

State Law Impact Project: State Descriptive Summaries¹

ALABAMA	ALASKA
<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: In Alabama, foreclosures can be conducted either judicially or non-judicially, but common practice is non-judicial.</p> <p>REDEMPTION: 12 months. Borrower loses right to redeem unless possession is surrendered within 10 days of foreclosure sale.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: Borrower can cure up to the foreclosure sale by making payment including costs and fees. <p>CUSTOMARY SECURITY INSTRUMENT: Mortgage.</p> <p>TYPICAL FORECLOSURE TIME: 60-90 days.</p> <p>TRANSFER/CONVEYANCE TAX: Yes. Additionally, state income tax will be imposed on the sale of real property located in Alabama by non-residents.</p> <p>ADDITIONAL NON-JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Notice Requirements: For mortgages executed after 1988, publication of notice of sale is required once a week for 3 consecutive weeks in county where property is located. Notice must state the time, place and terms of sale, and must describe property to be sold. Sale may not take place until 30 days after the last notice of sale • Sale Guidelines: Sale must occur at the courthouse door of the county where the property is located between the hours of 11 am and 4 pm on the day designated for the sale. . • Deed in Lieu of Foreclosure: Divests the borrower of the right of redemption but also precludes a deficiency judgment. • Deficiency Judgment: Permitted for the difference between what the property sold for and the loan amount. <p>APPLICABLE LAW: ALA. CODE §§ 35-10-1 <i>et seq.</i> , 40-22-1 <i>et seq.</i>, 40-18-86.</p>	<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: In Alaska, foreclosures can be conducted either judicially or non-judicially, but common practice is non-judicial.</p> <p>REDEMPTION: Borrowers do not have post-sale right of redemption, for non-judicial foreclosures. If judicial foreclosure is pursued, there is a 12 month statutory redemption period.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: Can cure any time before sale, but lender can refuse to accept payment if two prior Notices of Default and Sale have been recorded. <p>CUSTOMARY SECURITY INSTRUMENT: Deed of Trust.</p> <p>TYPICAL FORECLOSURE TIME: 90-100 days.</p> <p>TRANSFER/CONVEYANCE TAX: No; however, ALASKA STAT. § 29.45.650(a) permits a borough to levy a sales tax on all sales and services within the borough and ALASKA STAT. § 29.45.700(a) - (c) permit cities to levy a sales tax on all sales and services within the city.</p> <p>ADDITIONAL NON-JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Notice Requirements: Lender must file notice of default and sale in county where property is located not less than 30 days after default and not less than 3 months before foreclosure sale. Lender must send a copy of the notice within 10 days of filing by certified mail or personal delivery to (1) borrower (2) any person whose claim or lien on the property appears of record or is known to lender or trustee and (3) any occupant. Notice must contain date, time and place of sale, the description of the default, deed of trust recording information and indicate that lender has elected to sell. • Sale Guidelines: Sale must occur at a public auction at the front door of a courthouse of the superior court in the district where the property is located. • Deficiency Judgment: Typically no, pursuit of non-judicial foreclosure precludes owner from seeking deficiency judgment. Allowed for judicial foreclosure. <p>APPLICABLE LAW: ALASKA STAT. §§ 09.35.250, 09.45.220, 34.20.70, 34.20.100, 34.20.160.</p>

¹ The information contained herein is provided as a general overview of the mortgage and real estate foreclosure law of each state in the United States and is provided for reference purposes only. A more detailed review and analysis of each state's specific laws should be undertaken to ensure specific compliance with specific contractual requirements, as the terms of loan documents will likely supersede and/or supplement state law requirements. Andrews Kurth regularly undertakes and oversees foreclosures and other proceedings in various jurisdictions, both within and outside of those states in which it has offices. Andrews Kurth would be pleased to coordinate or assist in any foreclosure or workout matters to the extent appropriate.

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ARIZONA	ARKANSAS
<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: In Arizona, foreclosures can be conducted either judicially or non-judicially, but common practice is non-judicial.</p> <p>REDEMPTION: None.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: Allowed up until the 5:00 PM on the last day, other than a Saturday or legal holiday, before the sale date. <p>CUSTOMARY SECURITY INSTRUMENT: Deed of Trust.</p> <p>TYPICAL FORECLOSURE TIME: 90-180 days. Foreclosure sale can not occur before the 91st day after the recording of the notice of sale.</p> <p>TRANSFER/CONVEYANCE TAX: No.</p> <p>ADDITIONAL NON-JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Notice Requirements: Requires (1) publication in newspaper of general circulation in county where property is located, at least once a week for 4 consecutive weeks, the last being published not less than 10 days before date of sale; (2) posting notice at place on property and, at county courthouse 20 days before date of sale notice; (3) recording notice in county recorder's office; (4) mailing notice to any party requesting notice; and (5) mailing notice to any person who has an interest in the property, as indicated by county records. Notice must contain date, time, and place of sale, description of property and description of default. • Sale Guidelines: Sale must be conducted by trustee or trustee's agent. Credit bids allowed. • Deficiency Judgments: Permitted, but limited to the difference between the balance owed and the fair market value and must be brought within 90 days of the power of sale. Arizona subscribes to the one action rule. Prohibited if land is 2.5 acres or less and was used as a one or two family dwelling. <p>APPLICABLE LAW: ARIZ. REV. STAT. ANN. §§ 33-801, 33-804, 33-807-13 .</p>	<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: In Arkansas, foreclosures can be conducted either judicially or non-judicially, but common practice is non-judicial.</p> <p>REDEMPTION: No statutory right of redemption for non-judicial, but there is a 1 year right for judicial foreclosures, unless otherwise waived.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: Up to the time of the sale. <p>CUSTOMARY SECURITY INSTRUMENT: Deed of Trust.</p> <p>TYPICAL FORECLOSURE TIME: 120 days. 60 days must elapse after filing notice before any foreclosure actions may proceed.</p> <p>TRANSFER/CONVEYANCE TAX: Yes.</p> <p>ADDITIONAL NON-JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Notice Requirements: Lender must record notice of default and intention to sell in county where property is located and within 30 days thereafter, mail notice to mortgagor by certified mail. Notice must include specific information, including conspicuous warning language required by statute. Notice requires: (1) publication in newspaper of general circulation in county where property is located at least once a week for 4 consecutive weeks, the last publication being published not less than 10 days before date of sale; (2) posting notice on the internet and at county courthouse (third-party posting service must be used); and (3) mailing notice to any person who has an interest in the property or who has requested notice, as indicated by county records. Trustee must also file an affidavit of mailing with recorder of deeds prior to or on date of sale. Notice must contain names of parties, time, date, and place of sale, description of default, and the statement "YOU MAY LOSE YOUR PROPERTY IF YOU DO NOT TAKE IMMEDIATE ACTION". • Appraisal: An appraisal must be obtained prior to the scheduled date of foreclosure sale. The property must sell for not less than two-thirds of appraised value, otherwise the property must be offered for sale again within 12 months. The second sale may be to the highest bidder without reference to the previous appraisal. • Sale Guidelines: Sale must occur at the location indicated in the notice of sale between the hours of 10 am and 4 pm, and cannot be held on Saturday, Sunday or a legal holiday. • Deficiency Judgments: Permitted, but limited to the lesser of difference between the balance owed and the fair market value, or the balance owed and foreclosure price. Must be brought within 12 months of the foreclosure sale. <p>APPLICABLE LAW: ARK. CODE ANN. §§ 18-50-101 <i>et seq.</i> , 26-60-102, 26-60-105.</p>

