PROPERTY MAINTENANCE

ANNUAL REPORT EXECUTIVE SUMMARY

April 2016

For more information: [NAR Foreclosure Property Maintenance White Paper \(February 2016\)](#)

The issue of who must maintain and insure property during foreclosure proceedings is a difficult one. Mortgagors who go into default on their payments often reach the point at which the bank forecloses the loan and evicts them. Mortgagors no longer in possession of their homes have no desire or impetus to maintain the property. Even while eviction is impending, the soon-to-be-former owner might forego ordinary repairs. Banks may not be set up or have the authority to maintain the homes they suddenly own. In some cases banks may determine that a foreclosed property is not worth the cost of re-taking title, and abandon the property. These “bank walkaways” or “dumped” properties may remain vacant for years.

Although municipalities usually are not legally responsible for maintaining private properties, local governments are increasingly active in property maintenance. Foreclosed properties mean building code violations and lost tax revenue. As a result, numerous municipalities have dealt with the question of property maintenance head on. For example, in 2009, the City of Cape Coral, Florida, enacted Ordinance No. 139-08, which regulates the maintenance of abandoned or vacant foreclosed properties within the city limits. Similarly, Chula Vista, California’s 2007 [anti-blight ordinance](#)—widely seen as the model for numerous other local laws nationwide—allocates responsibility for abandoned property maintenance. And, Kansas City, Missouri’s 2008 Ordinance No. 081277 seeks “[t]o protect neighborhoods from becoming blighted through the lack of adequate maintenance and security of vacant properties and foreclosing properties.”

In contrast to local law-making bodies, relatively few state legislatures have addressed the property maintenance issues raised herein. The paucity of on-point state legislation is reflected in this report. However, an increasing number of states have addressed various problems in the mortgage lending

industry and those created by the most recent flood of mortgage foreclosures. Some of that legislation specifically addressed property maintenance.

Between fall of 2014 and spring of 2016, 12 jurisdictions revised their laws related to residential property maintenance during foreclosure, and four states revised their laws related to insurance during foreclosure. The most significant changes during that time period were as follows:

- Arkansas revised and enacted provisions related to the Commissioner of State Land's liability and duty to maintain tax-delinquent property;
- Delaware enacted laws regarding the right to create land banks and addressed the maintenance of property held by a land bank;
- Maine enacted provisions regarding the maintenance of foreclosed abandoned property;
- Nebraska added provisions that explicitly provide that complying with certain mortgage foreclosure requirements or trust deed power of sale requirements do not impose a duty on the complainant to maintain the mortgaged property; and
- Ohio revised its requirements that apply to appointing a receiver.

The issue of who is responsible for maintaining property during foreclosure proceedings is not new. Consider the case of *Trustco Bank, Nat'l Ass'n v. Eakin*, 681 N.Y.S.2d 410 (App. Div. 1998), in which none of the parties to the foreclosure action believed it was responsible for taking care of the subject property. (The New York appellate court held that the mortgagors were responsible for vandalism damages.) And, of even earlier origin are numerous anti-waste statutes that have been on the books in many states for a century or more.

Alabama

Alabama, External Property Liability

No generally applicable statutes or regulations were located.

However, note that the Alabama Land Bank Authority has "the power to manage, maintain, protect, rent, lease, repair, insure, alter, sell, trade, exchange, or otherwise dispose of any tax delinquent property" acquired by it on terms and conditions the authority determines in its sole discretion.

Section amended 2013.

[Ala. Code § 24-9-6 \(2015\)](#)

Alabama, Foundation Liability

No generally applicable statutes or regulations were located.

However, note that the Alabama Land Bank Authority has "the power to manage, maintain, protect, rent, lease, repair, insure, alter, sell, trade, exchange, or otherwise dispose of any tax delinquent property" acquired by it on terms and conditions the authority determines in its sole discretion.

Section amended 2013.

[Ala. Code § 24-9-6 \(2015\)](#)

Alabama, Insurance During Foreclosure

No generally applicable statutes or regulations were located.

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Section amended 2013.

[Ala. Code § 24-9-6 \(2015\)](#)

Alabama, Structural Liability

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Section amended 2013.

[Ala. Code § 24-9-6 \(2015\)](#)

Alaska

Alaska, External Property Liability

No applicable statutes or regulations were located.

Alaska, Foundation Liability

No applicable statutes or regulations were located.

Alaska, Insurance During Foreclosure

No specifically applicable statutes or regulations were located.

Effective September 21, 2014, an insurer may cancel a personal insurance policy for the "entire abandonment of the property that increases a hazard insured against." If an insurer cancels a policy for this reason, the insurer must give the lender on file notice of the policy's cancellation. In this context, "entire abandonment" means the property:

- is no longer occupied by the insured; and
- does not have "contents of substantial utility."

Property is not entirely abandoned if the insured demonstrates that the property is:

- being reasonably maintained; and
- "monitored for a condition that might cause damage."

Section amended 2014.

[Alaska Stat. § 21.36.210\(f\) \(2015\)](#)

Alaska, Structural Liability

No applicable statutes or regulations were located.

Arizona

Arizona, External Property Liability

No statutes or regulations were located in which external property maintenance responsibility during a foreclosure is allocated.

However, after a foreclosure sale, a court may order that the balance due on a mortgage foreclosure judgment constitutes a lien against the judgment debtor's other property, if the sale price was less than the amount of judgment because the real property's value diminished while in the judgment debtor's ownership, possession, or control.

A seller of foreclosed property may maintain an action against any person, including the buyer, for damages or to prevent physical abuse or waste of the property.

Section 33-749 enacted 1981; § 33-729 amended 2014.

[Ariz. Rev. Stat. §§ 33-729, -749 \(2015\)](#)

Arizona, Foundation Liability

No statutes or regulations were located in which responsibility for foundation maintenance during a foreclosure is allocated.

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Section 33-749 enacted 1981; § 33-729 amended 2014.

[Ariz. Rev. Stat. §§ 33-729, -749 \(2015\)](#)

Arizona, Insurance During Foreclosure

No specifically applicable statutes or regulations were located.

In the sale of foreclosed property, "monies due under the contract" includes, among other amounts, any unpaid premiums for insurance policies that the purchaser is obligated to maintain under the contract, if the seller paid the premiums "pursuant to the terms of the contract and to protect his interest in the property."

Section amended 1999.

[Ariz. Rev. Stat. § 33-741 \(2015\)](#)

Arizona, Structural Liability

No statutes or regulations were located in which responsibility for structural maintenance during a foreclosure is allocated.

However, after a foreclosure sale, a court may order that the balance due on a mortgage foreclosure judgment constitutes a lien against the judgment debtor's other property, if the sale price was less than the amount of judgment because the real property's value diminished while in the judgment debtor's ownership, possession, or control.

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Arkansas

Arkansas, External Property Liability

Clean-up liens (§§ 14-54-903, -904)

Under Arkansas law, as a general matter, an incorporated city or town has the authority to "do whatever is necessary to correct" a condition on property within the city or town that violates a local ordinance, after the owner has been given seven days' written notice to correct the condition.

Similarly, the city or town has a lien against any property that has upon it an "unsafe and vacant structure," which is (a) a structure, located on a previously platted lot, that has become vacant and unfit for human habitation, or (b) a home or residential property that is unoccupied, in violation of a city safety standard, and located in an area eligible for federal funding pursuant to § 14-54-905.

The city or town may perfect the so-called "clean-up lien" as a lien against such property deemed a weed lot or containing an unsafe and vacant structure. The lienholder in such a proceeding by the city or town must notify the city or town whether the property owner is in default under the terms of the mortgage.

After clean-up, the owner will be notified of the amount of the clean-up lien, which is limited to:

- no more than \$1,000 for weed or grass cutting;
- no more than \$5,000 to board up and secure the property; and
- no more than \$7,500 to demolish any structure or structures on the property.

Additionally, the city or town may charge administrative costs.

If the city or town wishes to secure a *priority* clean-up lien, it must provide a second notice of the total amount of the clean-up lien to the lienholders of record.

A clean-up lien may be enforced by a foreclosure action, among other methods.

Receivers (§ 16-117-208)

In a mortgage foreclosure proceeding, the court may appoint a receiver if it appears that the mortgaged property is in danger of being materially injured, or that the property will be insufficient to discharge the mortgage debt and the mortgage conditions have not been performed.

Credits for advances (§ 18-50-107)

At a foreclosure sale, a mortgagee or beneficiary receives a credit on its bid for advances for the payment of taxes, insurance, and maintenance of the trust property.

Tax-delinquency foreclosures (§ 26-37-214)

In the context of tax-delinquency foreclosures, the Commissioner of State Lands and the county from which tax-delinquent real property is certified are generally immune from liability for damages, costs, fees, or compensation for improvements made to the tax-delinquent real property. Also, the Commissioner is immune from liability for damages, costs, fees, and compensation arising from work undertaken by a town or city to correct, remove, or abate a condition on certified tax-delinquent real property that violates local codes or ordinances.

Effective July 22, 2015, with respect to tax-delinquent real property certified to the state, the Commissioner:

- has no duty to preserve or maintain the premises;
- is not liable for any costs incurred to correct, remove, or abate a condition on tax-delinquent real property; and
- is immune from liability for any claim for damages, costs, fees, or other relief or remedy based upon the condition of the tax- delinquent real property.

Section 16-117-208 amended 1947; § 14-54-904 amended 2007; §§ 14-54-903 and 18-50-107 amended 2011; § 26-37-214 amended 2015; § 26-37-110 enacted 2015.

Ark. Code §§ 14-54-903(a), (b), (c), (e), (j); 14-54-904(a)(1); 16-117-208; 18-50-107; 26-37-110, - 214 (LexisNexis 2015)

Arkansas, Foundation Liability

Clean-up liens (§§ 14-54-903, -904)

Under Arkansas law, as a general matter, an incorporated city or town has the authority to "do whatever is necessary to correct" a condition on property within the city or town that violates a local ordinance, after the owner has been given seven days' written notice to correct the condition.

Similarly, the city or town has a lien against any property that has upon it an "unsafe and vacant structure," which is (a) a structure, located on a previously platted lot, that has become vacant and unfit for human habitation, or (b) a home or residential property that is unoccupied, in violation of a city safety standard, and located in an area eligible for federal funding pursuant to § 14-54-905.

The city or town may perfect the so-called "clean-up lien" as a lien against such property containing an unsafe and vacant structure. The lienholder in such a proceeding by the city or town must notify the city or town whether the property owner is in default under the terms of the mortgage.

After clean-up, the owner will be notified of the amount of the clean-up lien, which is limited to:

- no more than \$5,000 to board up and secure the property; and
- no more than \$7,500 to demolish any structure or structures on the property.

Additionally, the city or town may charge administrative costs.

If the city or town wishes to secure a *priority* clean-up lien, it must provide a second notice of the total amount of the clean-up lien to the lienholders of record.

Such a clean-up lien may be enforced, *inter alia*, by a foreclosure action.

Receivers (§ 16-17-208)

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Arkansas, Insurance During Foreclosure

No specifically applicable statutes or regulations were located.

At a foreclosure sale, a mortgagee or beneficiary receives a credit on its bid for advances for the payment of taxes, insurance, and maintenance of the trust property.

Section amended 2011.

Ark. Code § 18-50-107 (LexisNexis 2015)

Arkansas, Structural Liability

Clean-up liens (§§ 14-54-903, -904)

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California

California, External Property Liability

As a general matter, California law provides that "[n]o person whose interest is subject to the lien of a mortgage may do any act which will substantially impair the mortgagee's security."

Specifically, a legal owner of property in California must "maintain vacant residential property purchased by that owner at a foreclosure sale, or acquired by that owner through foreclosure under a mortgage or deed of trust." One who fails to so maintain the property is subject to a civil fine of up to \$1,000 per day. The legal owner usually has 30 days to remedy such a violation. "Failure to maintain" vacant property means failure to take care of the property's exterior, or otherwise allowing a public nuisance, including, among other things:

- allowing "excessive foliage growth that diminishes the value of surrounding properties";
- failing to prevent trespassers or squatters; and

- failing to prevent mosquito larvae from growing in standing water.

Note that legislation passed in 2012 deleted the previously applicable repeal date and extended the operation of these provisions indefinitely.

Chapter 527, which was passed during the fall of 2010, provides that a governmental entity, before imposing a fine or penalty for failure to maintain a vacant property that is subject to a notice of default, purchased at a foreclosure sale, or acquired through foreclosure under a mortgage or deed of trust, must provide the property's owner with a notice of and an opportunity to correct a violation. However, this notice requirement does not apply if the governmental entity determines that a specific property condition threatens public health or safety. Also, an assessment or lien to recover the governmental entity's costs to abate such a nuisance may not exceed the abatement's actual and reasonable costs.

Additionally, California law gives a secured lender--"the beneficiary under a deed of trust against the real property security, or the mortgagee under a mortgage against the real property security"--the right to enter and inspect the real property security after commencement of foreclosure proceedings in order to determine the existence and magnitude of a hazardous substance release.

A financial institution also has the authority to undertake to repair a property acquired through foreclosure.

The assignee pursuant to a written assignment of an interest in real property who enforces the assignment is subject to written demand upon the assignee to pay reasonable costs of preserving and protecting the property, including complying with any applicable building codes.

Section 2929 enacted 1872; § 2932.6 amended 1988; § 2938 amended 2008; §§ 2929.3 and 2929.5 amended 2012; §§ 2929.4 and 2929.45 enacted 2010.

[Cal. Civ. Code §§ 2929; 2929.3\(a\)\(1\), \(b\); 2929.4; 2929.45; 2929.5\(a\), \(e\)\(5\); 2932.6\(a\); 2938\(g\)\(1\), \(2\) \(2015\)](#)

California, Foundation Liability

As a general matter, California law provides that "[n]o person whose interest is subject to the lien of a mortgage may do any act which will substantially impair the mortgagee's security."

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[Cal. Civ. Code §§ 2929; 2929.5\(a\), \(e\)\(5\); 2932.6\(a\); 2938\(g\)\(1\), \(2\) \(2015\)](#)

California, Insurance During Foreclosure

As a general matter, California law provides that "[n]o person whose interest is subject to the lien of a mortgage may do any act which will substantially impair the mortgagee's security."

California law requires the lender during foreclosure to notify the owner and mortgagor of continuing insurance obligations during foreclosure. A notice of default on a deed of trust or mortgage on real property must contain the printed or typed statement that includes the following:

While your property is in foreclosure, you still must pay other obligations (such as insurance and taxes) required by your note and deed of trust or mortgage. If you fail to . . . provide insurance on the property, . . . the beneficiary or mortgagee may insist that you do so in order to reinstate your account in good standing. In addition, the beneficiary or mortgagee may require as a condition to reinstatement that you provide reliable written evidence that you paid all . . . hazard insurance premiums.

For residential real property containing no more than four dwelling units, a mortgagee, trustee, beneficiary, or authorized agent must also provide to the mortgagor or trustor a separate summary document regarding the notice of default. That summary of key information must also contain the language quoted above.

Section 2929 enacted 1872; § 2924c amended 2010; § 2923.3 amended 2015.

[Cal. Civ. Code §§ 2923.3, 2924c\(b\)\(1\), 2929 \(2015\)](#)

California, Structural Liability

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Additionally, California law gives a secured lender--"the beneficiary under a deed of trust against the real property security, or the mortgagee under a mortgage against the real property security"--the right to enter and inspect the real property security after commencement of foreclosure proceedings in order to determine the existence and magnitude of a hazardous substance release.

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The assignee pursuant to a written assignment of an interest in real property who enforces the assignment is subject to written demand upon the assignee to pay reasonable costs of preserving and protecting the property, including complying with any applicable building codes.

Section 2929 enacted 1872; §§ 2929.3 and 2929.5 amended 2012; § 2932.6 amended 1988; § 2938 amended 2008; §§ 2929.4 and 2929.45 enacted 2010.

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Colorado

Colorado, External Property Liability

No statutes or regulations were located in which external property maintenance responsibility during a foreclosure is allocated.

However, Colorado law provides that all fees and costs incurred in a foreclosure are chargeable as amounts owing under the deed of trust or lien being foreclosed, including reasonable costs of defending, securing, protecting, maintaining, and repairing the property. Such amounts will be deducted from the sale proceeds or, to the extent of an inadequacy, paid by the holder of the evidence of the debt.

In the context of a foreclosure sale, an officer is not responsible or liable for "unknown damage, debt, or liens when a third party seeks a judicial foreclosure and sale."

Note that from August 1, 2010, through July 1, 2014, an eligible holder could file a motion for an order for an expedited sale in a nonjudicial foreclosure of certain abandoned property, but that statute has been repealed.

Section 38-38-107 amended 2006; § 38-38-702 amended 2009; § 38-38-903 repealed 2014.

Colo. Rev. Stat. Ann. §§ 38-38-107(1), (3)(B)(VI); -702; -903 (LexisNexis 2015)

Colorado, Foundation Liability

No statutes or regulations were located in which foundation maintenance responsibility during a foreclosure is allocated.

However, Colorado law provides that all fees and costs incurred in a foreclosure are chargeable as amounts owing under the deed of trust or lien being foreclosed, including reasonable costs of defending, securing, protecting, maintaining, and repairing the property. Such amounts will be deducted from the sale proceeds or, to the extent of an inadequacy, paid by the holder of the evidence of the debt.

