

Nebraska (NE) 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 Nebraska.

The Process

Foreclosures in Nebraska take place judicially, through the filing of petitions for foreclosure in the Nebraska District Court for the county where the property is located. If a prior lawsuit has been won by the lender for the amount due on a loan, it does not stop a lender from filing a subsequent lawsuit seeking a foreclosure sale of mortgaged premises. However, before the court will hear a petition for foreclosure, the lender must prove it has been unable to collect what was judged to be owed in the prior lawsuit. If a suit has been brought for satisfaction of a mortgage rather than a true petition for foreclosure, the lender can only seek the amount due and possession of the property rather than true foreclosure. Whenever a petition for foreclosure is filed either alone or in conjunction with a petition for satisfaction of a mortgage, then the court can decree a sale of the mortgaged premises or such part as is needed to pay off the loan and the costs of suit.

While the lawsuit is pending, the borrower has the right to bring in the past due payments, including principal and interest, and costs, and the lawsuit proceedings will be suspended (stayed). Nevertheless, the court will enter a decree of foreclosure and sale. This will not be enforced unless there is a further order of the court, which will not be given unless the borrower defaults in the future payment of any installment or a portion of one.

The court may order the entire property to be sold, or some part of it, based on a report by the sheriff as to what appears to be the most feasible. The order of sale may be stayed up to nine months after the judgment if the borrower files a written request for a delay (stay) with the clerk of the court within 20 days after the judgment is rendered. Otherwise, the order commanding the sale of the mortgaged property will be given 20 days after the judgment.

The sheriff or officer holding the sale must give public notice of the time and place of the sale by posting the notice on the courthouse door and at five other public locations in the county where the property is located. Two of the five locations must be in the precinct where the property is located. In addition, the sheriff must advertise the property for sale once a week for four weeks in a newspaper either printed in the county or generally circulated in the county. After making the sale, the sheriff or officer will

report it back to the court, which will then confirm the sale. Once the sale is confirmed, the borrower has no right to redeem the property.

A deed shall be executed by the sheriff and it will vest in the purchaser the same title the borrower had. The sales proceeds will be applied to discharge the lender's debt, and if there is a surplus, it goes to other persons who are entitled to it, or it must stay with the court for three months before it can be paid to the borrower.

Deficiency

A deficiency is only possible as a continuation of a foreclosure suit, but not while the foreclosure action is pending or remains incomplete.