State Descriptive Summaries

CALIFORNIA	COLORADO
<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: In California, foreclosures can be conducted either judicially or non-judicially, but common practice is non-judicial. Lenders have the option to run judicial and non-judicial foreclosures concurrently, but must select one method by: (1) the non-judicial foreclosure sale or (2) the issuance of the court's judgment regarding foreclosure.</p> <p>REDEMPTION: Mortgagor may redeem after judicial foreclosure sale. If sale proceeds are less than the foreclosing mortgage debt, the mortgagor has up to 12 months after the sale to redeem. If sale proceeds satisfy the foreclosing mortgage debt, then mortgagor has 3 months to redeem. Junior lien holders have no right of redemption, and there is no statutory right of redemption if the deficiency judgment is waived.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: Can cure within 90 days following the recordation of notice of default to prevent notice of sale. Otherwise, can cure up to 5 days before sale. <p>CUSTOMARY SECURITY INSTRUMENT: Deed of Trust.</p> <p>TYPICAL FORECLOSURE TIME: Minimum 120 days. 60 days must elapse after filing notice before any foreclosure actions may proceed.</p> <p>TRANSFER/CONVEYANCE TAX: Yes.</p> <p>ADDITIONAL NON-JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Notice Requirements: <ul style="list-style-type: none"> • Notice of default is required three months before sale. Notice of default is recorded in the county in which the property is located when borrower fails to make a loan payment. A copy of the notice of default is sent by certified mail to mortgagor within 10 business days of recording. The mortgagor has 90 days from the date of recordation of the notice of default to cure the default. If the mortgagor fails to cure the default, a notice of sale is recorded. Notice of default must identify the mortgage and nature of breach, the decision to sell to satisfy obligation, and notice of the right to cure • Notice of sale must be recorded in the county where the property is located at least 14 days before sale. Mortgagor must receive 20 days notice before sale. Notice must be: (1) mailed to defaulting borrower and other creditors with liens against the property; (2) be posted at property being foreclosed upon and in a public place in the county where sale will occur; and (3) published once a week for 3 consecutive weeks, the first publication to be at least 20 days before the date of sale, in a newspaper of general circulation. Must contain time and place of sale and the total amount due plus a reasonable estimate of costs and expenses. • Sale Guidelines: Sale must occur 21 days after first publication at the place designated in the notice on any business day between the hours of 9 am and 5 pm. • Deed in Lieu of Foreclosure: Divests the borrower of the right of redemption but also precludes a deficiency judgment. • Deficiency Judgment: Permitted, unless property is sold in a non-judicial public sale or if a portion of the loan proceeds are used to purchase the mortgage in default, in which case deficiency judgments are not permitted. California subscribes to the one action rule. <p>APPLICABLE LAW: CAL. CIV. CODE § 2924 <i>et seq.</i>; CAL. CIV. PROC. CODE § 725a - 730.5; CAL. REV. & TAX §§ 480, 11911</p>	<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: In Colorado, foreclosures can be conducted either judicially or non-judicially, but common practice is non-judicial by a public trustee.</p> <p>REDEMPTION: As of January 1, 2008, mortgagors no longer have a post-sale right of redemption. Junior lien holders may redeem if a notice of intent is filed within 8 business days of the foreclosure sale.</p> <ul style="list-style-type: none"> • Borrower's Right to Cure: Must give 15 day notice of intent to cure. Can cure up until noon of the day before sale. <p>CUSTOMARY SECURITY INSTRUMENT: Deed of Trust.</p> <p>TYPICAL FORECLOSURE TIME: 110-125 days.</p> <p>TRANSFER/CONVEYANCE TAX: Yes.</p> <p>ADDITIONAL NON-JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Notice Requirements <ul style="list-style-type: none"> • Notice of Motion: Allows for court order authorizing sale. Notice must be given 15 days prior to hearing date. • Notice of Election and Demand: Foreclosure begins upon the lender's filing the following with the Public Trustee in the county where the property is located: (1) notice of demand for sale; (2) evidence of debt; (3) a true copy of original deed of trust; (4) certificate stating name and address of the current property owner; and (5) the names and addresses for those being noticed of foreclosure. No later than 10 business days following receipt of lender's required documents, the Public Trustee files the Notice of Election and Demand ("NED") with the county clerk and recorder of the county. Must include names of all parties, description of property, and description of default. • Notice of sale, right to cure, and right to redeem: Within 20 days after recording NED, the Public Trustee must mail a combined notice to the owner, any guarantor on the note and the occupant of the property. Must include same as above and deadlines for notice of intent to cure or redeem, the name and address of all attorneys, and the date and place of sale. No more than 60 days or less than 45 days prior to sale date, the Public Trustee again mails the combined notice to all parties on the mailing list (prepared by lender). The combined notice is also published in a newspaper for 5 consecutive weeks prior to sale between sixty and forty-five days prior to first scheduled sale date. Lender must make a written bid for the property in the form required by statute. • Notice for Residential Foreclosure: Lender must provide certain additional notice to owner before pursuing a foreclosure sale of residential property. • Deficiency Judgment: Lender may file suit to recover any deficiency balance. However, the property owner may present evidence that lender bid less than a good faith estimate of the value of the property to avoid a deficiency judgment. <p>APPLICABLE LAW: COLO. REV. STAT. §§ 38-38-101 <i>et seq.</i>, 39-13-102, 39-13-104, 39-14-102.</p>

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CONNECTICUT	DELAWARE
<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: Connecticut is a judicial foreclosure state. The judicial foreclosure process in Connecticut is carried out by either strict foreclosure or a decree of sale.</p> <p>REDEMPTION: Connecticut has no specific statutory right of redemption. In a strict foreclosure, the court will set a specific date, also known as a law day, after which no right of redemption can be made and title will automatically vest in the lender. In a foreclosure sale proceeding, the court will generally provide a short period during which the borrower can redeem the property by paying the full amount of the debt plus costs.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: Borrower can cure up until date of sale. <p>CUSTOMARY SECURITY INSTRUMENT: Mortgage.</p> <p>TYPICAL FORECLOSURE TIME: 60-75 days (strict foreclosure).</p> <p>TRANSFER/CONVEYANCE TAX: Yes. Additionally, a controlling interest conveyance tax is triggered when there is a transfer of the controlling interest of any entity which possesses, directly or indirectly, an interest in real property with a value equal to or exceeding \$2000.</p> <p>ADDITIONAL JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Foreclosure Procedure: Must file a complaint which must be served on all defendants at least 12 days prior to the return date. The return date is the date when the borrower and lien holders have to appear in court. • Strict Foreclosure: A strict foreclosure will occur when the borrower has no equity in the property. The court will establish a law day and if the borrower fails to pay the debt by such date, the lender has one month to record a certificate of foreclosure. • Decree of Sale: The court shall order a foreclosure sale if there is equity in the property. A party is appointed by the court to conduct and advertise the sale. Once the auction has occurred, the court must determine whether to approve the sale. The borrower can redeem the property at any time prior to the court approving the sale by paying off the debt. • Homeowner Protections: Connecticut protects unemployed or underemployed residential borrowers who are the subject of a foreclosure if the distressed property has been the borrower's principal residence for at least 2 years. If applicable, borrowers can apply for protection from the court within 25 days after receipt of a notice of default. • Deficiency Judgment: The lender may file suit to recover any deficiency balance within 30 days after redemption period expires. <p>APPLICABLE LAW: CONN. GEN. STAT. §§ 49-15, 49-22, 49-31 <i>et seq.</i>, 12-494, 12-497 to -498, 12-638b.</p>	<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: Delaware is a judicial foreclosure state. If borrower defaults, lender has the option to take several remedies simultaneously. Lender could sue to collect on the note and foreclose the mortgage or pursue each action individually. Usually, the speediest process is <i>scire facias</i>, a procedure which contemplates a sale of the mortgaged property for a sum that will pay the balance on the loan, or a transfer of title to the lender, after a public sale of the property has been attempted, in exchange for a credit against some part of the balance on the loan, or up to the full balance owed on the loan.</p> <p>REDEMPTION: Although Delaware has no statutory right of redemption, the owner may redeem the property prior to the court confirming a sale.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: None <p>CUSTOMARY SECURITY INSTRUMENT: Mortgage.</p> <p>TYPICAL FORECLOSURE TIME: 175-200 days.</p> <p>TRANSFER/CONVEYANCE TAX: Yes.</p> <p>ADDITIONAL JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Foreclosure Procedures: Must file a <i>scire facias</i> complaint with the courts in the jurisdiction where the property is located. Borrower has 20 days to respond. Burden of proof is on the borrower to show cause that there should be no foreclosure. • Notice of Sale: Sheriff posts notice of sale on the property and in other public places at least 10 days before the sale date. The notice should include date, time, and location of sale, as well as a brief property description and location of property. The notice is also delivered to the borrower at least 10 days before the sale date. In addition, sale should be advertised in newspaper 2 weeks before sale. Sales are conducted by sheriff, either at the mortgaged premises, or at the county courthouse. • Deficiency Judgments: Permitted, but limited to the difference between what the property sold for and the loan amount. <p>APPLICABLE LAW: DEL. CODE ANN. tit. 10 §§ 4973 to 4974, 5061; DEL. CODE ANN. tit. 30 §§ 5401(1), 5402.</p>