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Colo. Rev. Stat. Ann. §§ 38-38-107(1), (3)(B)(VI); -702; -903 (LexisNexis 2015)

Colorado, Insurance During Foreclosure

No statutes or regulations were located in which insurance maintenance responsibility during a foreclosure is allocated.

However, Colorado law provides that all fees and costs incurred in a foreclosure are chargeable as amounts owing under the deed of trust or lien being foreclosed, including premiums on property, general liability, or casualty insurance that was acquired to protect the holder's property interest.

Section amended 2006.

Colo. Rev. Stat. Ann. § 38-38-107(1), (3)(B)(III) (LexisNexis 2015)

Colorado, Structural Liability

No statutes or regulations were located in which structural maintenance responsibility during a foreclosure is allocated.

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In the context of a foreclosure sale, an officer is not responsible or liable for "unknown damage, debt, or liens when a third party seeks a judicial foreclosure and sale."

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Section 38-38-107 amended 2006; § 38-38-702 amended 2009; § 38-38-903 enacted 2010.

Colo. Rev. Stat. Ann. §§ 38-38-107(1), (3)(B)(VI); -702; -903 (LexisNexis 2015)

Connecticut

Connecticut, External Property Liability

No specifically applicable statutes or regulations were located, but the related laws described below may apply.

Property registration (§ 7-148ii)

The Connecticut Legislature passed the Act Concerning Neighborhood Protection, effective October 1, 2009. As amended in 2011, the Act requires any person who brings an action to foreclose a mortgage on residential property and any person in whom title to residential property vests through a foreclosure action to register the property locally. Registrants who fail to comply with any provision of the Connecticut General Statutes or a local ordinance concerning repair or maintenance of real property are subject to various enforcement mechanisms. However, Connecticut's statutes explicitly provide that "[n]either the registration by a foreclosing party nor the failure to register . . . shall imply or create any legal obligations on the part of the foreclosing party to repair, maintain or secure the residential property for which a registration is required prior to the time that title passes to the foreclosing party."

Municipal ordinances (§§ 7-148ff, -148jj)

Municipalities are authorized to issue a special assessment on housing that is blighted, and any unpaid special assessment will constitute a lien upon the real property. That ordinance may authorize a municipality to designate an agent who has the right to enter property during reasonable hours to remediate blighted conditions, provided the agent may not enter a dwelling house or other structure.

Municipalities may not adopt a property maintenance ordinance "that applies only to the property maintenance activities of a person who holds a mortgage on or title to real property . . . obtained by foreclosure." However, a municipality may enact or enforce an ordinance that applies to all real property owners within the municipality, without regard to how the owner acquired title. Also, effective October 1, 2014, any municipal property maintenance ordinance or regulation that applies only to the property maintenance activities of a person who obtained real property by foreclosure remains effective if the municipality adopted the ordinance or regulation on or before October 1, 2009, and a municipality may adopt or enforce an ordinance or regulation related to the:

- prevention of housing blight;
- maintenance of safe and sanitary housing; or
- abatement of nuisances.

Municipal authority (§ 19a-206)

Municipalities are required to:

- examine any "nuisances and sources of filth injurious to the public health," and to abate or remediate the same; or
- order the owner or the occupant of property with a nuisance or filth to remove, abate, or remediate the condition.

Municipal health directors have additional authority to institute injunctive actions. Abatement, remediation, or removal of a nuisance or filth is at the owner's or occupant's expense. Owners and/or occupants who fail to abate or remediate a nuisance or to remove such filth are subject to a civil penalty of \$250 per day. Municipalities that incur expenses for inspection, repair, maintenance, demolition, or removal in order to remedy a blighted condition or make property safe and sanitary may recover such expenses from the property owner.

Section 19a-206 amended 2009; § 7-148ff amended 2011; §§ 7-148ii and 7-148jj amended 2014.

[Conn. Gen. Stat. §§ 7-148ff, -148ii, -148jj; 19a-206 \(2016\)](#)

Connecticut, Foundation Liability

No specifically applicable statutes or regulations were located, but the related laws described below may apply.

Property registration (§ 7-148ii)

The Connecticut Legislature passed the Act Concerning Neighborhood Protection, effective October 1, 2009. As amended in 2011, the Act requires any person who brings an action to foreclose a mortgage on residential property and any person in whom title to residential property vests

through a foreclosure action to register the property locally. Registrants who fail to comply with any provision of the Connecticut General Statutes or a local ordinance concerning repair or maintenance of real property are subject to various enforcement mechanisms. However, Connecticut's statutes explicitly provide that "[n]either the registration by a foreclosing party nor the failure to register . . . shall imply or create any legal obligations on the part of the foreclosing party to repair, maintain or secure the residential property for which a registration is required prior to the time that title passes to the foreclosing party."

Municipal ordinances (§§ 7-148ff, -148jj)

Municipalities are authorized to issue a special assessment on housing that is blighted, and any unpaid special assessment will constitute a lien on the real property. That ordinance may authorize a municipality to designate an agent who has the right to enter property during reasonable hours to remediate blighted conditions, provided the agent may not enter a dwelling house or other structure.

Municipalities may not adopt a property maintenance ordinance "that applies only to the property maintenance activities of a person who holds a mortgage on or title to real property . . . obtained by foreclosure." However, a municipality may enact or enforce an ordinance that applies to all real property owners within the municipality, without regard to how the owner acquired title. Also, effective October 1, 2014, any municipal property maintenance ordinance or regulation that applies only to the property maintenance activities of a person who obtained real property by foreclosure remains effective if the municipality adopted the ordinance or regulation on or before October 1, 2009, and a municipality may adopt or enforce an ordinance or regulation related to the:

- prevention of housing blight;
- maintenance of safe and sanitary housing; or
- abatement of nuisances.

Municipal authority (§ 19a-206)

Additionally, municipalities are required to:

- examine any "nuisances and sources of filth injurious to the public health," and to abate or remediate the same; or
- order the owner or the occupant of property with a nuisance or filth to remove, abate, or remediate the condition.

Municipal health directors have additional authority to institute injunctive actions. Abatement, remediation, or removal of a nuisance or filth is at the owner's or occupant's expense. Owners and/or occupants who fail to abate or remediate a nuisance or to remove such filth are subject to a civil penalty of \$250 per day. Municipalities that incur expenses for inspection, repair, maintenance, demolition, or removal in order to remedy a blighted condition or make property safe and sanitary may recover such expenses from the property owner.

Section 19a-206 amended 2009; § 7-148ff amended 2011; §§ 7-148ii and 7-148jj amended 2014.

[Conn. Gen. Stat. §§ 7-148ff, -148ii, -148jj; 19a-206 \(2016\)](#)

Connecticut, Insurance During Foreclosure

No applicable statutes or regulations were located.

Connecticut, Structural Liability

No specifically applicable statutes or regulations were located, but the related laws described below may apply.

Property registration (§ 7-148ii)

The Connecticut Legislature passed the Act Concerning Neighborhood Protection, effective October 1, 2009. As amended in 2011, the Act requires any person who brings an action to foreclose a mortgage on residential property and any person in whom title to residential property vests through a foreclosure action to register the property locally. Registrants who fail to comply with any provision of the Connecticut General Statutes or a local ordinance concerning repair or

maintenance of real property are subject to various enforcement mechanisms. However, Connecticut's statutes explicitly provide that "[n]either the registration by a foreclosing party nor the failure to register . . . shall imply or create any legal obligations on the part of the foreclosing party to repair, maintain or secure the residential property for which a registration is required prior to the time that title passes to the foreclosing party."

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- prevention of housing blight;
- maintenance of safe and sanitary housing; or
- abatement of nuisances.

Municipal authority (§ 19a-206)

Additionally, municipalities are required to:

- examine any "nuisances and sources of filth injurious to the public health," and to abate or remediate the same; or
- order the owner or the occupant of property with a nuisance or filth to remove, abate, or remediate the condition.

Municipal health directors have additional authority to institute injunctive actions. Abatement, remediation, or removal of a nuisance or filth is at the owner's or occupant's expense. Owners and/or occupants who fail to abate or remediate a nuisance or to remove such filth are subject to a civil penalty of \$250 per day. Municipalities that incur expenses for inspection, repair, maintenance, demolition, or removal in order to remedy a blighted condition or make property safe and sanitary may recover such expenses from the property owner.

Section 19a-206 amended 2009; § 7-148ff amended 2011; §§ 7-148ii and 7-148jj amended 2014.

[Conn. Gen. Stat. §§ 7-148ff, -148ii, -148jj; 19a-206 \(2016\)](#)

Delaware

Delaware, External Property Liability

No generally applicable statutes or regulations were located.

Land banks

Effective September 10, 2015, a Delaware jurisdiction with a long-term residential vacancy rate above three percent may form a land bank if the jurisdiction determines that a land bank would help it address the problem of vacant and abandoned real property. A land bank must maintain all of its real property in accordance with the laws and regulations of the jurisdiction in which the property is located. The foreclosing governmental unit may elect to reduce or waive monetary fines for housing code or ordinance violations if the land bank is diligently pursuing a correction or remedy for the violation. The land bank must immediately remedy any fire or other casualty to real property it holds and must adequately secure the property to prevent further loss or damage. In the event of a total loss, the land bank must demolish the lost property.

Sections 4705 and 4711 enacted 2015.

[Del. Code tit. 31, §§ 4705, 4711 \(2015\)](#)

Delaware, Foundation Liability

No generally applicable statutes or regulations were located.

Land banks

Effective September 10, 2015, a Delaware jurisdiction with a long-term residential vacancy rate above three percent may form a land bank if the jurisdiction determines that a land bank would help it address the problem of vacant and abandoned real property. A land bank must maintain all of its real property in accordance with the laws and regulations of the jurisdiction in which the property is located. The foreclosing governmental unit may elect to reduce or waive monetary fines for housing code or ordinance violations if the land bank is diligently pursuing a correction or remedy for the violation. The land bank must immediately remedy any fire or other casualty to real property it holds and must adequately secure the property to prevent further loss or damage. In the event of a total loss, the land bank must demolish the lost property.

Sections 4705 and 4711 enacted 2015.

[Del. Code tit. 31, §§ 4705, 4711 \(2015\)](#)

Delaware, Insurance During Foreclosure

No applicable statutes or regulations were located.

Delaware, Structural Liability

No generally applicable statutes or regulations were located.

Land banks

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Sections 4705 and 4711 enacted 2015.

[Del. Code tit. 31, §§ 4705, 4711 \(2015\)](#)

District of Columbia

District Of Columbia, External Property Liability

No applicable statutes or regulations were located.

However, as a general matter, the owners of a vacant building must:

- register the building with the Mayor of the District of Columbia;
- pay a registration fee; and
- maintain the building in compliance with the law.

See D.C. Code § 42-3131.12 for vacant building maintenance standards.

Sections amended 2010.

D.C. Code §§ 42-3131.06, .12 (LexisNexis 2016)

District Of Columbia, Foundation Liability

No applicable statutes or regulations were located.

However, as a general matter, the owners of a vacant building must:

- register the building with the Mayor of the District of Columbia;
- pay a registration fee; and
- maintain the building in compliance with the law.

See D.C. Code § 42-3131.12 for vacant building maintenance standards.

Sections amended 2010.

D.C. Code §§ 42-3131.06, .12 (LexisNexis 2016)

District Of Columbia, Insurance During Foreclosure

No applicable statutes or regulations were located.

District Of Columbia, Structural Liability

No applicable statutes or regulations were located.

However, as a general matter, the owners of a vacant building must:

- register the building with the Mayor of the District of Columbia;

- pay a registration fee; and
- maintain the building in compliance with the law.

See D.C. Code § 42-3131.12 for vacant building maintenance standards.

Sections amended 2010.

D.C. Code §§ 42-3131.06, .12 (LexisNexis 2016)

Florida

Florida, External Property Liability

No applicable state statutes or regulations were located.

Florida, Foundation Liability

No applicable state statutes or regulations were located.

Florida, Insurance During Foreclosure

No applicable state statutes or regulations were located.

Florida, Structural Liability

No generally applicable state statutes or regulations were located.

A condominium association may enter an abandoned unit to:

- repair the unit or common elements serving the unit;
- repair the unit if there is mold or deterioration; and

- otherwise maintain, preserve, or protect the unit and adjoining common elements.

A property in foreclosure is presumed to be abandoned, if no tenant appears to have resided in the unit for at least four continuous weeks without prior written notice to the association.

Expenses incurred by an association are chargeable to the unit owner and enforceable as an assessment. The association may petition a court to appoint a receiver to lease out an abandoned unit to offset the association's costs and expenses to maintain, preserve, and protect the unit and adjoining common elements.

Section 718.111 amended 2015.

[Fla. Stat. § 718.111\(5\)\(b\) \(2015\)](#)

Georgia

Georgia, External Property Liability

No applicable state statutes or regulations were located. However, some counties, such as DeKalb, require financial institutions to maintain foreclosed properties.

See, e.g., Megan Matteucci, DeKalb Approves Foreclosure Registry, The Atlanta Journal-Constitution, July 27, 2010.

Georgia, Foundation Liability

No applicable state statutes or regulations were located. However, some counties, such as DeKalb, require financial institutions to maintain foreclosed properties.

See, e.g., Megan Matteucci, DeKalb Approves Foreclosure Registry, The Atlanta Journal-Constitution, July 27, 2010.

Georgia, Insurance During Foreclosure

No applicable statutes or regulations were located.

Georgia, Structural Liability

No applicable state statutes or regulations were located. However, some counties, such as DeKalb, require financial institutions to maintain foreclosed properties.

See, e.g., Megan Matteucci, DeKalb Approves Foreclosure Registry, The Atlanta Journal-Constitution, July 27, 2010.

Guam

Guam, External Property Liability

No applicable statutes or regulations were located.

Guam, Foundation Liability

No applicable statutes or regulations were located.

Guam, Insurance During Foreclosure

No applicable statutes or regulations were located.

Guam, Structural Liability

No applicable statutes or regulations were located.

Hawaii

Hawaii, External Property Liability

The borrower of down-payment monies from the Hawaii Housing Finance and Development Corporation used to purchase a property pursuant to foreclosure must maintain any improvements to the property in good repair.

Also, the board of an association of apartment owners may assess the amount of the unpaid regular monthly common assessments for common area expenses against a person who, in a judicial or nonjudicial power of sale foreclosure, purchases a delinquent apartment, provided that certain specified conditions are met. The amount of the special assessment may not exceed the total of unpaid regular monthly common assessments that were assessed during the six months immediately preceding the completion of the judicial or nonjudicial power-of-sale foreclosure.

Section 201H-163 enacted 2006; § 514A-90 amended 2012.

[Haw. Rev. Stat. §§ 201H-163; 514A-90 \(2015\)](#)

Hawaii, Foundation Liability

The borrower of down-payment monies from the Hawaii Housing Finance and Development Corporation used to purchase a property pursuant to foreclosure must maintain any improvements to the property in good repair.

Section enacted 2006.

[Haw. Rev. Stat. § 201H-163 \(2015\)](#)

Hawaii, Insurance During Foreclosure

The borrower of down-payment monies from the Hawaii Housing Finance and Development Corporation used to purchase a property pursuant to foreclosure must maintain fire and casualty insurance in amounts equal to the replacement value of the property and improvements. The proceeds of the insurance must be payable to the first mortgage lender and the Corporation as to their respective interests at the time of the damage or loss.

Section enacted 2006.

[Haw. Rev. Stat. § 201H-163 \(2015\)](#)

Hawaii, Structural Liability

The borrower of down-payment monies from the Hawaii Housing Finance and Development Corporation used to purchase a property pursuant to foreclosure must maintain any improvements to the property in good repair.

Section enacted 2006.

[Haw. Rev. Stat. § 201H-163 \(2015\)](#)

Idaho

Idaho, External Property Liability

No statutes or regulations were located in which external property maintenance responsibility during a foreclosure is allocated.

However, Idaho law provides that when a beneficiary's interest in certain real property becomes "substantially valueless" through no fault of the beneficiary as determined by a court, the beneficiary may bring an action to enforce an obligation owed by the grantor at the same time the beneficiary brings an alternative claim for foreclosure.

Section amended 1993.

[Idaho Code § 45-1503 \(2015\)](#)

Idaho, Foundation Liability

No statutes or regulations were located in which foundation maintenance responsibility during a foreclosure is allocated.

However, Idaho law provides that when a beneficiary's interest in certain real property becomes "substantially valueless" through no fault of the beneficiary as determined by a court, the beneficiary may bring an action to enforce an obligation owed by the grantor at the same time the beneficiary brings an alternative claim for foreclosure.

Section amended 1993.

[Idaho Code § 45-1503 \(2015\)](#)

Idaho, Insurance During Foreclosure

No statutes or regulations were located in which insurance maintenance responsibility during a foreclosure is allocated.

Idaho, Structural Liability

No statutes or regulations were located in which structural maintenance responsibility during a foreclosure is allocated.

However, Idaho law provides that when a beneficiary's interest in certain real property becomes "substantially valueless" through no fault of the beneficiary as determined by a court, the beneficiary may bring an action to enforce an obligation owed by the grantor at the same time the beneficiary brings an alternative claim for foreclosure.

