

# Missouri (MO) Foreclosure Laws

When you develop a definite plan of action with well-timed, well-informed steps, you can stop the foreclosure process and save your home. We have outlined the foreclosure process for the state of Missouri.

## The Process

Missouri permits two types of foreclosure:

1. Judicial, and
2. Judicial under a power of sale clause.

In judicial foreclosure the lender may file a petition in the office of the circuit court against the borrower and the tenants or occupiers or property. The petition states the nature of the mortgage and formally requests the court to render judgment for amount of the debt, to foreclose the equity of redemption (preventing the borrower from recovering the property by paying the mortgage) and to order the property sold to satisfy the amount due. Such a lawsuit will be handled in the same manner as other civil lawsuits. The borrower may be served in person or by constructive notice through publication if personal service efforts prove to be fruitless.

## Power of Sale Foreclosures

Missouri permits foreclosure under a power of sale clause in a mortgage. Before proceeding with a foreclosure sale under the power of sale clause, the lender must give the borrower 20 days notice of the sale, whether or not the mortgage or deed of trust provides for such notice. The property must be advertised for sale as follows:

1. In counties with over 50,000 inhabitants, the notice foreclosure sale must be published at least twenty times in the daily newspaper and continued to the day of sale.
2. In counties with under 50,000 inhabitants, the notice foreclosure must be published once per week on the same day each week in a daily, tri-weekly, or semi-weekly newspaper for four successive issues, with the last publication to be not more than one week prior to the foreclosure sale.

An affidavit of the printer or publisher may serve as evidence of publication.

## Mailing of the Foreclosure Notice

The trustee who conducts the foreclosure sale must mail notice of the foreclosure sale not less than 20 days prior to the scheduled date of the sale to the following parties:

1. The borrower named in the deed of trust or mortgage at the last known address for the borrower.
2. The person shown by the office of the recorder's deed of records to be the owner of the property as of 40 days before the foreclosure sale, to the last known address shown in the lender's records for such recorded owner.
3. Any person whose name and address is set forth in, request for notice that has been duly recorded 40 days in advance of the foreclosure sale date

The notice must be in the following format:

In accordance with R. S. MO 443.325, request is hereby made that notice of sale under the deed of trust (or mortgage) recorded the \_\_\_ day of \_\_\_ 19\_\_\_, (as recorder's number \_\_\_ or in Book \_\_\_,) of the records of \_\_\_ County, Missouri, the legal description of the property being \_\_\_ in \_\_\_ County, Missouri, executed by \_\_\_ as Grantor (or Mortgagor) in which \_\_\_ is named as beneficiary (or Mortgagee) and \_\_\_ as Trustee, be mailed to \_\_\_ (Name) at \_\_\_ (Address) \_\_\_, (City) \_\_\_, (State).

(Signature)

\_\_\_\_\_  
\_\_\_\_\_

(Acknowledgment)

**Receipt of Foreclosure: Notice Not Necessary**

The borrower does not have to receive the envelope containing the notice of foreclosure pursuant to a deed of trust or mortgage. Recording of the receipt issued by the U.S. Post Office for certified or registered mail to evidence that the envelope has been delivered by the sender to the U.S. Post Office shall constitute proof of compliance with the notice requirements.

**Trustees**

The person named in the deed of trust or mortgage must conduct the foreclosure sale. However, if the trustee is dead, neglects this duty or is incapacitated, a new trustee can be appointed if the lender files a motion in court requesting a new trustee, and the court feels the circumstances justify an appointment, in which case the sheriff or another suitable person approved by the Judge can conduct the sale. A foreign corporation may not be a trustee for foreclosure in the state of Missouri, unless a co-trustee who is a resident of Missouri is named. Certain nearby states can authorize a Missouri corporation to act in a fiduciary capacity for an outside corporation. A trustee may collect a 2 percent commission on the first \$1,000, 1 percent on sums over that amount but under \$5,000, and 0.5 percent on sums over that amount.

### **Sale Procedures**

The trustee must conduct the sale in a fair manner at the time and place and in the manner specified in the notice of foreclosure, the deed of trust and the statute. The property is to be called out for sale and sold to the highest bidder. The lender may purchase at the sale, but if it does so, a right of redemption applies.

### **Redemption**

If any person other than the lender, or someone purchasing on behalf of the lender, buys the property at a fairly and properly conducted foreclosure sale, then no right of redemption exists. If, on the other hand, the lender buys at the foreclosure sale, as is so often the case, then the borrower has a right to redeem the property for one year from the date of sale.

In order to obtain the right of redemption, however, the borrower must meet many requirements. First, the borrower must give the trustee or other person conducting the sale advance notice, ten days prior to the sale, of the borrower's intent to redeem. Second, the borrower must arrange a bond on which there is one good surety, besides the borrower, who can stand good for a sum of money equal to the interest that would accrue throughout the year on the mortgage, and on any prior lien loan, together with the foreclosure costs, taxes and assessments, and furthermore, a sum equal to 6 percent of all the sums bid by the successful bidder at the foreclosure sale, whether they were advanced in cash or not. The bond must be sufficient to cover any waste or damages inflicted on the property by the borrower. The bond must be in place 20 days after the sale, or else the borrower has no right to redeem.