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FLORIDA	GEORGIA
<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: Florida is a judicial foreclosure state.</p> <p>REDEMPTION: At any time before the later of the filing of a certificate of sale by the court clerk or the time specified in the judgment, order, or decree of foreclosure.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: The mortgagor or the holder of any subordinate interest may cure the mortgagor's indebtedness and prevent a foreclosure sale by tendering the performance due under the security agreement, including any amounts due because of acceleration, plus expenses of foreclosure. <p>CUSTOMARY SECURITY INSTRUMENT: Mortgage.</p> <p>TYPICAL FORECLOSURE TIME: 180-200 days.</p> <p>TRANSFER/CONVEYANCE TAX: Yes. Additionally, "entity" sales are subject to documentary stamp taxation in the same manner as a sale of real property.</p> <p>ADDITIONAL JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Foreclosure Procedures: Must file complaint for foreclosure, which may be accompanied by a request for a deficiency judgment with county court where property is located. Borrowers must be personally served and granted 20 days to respond. If unable to personally serve, hearing will be held 31 days following date of first publication. Typically, a foreclosure claim is tried without a jury. If the borrower does not answer, the court will enter a judgment of foreclosure which is followed by publication of a clerk's sale. • Notice of Sale: The notice must be published for two consecutive weeks in a newspaper of general circulation. Second publication must be at least five days before sale date. Notice must include: description of property, time and place of sale, statement that sale will be made pursuant to decree of foreclosure, docket number and name of case. • Sale Guidelines: Sales is made by clerk no less than 20 days following final decree • Deficiency Judgments: Permitted, but limited to the difference between what the property sold for and the loan amount. Must have in-hand service in order to seek deficiency. <p>APPLICABLE LAW: FLA. STAT. ANN. §§ 702.01 <i>et seq.</i>, 201.02, 201.08, 45.0315; FLA. ADMIN. CODE § 12B-4.014.</p>	<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: In Georgia, foreclosures can be conducted either judicially or non-judicially, but common practice is non-judicial.</p> <p>REDEMPTION: None.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: None <p>CUSTOMARY SECURITY INSTRUMENT: Deed of Trust.</p> <p>TYPICAL FORECLOSURE TIME: 60-90 days.</p> <p>TRANSFER/CONVEYANCE TAX: Yes.</p> <p>ADDITIONAL NON-JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Notice Requirements: Notice of the initiation of proceedings to exercise a power of sale in a mortgage or other lien contract must be given to the debtor by the secured creditor no later than 30 days before the date of the proposed foreclosure. The notice must include the name, address, and telephone number of the individual or entity who has authority to negotiate, amend and modify the terms of the mortgage. The notice must be given by mailing or delivering to the debtor a copy of the notice of sale to be submitted to the publisher. Lender must then publish notice in county newspaper once a week for 4 consecutive weeks prior to sale. • Sale Guidelines: Sale must occur on the courthouse steps on the first Tuesday of the month between the hours of 10 am and 4 pm. • Deficiency Judgment: Permitted, however, if a non-judicial foreclosure is conducted, lender's rights must be preserved by filing an application for confirmation of sale within 30 days after the foreclosure sale. <p>APPLICABLE LAW: GA. CODE ANN. §§ 9-13-140 to -141, 44-14-161 <i>et seq.</i>, 48-6-1 <i>et seq.</i>, 48-6-60 <i>et seq.</i>; GA. COMP. R. & REGS. 560-11-3-.15.</p>

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HAWAII	IDAHO
<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: In Hawaii, foreclosures can be conducted either judicially or non-judicially, but common practice is judicial. Hawaii has two processes, the power of sale in mortgage for those executed prior to July 1, 1999 and the alternate power of sale process for those executed after July 1, 1999</p> <p>REDEMPTION: No statutory right of redemption following completion of foreclosure, regardless of whether foreclosure is by judicial process or power of sale.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: None for power of sale in Mortgage, 60 days from notice of default for Alternate Power of Sale Process, up to 3 business days before sale. <p>CUSTOMARY SECURITY INSTRUMENT: Mortgage.</p> <p>TYPICAL FORECLOSURE TIME: 60-90 days.</p> <p>TRANSFER/CONVEYANCE TAX: Yes.</p> <p>ADDITIONAL NON-JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Notice Requirements (Power of Sale in Mortgage): Prior to foreclosure, mortgagee must be represented by counsel licensed in Hawaii. Counsel shall provide notice of intent to foreclose by: (1) publishing notice once a week for 3 weeks in a newspaper of general circulation in the county where property is located, the last publication being published not less than 14 days before sale; (2) filing a copy of the notice with the state director of taxation; (3) posting notice on the property not less than 21 days before sale; and (4) give any notices and do all acts required by the power contained in the mortgage. Within 30 days of sale, mortgagee must file copy of notice of sale and mortgagee's affidavit in the bureau of conveyances. Other mortgage creditors who have timely requested notice must be notified of sale at least 7 days prior to sale. • Notice Requirements (Alternative Power of Sale Process): Under the alternative foreclosure procedure, mortgagee must send notice of default to mortgagor, prior or junior creditors, state director of taxation, and the county director of finance. <ul style="list-style-type: none"> • Notice of default must contain: (1) name and address of current mortgagee; (2) name and last known address of the mortgagor, the borrower and any guarantor; (3) property description; (4) listing of defaults; (5) actions required to cure defaults; (6) the date by which the default must be cured; (7) consequences if they are not cured; (8) name, address, and phone number of attorney who is representing the foreclosing mortgagee; and (9) default provision as set forth in the statute. Notice of default must be recorded. • Notice of Sale: Contains date, time, and place of sale, unpaid balance on mortgage, description of parties and property. If the default is not cured, a sale may take place 60 days after public notice is distributed to interested parties or 14 days after date of publication of the third notice advertisement. • Sale Guidelines: On the day designated in the notice, sale must occur at the appropriate courthouse door where the property is located between the hours of 11 am and 4 pm. • Deficiency Judgment: Permitted for the difference between what the property sold for and the loan amount. <p>APPLICABLE LAW: HAW. REV. STAT. §§ 667 <i>et seq.</i>, 247-1 <i>et seq.</i></p>	<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: The method of foreclosure in Idaho depends on whether the security instrument used is a mortgage or deed of trust, but common practice is non-judicial. If the security instrument is a mortgage, only a judicial foreclosure is permitted. If a deed of trust is used only non-judicial foreclosure is permitted. Power of sale clauses are only valid for real property either: (1) located in incorporated cities; or (2) not larger than 80 acres unless land is principally used for agriculture in which case property can not exceed 40 acres.</p> <p>REDEMPTION: Mortgage: 1 year redemption period if distressed property is larger than 20 acres and 6 month redemption period if less than 20 acres. Following non-judicial foreclosure, no right of redemption is available under a deed of trust.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: Under a deed of trust, borrower or junior lienholder may cause a delinquent loan to be reinstated by paying the amount that was due prior to acceleration within 115 days after notice of default is recorded. <p>CUSTOMARY SECURITY INSTRUMENT: Deed of Trust.</p> <p>TYPICAL FORECLOSURE TIME: 150 days.</p> <p>TRANSFER/CONVEYANCE TAX: No.</p> <p>ADDITIONAL NON-JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Notice Requirements: <ul style="list-style-type: none"> • Notice of Default: Lender must (1) record notice of default in county where property is located and (2) mail a copy of the notice of default, together with the notice required by Idaho law, to any person requesting such notice of record by registered or certified mail. • Notice of Sale: Subsequent to recording of notice of default and at least 120 days before sale date, notice of sale shall be given by registered or certified mail to mortgagor and other parties of interest. Notice of sale shall include (a) names of grantor, trustee and beneficiary (b) description of the property (c) book and page of the mortgage records (d) default for which foreclosure is made (e) sum owing on the obligation secured by the deed of trust, and (f) date, time and place of the sale. At least three good faith attempts shall be made on different dates over not less than 7 days each of which attempt is at least 30 days prior to sale date to serve a copy of the notice of sale upon an adult occupant of the property. At each attempt, notice shall be posted on the property in a conspicuous place. Lender must publish notice once per week for 4 consecutive weeks in a newspaper in the county where property is located, last publication being not be less than 30 days before sale. An affidavit of mailing, posting and publication of notice of sale shall be recorded in the mortgage records. Trustee may postpone sale if written notice is provided within 30 days of original sale date. • Sale Guidelines: Typically, sale must occur between the hours of 9 am and 4 pm at a designated place in the county or one of the counties where the property is located. • Deficiency Judgment: Permitted, but limited to the difference between the amount of debt and the fair market value of the property as found by the court. Action must be brought within 3 months of foreclosure sale. <p>APPLICABLE LAW: IDAHO. CODE ANN. §§ 11-402, 45-15002 <i>et seq.</i></p>