Section amended 1993.

[Idaho Code § 45-1503 \(2015\)](#)

Illinois

Illinois, External Property Liability

Receivers during foreclosures (§ 5/15-1704)

During foreclosure proceedings the court may, upon a showing of good cause, appoint a receiver to operate, conserve, and manage the mortgaged real property. The receiver must maintain the property in at least as good condition as existed when the receiver took possession, and may make repairs and improvements.

Receivers for distressed condominium property (§ 605/14.5)

In the case of "distressed condominium property," an appointed receiver has the power and authority to do the following, among other things:

- "secure, clean, board and enclose, and keep secure, clean, boarded and enclosed, the property"; and
- make repairs and improvements necessary to comply with building, housing, and other similar codes.

In this context, "distressed condominium property" means a parcel containing condominium units that may constitute a danger, blight, or nuisance, including those that have at least two of certain listed conditions, one of which is "60% or more of the condominium units are in foreclosure or are units against which a judgment of foreclosure was entered within the last 18 months."

Nuisances (§ 1/105-15)

A township may provide for cutting grass or weeds, trimming trees or bushes, removing bushes or trees that constitute a nuisance, and maintaining a pond on real property, including property in foreclosure. The cost of such maintenance is a lien on the property.

Sale proceeds (§ 5/15-1512)

The proceeds resulting from a foreclosure sale are applied, after reasonable sale expenses, to "the reasonable expenses of securing possession before sale, holding, maintaining, and preparing the real estate for sale."

Abandoned residential property (§§ 5/15-1505.8, 5/21-3)

Generally, upon motion and notice, a mortgagee may use an expedited judgment and sale procedure for abandoned residential property. In that case, "the mortgagee or its agent may enter, secure, and maintain abandoned residential property," subject to relevant criminal laws. Those laws provide that a mortgagee (or its agent) is exempt from prosecution for criminal trespass for "entering, securing, or maintaining an abandoned residential property." Also, the mortgagee (or its agent) is not liable to the mortgagor or other owner of an abandoned residential property "for negligence or civil trespass in connection with entering, securing, or maintaining the abandoned residential property."

Section 15-1512 enacted 1990; § 105-15 amended 2009; § 14.5 enacted 2009; § 21-3 amended 2012; §§ 15-1505.8 and 15-1704 amended 2013.

[60 Ill. Comp. Stat. 1/105-15](#); [735 Ill. Comp. Stat. 5/15-1505.8, -1512, -1704](#); [720 Ill. Comp. Stat. 5/21-3](#); [765 Ill. Comp. Stat. 605/14.5 \(2015\)](#)

Illinois, Foundation Liability

Receivers during foreclosure (§ 5/15-1704)

During foreclosure proceedings the court may, upon a showing of good cause, appoint a receiver to operate, conserve, and manage the mortgaged real property. The receiver must maintain the property in at least as good condition as existed when the receiver took possession, and may make repairs and improvements.

Receivers for distressed condominium property (§ 605/14.5)

In the case of "distressed condominium property," an appointed receiver has the power and authority to make repairs and improvements necessary to comply with building, housing, and other similar codes, among other things. In this context, "distressed condominium property" means a parcel containing condominium units that may constitute a danger, blight, or nuisance, including those that have at least two of certain listed conditions, one of which is "60% or more of the condominium units are in foreclosure or are units against which a judgment of foreclosure was entered within the last 18 months."

Sale proceeds (§ 5/15-1512)

The proceeds resulting from a foreclosure sale are applied, after reasonable sale expenses, to "the reasonable expenses of securing possession before sale, holding, maintaining, and preparing the real estate for sale."

Abandoned residential property (§§ 5/15-1505.8, 5/21-3)

Generally, upon motion and notice, a mortgagee may use an expedited judgment and sale procedure for abandoned residential property. In that case, "the mortgagee or its agent may enter, secure, and maintain abandoned residential property," subject to relevant criminal laws. Those laws provide that a mortgagee (or its agent) is exempt from prosecution for criminal trespass for

"entering, securing, or maintaining an abandoned residential property." Also, the mortgagee (or its agent) is not liable to the mortgagor or other owner of an abandoned residential property "for negligence or civil trespass in connection with entering, securing, or maintaining the abandoned residential property."

Section 15-1512 enacted 1990; § 14.5 enacted 2009; § 21-3 amended 2012; §§ 15-1505.8 and 15-1704 amended 2013.

[735 Ill. Comp. Stat. 5/15-1505.8, -1512, -1704; 720 Ill. Comp. Stat. 5/21-3; 765 Ill. Comp. Stat. 605/14.5 \(2015\)](#)

Illinois, Insurance During Foreclosure

Receivers during foreclosure (§ 5/15-1704)

During foreclosure proceedings the court may, upon a showing of good cause, appoint a receiver to operate, conserve, and manage the mortgaged real property. The receiver must insure the mortgaged real property against fire or casualty loss, and may carry such additional casualty and liability insurance as is reasonably necessary.

Receivers for distressed condominium property (§ 605/14.5)

In the case of "distressed condominium property" an appointed receiver has the power and authority to insure the property against loss by fire or other casualty. In this context, "distressed condominium property" means a parcel containing condominium units that may constitute a danger, blight, or nuisance, including those that have at least two of certain listed conditions, one of which is "60% or more of the condominium units are in foreclosure or are units against which a judgment of foreclosure was entered within the last 18 months."

Sale proceeds (§ 5/15-1512)

The proceeds resulting from a foreclosure sale are applied, after reasonable sale expenses, to "the reasonable expenses of securing possession before sale, holding, maintaining, and preparing the real estate for sale," including premiums on hazard and liability insurance.

Section 15-1512 enacted 1990; § 15-1704 amended 2013; § 14.5 enacted 2009.

[735 Ill. Comp. Stat. 5/15-1512, -1704; 765 Ill. Comp. Stat. 605/14.5 \(2015\)](#)

Illinois, Structural Liability

Receivers during foreclosure (§ 5/15-1704)

During foreclosure proceedings the court may, upon a showing of good cause, appoint a receiver to operate, conserve, and manage the mortgaged real property. The receiver must maintain the property in at least as good condition as existed when the receiver took possession, and may make repairs and improvements.

Receivers for distressed condominium property (§ 605/14.5)

In the case of "distressed condominium property" an appointed receiver has the power and authority to make repairs and improvements necessary to comply with building, housing, and other similar codes, among other things. In this context, "distressed condominium property" means a parcel containing condominium units that may constitute a danger, blight, or nuisance, including those that have at least two of certain listed conditions, one of which is "60% or more of the condominium units are in foreclosure or are units against which a judgment of foreclosure was entered within the last 18 months."

Sale proceeds (§ 5/15-1512)

The proceeds resulting from a foreclosure sale are applied, after reasonable sale expenses, to "the reasonable expenses of securing possession before sale, holding, maintaining, and preparing the real estate for sale."

Abandoned residential property (§§ 5/15-1505.8, 5/21-3)

Generally, upon motion and notice, a mortgagee may use an expedited judgment and sale procedure for abandoned residential property. In that case, "the mortgagee or its agent may enter, secure, and maintain abandoned residential property," subject to relevant criminal laws. Those laws provide that a mortgagee (or its agent) is exempt from prosecution for criminal trespass for "entering, securing, or maintaining an abandoned residential property." Also, the mortgagee (or its agent) is not liable to the mortgagor or other owner of an abandoned residential property "for negligence or civil trespass in connection with entering, securing, or maintaining the abandoned residential property."

Section 15-1512 enacted 1990; § 14.5 enacted 2009; § 21-3 amended 2012; §§ 15-1505.8 and 15-1704 amended 2013.

[735 Ill. Comp. Stat. 5/15-1505.8, -1512, -1704](#); [720 Ill. Comp. Stat. 5/21-3](#); [765 Ill. Comp. Stat. 605/14.5 \(2015\)](#)

Indiana

Indiana, External Property Liability

The court may appoint a receiver of mortgaged property during foreclosure proceedings. The receiver will take possession and, among other things, ensure repairs. The appointment of a receiver is mandatory only in certain situations related to property that is *not* occupied by the owner as the owner's principal residence.

If the record owner occupies mortgaged property as a dwelling during foreclosure proceedings, the owner will be permitted to remain in possession until the foreclosure sale as long as the owner complies with certain requirements, including committing no waste or other damage to the property.

Indiana law gives certain persons, including some creditors, the right, but not the obligation, to perform specified maintenance on vacant or abandoned property. Generally, a person who is not the property owner or who is a creditor, and who suspects that the property may be vacant or abandoned, may enter the real property to do the following:

- without entering any structure, visually inspect the real property to determine whether it may be vacant or abandoned;

- secure the real property;
- remove trash or debris from the grounds;
- landscape, maintain, or mow the grounds; or
- remove or paint over graffiti.

A person who enters the real property to visually inspect it and determines that the real property may be vacant or abandoned may:

- notify the appropriate enforcement authority of the property's suspected vacant or abandoned status; and
- request that the enforcement authority inspect the property to determine whether the property is in fact vacant or abandoned.

A person that enters property as permitted above is:

- immune from civil liability for an act or omission related to the entry or to any permitted action, unless "the act or omission constitutes gross negligence or willful, wanton, or intentional misconduct"; and
- held harmless from and against all claims of civil or criminal trespass.

If the real property is subject to a mortgage, the creditor may not enter the property if entry is barred by an automatic stay issued by a bankruptcy court.

In this context, a tax sale certificate holder or an applicant for a tax deed who performs a permitted act (as described above) with respect to the real property is not considered to be the owner of that real property if the only:

- connection the person has to the property is the tax sale certificate or the fact that the person has applied for a tax deed; and
- consideration the person receives for the act is the possibility of receiving a tax deed to the property in the future.

Sections 32-29-7-11 and 32-30-5-1 enacted 2002; § 34-30-26-6 enacted 2011; § 34-30-26-5 amended 2013.

[Ind. Code §§ 32-29-7-11\(a\), \(b\); 32-30-5-1\(4\); 34-30-26-5, -6 \(2015\)](#)

Indiana, Foundation Liability

The court may appoint a receiver of mortgaged property during foreclosure proceedings. The receiver will take possession and, among other things, ensure repairs. The appointment of a receiver is mandatory only in certain situations related to property that is *not* occupied by the owner as the owner's principal residence.

If the record owner occupies mortgaged property as a dwelling during foreclosure proceedings, the owner will be permitted to remain in possession until the foreclosure sale as long as the owner complies with certain requirements including committing no waste or other damage to the property.

Sections enacted 2002.

[Ind. Code §§ 32-29-7-11\(a\), \(b\); 32-30-5-1\(4\) \(2015\)](#)

Indiana, Insurance During Foreclosure

The court may appoint a receiver of mortgaged property during foreclosure proceedings. The receiver will take possession and, among other things, pay insurance premiums.

Section enacted 2002.

[Ind. Code § 32-29-7-11\(a\) \(2015\)](#)

Indiana, Structural Liability

The court may appoint a receiver of mortgaged property during foreclosure proceedings. The receiver will take possession and, among other things, ensure repairs. The appointment of a receiver is mandatory only in certain situations related to property that is *not* occupied by the owner as the owner's principal residence.

If the record owner occupies mortgaged property as a dwelling during foreclosure proceedings, the owner will be permitted to remain in possession until the foreclosure sale as long as the owner complies with certain requirements including committing no waste or other damage to the property.

Sections enacted 2002.

[Ind. Code §§ 32-29-7-11\(a\), \(b\); 32-30-5-1\(4\) \(2015\)](#)

Iowa

Iowa, External Property Liability

No specifically applicable statutes or regulations were located.

However, the City of Des Moines Community Development Department notes that "[t]he final step in the [foreclosure] process is to auction the property at a Sheriff Sale. Until this occurs, the previous owner is still legally responsible to maintain the property."

Also, in an alternative nonjudicial voluntary foreclosure procedure, the mortgagee has immediate access to the real property in order to maintain and protect it.

Statutory section amended 2012; website dated 2009.

[Iowa Code § 654.18 \(2016\); City of Des Moines Community Development, *Vacant Residential Property Information* \(2009\)](#)

Iowa, Foundation Liability

No specifically applicable statutes or regulations were located.

However, the City of Des Moines Community Development Department notes that "[t]he final step in the [foreclosure] process is to auction the property at a Sheriff Sale. Until this occurs, the previous owner is still legally responsible to maintain the property."

Also, in an alternative nonjudicial voluntary foreclosure procedure, the mortgagee has immediate access to the real property in order to maintain and protect it.

Statutory section amended 2012; website dated 2009.

[Iowa Code § 654.18 \(2016\); City of Des Moines Community Development, *Vacant Residential Property Information* \(2009\)](#)

Iowa, Insurance During Foreclosure

Iowa law provides that in an action for a mortgage foreclosure, if the court grants a continuance or moratorium, the court must provide for appointment of a receiver during the pendency of the proceedings. The receiver will be responsible, *inter alia*, for paying property insurance on any buildings on the property and liability insurance.

Section 654.15 amended 2013; § 654.14 amended 2015.

[Iowa Code §§ 654.14, .15 \(2016\)](#)

Iowa, Structural Liability

No specifically applicable statutes or regulations were located.

However, the City of Des Moines Community Development Department notes that "[t]he final step in the [foreclosure] process is to auction the property at a Sheriff Sale. Until this occurs, the previous owner is still legally responsible to maintain the property."

Also, in an alternative nonjudicial voluntary foreclosure procedure, the mortgagee has immediate access to the real property in order to maintain and protect it.

Statutory section amended 2012; website dated 2009.

[Iowa Code § 654.18 \(2016\)](#); [City of Des Moines Community Development, Vacant Residential Property Information \(2009\)](#)

Kansas

Kansas, External Property Liability

No applicable statutes or regulations were located.

Note that any foreign covered entity that is foreclosing mortgages and holding, protecting, and maintaining property so acquired is not "doing business" in Kansas.

Section amended 2015.

[Kan. Stat. § 17-7932 \(2015\)](#)

Kansas, Foundation Liability

No applicable statutes or regulations were located.

Kansas, Insurance During Foreclosure

No applicable statutes or regulations were located.

Kansas, Structural Liability

No applicable statutes or regulations were located.

Kentucky

Kentucky, External Property Liability

No specifically applicable statutes or regulations were located.

However, upon default, a mortgagee may take possession of abandoned mortgaged property in order to preserve and maintain the property. Any reasonable expenses are added to the principal.

Also, effective July 15, 2014, a defendant or his or her representative who wishes to redeem property must pay any reasonable costs the purchaser incurred after the sale to maintain or repair the property, including, among other costs, the cost to conform the property to the minimum standards of local nuisance codes and local ordinances.

Section 426.525 amended 2012; § 426.530 amended 2014.

[Ky. Rev. Stat. §§ 426.525, .530 \(2015\)](#)

Kentucky, Foundation Liability

No specifically applicable statutes or regulations were located.

However, upon default, a mortgagee may take possession of abandoned mortgaged property in order to preserve and maintain the property. Any reasonable expenses are added to the principal.

Also, effective July 15, 2014, a defendant or his or her representative who wishes to redeem property must pay any reasonable costs the purchaser incurred after the sale to maintain or repair the property, including, among other costs, the cost to conform the property to the minimum standards of local nuisance codes and local ordinances.

Section 426.525 amended 2012; § 426.530 amended 2014.

[Ky. Rev. Stat. §§ 426.525, .530 \(2015\)](#)

Kentucky, Insurance During Foreclosure

No specifically applicable statutes or regulations were located.

However, upon default, a mortgagee may take possession of abandoned mortgaged property in order to preserve and maintain the property. Any reasonable expenses, including taxes and insurance, are added to the principal.

Also, effective July 15, 2014, a defendant or his or her representative who wishes to redeem property must pay any reasonable costs the purchaser incurred after the sale to maintain or repair the property, including, among other costs, insurance fees.

Section 426.525 amended 2012; § 426.530 amended 2014.

[Ky. Rev. Stat. §§ 426.525, .530 \(2015\)](#)

Kentucky, Structural Liability

No specifically applicable statutes or regulations were located.

However, upon default, a mortgagee may take possession of abandoned mortgaged property in order to preserve and maintain the property. Any reasonable expenses are added to the principal.

Also, effective July 15, 2014, a defendant or his or her representative who wishes to redeem property must pay any reasonable costs the purchaser incurred after the sale to maintain or repair the property, including, among other costs, the cost to conform the property to the minimum standards of local nuisance codes and local ordinances.

Section 426.525 amended 2012; § 426.530 amended 2014.

[Ky. Rev. Stat. §§ 426.525, .530 \(2015\)](#)

Louisiana

Louisiana, External Property Liability

If a mortgagee or loan servicer receives notice from a governing authority identifying certain maintenance required on mortgaged property, the mortgagee and loan servicer have the right to enter the property, either directly or through third parties, to perform maintenance. Also, if any mortgaged abandoned residential property is unoccupied or abandoned, the mortgagee and loan servicer each have the legal right, directly or through third parties, "to enter onto the property and to perform maintenance to protect and preserve the property until it can be sold at private sale or sheriff's sale."

A mortgagee and loan servicer, and the third parties they hire to perform maintenance, are not liable to a seized property's mortgagor or owner or any other person for a financial loss or damage claimed to have been suffered because of the property's maintenance.

