

FORECLOSURE

Notice of Foreclosure Hearing

Served ten (10) days before the hearing by:

- a. delivering copy to party
- b. leaving notice at party's dwelling with person of suitable age
- c. mailing a copy registered or certified mail, return receipt requested

Served twenty (20) days before hearing by:

- a. posting notice on property in a conspicuous place

Notice of Sale

Posted in county in which property located at least twenty (20) days immediately preceding sale.

Sale Procedure

Seller invites offers. Generally the creditor is the only bidder. **If there are no more upset bids.** (Upset bid is a bid for a higher price than the prior upset bid),

- a. Within five (5) days following the sale to the highest bidder, the person exercising power of sale must file a preliminary report.
- b. Rights of the parties to sale become fixed if no upset deposit is filed with the clerk by the close of normal business hours on the tenth (10th) day after filing preliminary report of sale.
- c. Person who holds a sale of real property must file a final report within thirty (30) days after receipt of the proceeds of sale.
- d. Clerk audits the account.
- e. The purchaser does not record the deed nor release the purchase funds until the clerk has audited the account and filed it.
- f. Purchaser not entitled to possession until the purchase price is paid and the deed has been delivered.
- g. The debtor may remain in possession pending the closing.
- h. Purchaser must give ten (10) days notice to move out to party who remains in possession.

If there are upset bids

- a. There is no resale after an upset bid; rather each upset bid is followed by a period of ten (10) days for a further upset bid.
- b. The upset bid must be deposited with the clerk within ten (10) days after the report of sale.

Effect of Bankruptcy on Foreclosure

Automatic stay if bankruptcy petition is filed even after the sale, but before the foreclosure is complete. The foreclosure is complete when ten (10) days have passed without an upset bid being filed.