State Descriptive Summaries

ILLINOIS

JUDICIAL/NON-JUDICIAL FORECLOSURE: Illinois is a judicial foreclosure state. Lender may file suit under (1) strict foreclosure; or (2) Illinois Mortgage Foreclosure law.

REDEMPTION: Mortgagor has until the later of: (1) 6 months (7 months if residential property) after being served with summons or submits to the jurisdiction of the court; or (2) 3 months from the foreclosure judgment date.

- **Borrower Right to Cure:** Borrower has 90 days from the service of the complaint.

CUSTOMARY SECURITY INSTRUMENT: Mortgage.

TYPICAL FORECLOSURE TIME: 210-270 days.

TRANSFER/CONVEYANCE TAX: Yes. Additionally, the Real Estate Transfer Tax applies to a transfer of a controlling interest in a real estate entity that owns property located in Illinois.

ADDITIONAL JUDICIAL FORECLOSURE INFORMATION:

- **Foreclosure Procedures:** Lender must file and serve a complaint on borrower. The complaint must include, among other things, date of the mortgage, the lender's and borrower's names, recording information, the amount of original indebtedness, and supporting documents. The complaint must also include a request to seek a deficiency judgment if the sale of the mortgaged real estate fails to produce a sufficient amount to pay the indebtedness. A notice of foreclosure is recorded in the county in which the property is located.
- **Notice Requirements:** Once the court issues a judgment of foreclosure, a notice of sheriff's sale is published in the local newspaper in the county where the property is located once a week for 3 weeks, the first such notice to be published no more than 45 days prior to the sale and the last notice to be published not less than 7 days prior to the sale. Notice must include contact information, description of the property, time, place, and terms of sale
- **Sale Guidelines:** Sale must occur after the applicable redemption periods. Sale is conducted by sheriff, who must make a report of sale within 10 days.
- **Deed in Lieu of Foreclosure:** Borrower may convey property via a deed in lieu of foreclosure subject to any other claims or liens affecting the real property. Borrower not subject to a deficiency judgment if a deed in lieu of foreclosure is executed.
- **Consent Foreclosure:** In this procedure, all of borrower's right and title vest in the lender free and clear of all claims (except those held by the US government). Borrower has no right of redemption once judgment is rendered. Lender waives any right to pursue a deficiency judgment against the borrower.
- **Deficiency Judgment:** Generally permitted for the difference between what the property sold for and the loan amount, except if deed in lieu or consent foreclosure is used.

APPLICABLE LAW: 735 ILL. COMP. STAT. 5/15-1101 *et seq.*, 35 ILL. COMP. STAT. 200/31-1 *et seq.*; 86 ILL. ADM. CODE 120/20.