Costs and expenses the mortgagee and loan servicer incur for maintaining the property may be added to the loan balance secured by the mortgage and recoverable from the property's sale proceeds.

In this context, the following definitions apply:

- "abandoned residential property" means a one- to four-family residential property "that is vacant as the result of the relinquishment of physical possession or control by a homeowner or any other person or entity";
- "maintenance" means, *but is not limited to*, "repairing or replacing exterior doors, repairing or replacing soffit, fascia, shutters, and siding, repairing or replacing fences, and maintaining or covering swimming pools and hot tubs"; and
- "owner" is "any person with care, custody, or control of the property at issue, including but not limited to record owners, seizing creditors, mortgage holders, lien holders, loan servicers of foreclosed property pending title transfer, or an agent or assignee of the seizing creditor, mortgage holders, lien holders, or loan servicer."

Sections enacted 2012.

[La. Rev. Stat. §§ 9:5396, 33:5066 \(2015\)](#)

Louisiana, Foundation Liability

If a mortgagee or loan servicer receives notice from a governing authority identifying certain maintenance required on mortgaged property, the mortgagee and loan servicer have the right to enter the property, either directly or through third parties, to perform maintenance. Also, if any mortgaged abandoned residential property is unoccupied or abandoned, the mortgagee and loan servicer each have the legal right, directly or through third parties, "to enter onto the property and to perform maintenance to protect and preserve the property until it can be sold at private sale or sheriff's sale."

A mortgagee and loan servicer, and the third parties they hire to perform maintenance, are not liable to a seized property's mortgagor or owner or any other person for a financial loss or damage claimed to have been suffered because of the property's maintenance.

Costs and expenses the mortgagee and loan servicer incur for maintaining the property may be added to the loan balance secured by the mortgage and recoverable from the property's sale proceeds.

In this context, the following definitions apply:

- "abandoned residential property" means a one- to four-family residential property "that is vacant as the result of the relinquishment of physical possession or control by a homeowner or any other person or entity";
- "maintenance" means, *but is not limited to*, "repairing or replacing exterior doors, repairing or replacing soffit, fascia, shutters, and siding, repairing or replacing fences, and maintaining or covering swimming pools and hot tubs"; and
- "owner" is "any person with care, custody, or control of the property at issue, including but not limited to record owners, seizing creditors, mortgage holders, lien holders, loan servicers

of foreclosed property pending title transfer, or an agent or assignee of the seizing creditor, mortgage holders, lien holders, or loan servicer."

Sections enacted 2012.

[La. Rev. Stat. §§ 9:5396, 33:5066 \(2015\)](#)

Louisiana, Insurance During Foreclosure

No applicable statutes or regulations were located.

Louisiana, Structural Liability

If a mortgagee or loan servicer receives notice from a governing authority identifying certain maintenance required on mortgaged property, the mortgagee and loan servicer have the right to enter the property, either directly or through third parties, to perform maintenance. Also, if any mortgaged abandoned residential property is unoccupied or abandoned, the mortgagee and loan servicer each have the legal right, directly or through third parties, "to enter onto the property and to perform maintenance to protect and preserve the property until it can be sold at private sale or sheriff's sale."

A mortgagee and loan servicer, and the third parties they hire to perform maintenance, are not liable to a seized property's mortgagor or owner or any other person for a financial loss or damage claimed to have been suffered because of the property's maintenance.

Costs and expenses the mortgagee and loan servicer incur for maintaining the property may be added to the loan balance secured by the mortgage and recoverable from the property's sale proceeds.

In this context, the following definitions apply:

- "abandoned residential property" means a one- to four-family residential property "that is vacant as the result of the relinquishment of physical possession or control by a homeowner or any other person or entity";

- "maintenance" means, *but is not limited to*, "repairing or replacing exterior doors, repairing or replacing soffit, fascia, shutters, and siding, repairing or replacing fences, and maintaining or covering swimming pools and hot tubs"; and
- "owner" is "any person with care, custody, or control of the property at issue, including but not limited to record owners, seizing creditors, mortgage holders, lien holders, loan servicers of foreclosed property pending title transfer, or an agent or assignee of the seizing creditor, mortgage holders, lien holders, or loan servicer."

Sections enacted 2012.

[La. Rev. Stat. §§ 9:5396, 33:5066 \(2015\)](#)

Maine

Maine, External Property Liability

No specifically applicable statutes or regulations were located. Although an early version of LD 1418, 124th Leg., Reg. Sess. (2009), provided that "[u]pon commencement of a foreclosure proceeding, by either judicial or nonjudicial process, the mortgagor and mortgagee are jointly liable for maintenance and repair of the premises," that provision was *not* included in the signed legislation.

Maine's tenant-landlord laws provide that a tenant has rights if a landlord fails to make repairs during a foreclosure. If either a pending foreclosure action has been filed or a foreclosure judgment has been entered, and if the landlord fails to maintain or permits to exist a condition that "endangers or materially impairs" tenants' health or safety, a tenant may exercise his or her rights to correct the condition without regard to the otherwise applicable statutory compliance cost limitations. However, the reasonable compliance costs may not exceed two months' rent.

Effective October 15, 2015, when initiating a foreclosure, the foreclosing mortgagee must designate an in-state representative responsible for the property. Upon a finding of abandonment, municipal officers may give written notice to the responsible party to correct identified property defects.

Mortgagees who have initiated a foreclosure must also designate and provide contact information for a representative whose place of business is in Maine to be responsible for responding to municipal inquiries regarding the property. All responsible parties are jointly and severally liable to a municipality for its direct, legal, and administrative costs incurred while remedying or attempting to remedy the property defects that contribute to blight as a result of the continued lack of care,

maintenance, or security. The responsible parties must reimburse the municipality for its costs within 30 days after demand, or the municipality may assess a special tax against the property in the amount of those costs. Section 3106-A defines "responsible parties" as "the owner or owners of record."

Section 6026 amended 2010; § 3106-A enacted 2015.

[Me. Rev. Stat. tit. 14, § 6026\(10\)](#); [tit. 30-A, § 3106-A \(2016\)](#); see [2010 Me. Laws ch. 402](#)

Maine, Foundation Liability

No applicable statutes or regulations were located. Although an early version of LD 1418, 124th Leg., Reg. Sess. (2009), provided that "[u]pon commencement of a foreclosure proceeding, by either judicial or nonjudicial process, the mortgagor and mortgagee are jointly liable for maintenance and repair of the premises," that provision is *not* included in the signed legislation.

Maine's tenant-landlord laws provide that a tenant has rights if a landlord fails to make repairs during a foreclosure. If either a pending foreclosure action has been filed or a foreclosure judgment has been entered, and if the landlord fails to maintain or permits to exist a condition that "endangers or materially impairs" tenants' health or safety, a tenant may exercise his or her rights to correct the condition without regard to the otherwise applicable statutory compliance cost limitations. However, the reasonable compliance costs may not exceed two months' rent.

Effective October 15, 2015, when initiating a foreclosure, the foreclosing mortgagee must designate an in-state representative responsible for the property. Upon a finding of abandonment, municipal officers may give written notice to the responsible party to correct identified property defects.

Mortgagees who have initiated a foreclosure must also designate and provide contact information for a representative whose place of business is in Maine to be responsible for responding to municipal inquiries regarding the property. All responsible parties are jointly and severally liable to a municipality for its direct, legal, and administrative costs incurred while remedying or attempting to remedy the property defects that contribute to blight as a result of the continued lack of care, maintenance, or security. The responsible parties must reimburse the municipality for its costs within 30 days after demand, or the municipality may assess a special tax against the property in the amount of those costs. Section 3106-A defines "responsible parties" as "the owner or owners of record."

Section 6026 amended 2010; § 3106-A enacted 2015.

[Me. Rev. Stat. tit. 14, § 6026\(10\); tit. 30-A, § 3106-A \(2016\); see 2010 Me. Laws ch. 402](#)

Maine, Insurance During Foreclosure

No applicable statutes or regulations were located.

Maine, Structural Liability

No applicable statutes or regulations were located. Although an early version of LD 1418, 124th Leg., Reg. Sess. (2009), provided that "[u]pon commencement of a foreclosure proceeding, by either judicial or nonjudicial process, the mortgagor and mortgagee are jointly liable for maintenance and repair of the premises," that provision is *not* included in the signed legislation.

Maine's tenant-landlord laws provide that a tenant has rights if a landlord fails to make repairs during a foreclosure. If either a pending foreclosure action has been filed or a foreclosure judgment has been entered, and if the landlord fails to maintain or permits to exist a condition that "endangers or materially impairs" tenants' health or safety, a tenant may exercise his or her rights to correct the condition without regard to the otherwise applicable statutory compliance cost limitations. However, the reasonable compliance costs may not exceed two months' rent.

Although not specifically related to structural liability, the state's recently enacted provisions regarding residential real estate preservation services are tangentially related to maintaining a building's structural integrity. "Residential real estate property preservation services" are services "undertaken at the direction of a person holding or enforcing" a residential real estate mortgage that is in default or in which the property is presumed abandoned, by entering or arranging for entry into the subject building to:

- winterize the residence;
- change the door locks; or
- remove unsecured items from the residence.

A "residential real estate property preservation provider" means "a person who regularly provides residential real estate property preservation services." It does not include the following:

- a supervised financial organization or a supervised lender; or
- a person licensed by the Plumbers' Examining Board, the Electricians' Examining Board, the Department of Professional and Financial Regulation, the Maine Fuel Board, or the Real Estate Commission.

Effective August 1, 2014, a residential real estate property preservation provider may enter a dwelling only if authorized by the terms of a note, contract, or mortgage. The provider:

- may not use force or cause a breach of the peace;
- must inventory any unsecured items removed from the dwelling and "immediately notify the appropriate consumer that the unsecured items will be made available" in a convenient manner;
- must make a permanent record of all steps taken to preserve and secure the dwelling; and
- must make a record and inventory of removed unsecured items available to the consumer upon his or her written request.

Effective October 15, 2015, when initiating a foreclosure, the foreclosing mortgagee must designate an in-state representative responsible for the property. Upon a finding of abandonment, municipal officers may give written notice to the responsible party to correct identified property defects.

Mortgagees who have initiated a foreclosure must also designate and provide contact information for a representative whose place of business is in Maine to be responsible for responding to municipal inquiries regarding the property. All responsible parties are jointly and severally liable to a municipality for its direct, legal, and administrative costs incurred while remedying or attempting to remedy the property defects that contribute to blight as a result of the continued lack of care, maintenance, or security. The responsible parties must reimburse the municipality for its costs within 30 days after demand, or the municipality may assess a special tax against the property in

the amount of those costs. Section 3106-A defines "responsible parties" as "the owner or owners of record."

Section 6026 amended 2010; §§ 11002 and 11017 amended 2014; § 3106-A enacted 2015.

[Me. Rev. Stat. tit. 14, § 6026\(10\); tit. 30-A, § 3106-A; tit. 32, §§ 11002, 11017\(4\) \(2016\); see 2010 Me. Laws ch. 402](#)

Maryland

Maryland, External Property Liability

No statutes or regulations were located in which external property maintenance responsibility during a foreclosure is allocated.

However, as a general matter under Maryland law, a mortgagor or other person in possession of land who commits waste is liable for damages. One who commits waste after an injunction to stay waste is liable for a fine of up to double the amount of damages to the property.

According to Maryland Rules, the purchaser of a real property interest in a foreclosure action may be entitled to immediate possession, even if the full purchase price has not been paid and the deed has not been transferred, if there is a legal basis for immediate possession, such as waste. If the person in actual possession refuses or fails to deliver possession, the purchaser may file a motion for judgment awarding possession. The committee revising the relevant rule noted that "[u]nless the purchaser is a foreclosing lender or there is waste or other circumstance that requires prompt remediation, the purchaser ordinarily is not entitled to possession until the sale has been ratified and the purchaser has paid the full purchase price and received a deed to the property."

A landlord in foreclosure is obligated to maintain rental property. If a landlord fails to repair serious or dangerous defects in a rental unit, the tenant may pay rent into an escrow account established at the local district court.

Within 30 days after a residential property foreclosure sale, the purchaser must submit an initial registration to the Foreclosed Property Registry. That registration must include, among other things, contact information for the person who is responsible for maintaining the property. A local jurisdiction that legally abates a nuisance on or maintains a registered residential property may

collect the associated costs as a charge added to the property's property tax bill, provided the local jurisdiction gives prior written notice that complies with statutory requirements.

Consumer publication dated 2011; statutory section 14-102 amended 1974; § 14-126.1 amended 2014; rule amended 2010.

[Md. Att'y Gen. Office, Consumer Protection Div., *The Consumer's Edge* \(Issue 137\) \(Mar. 2011\); Md. Code, Real Prop. §§ 14-102, -126.1 \(2016\); Md. R. Proc. 14-102\(a\), committee note \(2010\)](#)

Maryland, Foundation Liability

No statutes or regulations were located in which foundation maintenance responsibility during a foreclosure is allocated.

However, as a general matter under Maryland law, a mortgagor or other person in possession of land who commits waste is liable for damages. One who commits waste after an injunction to stay waste is liable for a fine of up to double the amount of damages to the property.

According to Maryland Rules, the purchaser of a real property interest in a foreclosure action may be entitled to immediate possession, even if the full purchase price has not been paid and the deed has not been transferred, if there is a legal basis for immediate possession, such as waste. If the person in actual possession refuses or fails to deliver possession, the purchaser may file a motion for judgment awarding possession. The committee revising the relevant rule noted that "[u]nless the purchaser is a foreclosing lender or there is waste or other circumstance that requires prompt remediation, the purchaser ordinarily is not entitled to possession until the sale has been ratified and the purchaser has paid the full purchase price and received a deed to the property."

A landlord in foreclosure is obligated to maintain rental property. If a landlord fails to repair serious or dangerous defects in a rental unit, the tenant may pay rent into an escrow account established at the local district court.

Within 30 days after a residential property foreclosure sale, the purchaser must submit an initial registration to the Foreclosed Property Registry. That registration must include, among other things, contact information for the person who is responsible for maintaining the property. A local jurisdiction that legally abates a nuisance on or maintains a registered residential property may

collect the associated costs as a charge added to the property's property tax bill, provided the local jurisdiction gives prior written notice that complies with statutory requirements.

Consumer publication dated 2011; statutory section 14-102 amended 1974; § 14-126.1 amended 2014; rule amended 2010.

[Md. Att'y Gen. Office, Consumer Protection Div., *The Consumer's Edge* \(Issue 137\) \(Mar. 2011\); Md. Code, Real Prop. §§ 14-102, -126.1 \(2016\); Md. R. Proc. 14-102\(a\), committee note \(2010\)](#)

Maryland, Insurance During Foreclosure

No applicable statutes or regulations were located.

Maryland, Structural Liability

No statutes or regulations were located in which structural maintenance responsibility during a foreclosure is allocated.

However, as a general matter under Maryland law, a mortgagor or other person in possession of land who commits waste is liable for damages. One who commits waste after an injunction to stay waste is liable for a fine of up to double the amount of damages to the property.

According to Maryland Rules, the purchaser of a real property interest in a foreclosure action may be entitled to immediate possession, even if the full purchase price has not been paid and the deed has not been transferred, if there is a legal basis for immediate possession, such as waste. If the person in actual possession refuses or fails to deliver possession, the purchaser may file a motion for judgment awarding possession. The committee revising the relevant rule noted that "[u]nless the purchaser is a foreclosing lender or there is waste or other circumstance that requires prompt remediation, the purchaser ordinarily is not entitled to possession until the sale has been ratified and the purchaser has paid the full purchase price and received a deed to the property."

A landlord in foreclosure is obligated to maintain rental property. If a landlord fails to repair serious or dangerous defects in a rental unit, the tenant may pay rent into an escrow account established at the local district court.

Within 30 days after a residential property foreclosure sale, the purchaser must submit an initial registration to the Foreclosed Property Registry. That registration must include, among other things, contact information for the person who is responsible for maintaining the property. A local jurisdiction that legally abates a nuisance on or maintains a registered residential property may collect the associated costs as a charge added to the property's property tax bill, provided the local jurisdiction gives prior written notice that complies with statutory requirements.

Consumer publication dated 2011; statutory section 14-102 amended 1974; § 14-126.1 amended 2014; rule amended 2010.

[Md. Att'y Gen. Office, Consumer Protection Div., *The Consumer's Edge* \(Issue 137\) \(Mar. 2011\)](#); [Md. Code, Real Prop. §§ 14-102, -126.1 \(2016\)](#); [Md. R. Proc. 14-102\(a\), committee note \(2010\)](#)

Massachusetts

Massachusetts, External Property Liability

No applicable statutes or regulations were located.

Massachusetts, Foundation Liability

No applicable statutes or regulations were located.

Massachusetts, Insurance During Foreclosure

No applicable statutes or regulations were located.

Massachusetts, Structural Liability

No applicable statutes or regulations were located.

Michigan

Michigan, External Property Liability

Trustees' rights (§ 600.3170)

If a trustee bids for and acquires mortgaged property at foreclosure, the trustee "has power and authority to repair, maintain, and operate or lease the property" until a sale or other disposal of the property.

Redemption period (§ 600.3278)

During the redemption period following a foreclosure sale, the borrower is liable to the purchaser at the sale (or the mortgagee or other holder of the obligation secured by the mortgage that takes title to the property at the sale) for "any physical injury to the property beyond wear and tear resulting from the normal use of the property if the physical injury is caused by or at the direction of the mortgagor or other person liable on the mortgage."

Inspections (§ 600.3238)

The purchaser may conduct "any number of exterior inspections" during the redemption period.

If the mortgagor unreasonably refuses an inspection or if property damage is imminent or has occurred, the purchaser may immediately bring summary proceedings to possess the property under chapter 57 or file an action for any other relief necessary to protect the property from damage. However, the purchaser may not bring summary proceedings for possession if either:

- the damage or condition is repaired or corrected within seven days after notice; or
- the mortgagor and the purchaser agree on procedures and a timeline to repair the damage or correct the condition, and the procedures are completed by the agreed date (or by an extended agreed date).

Possession (§ 600.3238)

In determining whether to enter judgment for possession, a judge must consider, among other things, "whether the *mortgagor* has taken appropriate steps to repair the damage or correct the condition and to secure the property from further damage." (Emphasis added.)

In this context, "damage" includes, but is not limited to:

- the failure to comply with local ordinances regarding property maintenance or blight prevention;
- an exterior condition that presents a "significant risk" to the property's security or of "criminal activity occurring on the property";
- stripped siding or metal material;
- missing or destroyed structural aspects or fixtures;
- "deterioration below, or being in imminent danger of deteriorating below, community standards for public safety and sanitation that are established by statute or local ordinance"; or
- a condition that would justify recovery of the premises pursuant to § 5714(1)(d).

Ordinances (§ 117.4q)

A government-sponsored enterprise, financial institution, mortgage servicer, or credit union that becomes the owner of property after foreclosure must adhere to all ordinances relating to vacant property or blight violations adopted by a city that has established an administrative hearings bureau.

Sections 125.471 and 125.474 amended 1948; § 600.3170 enacted 1961; § 247.64 amended 2010; § 117.4q amended 2013; §§ 600.3278 and 600.3240 amended 2014; §§ 600.3237 and 600.3238 enacted 2014.

[Mich. Comp. Laws §§ 117.4q; 600.3170, .3237, .3238, .3240, .3278 \(2016\)](#); see [Mich. Comp. Laws §§ 125.471](#) (requiring roofs on all dwellings to be free from leakage), [.474](#) (requiring owners of dwellings to keep exterior of property free from "accumulation of dirt, filth, rubbish, garbage or

other matter"); [247.64 \(2016\)](#) (requiring landowners to destroy noxious weeds before they reach seed-bearing stage)

Michigan, Foundation Liability

Trustees' rights (§ 600.3170)

If a trustee bids for and acquires mortgaged property at foreclosure, the trustee may repair and maintain the property until a sale or other disposal of the property.

Redemption period (§ 600.3278)

During the redemption period following a foreclosure sale, the borrower is liable to the purchaser at the sale (or the mortgagee or other holder of the obligation secured by the mortgage if the mortgagee or other holder takes title to the property at the sale) for "any physical injury to the property beyond wear and tear resulting from the normal use of the property if the physical injury is caused by or at the direction of the mortgagor or other person liable on the mortgage."

Inspections (§§ 600.3237, .3238)

The purchaser may conduct "any number of exterior inspections" during the redemption period.

Michigan allows a purchaser at a foreclosure sale to conduct an interior inspection during the redemption period, provided the purchaser meets specified notice requirements. After a foreclosure sale pursuant to chapter 600, if the purchaser intends to inspect the property's interior during the redemption period, the purchaser must provide an initial written notice to the mortgagor and to the person in possession of the property. The notice must contain the terms required by statute and must be provided by certified mail, physical posting on the property, or another method reasonably calculated to achieve actual notice.

After a foreclosure sale and notice required by § 600.3237, the purchaser may inspect a structure's interior, if the purchaser provides an additional notice to the mortgagor that sets the inspection time at a reasonable time of day and "in coordination with the mortgagor if possible." After the initial interior inspection, the purchaser may request that the mortgagor provide information on or

evidence of a structure's interior condition no more than once in a calendar month or more often than three times during any six months during the redemption period, "unless the purchaser has reasonable cause to believe that damage to the property is imminent or has occurred."

If the mortgagor unreasonably refuses an inspection or if property damage is imminent or has occurred, the purchaser may immediately bring summary proceedings to possess the property under chapter 57 or file an action for any other relief necessary to protect the property from damage. However, the purchaser may not bring summary proceedings for possession if either:

- the damage or condition is repaired or corrected within seven days after notice; or
- the mortgagor and the purchaser agree on procedures and a timeline to repair the damage or correct the condition, and the procedures are completed by the agreed date.

Possession (§ 600.3238)

In determining whether to enter judgment for possession, a judge must consider, *inter alia*, whether the *mortgagor* has taken appropriate steps to repair the damage or correct the condition and to secure the property from further damage.

In this context, "damage" includes, but is not limited to:

- the failure to comply with local ordinances regarding property maintenance or blight prevention;
- "deterioration below, or being in imminent danger of deteriorating below, community standards for public safety and sanitation that are established by statute or local ordinance"; or
- a condition that would justify recovery of the premises pursuant to § 5714(1)(d).

Ordinances (§ 117.4q)

A government-sponsored enterprise, financial institution, mortgage servicer, or credit union that becomes the owner of property after foreclosure must adhere to all ordinances relating to vacant property or blight violations adopted by a city that has established an administrative hearings bureau.

Sections 125.539 and 125.541 amended 2003; § 125.540 amended 1992; § 600.3278 amended 2014.

[Mich. Comp. Laws § 600.3278 \(2016\)](#); *see, e.g.*, [Mich. Comp. Laws §§ 125.539, .540, .541 \(2016\)](#) (regarding owner's responsibility for dangerous building)

Michigan, Insurance During Foreclosure

In a foreclosure proceeding, the court may add to the amount of judgment due the portion of the premium of an insurance policy covering a building or buildings on the property as is required to keep the insurance policy in force until the redemption period expires.

If, after a foreclosed property's sale pursuant to § 3216, the purchaser pays premiums on an insurance policy covering any buildings located on the property that would have been paid by the mortgagor if the mortgage had not been foreclosed and that are necessary to keep the policy in force until the redemption period expires, the property may be redeemed only upon payment of a specified sum that includes the amount paid for that insurance, among other things. This requirement does not apply unless all of the following are filed with the register of deeds:

- an affidavit by the purchaser showing the amount paid;
- a receipt or a copy of the canceled check evidencing the payment; and
- an affidavit by an insurance agent stating that the payment was made and what portion of the payment covers the premium for the period before the redemption period expires.

Section 125.1448j enacted 1981; § 600.3145 enacted 1961; § 600.3240 amended 2014.

[Mich. Comp. Laws §§ 125.1448j; 600.3145, .3240 \(2016\)](#)

Michigan, Structural Liability

Trustees' rights (§ 600.3170)

If a trustee bids for and acquires mortgaged property at foreclosure, the trustee may repair and maintain the property until a sale or other disposal of the property.

Redemption period (§ 600.3278)

During the redemption period following a foreclosure sale of property, the borrower is liable to the purchaser at the sale (or the mortgagee or other holder of the obligation secured by the mortgage if the mortgagee or other holder takes title to the property at the sale) for "any physical injury to the property beyond wear and tear resulting from the normal use of the property if the physical injury is caused by or at the direction of the mortgagor or other person liable on the mortgage."

Inspections (§§ 600.3237, .3238)

The purchaser may conduct "any number of exterior inspections" during the redemption period.

Michigan allows a purchaser at a foreclosure sale to conduct an interior inspection during the redemption period, provided the purchaser meets specified notice requirements. After a foreclosure sale pursuant to chapter 600, if the purchaser intends to inspect the property's interior during the redemption period, the purchaser must provide an initial written notice to the mortgagor and to the person in possession of the property. The notice must contain the terms required by statute and must be provided by certified mail, physical posting on the property, or another method reasonably calculated to achieve actual notice.

After a foreclosure sale and notice required by § 600.3237, the purchaser may inspect a structure's interior, if the purchaser provides an additional notice to the mortgagor that sets the inspection time at a reasonable time of day and "in coordination with the mortgagor if possible." After the initial interior inspection, the purchaser may request that the mortgagor provide information on or evidence of a structure's interior condition no more than once in a calendar month or more often than three times during any six months during the redemption period, "unless the purchaser has reasonable cause to believe that damage to the property is imminent or has occurred."

If the mortgagor unreasonably refuses an inspection or if property damage is imminent or has occurred, the purchaser may immediately bring summary proceedings to possess the property under chapter 57 or file an action for any other relief necessary to protect the property from damage. However, the purchaser may not bring summary proceedings for possession (a) if the damage or condition is repaired or corrected within seven days after notice, or (b) if the mortgagor and the purchaser agree on procedures and a timeline to repair the damage or correct the condition, and the procedures are completed by the agreed date.

Possession (§ 600.3238)

In determining whether to enter judgment for possession, a judge must consider, *inter alia*, whether the mortgagor has taken appropriate steps to repair the damage or correct the condition and to secure the property from further damage.

In this context, "damage" includes, but is not limited to:

- the failure to comply with local ordinances regarding property maintenance or blight prevention;
- missing or destroyed structural aspects or fixtures;
- "deterioration below, or being in imminent danger of deteriorating below, community standards for public safety and sanitation that are established by statute or local ordinance";
or

- a condition that would justify recovery of the premises pursuant to § 5714(1)(d).

Ordinances (§ 117.4q)

A government-sponsored enterprise, financial institution, mortgage servicer, or credit union that becomes the owner of property after foreclosure must adhere to all ordinances relating to vacant property or blight violations adopted by a city that has established an administrative hearings bureau.

Sections 125.539 and 125.541 amended 2003; § 125.540 amended 1992; § 600.3278 amended 2014.

[Mich. Comp. Laws § 600.3278 \(2016\)](#); *see, e.g.*, [Mich. Comp. Laws §§ 125.539, .540, .541 \(2016\)](#) (regarding owner's responsibility for dangerous building)

Minnesota

Minnesota, External Property Liability

Receivers (§§ 576.22, .25; 582.05)

A district court may appoint a receiver to take immediate possession of a mortgaged property in foreclosure so that the receiver can hold, maintain, and operate the property. The court may appoint the receiver pursuant to application by the mortgage owner or purchaser at the foreclosure sale, and the application may be part of the foreclosure proceedings or a separate action. A receiver appointed pursuant to §§ 582.05–.10 is a limited receiver.

A court *may* appoint a limited receiver before judgment to protect a party who demonstrates an apparent right to property that is "the subject of the action and is in the possession of an adverse party, and . . . the property or its rents and profits are in danger of loss or material impairment."

A court *must* appoint a limited receiver at any time after the commencement of mortgage foreclosure proceedings under chapter 580 or 581 and before the redemption period ends, if the mortgage:

- secures an original principal amount of at least \$100,000 or is a lien on residential real estate containing more than four dwelling units; and
- is not a lien on property that was "entirely homesteaded, residential real estate containing four or fewer dwelling units where at least one unit is homesteaded; or agricultural property."

The foreclosing mortgagee or the purchaser at a foreclosure sale may bring an action in district court for the appointment of a receiver at any time. However, if the foreclosure is by action pursuant to chapter 581, a separate action is not necessary.

In addition, the court *must* appoint a receiver if the mortgagor has breached a covenant contained in the mortgage related to:

- applying tenant security deposits, as required by Minn. Stat. § 504B.178;
- paying real estate taxes or special assessments when due or the periodic escrow of those amounts;
- paying insurance premiums when due or the periodic escrow of those amounts; or
- "keeping of the covenants required of a landlord or licensor," as set forth in Minn. Stat. § 504B.161, subd. 1.

After paying its reasonable expenses, the receiver must, to the extent possible, manage the property so as to prevent waste and pay all expenses necessary for the property's normal maintenance.

Duty to enter and protect premises (§ 582.031)

If property described in a mortgage or sheriff's certificate is vacant or unoccupied, the mortgage or sheriff's certificate holder (or the holder's agents and contractors) *may* enter the premises to protect the property from waste and trespass, until the holder receives notice that the premises are occupied.

If the holder of a *sheriff's certificate* knows that there is prima facie evidence of abandonment, the holder:

- *must* "enter the premises and make reasonable periodic inspections, install or change the locks on all doors, install locks on all windows that do not have locks, and ensure that any existing window locks are functioning properly"; and
- *may*, in order to "protect the premises from waste, trespass, or falling below minimum community standards for public safety and sanitation, enter the premises and board windows, doors, and other openings; install and operate an alarm system; and otherwise prevent or minimize damage to the premises from the elements, vandalism, trespass, or other illegal activity."

The holder of a *mortgage* or a *sheriff's certificate* *may* take the following actions to protect the premises from waste, trespass, or falling below minimum community standards for public safety and sanitation:

- make reasonable periodic inspections;
- install or change door and window locks;
- board up windows, doors, and other openings;
- install and operate an alarm system; and

- “otherwise prevent or minimize damage to the premises from the elements, vandalism, trespass, or other illegal activities.”

Upon an installation or change of locks the holder must, upon request, deliver a key to the mortgagor or to any person lawfully claiming through the mortgagor.

All costs the mortgage or sheriff’s certificate holder incurs to protect the premises may be added to the principal balance of the mortgage or the costs allowed upon redemption. The costs may bear interest to the extent provided in the mortgage and may be added to the redemption price if the costs are incurred after a foreclosure sale. These provisions are in addition to, and do not limit or replace, any other rights or remedies available to mortgage and sheriff’s certificate holders.

Securing vacant buildings (§ 463.251)

If a building in any city becomes vacant or unoccupied and is deemed hazardous because it is open to trespass and has not been secured and if the building could be made safe by securing it, the governing body may order the building secured and serve notice of the order on:

- the owner of record or its agent;
- the taxpayer identified in the property tax records;
- the holder of the mortgage or sheriff's certificate; and
- any neighborhood association that has requested notice.

The notice under this subdivision must include a statement that:

- informs the owner and the holder of any mortgage or sheriff's certificate of the statutory requirements regarding vacant buildings and that costs may be assessed against the property if the person does not secure the building;
- informs the owner and the holder of any mortgage or sheriff's certificate that the person may request a hearing before the governing body challenging the governing body's determination that the property is vacant or unoccupied and hazardous; and
- notifies the holder of any sheriff's certificate of the holder's duty to enter the premises to protect the premises from waste and trespass.

If the owner of the building or a holder of the sheriff's certificate of sale fails to comply or to provide the governing body with a reasonable compliance plan and schedule or fails to request a hearing on the order within six days, the governing body must properly secure the building. The cost of securing the building may be charged against the real estate. In a metropolitan area, the governing body may work with neighborhood associations to develop and implement plans to secure vacant buildings in a timely and cost-effective fashion.

Section 582.05 enacted 1915; § 463.251 amended 2010; § 582.031 amended 2009; §§ 576.22, 576.24, and 576.25 enacted 2012.

[Minn. Stat. §§ 463.251; 576.22, .24, .25; 582.031, .05 \(2015\)](#)

Minnesota, Foundation Liability

A district court may appoint a receiver to take immediate possession of a mortgaged property in foreclosure so that the receiver can hold, maintain, and operate the property. The court may appoint the receiver pursuant to application by the mortgage owner or purchaser at the foreclosure sale, and the application may be part of the foreclosure proceedings or a separate action. A receiver appointed pursuant to §§ 582.05–.10 is a limited receiver.

A court *may* appoint a limited receiver before judgment to protect a party who demonstrates an apparent right to property that is "the subject of the action and is in the possession of an adverse party, and . . . the property or its rents and profits are in danger of loss or material impairment."

A court *must* appoint a limited receiver at any time after the commencement of mortgage foreclosure proceedings under chapter 580 or 581 and before the redemption period ends, if the mortgage:

- secures an original principal amount of at least \$100,000 or is a lien on residential real estate containing more than four dwelling units; and
- is not a lien on property that was "entirely homesteaded, residential real estate containing four or fewer dwelling units where at least one unit is homesteaded; or agricultural property."

The foreclosing mortgagee or the purchaser at a foreclosure sale may bring an action in district court for the appointment of a receiver at any time. However, if the foreclosure is by action pursuant to chapter 581, a separate action is not necessary.

In addition, the court *must* appoint a receiver if the mortgagor has breached a covenant contained in the mortgage related to:

- applying tenant security deposits, as required by Minn. Stat. § 504B.178;
- paying real estate taxes or special assessments when due or the periodic escrow of those amounts;
- paying insurance premiums when due or the periodic escrow of those amounts; or
- "keeping of the covenants required of a landlord or licensor," as set forth in Minn. Stat. § 504B.161, subd. 1.

After paying its reasonable expenses, the receiver must, to the extent possible, manage the property so as to prevent waste and pay all expenses necessary for the property's normal maintenance.

Section 582.05 enacted 1915; §§ 576.22, 576.24, and 576.25 enacted 2012.

[Minn. Stat. §§ 576.22, .24, .25; 582.05 \(2015\)](#)

Minnesota, Insurance During Foreclosure

A district court may appoint a receiver to take immediate possession of a mortgaged property in foreclosure so that the receiver can hold, maintain, and operate the property. The court may appoint the receiver pursuant to application by the mortgage owner or purchaser at the foreclosure sale, and the application may be part of the foreclosure proceedings or a separate action. A receiver appointed pursuant to §§ 582.05–.10 is a limited receiver.