State Descriptive Summaries

INDIANA	IOWA
<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: Indiana is a judicial foreclosure state.</p> <p>REDEMPTION: At any time prior to the sale, any owner or part owner of the real estate may redeem the property from the judgment. No post-sale right of redemption exists.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: If before final judgment, any interest or installment of principal are due, but no other installments are due, and defendant pays the principal and interest, plus costs, at any time before judgment, foreclosure will be dismissed. <p>CUSTOMARY SECURITY INSTRUMENT: Mortgage.</p> <p>TYPICAL FORECLOSURE TIME: 150-200 days. Date mortgage executed determines length of time that must elapse before foreclosure actions may proceed to judgment. If mortgage was executed before January 1, 1958: 12 months; between January 1, 1958 and July 1, 1975: 6 months; and after July 1, 1975: 3 months. Owner may file waiver which allows sale to proceed without delay, but lender loses any right to pursue a deficiency judgment.</p> <p>TRANSFER/CONVEYANCE TAX: No.</p> <p>ADDITIONAL JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Foreclosure Procedures: Lender must file a complaint against borrower to obtain judgment and decree of sale. After receiving the certified judgment, the Sheriff will proceed with a foreclosure sale • Notice Requirements: Before selling the property, the Sheriff will publish notice of sale once a week for 3 consecutive weeks. Notice must also be served on owner and posted on the door of the courthouse in the county where property is located. The first publication must run 30 days before sale, at which time each owner must be served with notice of the sale. Notice must include the location of the property and common description. • Sale Guidelines: Sheriff will perform auction between the hours of 10 am and 4 pm on the date specified in the notice, unless the debtor or the lender requests an auctioneer. The owner may reside in the property rent free until foreclosure sale, as long as owner is not committing waste. • Deficiency Judgment: Permitted, but limited to the difference between what the property sold for and the loan amount. Lenders are not entitled to pursue a deficiency judgment if the mortgage instrument does not expressly obligate the borrower to pay the sum intended to be secured by the mortgage. <p>APPLICABLE LAW: IND. CODE §§ 32-29-7-1 <i>et seq.</i>; 32-29-1-2</p>	<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: Iowa is traditionally a judicial foreclosure state, however, non-judicial foreclosure procedures are available.</p> <p>REDEMPTION: Redemption periods depend on the use of the property and other factors. If property use is agricultural or homestead, redemption period is 1 year, but can be reduced to 6 months upon waiver of deficiency judgment and other circumstances. If property use is not agricultural or homestead, redemption period is 180 days, but can be reduced to 90 days if lender waives deficiency judgment. If lender elects to foreclose on non-agricultural property without the right of redemption, a sale of property occurs promptly after entry of a judgment unless borrower files a written demand to delay the sale. The period of delay will depend on the property use and borrower can redeem up to time of sale.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: Prior to initiating foreclosure, lender must grant an occupant-borrower an opportunity to cure default by sending notice of right to cure. This right is only available once a year and borrower has right to cure the default within 30 days from the date the lender delivers notice or mails notice to the borrower. <p>CUSTOMARY SECURITY INSTRUMENT: Mortgage.</p> <p>TYPICAL FORECLOSURE TIME: 180 days.</p> <p>TRANSFER/CONVEYANCE TAX: Yes.</p> <p>ADDITIONAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Judicial Foreclosure: <ul style="list-style-type: none"> • Foreclosure Procedures: If borrower fails to cure, lender may file a complaint against the borrower and obtain a decree of sale from a court having jurisdiction in the county where the property is located. If the court finds the borrower in default, they will give them a set period of time to pay the delinquent amount, plus costs. If the borrower does not pay within the set period of time, the court will then order the property to be sold. • Notice of Sale Requirements: Notice of sale must be posted in at least three public places of the county, one of which shall be at county courthouse. In addition, there shall be two weekly publications of such notice in newspaper printed in county, with the first publication being at least four weeks before the date of sale, and the second at a later time before the date of sale. If the borrower is in actual occupation and possession of the property, the notice must be served on them at least twenty days prior to the date of the sale. • Sale Guidelines: The sale must be at public auction, between 9:00 am and 4:00 pm and the time must be stated clearly in the notice of sale. The sheriff shall receive and give a receipt for a sealed written bid submitted prior to the public auction. The sheriff may require all sealed written bids to be accompanied by payment of any fees required to be paid at the public auction by the purchaser, to be returned if the person submitting the sealed written bid is not the purchaser. The sheriff must keep all written bids sealed until the commencement of the public auction, at which time the sheriff will open and announce the written bids as though made in person. • Alternative No Judicial Voluntary Foreclosure Procedure: If lender and borrower mutually agree, a lender may pursue an alternative, no judicial foreclosure if it elects to waive any rights to a deficiency judgment. • Non-Judicial Foreclosure without Consent of Borrower: A lender also may pursue a non-judicial foreclosure without the consent of the borrower. Lender must serve notice on the borrower, any party in possession and any junior lienholders. The borrower may reject the lender's notice by filing a notice of rejection with the recorder of the county where the property is located and the lender's notice is no longer effective. If default is not corrected within 30 days, lender must file the notice with proof of service with the county recorder. After lender files notice and if the borrower does not reject the notice, the foreclosure is complete and the debt is extinguished • Deficiency Judgment: Permitted for the difference between what the property sold for and the judgment amount. If lender accepts the mortgage either by a deed in lieu or voluntary conveyance, lender waives any rights to file for a deficiency judgment against the borrower. <p>APPLICABLE LAW: IOWA CODE ANN. §§ 428A.1 <i>et seq.</i>, 626.1 <i>et seq.</i>, 628.1 <i>et seq.</i>, 654.1 <i>et seq.</i>, 655A.1 <i>et seq.</i></p>

State Descriptive Summaries

KANSAS	KENTUCKY
<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: Kansas is a judicial foreclosure state.</p> <p>REDEMPTION: Kansas has a 12-month statutory right of redemption, however, this right could be reduced to 6 months if the property is abandoned. Except for agricultural and homestead property, right of redemption can be waived in the mortgage agreement. If a default on which foreclosure is based occurs before one-third of the original indebtedness has been paid, the redemption period is reduced to 3 months. If the amount of the indebtedness is less than one-third of the market value of the property, the court may allow a 12-month redemption period.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: None <p>CUSTOMARY SECURITY INSTRUMENT: Mortgage.</p> <p>TYPICAL FORECLOSURE TIME: 120-140 days.</p> <p>TRANSFER/CONVEYANCE TAX: No.</p> <p>ADDITIONAL JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Foreclosure Procedure: Lender must file a complaint in local district court. If personal service, borrower has 20 days to respond. If service by publications, borrower has 41 days to respond. • Notice Requirements: Officer gives notice of sale by advertising once a week for 3 weeks, the last publication being no more than 14 and no less than 7 days before date of sale. Notice must include time and place of sale. • Sale Guidelines: Sheriff's sale is typically held at the courthouse of the county where the property is located, unless the district judge orders sale to take place elsewhere. The sale must be confirmed by the court. • Deficiency Judgment: Permitted for the difference between what the property sold for and the amount due on the loan. The court also has the discretion to refuse to confirm a sale for an inadequate price or set an upset price. <p>APPLICABLE LAW: KAN. STAT. ANN. §§ 60-2410, 60-2414-15.</p>	<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: Instead of foreclosure, the remedy available to lenders is an action to enforce a lien, which is identical in process to a judicial foreclosure. If the property is abandoned, the lender may obtain possession, but any income produced will be credited toward paying off what the borrower owed.</p> <p>REDEMPTION: If the sale does not bring at least two-thirds of its appraised value, the owner has one year to redeem the property after the sale by payment of the original purchase money and 10% per annum interest thereon. The right of redemption is marketable and may be sold to a third party.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: None <p>CUSTOMARY SECURITY INSTRUMENT: Mortgage.</p> <p>TYPICAL FORECLOSURE TIME: 150 days.</p> <p>TRANSFER/CONVEYANCE TAX: Yes.</p> <p>ADDITIONAL JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Foreclosure Procedure: Complaint filed in circuit court. Defendants, which includes all other lienholders of record, have 20 days to respond from the date of service. If successful, the sheriff executes the judgment under a writ of execution, which may not be issued before 10 days from rendition of judgment. The property must be appraised in writing prior to sale. • Notice Requirements: Notice must be posted in 4 places, one being the courthouse door for 15 days preceding the sale date or by newspaper notice if required. If newspaper advertisement required, then advertisement shall be published at least once, but may be published 2 or more times, provided that one publication occurs not less than 7 days nor more than 21 days prior to sale. The notice shall include the time, place and terms of sale and a description of the property. • Sale Guidelines: Sale occurs at the courthouse door of the county where property is located. The officer who makes the sale must report the sale price to the court and the sale must be confirmed by the court. Surplus of sale proceeds goes to the defendant. • High-Cost Home Loans: A lender may not initiate a foreclosure or other judicial process to terminate a borrower's interest in residential real property subject to a high-cost home loan without first providing the borrower (at least 30 days before the initiation of any process) written notice of default and of the borrower's right to cure. • Deficiency Judgment: Permitted, but only if borrower was personally served with the lawsuit or failed to answer, in which case, deficiency judgments are permitted for the difference between what the property sold for and the loan amount. <p>APPLICABLE LAW: KY. REV. STAT. §§ 360.100, 424.130; 426.006, 426.030, 426.200, 426.220, 426.240, 426.525, 426.530, 426.540, 142.010 <i>et seq.</i></p>