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After paying its reasonable expenses, the receiver must, to the extent possible, manage the property so as to prevent waste and pay all expenses necessary for the property's normal maintenance.

Section 582.05 enacted 1915; §§ 576.22, 576.24, and 576.25 enacted 2012.

[Minn. Stat. §§ 582.05; 576.22, .24, .25 \(2015\)](#)

Minnesota, Structural Liability

Receivers (§§ 576.22,.25; 582.05)

A district court may appoint a receiver to take immediate possession of a mortgaged property in foreclosure so that the receiver can hold, maintain, and operate the property. The court may appoint the receiver pursuant to application by the mortgage owner or purchaser at the foreclosure sale, and the application may be part of the foreclosure proceedings or a separate action. A receiver appointed pursuant to §§ 582.05–.10 is a limited receiver.

A court *may* appoint a limited receiver before judgment to protect a party who demonstrates an apparent right to property that is "the subject of the action and is in the possession of an adverse party, and . . . the property or its rents and profits are in danger of loss or material impairment."

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If the holder of a *sheriff's certificate* knows that there is prima facie evidence of abandonment, the holder:

- *must* "enter the premises and make reasonable periodic inspections, install or change the locks on all doors, install locks on all windows that do not have locks, and ensure that any existing window locks are functioning properly"; and
- *may*, in order to "protect the premises from waste, trespass, or falling below minimum community standards for public safety and sanitation, enter the premises and board windows, doors, and other openings; install and operate an alarm system; and otherwise prevent or minimize damage to the premises from the elements, vandalism, trespass, or other illegal activity."

The holder of a *mortgage or a sheriff's certificate* *may* take the following actions to protect the premises from waste, trespass, or falling below minimum community standards for public safety and sanitation:

- make reasonable periodic inspections;
- install or change door and window locks;

- board up windows, doors, and other openings;
- install and operate an alarm system; and
- "otherwise prevent or minimize damage to the premises from the elements, vandalism, trespass, or other illegal activities."

Upon an installation or change of locks the holder must, upon request, deliver a key to the mortgagor or to any person lawfully claiming through the mortgagor.

All costs the mortgage or sheriff's certificate holder incurs to protect the premises may be added to the principal balance of the mortgage or the costs allowed upon redemption. The costs may bear interest to the extent provided in the mortgage and may be added to the redemption price if the costs are incurred after a foreclosure sale. These provisions are in addition to, and do not limit or replace, any other rights or remedies available to mortgage and sheriff's certificate holders.

Securing vacant buildings (§ 463.251)

If a building in any city becomes vacant or unoccupied and is deemed hazardous because it is open to trespass and has not been secured and if the building could be made safe by securing it, the governing body may order the building secured and serve notice of the order on:

- the owner of record or its agent;
- the taxpayer identified in the property tax records;
- the holder of the mortgage or sheriff's certificate; and
- any neighborhood association that has requested notice.

The notice under this subdivision must include a statement that:

- informs the owner and the holder of any mortgage or sheriff's certificate of the statutory requirements regarding vacant buildings and that costs may be assessed against the property if the person does not secure the building;
- informs the owner and the holder of any mortgage or sheriff's certificate that the person may request a hearing before the governing body challenging the governing body's determination that the property is vacant or unoccupied and hazardous; and
- notifies the holder of any sheriff's certificate of the holder's duty to enter the premises to protect the premises from waste and trespass.

If the owner of the building or a holder of the sheriff's certificate of sale fails to comply or to provide to the governing body with a reasonable compliance plan and schedule or fails to request a hearing on the order within six days, the governing body must properly secure the building. The cost of securing the building may be charged against the real estate. In a metropolitan area, the governing body may work with neighborhood associations to develop and implement plans to secure vacant buildings in a timely and cost-effective fashion.

Section 582.05 enacted 1915; § 463.251 amended 2010; § 582.031 amended 2009; §§ 576.22, 576.24, and 576.25 enacted 2012.

[Minn. Stat. §§ 463.251; 576.22, .24, .25; 582.031, .05 \(2015\)](#)

Mississippi

Mississippi, External Property Liability

No specifically applicable state statutes or regulations were located.

Note that banks and other specified entities maintaining real property acquired under a foreclosure sale, or by agreement in lieu of a foreclosure sale, are not considered to be "doing business"

in Mississippi. Similarly, a foreign limited liability partnership foreclosing mortgages and protecting and maintaining property so acquired is not transacting business in the state.

Section 81-5-41 amended 1996; § 81-12-189 reenacted 2001; § 79-13-1104 enacted 2004.

Miss. Code Ann. §§ 79-13-1104; 81-5-41, -12-189 (LexisNexis 2015)

Mississippi, Foundation Liability

No specifically applicable state statutes or regulations were located.

Note that banks and other specified entities maintaining real property acquired under a foreclosure sale, or by agreement in lieu of a foreclosure sale, are not considered to be "doing business" in Mississippi. Similarly, a foreign limited liability partnership foreclosing mortgages and protecting and maintaining property so acquired is not transacting business in the state.

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Miss. Code Ann. §§ 79-13-1104; 81-5-41, -12-189 (LexisNexis 2015)

Mississippi, Insurance During Foreclosure

No applicable state statutes or regulations were located.

Mississippi, Structural Liability

No specifically applicable state statutes or regulations were located.

Note that banks and other specified entities maintaining real property acquired under a foreclosure sale, or by agreement in lieu of a foreclosure sale, are not considered to be "doing business" in Mississippi. Similarly, a foreign limited liability partnership foreclosing mortgages and protecting and maintaining property so acquired is not transacting business in the state.

Section 81-5-41 amended 1996; § 81-12-189 reenacted 2001; § 79-13-1104 enacted 2004.

Miss. Code Ann. §§ 79-13-1104; 81-5-41, -12-189 (LexisNexis 2015)

Missouri

Missouri, External Property Liability

No applicable statutes or regulations were located.

Missouri, Foundation Liability

No applicable statutes or regulations were located.

Missouri, Insurance During Foreclosure

No applicable statutes or regulations were located.

Missouri, Structural Liability

No applicable statutes or regulations were located.

Montana

Montana, External Property Liability

As a general matter, under Montana law, no person with an interest subject to a mortgage lien may do any act that will substantially impair the mortgagee's security.

During mortgage foreclosure proceedings, a court may issue an injunction, upon good cause shown, restraining the party in possession of real property from doing any act that injures the property.

Sections amended 1947.

[Mont. Code Ann. §§ 71-1-106, -227 \(2015\)](#)

Montana, Foundation Liability

As a general matter, under Montana law, no person with an interest subject to a mortgage lien may do any act that will substantially impair the mortgagee's security.

During mortgage foreclosure proceedings, a court may issue an injunction, upon good cause shown, restraining the party in possession of real property from doing any act that injures the property.

Sections amended 1947.

[Mont. Code Ann. §§ 71-1-106, -227 \(2015\)](#)

Montana, Insurance During Foreclosure

No applicable statutes or regulations were located.

Montana, Structural Liability

As a general matter, under Montana law, no person with an interest subject to a mortgage lien may do any act that will substantially impair the mortgagee's security.

During mortgage foreclosure proceedings, a court may issue an injunction, upon good cause shown, restraining the party in possession of real property from doing any act that injures the property.

Sections amended 1947.

[Mont. Code Ann. §§ 71-1-106, -227 \(2015\)](#)

Nebraska

Nebraska, External Property Liability

Effective August 30, 2015, Nebraska law explicitly provides that complying with Neb. Rev. Stat. § 25-2142(2) after filing a mortgage complaint by providing required contact information for a representative designated to receive notices regarding ordinance violations does not "impose upon the complainant a duty to maintain the mortgaged property."

Similarly, complying with § 76-1006 by providing required contact information after filing a notice of default for a person designated to receive notices regarding ordinance violations does

not "impose upon the beneficiary, trustee, or the attorney for the trustee a duty to maintain the trust property."

Sections 25-2142 and 76-1006 amended 2015.

[Neb. Rev. Stat. § 25-2142; 76-1006 \(2015\)](#)

Nebraska, Foundation Liability

Effective August 30, 2015, Nebraska law explicitly provides that complying with Neb. Rev. Stat. § 25-2142(2) after filing a mortgage complaint by providing required contact information for a representative designated to receive notices regarding ordinance violations does not "impose upon the complainant a duty to maintain the mortgaged property."

Similarly, complying with § 76-1006 by providing required contact information after filing a notice of default for a person designated to receive notices regarding ordinance violations does not "impose upon the beneficiary, trustee, or the attorney for the trustee a duty to maintain the trust property."

Sections 25-2142 and 76-1006 amended 2015.

[Neb. Rev. Stat. § 25-2142; 76-1006 \(2015\)](#)

Nebraska, Insurance During Foreclosure

No applicable statutes or regulations were located.

Nebraska, Structural Liability

Effective August 30, 2015, Nebraska law explicitly provides that complying with Neb. Rev. Stat. § 25-2142(2) after filing a mortgage complaint by providing required contact information for a representative designated to receive notices regarding ordinance violations does not "impose upon the complainant a duty to maintain the mortgaged property."

Similarly, complying with § 76-1006 by providing required contact information after filing a notice of default for a person designated to receive notices regarding ordinance violations does not "impose upon the beneficiary, trustee, or the attorney for the trustee a duty to maintain the trust property."

Sections 25-2142 and 76-1006 amended 2015.

[Neb. Rev. Stat. § 25-2142; 76-1006 \(2015\)](#)

Nevada

Nevada, External Property Liability

Injunction (§ 40.060)

A Nevada court may issue an injunction restraining the party in possession of real property from doing anything to injure the property during mortgage foreclosure proceedings or after sale on execution before conveyance.

Sold property (§§ 40.070, .464)

After property is sold on execution, the purchaser may recover damages for any injury to the property by the possessor after sale and before delivery of possession.

A person who purchased or acquired vacant residential property pursuant to a foreclosure must maintain the property's exterior. Such maintenance includes limiting excessive growth of foliage, preventing mosquito larvae from growing in standing water, and preventing any other condition that will create a public nuisance. Violators are subject to a civil penalty of up to \$1,000 per day.

Common-interest community property (§ 116.310312)

If a person who holds a security interest in a common-interest community unit files an action to recover a debt or to enforce any right by foreclosure of a real mortgage or enforcing a trustee's power of sale), the association, including its employees, agents and community manager, *may*, but is not required to, enter the unit to:

- maintain the unit's exterior according to the standards set forth in the governing documents; or
- remove or abate a public nuisance on the unit's exterior that is visible from the community's common area or public streets, threatens the community's residents' health or safety, results in "blighting or deterioration of the unit or surrounding area," and "adversely affects the use and enjoyment of nearby units."

The association:

- may order that the costs of any maintenance, including, without limitation, reasonable inspection fees, notification and collection costs, and interest, be charged against the unit; and
- has a lien on the unit for any unpaid amount of the charges.

Distribution of proceeds (§ 40.462)

The proceeds of a foreclosure sale must be distributed first to "the payment of the reasonable expenses of taking possession, maintaining, protecting and leasing the property."

Asset management company regulation (§§ 645H.480, .520)

Note that chapter 654H provides for the registration and regulation of asset management companies. The act includes, among other things, the services an asset management company may provide and the steps an asset management company must take before it may dispose of personal

property, including storage of the property for 30 days in a secure location and notifying the owner in writing of the disposal and where the property may be reclaimed. The act does not explicitly address which parties are liable for the maintenance.

Sections 40.060 and 40.070 enacted 1911; § 116.310312 enacted 2009; §§ 645H.480 and 645H.520 enacted 2011; §§ 40.462 and 40.464 amended 2015.

[Nev. Rev. Stat. §§ 40.060, .070, .462](#) (as amended by [2015 Nev. Stat. ch. 518 \(S.B. 453\)](#)), [.464](#) (as amended by [2015 Nev. Stat. ch. 518 \(S.B. 453\)](#)); [116.310312](#); [645H.480, .520 \(2015\)](#)

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After property is sold on execution, the purchaser may recover damages for any injury to the property by the possessor after sale and before delivery of possession.

A person who purchased or acquired vacant residential property pursuant to a foreclosure must maintain the property's exterior and prevent any condition that will create a public nuisance. Violators will be subject to a civil penalty of up to \$1,000 per day.

Distribution of proceeds (§ 40.462)

The proceeds of a foreclosure sale must be distributed first to "the payment of the reasonable expenses of taking possession, maintaining, protecting and leasing the property."

Sections 40.060 and 40.070 enacted 1911; §§ 40.462 and 40.464 amended 2015.

[Nev. Rev. Stat. §§ 40.060, .070, .462](#) (as amended by [2015 Nev. Stat. ch. 518 \(S.B. 453\)](#)), [.464 \(2015\)](#) (as amended by [2015 Nev. Stat. ch. 518 \(S.B. 453\)](#))

Nevada, Insurance During Foreclosure

No applicable statutes or regulations were located.

Nevada, Structural Liability

Injunction (§ 40.060)

A Nevada court may issue an injunction restraining the party in possession of real property from doing anything to injure the property during mortgage foreclosure proceedings or after sale on execution before conveyance.

Sold property (§§ 40.070, .464)

After property is sold on execution, the purchaser may recover damages for any injury to the property by the possessor after sale and before delivery of possession.

A person who purchased or acquired vacant residential property pursuant to a foreclosure must maintain the property's exterior and prevent any condition that will create a public nuisance. Violators will be subject to a civil penalty of up to \$1,000 per day.

Distribution of proceeds (§ 40.462)

The proceeds of a foreclosure sale must be distributed first to "the payment of the reasonable expenses of taking possession, maintaining, protecting and leasing the property."

Sections 40.060 and 40.070 enacted 1911; §§ 40.462 and 40.464 amended 2015.

[Nev. Rev. Stat. §§ 40.060, .070, .462](#) (as amended by [2015 Nev. Stat. ch. 518 \(S.B. 453\)](#)), [.464 \(2015\)](#) (as amended by [2015 Nev. Stat. ch. 518 \(S.B. 453\)](#))

New Hampshire

New Hampshire, External Property Liability

No applicable statutes or regulations were located.

New Hampshire, Foundation Liability

No applicable statutes or regulations were located.

New Hampshire, Insurance During Foreclosure

No applicable statutes or regulations were located.

New Hampshire, Structural Liability

No applicable statutes or regulations were located.

New Jersey

New Jersey, External Property Liability

Representatives (§ 46:10B-51(a))

A creditor foreclosing on a mortgage on residential property must, within 10 days of serving the summons and complaint, notify the municipal clerk that it has filed a summons and complaint to foreclose. That notice must contain the name and contact information for the creditor's representative who is responsible for receiving complaints regarding property maintenance and code violations. If the creditor is located out-of-state, the notice must contain the name and contact information of an in-state representative or agent who is responsible for the "care, maintenance, security, and upkeep" of the property's exterior if it becomes vacant and abandoned.

If a residential property owner vacates or abandons property on which a foreclosure proceeding has been initiated or if a residential property becomes vacant during foreclosure proceedings but before title vests in the creditor, and if the property's exterior is found to be a nuisance or in violation of a state or local law, the creditor must abate the nuisance or correct the violation.

Municipal actions (§ 46:10B-51(b), (c))

A municipality may impose a penalty on a creditor that fails to remedy code violations of certain properties in foreclosure. If a municipality expends public funds to abate a nuisance or correct a violation on a residential property after the creditor was given notice but failed to abate the nuisance or correct the violation, the municipality has the same recourse against the creditor as it would have against the property's title owner.

Ordinances to regulate maintenance of certain residential properties (§ 40:48-2.12s)

A municipality may adopt ordinances to regulate the maintenance and upkeep of the exterior of vacant and abandoned residential properties on which a summons and complaint to foreclose has been filed. The ordinance must provide that the creditor filing the summons and complaint is responsible for the care, maintenance, security, and upkeep of a vacant and abandoned residential property's exterior. If the creditor is located out-of-state, it must appoint an in-state representative or agent to act for the foreclosing creditor.

The ordinance must authorize a public officer to issue a notice to the creditor filing an action to foreclose, if the public officer or other authorized municipal official determines that the creditor has failed to provide for the care, maintenance, security, and upkeep of the property's exterior. The notice must require the person or entity to correct the violation within 30 days, or within 10 days if the violation presents an imminent threat to public health and safety.

The ordinance must also require an out-of-state creditor to include the full name and contact information of its in-state representative or agent.

An out-of-state creditor subject to an ordinance adopted pursuant to § 40:48-2.12s(a) that is found to be in violation of the requirement to appoint an in-state representative or agent is subject to a fine of \$2,500 for each day of the violation, beginning on the day after the 10-day period set forth in § 46:10B-51(a)(1) for providing notice to the municipal clerk that a summons and complaint to foreclose on a mortgage has been served.

A creditor subject to an ordinance adopted pursuant to § 40:48-2.12s(a) that is found to be in violation of the requirement to correct a care, maintenance, security, or upkeep violation cited in a notice is subject to a fine of \$1,500 for each day of the violation, generally beginning 31 days

following receipt of the notice. However, if the violation presents an imminent risk to public health and safety, the fine begins 11 days following receipt of the notice.