State Descriptive Summaries

LOUISIANA	MAINE
<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: Louisiana is a judicial foreclosure state. Mortgage foreclosure may be accomplished judicially in either an ordinary or an executory proceeding.</p> <p>REDEMPTION: None.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: In an executory foreclosure, borrower has three days from issuance of notice of default to cure before seizure order is set <p>CUSTOMARY SECURITY INSTRUMENT: Mortgage.</p> <p>TYPICAL FORECLOSURE TIME: 120-270 days.</p> <p>TRANSFER/CONVEYANCE TAX: No, except for the City of New Orleans. NEW ORLEANS, LA., TAXATION ORDINANCES ch. 150, art. V § 150-391</p> <p>ADDITIONAL ORDINARY/EXECUTORY FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Ordinary Foreclosure: <ul style="list-style-type: none"> • Foreclosure Procedures: In ordinary proceedings, once lender files suit and legal delays have expired, the lender requests that a writ of fieri facias to the sheriff of the parish where the property is located. The sheriff then effects a constructive (or actual) seizure of the property. The property is then scheduled for judicial sale, advertised, appraised (unless waived) and sold. • Notice Requirements: Pursuant to the writ of fieri facias, the sheriff effects a constructive (or actual) seizure of the property by service of a notice of seizure on the borrower (and the occupant, if property is residential). The sheriff shall advertise the sale no sooner than 3 days after the service of notice of seizure on the borrower. The notice of sale under a writ of fieri facias shall be published at least twice in the manner provided by law. • Sale Guidelines: Sale must occur at public auction. The property will not be sold if the highest bid is less than two-thirds the appraised value. In the event the property is re-advertised for sale, the property will be sold for whatever it will bring unless such amount is not sufficient to cover the expenses of sale and the liens superior to the seizing creditor. • Deficiency Judgments: Permitted under the ordinary process for the difference between what the property sold for and the loan amount. Lender may pursue the balance of the judgment by seizing other property of the borrower. • Executory Foreclosure: <ul style="list-style-type: none"> • Foreclosure Procedures: In an executory proceeding, the lender relies on a confession of judgment in the mortgage, meaning the mortgage is signed before a notary and two witnesses. Based on that confession, the lender files suit requesting an ex parte order that the property be seized and sold. Defenses may be raised through an injunction or suspensive appeal. If a lender is entitled, a writ of seizure and sale issues to the sheriff who effects an immediate seizure of the property. The property is then scheduled for judicial sale, advertised, appraised (unless waived) and sold. The executory process is much quicker than an ordinary proceeding, but the lender must comply with strict evidentiary requirements. • Notice Requirements: The sheriff effects a seizure of the property by service of a notice of seizure on the borrower. The notice of sale under a writ of seizure and sale shall be published at least once a week for 30 days. • Sale Guidelines: The property will be sold for cash subject to any liens superior to that of the seizing creditor. The property will be sold for whatever it will bring unless such amount is not sufficient to cover the expenses of sale and the liens superior to the seizing creditor. • Deficiency Judgment: Assuming the property has been appraised and there are no substantive defects in the executory proceeding, the lender may seek a deficiency judgment against the borrower. 	<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: In Maine, foreclosures can be conducted either judicially or by strict foreclosure. A foreclosure may be accomplished non-judicially against a corporation, partnership or limited liability company.</p> <p>REDEMPTION: A 3 month redemption period is allowed if the mortgage was executed after 1975. If the mortgage was executed before 1975, then a 12 month redemption period is available. In order for lender to become the owner of the property through strict foreclosure, lender must hold the property throughout the entire redemption period.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: Within 30 days of notice of default. Amount sufficient to cure can include attorney's fees • Waiver: If the lender accepts money or anything of value on the mortgage debt after the foreclosure has begun and before the redemption time period has expired, then the lender waives the foreclosure procedure. <p>CUSTOMARY SECURITY INSTRUMENT: Mortgage.</p> <p>TYPICAL FORECLOSURE TIME: 180-200 days.</p> <p>TRANSFER/CONVEYANCE TAX: Yes. Additionally, a tax is imposed on the transfer or acquisition within any 12-month period of a direct or indirect controlling interest in any entity with a fee interest in real property in Maine.</p> <p>ADDITIONAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Judicial Foreclosure: <ul style="list-style-type: none"> • Foreclosure Procedure: A judicial foreclosure begins with the filing of a foreclosure complaint with the district or superior court. All parties having an interest in the property that is junior to that of the foreclosing lender are named as parties-in-interest in the action. The court must determine after a hearing whether a breach has occurred. Process is to be served in accordance with Maine Rules of Civil Procedure. • Notice Requirements: At the end of the redemption period, the lender publishes notice of a public sale of the premises for 3 successive weeks in newspaper in county where property is located. The first publication must be made not more than 90 days after expiration of the redemption period. Lender is required to mail notice of sale to all parties that appeared in the foreclosure action or to their attorneys of record at least 30 days prior to the sale date. • Sale Guidelines: A public sale is held not less than 30 days nor more than 45 days after the first date of publication. If the lender is the highest bidder, there is no obligation to account for any surplus upon a subsequent sale by the lender. • Strict Foreclosure: Strict foreclosures can be divided into those circumstances in which the lender seeks possession and those situations where the lender does not seek possession as part of the foreclosure. <ul style="list-style-type: none"> • Strict Foreclosure with Possession: Three methods for lender to regain possession: (1) obtain a writ of possession from a court by filing an action that requests the writ as part of a conditional judgment, (2) enter the property and take possession if borrower consented in writing, or (3) enter the premises peacefully, openly and without opposition in the presence of 2 witnesses and maintain possession throughout the redemption period. • Strict Foreclosure without Possession: Lender can foreclose without regaining possession by arranging to sell borrower's property. Initially the lender files an action to obtain a judgment regarding the money owed by the borrower. Lender must publish notice of the impending foreclosure for 3 successive weeks in a newspaper in the county in which the land is located. After the expiration of the redemption period, the lender may sell the property by special procedure. Foreclosure sale must take place no less than 30 days and no more than 45 days after the initial publication of notice.

State Descriptive Summaries

APPLICABLE LAW: LA. REV. STAT. ANN. § 10:9-629 *et seq.*; LA. CODE CIV. PROC. ANN. art. 2291 *et seq.*, 2331 *et seq.*, 2631 *et seq.*, 2721 *et seq.*

- **Power of Sale Foreclosure:** Mortgage may contain a power of sale if the mortgage was granted by a corporation, partnership or limited liability company. The power of sale may not be used if at the time the mortgage is given, the property is used primarily for residential purposes, the property has 4 or fewer units and one unit is the principal residence of the borrower.
 - **Notice Requirements:** Notice must be published once in each of 3 successive weeks, the first publication to be not less than 21 days before the day of the sale in a newspaper of general circulation in the town where the land lies. A copy of the notice must be served on the borrower or its representative in interest, or may be sent by registered mail addressed to it or the representative at its last known address, or to the person and to the address as may be agreed upon in the mortgage, at least 21 days before the date of the sale.
 - **Sale Guidelines:** Lender may bid at sale and may purchase property if the highest bid.
 - **Waiver of Foreclosure:** If lender accepts money or anything of value on the mortgage debt after foreclosure action has commenced and before the expiration of the redemption period, lender waives the foreclosure process, unless (1) an agreement to the contrary is signed by the person giving the payment, or (2) lender returns the payment within 10 days of receipt.
 - **Deficiency Judgment:** Limited to the amount established as of the date of the sale, and by the fair market value, determined by appraisal, as of the date of the sale if the lender is the purchaser.
- APPLICABLE LAW:** ME. REV. STAT. ANN. tit. 14, § 6321 *et seq.*, 33:9A § 501-553, ME. REV. STAT. ANN. tit. 36, § 4641 *et seq.*