Section 46:10B-51 amended 2014; § 40:48-2.12s enacted 2014.

N.J. Stat. §§ 2A:50-73; 46:10B-51 (2015)

New Jersey, Foundation Liability

No provisions specifically relevant to a property's foundation were located. Generally, if a residential property owner vacates or abandons property on which a foreclosure proceeding has been initiated or if a residential property becomes vacant during foreclosure proceedings but before vesting of title in the creditor, and if the property's exterior is found to be a nuisance or in violation of a state or local law, the creditor must abate the nuisance or correct the violation.

Section amended 2014.

N.J. Stat. § 46:10B-51 (2015)

New Jersey, Insurance During Foreclosure

No applicable statutes or regulations were located.

New Jersey, Structural Liability

No provisions specifically relevant to a property's foundation were located. Generally, if a residential property owner vacates or abandons property on which a foreclosure proceeding has been initiated or if a residential property becomes vacant during foreclosure proceedings, but before vesting of title in the creditor, and if the property's exterior is found to be a nuisance or in violation of a state or local law, the creditor must abate the nuisance or correct the violation.

Section amended 2014.

N.J. Stat. § 46:10B-51 (2015)

New Mexico

New Mexico, External Property Liability

No applicable statutes or regulations were located.

Note that [S.B. 70, 50th Legis., 2nd Sess. \(N.M. 2012\)](#), which would have required foreclosure maintenance ordinances, did not pass into law.

Also note that a foreign limited liability partnership or foreign limited partnership that is collecting debts or foreclosure mortgages and holding, protecting, and maintaining property so acquired is not transacting business for the purpose of the Uniform Partnership Act.

Section 54-1A-1104 enacted 1997; § 54-2A-903 enacted 2007.

N.M. Stat. Ann. §§ 54-1A-1104, -2A-903 (2015)

New Mexico, Foundation Liability

No applicable statutes or regulations were located.

Note that [S.B. 70, 50th Legis., 2nd Sess. \(N.M. 2012\)](#), which would have required foreclosure maintenance ordinances, did not pass into law.

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New Mexico, Insurance During Foreclosure

No applicable statutes or regulations were located.

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Note that [S.B. 70, 50th Legis., 2nd Sess. \(N.M. 2012\)](#), which would have required foreclosure maintenance ordinances, did not pass into law.

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Section 54-1A-1104 enacted 1997; § 54-2A-903 enacted 2007.

N.M. Stat. Ann. §§ 54-1A-1104, -2A-903 (2015)

New York

New York, External Property Liability

Duty to maintain (§ 1307)

A plaintiff in a mortgage foreclosure action who obtains a foreclosure judgment and sale involving residential real property that is vacant, becomes vacant, or is abandoned by the mortgagor but is occupied by a tenant must maintain the property until "ownership has been transferred through the closing of title in foreclosure, or other disposition, and the deed for such property has been recorded." A municipality or governmental entity that holds a subordinate mortgage is not subject to this requirement.

The plaintiff may peaceably enter the property for the "limited purpose of inspections, repairs and maintenance" required by statute or ordered by the court. If a tenant occupies the property, the plaintiff must give the tenant at least seven days' notice, unless emergency repairs are required, in which case the plaintiff must provide reasonable notice.

The municipality, a tenant lawfully in possession, and a board of managers of a condominium or homeowners' association may enforce these obligations in court after at least seven days' notice to

the plaintiff, unless emergency repairs are required. The entity has a cause of action against the plaintiff in the foreclosure action to recover costs incurred maintaining the property.

If the mortgagor starts a bankruptcy proceeding before a public auction is completed, the above duties are suspended during the bankruptcy proceeding or until the court enters an order lifting or removing the automatic stay.

In this context, "maintain" means keeping the property "in a manner that is consistent with the standards set forth in the New York property maintenance code chapter 3 sections 301, 302 (excluding 302.2, 302.6 and 302.8), 304.1, 304.3, 304.7, 304.10, 304.1, 304.13, 304.15, 304.16, 307.1, and 308.1." However, if the property is occupied by a tenant, the property must also be maintained in "a safe and habitable condition."

Receivers (§§ 1307, 1325)

A plaintiff is relieved of its responsibilities to maintain residential real property that is the subject of a foreclosure action for the period that a receiver has been appointed.

In a city with a population of one million or more, an order appointing a receiver to receive the rents and profits of a multiple dwelling must provide that the receiver apply rents, income, and profits to accrued interest on the mortgage, provided "due provision" is made for the payment of "taxes, administration expenses, fees and charges and such reserve as the court may direct." However, a priority is "given to the correction of immediately hazardous and hazardous violations of housing maintenance laws within the time set by orders of any municipal department." If that is not practicable, the receiver must seek a postponement of the time for compliance.

Section 1325 amended 1998; § 1307 enacted 2009.

N.Y. Real Prop. Acts. §§ 1307, 1325 (2015)

[New York, Foundation Liability](#)

Duty to maintain (§ 1307)

A plaintiff in a mortgage foreclosure action who obtains a foreclosure judgment and sale involving residential real property that is vacant, becomes vacant, or is abandoned by the mortgagor but is occupied by a tenant must maintain the property until "ownership has been transferred through the closing of title in foreclosure, or other disposition, and the deed for such property has been recorded." A municipality or governmental entity that holds a subordinate mortgage is not subject to this requirement.

The plaintiff may peaceably enter the property for the "limited purpose of inspections, repairs and maintenance" required by statute or ordered by the court. If a tenant occupies the property, the plaintiff must give the tenant at least seven days' notice, unless emergency repairs are required, in which case the plaintiff must provide reasonable notice.

The municipality, a tenant lawfully in possession, and a board of managers of a condominium or homeowners' association may enforce these obligations in court after at least seven days' notice to the plaintiff, unless emergency repairs are required. The entity has a cause of action against the plaintiff in the foreclosure action to recover costs incurred maintaining the property.

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Section 1325 amended 1998; § 1307 enacted 2009.

N.Y. Real Prop. Acts. §§ 1307, 1325 (2015)

New York, Insurance During Foreclosure

No applicable statutes or regulations were located.

New York, Structural Liability

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Section 1325 amended 1998; § 1307 enacted 2009.

N.Y. Real Prop. Acts. §§ 1307, 1325 (2015)

North Carolina

North Carolina, External Property Liability

No applicable statutes or regulations were located.

However, if a party appeals the clerk's findings in a sale pursuant to a power of sale, the appealing party must post a bond to protect the opposing party from any probable loss "by reason of

appeal." If the appealing party owns and occupies the property as his or her principal residence, the clerk generally must require a bond equal to one percent of the principal balance due on the note. However, the clerk may require a larger bond if there is "a likelihood of waste or damage to the property during the pendency of the appeal or for other good cause shown."

Section amended 2012.

[N.C. Gen. Stat. § 45-21.16\(d1\) \(2015\)](#)

North Carolina, Foundation Liability

No applicable statutes or regulations were located.

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Section amended 2012.

[N.C. Gen. Stat. § 45-21.16\(d1\) \(2015\)](#)

North Carolina, Insurance During Foreclosure

No applicable statutes or regulations were located.

North Carolina, Structural Liability

No applicable statutes or regulations were located.

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Section amended 2012.

[N.C. Gen. Stat. § 45-21.16\(d1\) \(2015\)](#)

North Dakota

North Dakota, External Property Liability

A party in possession of real property may be restrained from doing anything to injure the property during the lien's existence or during at mortgage foreclosure up until the time of redemption. The court is authorized to consider any remedy to prevent waste.

Note that a notice before foreclosure must include the amount the mortgagee advanced for taxes, insurance, and maintenance.

Section 32-19-19 enacted 1989; § 32-19-21 amended 2005.

[N.D. Cent. Code §§ 32-19-19, -21 \(2015\)](#)

North Dakota, Foundation Liability

A party in possession of real property may be restrained from doing anything to injure the property during the lien's existence or during at mortgage foreclosure up until the time of redemption. The court is authorized to consider any remedy to prevent waste.

Note that a notice before foreclosure must include the amount the mortgagee advanced for taxes, insurance, and maintenance.

Section 32-19-19 enacted 1989; § 32-19-21 amended 2005.

[N.D. Cent. Code §§ 32-19-19, -21 \(2015\)](#)

North Dakota, Insurance During Foreclosure

No applicable statutes or regulations were located.

Note that a notice before foreclosure must include the amount the mortgagee advanced for taxes, insurance, and maintenance.

Section amended 2005.

[N.D. Cent. Code § 32-19-21 \(2015\)](#)

North Dakota, Structural Liability

A party in possession of real property may be restrained from doing anything to injure the property during the lien's existence or during at mortgage foreclosure up until the time of redemption. The court is authorized to consider any remedy to prevent waste.

Note that a notice before foreclosure must include the amount the mortgagee advanced for taxes, insurance, and maintenance.

Section 32-19-19 enacted 1989; § 32-19-21 amended 2005.

[N.D. Cent. Code §§ 32-19-19, -21 \(2015\)](#)

Ohio

Ohio, External Property Liability

No specifically applicable statutes or regulations were located.

Note that effective March 23, 2015, a court may appoint a receiver in a mortgage foreclosure action if it appears that the mortgaged property is in danger of being lost, removed, materially injured,

diminished in value, or squandered, or that the "condition of the mortgage has not been performed," if either:

- the property is "probably insufficient to discharge the mortgage debt"; or
- the mortgagor has consented in writing to the appointment of a receiver.

Section amended 2015.

[Ohio Rev. Code § 2735.01 \(2015\)](#)

Ohio, Foundation Liability

No specifically applicable statutes or regulations were located.

Note that effective March 23, 2015, a court may appoint a receiver in a mortgage foreclosure action if it appears that the mortgaged property is in danger of being lost, removed, materially injured, diminished in value, or squandered, or that the "condition of the mortgage has not been performed," if either:

- the property is "probably insufficient to discharge the mortgage debt"; or
- the mortgagor has consented in writing to the appointment of a receiver.

Section amended 2015.

[Ohio Rev. Code § 2735.01 \(2015\)](#)

Ohio, Insurance During Foreclosure

No applicable statutes or regulations were located.

Ohio, Structural Liability

No specifically applicable statutes or regulations were located.

Note that effective March 23, 2015, a court may appoint a receiver in a mortgage foreclosure action if it appears that the mortgaged property is in danger of being lost, removed, materially injured, diminished in value, or squandered, or that the "condition of the mortgage has not been performed," if either:

- the property is "probably insufficient to discharge the mortgage debt"; or
- the mortgagor has consented in writing to the appointment of a receiver.

Section amended 2015.

[Ohio Rev. Code § 2735.01 \(2015\)](#)

Oklahoma

Oklahoma, External Property Liability

Project plans (§§ 40-113, -115)

Under Oklahoma's Neighborhood Redevelopment Act, the purchaser through foreclosure of any real property of a "redevelopment trust" must continue to maintain, operate, and use such property in accordance with the provisions of the project plan in place.

The project plan is a description of specific work determined by a city or town to be necessary to rehabilitate property with "blighted conditions," including, *inter alia*, "deterioration of site improvements" and "conditions which create economic obsolescence, or areas containing obsolete, nonfunctioning or inappropriately developed structures."

Motion to protect and preserve property (§ 46-302)

Upon commencement of a suit, action or proceeding to foreclose or enforce the remedies in a mortgage, contract for deed, or deed of trust, if the plaintiff "believes, knows, or has reason to know, that the subject property is abandoned or vacated" the plaintiff may seek a court order to protect and preserve the property, if, as a result of such abandonment:

- physical deterioration and devaluation of the property is occurring or has occurred;
- a "risk to the health, safety or welfare of the public, or any adjoining or adjacent property owners, due to potential or actual acts of vandalism, loitering, criminal conduct or the physical destruction or deterioration of the property" exists; or
- a "risk of additional legal process for violation of law, ordinance, unpaid taxes or accrual of liens" exists.

The plaintiff must file and pursue the motion to protect and preserve an abandoned or vacated property in accordance with court rules and statutory civil procedures for motions. See Okla. Stat. § 46-302 for details regarding other procedural requirements, including notice and inspection requirements.

Upon issuance of an order to protect and preserve property:

- the court must direct the plaintiff to inventory any remaining personal property and to file the inventory in the court case file; and
- the plaintiff must take possession of and secure the property pending the foreclosure.

The motion filed or court order issued to protect and preserve the property does not alter, relinquish, or release any party's:

- right, title, or interests in or to any property; or
- position, standing, claims, defenses, or objections in the pending suit, action, or foreclosure proceeding.

Sections 40-113 and 40-115 amended 1998; § 46-302 enacted 2011.

[Okla. Stat. tit. 11, §§ 40-113\(1\), \(4\), \(5\); -115\(C\); tit. 46, § 302 \(2015\)](#)

Oklahoma, Foundation Liability

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[Okla. Stat. tit. 11, §§ 40-113\(1\), \(4\), \(5\); -115\(C\); tit. 46, § 302 \(2015\)](#)

Oklahoma, Insurance During Foreclosure

No applicable statutes or regulations were located.

Oklahoma, Structural Liability

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[Okla. Stat. tit. 11, §§ 40-113\(1\), \(4\), \(5\); -115\(C\); tit. 46, § 302 \(2015\)](#)

Oregon

Oregon, External Property Liability

No specifically applicable statutes or regulations that apply *during* the foreclosure process were located.

However, "[a]n owner may not neglect the owner's foreclosed residential real property during any period in which the foreclosed residential real property is vacant." In this context, "owner" means a person, other than a local government, that forecloses a trust deed by advertisement and sale or by suit. "Foreclosed residential real property" means residential property that an owner obtains as a result of foreclosing a trust deed or receiving a judgment that forecloses a lien on the property. "Neglect" includes the failure to maintain the "buildings, grounds or appurtenances of foreclosed residential real property" so as to allow:

- excessive foliage growth that diminishes an adjacent property's value;
- trespassers or squatters to remain on the property;
- mosquito larvae or pupae to grow in standing water on the property; or
- other conditions that cause a public nuisance.

It also includes the failure to monitor the property's condition by inspecting it at least once every 30 days.

An owner must post a "durable notice in a conspicuous location" on the property, listing a telephone number for the owner or the local government that a person may call to report neglect.

Section enacted 2013.

[Or. Rev. Stat. § 18.995 \(2015\)](#)

Oregon, Foundation Liability

No specifically applicable statutes or regulations that apply *during* the foreclosure process were located.

However, "[a]n owner may not neglect the owner's foreclosed residential real property during any period in which the foreclosed residential real property is vacant." In this context, "owner" means a person, other than a local government, that forecloses a trust deed by advertisement and sale or by suit. "Foreclosed residential real property" means residential property that an owner obtains as a result of foreclosing a trust deed or receiving a judgment that forecloses a lien on the property. "Neglect" includes, among other things, the failure to maintain the buildings on foreclosed residential real property so as to allow conditions that cause a public nuisance. It also includes the failure to monitor the property's condition by inspecting it at least once every 30 days.

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Section enacted 2013.

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Oregon, Insurance During Foreclosure

No applicable statutes or regulations were located.

Oregon, Structural Liability

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Section enacted 2013.

[Or. Rev. Stat. § 18.995 \(2015\)](#)

Pennsylvania

Pennsylvania, External Property Liability

No applicable statutes or regulations were located. Note that [H.B. 2138, 2012 Gen. Assem., Reg. Sess. \(Pa. 2012\)](#), which would have created a Foreclosed Property Maintenance Act, did not pass into law. [H.B. 853, 2013 Gen. Assem., Reg. Sess. \(Pa. 2013\)](#), which also did not pass into law, similarly would have provided for foreclosed property maintenance.

Pennsylvania, Foundation Liability

No applicable statutes or regulations were located. Note that [H.B. 2138, 2012 Gen. Assem., Reg. Sess. \(Pa. 2012\)](#), which would have created a Foreclosed Property Maintenance Act, did not pass into law. [H.B. 853, 2013 Gen. Assem., Reg. Sess. \(Pa. 2013\)](#), which also did not pass into law, similarly would have provided for foreclosed property maintenance.

Pennsylvania, Insurance During Foreclosure

No applicable statutes or regulations were located.

Pennsylvania, Structural Liability

No applicable statutes or regulations were located. Note that [H.B. 2138, 2012 Gen. Assem., Reg. Sess. \(Pa. 2012\)](#), which would have created a Foreclosed Property Maintenance Act, did not pass into law. [H.B. 853, 2013 Gen. Assem., Reg. Sess. \(Pa. 2013\)](#), which also did not pass into law, similarly would have provided for foreclosed property maintenance.

Puerto Rico

Puerto Rico, External Property Liability

No applicable statutes or regulations were located.

Note that H.B. 909 (P C0909), which was introduced in 2014 and would have required mortgage institutions that acquire a property by foreclosure to maintain that property in the same condition in order to avoid abandonment, was not passed into law.

Puerto Rico, Foundation Liability

No applicable statutes or regulations were located.

Note that H.B. 909 (P C0909), which was introduced in 2014 and would have required mortgage institutions that acquire a property by foreclosure to maintain that property in the same condition in order to avoid abandonment, was not passed into law.

Puerto Rico, Insurance During Foreclosure

No applicable statutes or regulations were located.

Puerto Rico, Structural Liability

No applicable statutes or regulations were located.

Note that H.B. 909 (P C0909), which was introduced in 2014 and would have required mortgage institutions that acquire a property by foreclosure to maintain that property in the same condition in order to avoid abandonment, was not passed into law.

Rhode Island

Rhode Island, External Property Liability

No statutes or regulations applicable to mortgage foreclosures were located.

In the context of a foreclosure for unpaid taxes, a tax sale generally does not obviate or transfer an owner's responsibility to comply with a state statute or municipal ordinance governing property maintenance until the right of redemption is foreclosed. However, one year after the tax sale date, the tax title-holder is jointly and severally liable with the owner for compliance with state statutes or municipal ordinances governing the property's maintenance, even before the redemption right is foreclosed. This provision does not confer any liability on a city or town that receives a tax title as a result of bids being made at an amount equal to the tax and charges.

Section amended 2015.

[R.I. Gen. Laws § 44-9-12 \(2015\)](#)

Rhode Island, Foundation Liability

No statutes or regulations applicable to mortgage foreclosures were located.

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Section amended 2015.

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Rhode Island, Insurance During Foreclosure

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Section amended 2015.

[R.I. Gen. Laws § 44-9-12 \(2015\)](#)

South Carolina

South Carolina, External Property Liability

No applicable statutes or regulations were located.

South Carolina, Foundation Liability

No applicable statutes or regulations were located.

South Carolina, Insurance During Foreclosure

No applicable statutes or regulations were located.

South Carolina, Structural Liability

No applicable statutes or regulations were located.

South Dakota

South Dakota, External Property Liability

No statutes or regulations were located in which external property maintenance responsibility during a foreclosure is allocated.

However, the purchaser of property sold pursuant to foreclosure may recover damages for injury to the property by the party in possession after the sale, and before possession is delivered.

Section amended 1960.

[S.D. Codified Laws § 15-19-27 \(2015\)](#)

South Dakota, Foundation Liability

No statutes or regulations were located in which foundation maintenance responsibility during a foreclosure is allocated.

However, the purchaser of property sold pursuant to foreclosure may recover damages for injury to the property by the party in possession after the sale, and before possession is delivered.

Section amended 1960.

[S.D. Codified Laws § 15-19-27 \(2015\)](#)

South Dakota, Insurance During Foreclosure

South Dakota law provides that the purchaser of property pursuant to a mortgage foreclosure may, during the redemption period, pay premiums to renew an insurance policy covering the property in case the policy expires. Such amounts will be included in the redemption price.

Section amended 1960.

[S.D. Codified Laws § 44-8-17 \(2015\)](#)

South Dakota, Structural Liability

No statutes or regulations were located in which structural maintenance responsibility during a foreclosure is allocated.

However, the purchaser of property sold pursuant to foreclosure may recover damages for injury to the property by the party in possession after the sale, and before possession is delivered.

Section amended 1960.

[S.D. Codified Laws § 15-19-27 \(2015\)](#)

Tennessee

Tennessee, External Property Liability

No generally applicable statutes or regulations were located.

However, if a lender or servicer asserts that grounds for acceleration exist and requires the full payment of all sums secured by the security instrument of a high-cost home loan, the borrower may, at any time prior to three business days before a foreclosure sale, cure the default and reinstate the home loan. During that cure period, the borrower is liable for any expenses actually incurred to preserve, maintain, or protect the property or the lender's security interest that are otherwise permitted in the note, deed of trust, or other loan document.

Section 45-20-104 enacted 2006.

Tenn. Code Ann. § 45-20-104 (LexisNexis 2015)

Tennessee, Foundation Liability

No applicable statutes or regulations were located.

However, if a lender or servicer asserts that grounds for acceleration exist and requires the full payment of all sums secured by the security instrument of a high-cost home loan, the borrower may, at any time prior to three business days before a foreclosure sale, cure the default and reinstate the home loan. During that cure period, the borrower is liable for any expenses actually incurred to preserve, maintain, or protect the property or the lender's security interest that are otherwise permitted in the note, deed of trust, or other loan document.

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Tennessee, Insurance During Foreclosure

No applicable statutes or regulations were located.

Tennessee, Structural Liability

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However, if a lender or servicer asserts that grounds for acceleration exist and requires the full payment of all sums secured by the security instrument of a high-cost home loan, the borrower may, at any time prior to three business days before a foreclosure sale, cure the default and reinstate the home loan. During that cure period, the borrower is liable for any expenses actually incurred to preserve, maintain, or protect the property or the lender's security interest that are otherwise permitted in the note, deed of trust, or other loan document.

Section 45-20-104 enacted 2006.

Tenn. Code Ann. § 45-20-104 (LexisNexis 2015)

Texas

Texas, External Property Liability

No generally applicable statutes or regulations were located.

However, in the narrow context of a resale by a taxing unit, a taxing unit that does not consent to a private sale pursuant to § 34.05(j) is liable to the taxing unit that purchased the property for a pro rata share of the costs the purchasing unit incurred to maintain the property.

Section amended 2011.

[Tex. Tax Code § 34.05\(l\) \(2015\)](#)

Texas, Foundation Liability

No generally applicable statutes or regulations were located.

However, in the narrow context of a resale by a taxing unit, a taxing unit that does not consent to a private sale pursuant to § 34.05(j) is liable to the taxing unit that purchased the property for a pro rata share of the costs the purchasing unit incurred to maintain the property.

Section amended 2011.

[Tex. Tax Code § 34.05\(l\) \(2015\)](#)

Texas, Insurance During Foreclosure

No applicable statutes or regulations were located.

Texas, Structural Liability

No generally applicable statutes or regulations were located.

However, in the narrow context of a resale by a taxing unit, a taxing unit that does not consent to a private sale pursuant to § 34.05(j) is liable to the taxing unit that purchased the property for a pro rata share of the costs the purchasing unit incurred to maintain the property.

Section amended 2011.

[Tex. Tax Code § 34.05\(l\) \(2015\)](#)

Utah

Utah, External Property Liability

Injunctions (§ 78B-6-907)

A Utah court may, upon a showing of good cause, enjoin the party in possession of real property from injuring the property during mortgage foreclosure proceedings or after a sale on execution.

Environmental impairment (§ 78B-6-909)

If real property security is environmentally impaired and the borrower is in default, a secured lender may pursue those remedies set forth in Utah Code § 78B-6-909.

Beneficiary credits (§ 57-1-28)

Upon a trustee's sale of trust property, the beneficiary receives a credit on the beneficiary's bid in an amount that includes, among other things, the amount advanced to pay taxes, insurance, and "maintenance and protection" of the trust property.

Sections 78B-6-907 and -909 renumbered and amended 2008; § 57-1-28 amended 2016.

[Utah Code §§ 57-1-28](#) (as amended by [2016 Utah Laws ch. 305 \(S.B. 220\)](#)); [78B-6-907, -909 \(2015\)](#)

Utah, Foundation Liability

Injunctions (§ 78B-6-907)

A Utah court may, upon a showing of good cause, enjoin the party in possession of real property from injuring the property during mortgage foreclosure proceedings or after a sale on execution.

Environmental impairment (§ 78B-6-909)

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[Utah Code §§ 57-1-28](#) (as amended by [2016 Utah Laws ch. 305 \(S.B. 220\)](#)); [78B-6-907, -909 \(2015\)](#)

Utah, Insurance During Foreclosure

No specifically relevant provisions were located.

Upon a trustee's sale of trust property, the beneficiary receives a credit on the beneficiary's bid in an amount that includes, among other things, the amount advanced to pay taxes and insurance.

Section 57-1-28 amended 2016.

[Utah Code § 57-1-28 \(2015\)](#) (as amended by [2016 Utah Laws ch. 305 \(S.B. 220\)](#))

Utah, Structural Liability

Injunctions (§ 78B-6-907)

A Utah court may, upon a showing of good cause, enjoin the party in possession of real property from injuring the property during mortgage foreclosure proceedings or after a sale on execution.

Environmental impairment (§ 78B-6-909)

If real property security is environmentally impaired and the borrower is in default, a secured lender may pursue those remedies set forth in Utah Code § 78B-6-909.

Beneficiary credits (§ 57-1-28)

Upon a trustee's sale of trust property, the beneficiary receives a credit on the beneficiary's bid in an amount that includes, among other things, the amount advanced to pay taxes, insurance, and "maintenance and protection" of the trust property.

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[Utah Code §§ 57-1-28](#) (as amended by [2016 Utah Laws ch. 305 \(S.B. 220\)](#)); [78B-6-907, -909 \(2015\)](#)

Vermont

Vermont, External Property Liability

No applicable statutes or regulations were located.

Note that a limited liability partnership is not deemed to be transacting business in Vermont when it forecloses mortgages or other security interests in property, and holds, protects, and maintains property so acquired.

Section enacted 1997.

[Vt. Stat. Ann. tit. 11, § 3304 \(2015\)](#)

Vermont, Foundation Liability

No applicable statutes or regulations were located.

Note that a limited liability partnership is not deemed to be transacting business in Vermont when it forecloses mortgages or other security interests in property, and holds, protects, and maintains property so acquired.

Section enacted 1997.

[Vt. Stat. Ann. tit. 11, § 3304 \(2015\)](#)

Vermont, Insurance During Foreclosure

No applicable statutes or regulations were located.

Vermont, Structural Liability

No applicable statutes or regulations were located.

Note that a limited liability partnership is not deemed to be transacting business in Vermont when it forecloses mortgages or other security interests in property, and holds, protects, and maintains property so acquired.

Section enacted 1997.

[Vt. Stat. Ann. tit. 11, § 3304 \(2015\)](#)

Virgin Islands

Virgin Islands, External Property Liability

No specifically applicable statutes or regulations were located.

However, until the redemption period expires, the court may restrain the commission of waste on the property by order granted on the purchaser's or the judgment creditor's application. It is not deemed waste for the person possessing the property at the time of sale or entitled to possession during the redemption period:

- to "continue to use it in the same manner in which it was previously used";
- to use it in the "ordinary course of husbandry";
- to make the necessary repairs to buildings on the property; or
- to use wood or timber on the property "therefor or for the repair of fences or for fuel in his family while he occupies the property."

Note that a foreign limited liability partnership is not deemed to be transacting business in the Virgin Islands when it maintains property acquired by foreclosure.

History of § 499 unknown; § 244 enacted 1998.

V.I. Code tit. 5, § 499; tit. 26, § 244 (LexisNexis 2015)

Virgin Islands, Foundation Liability

No specifically applicable statutes or regulations were located.

However, until the redemption period expires, the court may restrain the commission of waste on the property by order granted on the purchaser's or the judgment creditor's application. It is not deemed waste for the person possessing the property at the time of sale or entitled to possession during the redemption period:

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[Virgin Islands, Insurance During Foreclosure](#)

No applicable statutes or regulations were located.

[Virgin Islands, Structural Liability](#)

No specifically applicable statutes or regulations were located.

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History of § 499 unknown; § 244 enacted 1998.

V.I. Code tit. 5, § 499; tit. 26, § 244 (LexisNexis 2015)

Virginia

Virginia, External Property Liability

No applicable statutes or regulations were located.

Note that a foreign savings institution that is subject to state or federal supervision is not considered to be doing business or to have a tax situs or nexus in or with Virginia by reason of maintaining property the savings institution acquired by foreclosure.

Section amended 2010.

[Va. Code Ann. § 6.2-1156 \(2016\)](#)

Virginia, Foundation Liability

No applicable statutes or regulations were located.

Note that a foreign savings institution that is subject to state or federal supervision is not considered to be doing business or to have a tax situs or nexus in or with Virginia by reason of maintaining property the savings institution acquired by foreclosure.

Section amended 2010.

[Va. Code Ann. § 6.2-1156 \(2016\)](#)

Virginia, Insurance During Foreclosure

No applicable statutes or regulations were located.

Note that a foreclosure sale is grounds for cancelling a property insurance policy.

Section amended 2013.

[Va. Code § 38.2-2114 \(2016\)](#)

Virginia, Structural Liability

No applicable statutes or regulations were located.

Note that a foreign savings institution that is subject to state or federal supervision is not considered to be doing business or to have a tax situs or nexus in or with Virginia by reason of maintaining property the savings institution acquired by foreclosure.

Section amended 2010.

[Va. Code Ann. § 6.2-1156 \(2016\)](#)

Washington

Washington, External Property Liability

No specifically applicable statutes or regulations were located.

Note that a court may appoint a receiver if, among other things:

- attached property is "in danger of waste, impairment, or destruction";
- the property's owner has abandoned the property, and "it is necessary to collect, conserve, manage, control, or protect it"; or
- the court determines that the "nature of the property or the exigency of the case otherwise provides cause" for appointing a receiver.

Section amended 2011.

[Wash. Rev. Code § 7.60.025 \(2015\)](#)

Washington, Foundation Liability

No specifically applicable statutes or regulations were located.

Note that a court may appoint a receiver if, among other things:

- attached property is "in danger of waste, impairment, or destruction";

- the property's owner has abandoned the property, and "it is necessary to collect, conserve, manage, control, or protect it"; or
- the court determines that the "nature of the property or the exigency of the case otherwise provides cause" for appointing a receiver.

Section amended 2011.

[Wash. Rev. Code § 7.60.025 \(2015\)](#)

Washington, Insurance During Foreclosure

No applicable statutes or regulations were located.

Washington, Structural Liability

No specifically applicable statutes or regulations were located.

Note that a court may appoint a receiver if, among other things:

- attached property is "in danger of waste, impairment, or destruction";
- the property's owner has abandoned the property, and "it is necessary to collect, conserve, manage, control, or protect it"; or
- the court determines that the "nature of the property or the exigency of the case otherwise provides cause" for appointing a receiver.

Section amended 2011.

[Wash. Rev. Code § 7.60.025 \(2015\)](#)

West Virginia

West Virginia, External Property Liability

No applicable statutes or regulations were located.

Note that a foreign corporation maintaining or otherwise dealing with selling or disposing of property acquired under foreclosure sale or by agreement in lieu of foreclosure sale is not deemed to be "conducting affairs" so as to require a certificate of authority from the state.

Section 31D-15-1501 amended 2008.

[W.V. Code § 31D-15-1501 \(2016\)](#)

West Virginia, Foundation Liability

No applicable statutes or regulations were located.

Note that a foreign corporation maintaining or otherwise dealing with selling or disposing of property acquired under foreclosure sale or by agreement in lieu of foreclosure sale is not deemed to be "conducting affairs" so as to require a certificate of authority from the state.

Section 31D-15-1501 amended 2008.

[W.V. Code § 31D-15-1501 \(2016\)](#)

West Virginia, Insurance During Foreclosure

No applicable statutes or regulations were located.

West Virginia, Structural Liability

No applicable statutes or regulations were located.

Note that a foreign corporation maintaining or otherwise dealing with selling or disposing of property acquired under foreclosure sale or by agreement in lieu of foreclosure sale is not deemed to be "conducting affairs" so as to require a certificate of authority from the state.

Section 31D-15-1501 amended 2008.

[W.V. Code § 31D-15-1501 \(2016\)](#)

Wisconsin

Wisconsin, External Property Liability

No applicable statutes or regulations were located.

Note that a court in a foreclosure judgment may order that all sums the plaintiff advanced for insurance, necessary repairs, and taxes that are not included in the judgment may be added to the judgment. Also, a foreclosure judgment may enjoin the defendants (and persons claiming under the defendants) from committing waste or doing any act that may impair the value of the mortgaged premises.

Section 846.12 amended 1975; § 846.10 amended 1993.

[Wis. Stat. § 846.10, .12 \(2016\)](#)

Wisconsin, Foundation Liability

No applicable statutes or regulations were located.

Note that a court in a foreclosure judgment may order that all sums the plaintiff advanced for insurance, necessary repairs, and taxes that are not included in the judgment may be added to the judgment. Also, a foreclosure judgment may enjoin the defendants (and persons claiming under the defendants) from committing waste or doing any act that may impair the value of the mortgaged premises.

Section 846.12 amended 1975; § 846.10 amended 1993.

[Wis. Stat. § 846.10, .12 \(2016\)](#)

Wisconsin, Insurance During Foreclosure

No applicable statutes or regulations were located.

Note that a court in a foreclosure judgment may order that all sums the plaintiff advanced for insurance, necessary repairs, and taxes that are not included in the judgment may be added to the judgment.

Section amended 1993.

[Wis. Stat. § 846.10 \(2016\)](#)

Wisconsin, Structural Liability

No applicable statutes or regulations were located.

Note that a court in a foreclosure judgment may order that all sums the plaintiff advanced for insurance, necessary repairs, and taxes that are not included in the judgment may be added to the judgment. Also, a foreclosure judgment may enjoin the defendants (and persons claiming under the defendants) from committing waste or doing any act that may impair the value of the mortgaged premises.

Section 846.12 amended 1975; § 846.10 amended 1993.

[Wis. Stat. § 846.10, .12 \(2016\)](#)

Wyoming

Wyoming, External Property Liability

No applicable statutes or regulations were located.

Wyoming, Foundation Liability

No applicable statutes or regulations were located.

Wyoming, Insurance During Foreclosure

No applicable statutes or regulations were located.

Wyoming, Structural Liability

No applicable statutes or regulations were located.