State Descriptive Summaries

MARYLAND	MASSACHUSETTS
<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: In Maryland, foreclosures are judicial, although a mortgage or deed of trust may contain a power of sale or assent to decree for sale provision. Property sold pursuant to a power of sale provision must still be ratified by the court.</p> <p>REDEMPTION: All rights of the borrower cease to exist on the date of sale, unless satisfactory proof of a defect is shown prior to the final satisfaction by the court.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: Yes, by paying all past-due penalties, payments, and fees, up to one day before sale. <p>CUSTOMARY SECURITY INSTRUMENT: Mortgage.</p> <p>TYPICAL FORECLOSURE TIME: 90-135 days. An action to foreclose a mortgage or deed of trust on residential property may not be filed until the later of: (1) 90 days after default; or (2) 45 days after notice of intent to foreclose is sent.</p> <p>TRANSFER/CONVEYANCE TAX: Yes. Additionally, transfer taxes are imposed on the transfer of a controlling interest in a real property entity as if the real property, directly or beneficially owned by the real property entity, was conveyed by an instrument of writing that is recorded.</p> <p>ADDITIONAL JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Foreclosure Procedure: <ul style="list-style-type: none"> • Power of Sale: An action to foreclose a lien pursuant to a power of sale is commenced by filing an order to docket. It is not necessary for process to issue or for a hearing to be held prior to sale. The sale must be ratified by an order of the court. The property is granted to the purchaser upon payment of the purchase price. • Assent to Decree for Sale: An action to foreclose a lien pursuant to an assent to decree for sale provision is commenced by filing a complaint to foreclose. It is not necessary for process to issue or for a hearing to be held prior to sale. The court will enter an order which provides for the payment terms. The sale must be ratified by an order of the court. The property is granted to the purchaser upon payment of the purchase price. • No Power of Sale or Assent to Decree for Sale: An action to foreclose a lien if no power of sale or assent to decree for sale is included is commenced by filing a complaint to foreclose. Process must issue and be served as required by law. After a hearing, the court may order a sale of the property prior to the conclusion of the foreclosure action. • Residential Property: No action to foreclose on residential property may be filed until the later of (1) 90 days after a default occurs; or (2) 45 days after notice of intent to foreclose is sent to the borrower. The lender, however, may petition the court for leave to commence an action to foreclose immediately under certain circumstances • Notice Requirements: <ul style="list-style-type: none"> • Residential Foreclosures: At least 45 days before filing an action to foreclose on residential property, the lender shall send written notice of intent to foreclose to the mortgagor, the record owner and the Commissioner of Financial Regulation. A copy of the order to docket or complaint to foreclose on residential property and all other papers filed with it shall be served on the mortgagor. No foreclosure sale of residential property may occur until at least 45 days after service of process of action to foreclose. Notice of foreclosure sale of residential property must be published in a newspaper of general circulation at least once a week for 3 successive weeks, the first publication to be not less than 15 days before the sale and the last publication to be not more than 1 week before the sale. • All Foreclosures: <ul style="list-style-type: none"> • Notice of Intent: Must be filed 45 days before filing action. Must include amount needed to cure and reinstate, names and phone numbers of secured party, servicers, and agents. 	<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: In Massachusetts, foreclosures can be conducted either non-judicially (<i>i.e.</i>, foreclosure by peaceable entry or power of sale) or judicially (foreclosure by action), but common practice is non-judicial foreclosure.</p> <p>REDEMPTION: Borrower may redeem within 3 years if lender forecloses by peaceable entry or by action. A sale of the property in strict compliance with common law requirements, statutory power of sale requirements and contractual requirements, extinguishes any right of redemption.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: Owner-occupied dwellings with four or fewer units have a ninety-day right to cure, by paying full amount due without acceleration of unpaid balance. Right may be exercised once in 5 years. <p>CUSTOMARY SECURITY INSTRUMENT: Mortgage.</p> <p>TYPICAL FORECLOSURE TIME: 75-90 days.</p> <p>TRANSFER/CONVEYANCE TAX: Yes.</p> <p>ADDITIONAL NON-JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Notice Requirements (Power of Sale): <ul style="list-style-type: none"> • Residential Property: For residential property containing an owner-occupied, one-to-four family dwelling, lender must provide written notice of default and a 90-day right to cure before acceleration of debt or enforcement of rights permitted. • All Property: <ul style="list-style-type: none"> • Notice of default and right to cure: Must describe default and right to cure, phone numbers. Must be sent 90 days before sale. • Notice of Sale: The notice must be sent by registered mail to borrower, at the address found in the registered land records, at least 14 days prior to sale. Notice should also be sent to any junior lien holders and published in a newspaper of general circulation, in the county where property is located, once a week for 3 weeks with the first publication being 21 days before sale. • Sale Guidelines: It is customary for non-judicial foreclosure sale to be preceded by an action in Land Court or Superior Court. The sole issue for determination in such action is the existence of rights under the Federal Soldiers' and Sailors' Civil Relief Act of 1940. Sale must be conducted as indicated in the notice and held in the county where property is located. After the sale, a copy of the notice of sale and an affidavit of the party conducting the sale should be recorded in the registry of deeds. • Deficiency Judgment: A deficiency judgment is obtainable. Notice of intent to seek a deficiency must be given with the notice of sale. Notice of sale must be served 21 days prior to the sale if a deficiency judgment is to be sought. <p>APPLICABLE LAW: MASS. GEN. LAWS, chap. 183 § 21 <i>et seq.</i>, chap. 244 § 14 <i>et seq.</i>, ch. 64D § 1</p>

State Descriptive Summaries

<ul style="list-style-type: none">• Order to Docket: served at least 45 days before disclosure. Must provide an affidavit describing default, amount needed to re-instate, copy of the mortgage or deed of trust, and a form explaining the right to cure/reinstate• Notice of foreclosure sale: Not less than 15 days before the date of the sale, the person authorized to make the sale shall give written notice of proposed sale to the record owner of the property to be sold, holders of subordinate interests, and any party who has recorded a request for notice. Must be sent to the county where the property is located at least 15 days prior to sale, and within 10 days of its receipt, the county must notify seller of any amounts outstanding. Must include time, date, and place of sale.• Sale Guidelines: Sale must be conducted by authorized person. An individual authorized to make the sale must post a bond. Sale shall take place either: (1) immediately outside the courthouse entrance; (2) on the property itself; or (3) any place ordered by the court.• Deficiency Judgment: Permitted, but limited to the difference between the proceeds of sale and the debt amount, including interest. Lenders have a period of 3 years from the ratification of the auditor's report to file for a deficiency judgment. <p>APPLICABLE LAW: MD. CODE ANN. REAL PROP. §§ 7-105 <i>et seq.</i>; MD. RULES OF PROCEDURE 14-101 <i>et seq.</i>, 14-201 <i>et seq.</i>; MD. CODE ANN. TAX-PROP. §§ 12-101 <i>et seq.</i>, 13-101 <i>et seq.</i></p>	
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State Descriptive Summaries

MICHIGAN	MINNESOTA
<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: In Michigan, foreclosures can be conducted either judicially or non-judicially, but common practice is non-judicial.</p> <p>REDEMPTION: On a mortgage executed on or after January 1, 1965, which contains not more than 4 residential units on a parcel that is not greater than 3 acres, the redemption period is 6 months from the sale if the amount due is more than two-thirds of the original debt. The period is shortened to 3 months if the property is abandoned. If the property is over 4 residential units or three acres, then the time for redemption in one year. Borrower redeems by paying sum for which property was sold at foreclosure plus interest at the same rate as the mortgage.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: None <p>CUSTOMARY SECURITY INSTRUMENT: Deed of Trust.</p> <p>TYPICAL FORECLOSURE TIME: 60 days.</p> <p>TRANSFER/CONVEYANCE TAX: Yes. Additionally, the state transfer tax is imposed on contracts for the transfer or acquisition of a controlling interest in any entity if the real property owned by that entity comprises 90% or more of the fair market value of the entity's assets.</p> <p>ADDITIONAL NON-JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Notice Requirements: Notice of sale must be published once a week for 4 weeks in newspaper of general circulation in county where property located. Notice must also be posted on property at least 15 days after first publication. Notice should include names of interested parties, date of mortgage, amount due, description of property, and length of redemption period. • Sale Guidelines: The county clerk will conduct a public sale between the hours of 9 am and 4 pm, typically at the county courthouse on the date specified in the notice. The deed must be recorded 20 days after the sale. • Deficiency Judgment: Michigan case law provides that a lender may bring a legal action to recover a deficiency following the foreclosure of a mortgage by advertisement under a power of sale. A borrower may raise 2 statutory defenses to an action for a deficiency: (1) that the property sold was fairly worth the amount of the debt at the time and place of sale; or (2) that the amount of the bid was substantially less than the true value of the property. <p>APPLICABLE LAW: MICH. COMP. LAWS ANN. §§ 600.3101 <i>et seq.</i> , 600.3201 <i>et seq.</i>, 207.501 <i>et seq.</i>, 207.521 <i>et seq.</i></p>	<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: In Minnesota, foreclosures can be conducted either judicially or non-judicially, but common practice is non-judicial.</p> <p>REDEMPTION: Typically, there is a 6 month redemption period. The redemption period is 12 months if the amount due as of the date of the filing of the notice of foreclosure sale is less than two-thirds of the original principal amount of the loan and the property exceeds 10 acres or the property exceeds 40 acres. Mortgages executed after December 31, 1989 may have the redemption period shortened by court order to 5 weeks if the property has been abandoned.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: Borrower has right to reinstate prior to foreclosure by bringing the loan current including foreclosure fees and costs. <p>CUSTOMARY SECURITY INSTRUMENT: Mortgage.</p> <p>TYPICAL FORECLOSURE TIME: 60-90 days.</p> <p>TRANSFER/CONVEYANCE TAX: Yes.</p> <p>ADDITIONAL NON-JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Notice Requirements: <ul style="list-style-type: none"> • Notice of default and acceleration providing not less than 30 days to cure required for conventional loans. Statutory notice of opportunity for counseling must accompany notice of default if foreclosing on property with 1-4 dwelling units, one of which is owner occupied. • Notice of sale must be published for 6 weeks and served on the occupant of the property at least 4 weeks prior to sale. Notice of foreclosure advice to owners and tenants must accompany notice of sale. Junior lienholders may record a request for notice of mortgage foreclosure. Lender must also record a notice of pendency of foreclosure before the first publication of the notice of sale but not more than 6 months before the first publication date. Notice must include description of mortgage, time/place of sale, and instructions for redemption. • Sale Guidelines: The sale shall be made by the sheriff or the sheriff's deputy at a public venue in the county where the property is located between 9:00 a.m. and 4:00 p.m. • Voluntary Mortgage Foreclosure: Requires: (1) that mortgage was executed after August 1, 1993; (2) the owner and lender agree in writing; (3) that property is not a homestead or used for agriculture; and (4) parties' agreement was entered into 1 month after default. The redemption period under this foreclosure method will be shortened to 2 months. • Deficiency Judgment: Deficiencies may be allowed following judicial foreclosures. Permitted for the difference between what the property sold for and the unpaid loan amount or the fair market value as determined by a jury. <p>APPLICABLE LAW: MINN. STAT. ANN. §§ 580.01 <i>et seq.</i>, 581.01 <i>et seq.</i>, 582.01 <i>et seq.</i>, 287.01 <i>et seq.</i>, 47.20.</p>

State Descriptive Summaries

MISSISSIPPI	MISSOURI
<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: In Mississippi, foreclosures can be conducted either judicially or non-judicially, but common practice is non-judicial.</p> <p>REDEMPTION: There is no right of redemption for a borrower who loses their property as a result of a non-judicial foreclosure, however, Mississippi does have a statutory right of redemption which would allow an owner of a property which has been judicially foreclosed on to reclaim that property if they pay the full amount remaining on the loan plus costs within six (6) months after a foreclosure sale.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: A borrower may cure up to the date of the foreclosure sale. Further, although the loan documents may provide for lender to accelerate any outstanding mortgage payments, the borrower has the legal right (pre-foreclosure sale) to disregard the acceleration and stop the foreclosure by paying only the amount due, which includes following: (1) the missed mortgage payments; (2) other accrued costs; and (3) attorney's and trustee's fees. In the event Borrower cures the loan is then treated as if it was not accelerated and the Borrower may continue to own and occupy the property and the lender may not foreclose. Borrowers who lose property as the result of a non-judicial foreclosure have no right of redemption. <p>CUSTOMARY SECURITY INSTRUMENT: Mortgage.</p> <p>TYPICAL FORECLOSURE TIME: 60-90 days.</p> <p>TRANSFER/CONVEYANCE TAX: No, except on land involving mineral rights. MISS. CODE ANN. § 27-31-77.</p> <p>ADDITIONAL NON-JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Notice Requirements: A notice of sale must be recorded in county where property located. Notice must be posted on courthouse door and published in a newspaper of general circulation in the county where property is located for at least 3 consecutive weeks. The notice must name the borrowers who will lose title, the original mortgagor and the terms and place of sale. • Sale Guidelines: If the mortgage contains authorization for the lender to call upon a trustee or substitute trustee to conduct foreclosure sale, lender must record said appointment in the county clerk's office, otherwise appointment of trustee or substitute trustee will become invalid. The sale may occur in the county in which the property is located or, if different, in the county in which the borrower resides. Public sale must occur at the normal location for sheriff's sales within the county in which the sale is to take place. • Special Procedures: The governor may declare that a natural disaster, an enemy attack, or man-made technological disaster makes it necessary to impose a moratorium on foreclosures. The moratorium may last up to 2 years after the governor's declaration. The borrower may enjoin lender from foreclosing, under this special procedure, if a major disaster caused the FMV of the property to decline by 15%, and if refinancing is impossible. MISS. CODE ANN. § 89-1-301. • Deficiency Judgment: Deficiencies may be obtained for up to one (1) year following foreclosure sale, however, if the lender is the high bidder at sale, deficiencies may be denied if the bid at sale is not reasonable. <p>APPLICABLE LAW: MISS. CODE ANN. § 11-5-93 <i>et seq.</i>, § 15-1-19 <i>et seq.</i>, § 89-1-53 to § 89-1-59.</p>	<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: In Missouri, foreclosures can be conducted either judicially or non-judicially, but common practice is non-judicial.</p> <p>REDEMPTION: If the purchaser of the property at a fairly and properly conducted foreclosure sale is anyone other than the lender there is no right of redemption. If the purchaser of the property is the lender, the borrower has a 1 year right of redemption, provided, however, that, within 10 days prior to the foreclosure sale, the borrower must provide notice of intent to redeem to the person conducting the sale. Within 20 days of sale, a bond, in the amount of all costs, fees, and payments of interest and principal of the underlying debt, must be paid to the circuit court.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: None <p>CUSTOMARY SECURITY INSTRUMENT: Deed of Trust.</p> <p>TYPICAL FORECLOSURE TIME: 60-90 days.</p> <p>TRANSFER/CONVEYANCE TAX: No.</p> <p>ADDITIONAL NON-JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Notice Requirements: If the property is located in a county that contains a city with a population of 50,000 or more, notice of sale must be published at least 20 times and publication must continue until the day of sale. In all other counties, notice must be published at least once a week, on the same day each week, for 4 weeks, the last being published no more than 1 week from date of sale. At least 20 days prior to sale, a notice of sale must be mailed to the borrower at his or her last known address, regardless of the location of the property. Besides the borrower named in the deed of trust, the person shown by the office of recorder's deed of records to be the owner, and any person whose name is set forth in the mortgage shall also be given notice. • Sale Guidelines: The place of the foreclosure sale is determined by the language in the mortgage. Otherwise, sale must occur at the appropriate county courthouse between the hours of 9 am and 5 pm on the day designated for the sale. • Deficiency Judgment: Not permitted. <p>APPLICABLE LAW: MO. REV. STAT. § 443.320 <i>et seq.</i></p>

State Descriptive Summaries

MONTANA	NEBRASKA
<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: In Montana, foreclosures can be conducted either judicially or non-judicially, but common practice is non-judicial. Montana subscribes to the one action rule, meaning lender may only bring one action for recovery.</p> <p>REDEMPTION: If the property does not fall under the Small Tract Financing Act (a property that is less than 40 acres) then there is a one (1) year right of redemption. Otherwise there is no post-sale right and no right of redemption for judicial foreclosures.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: If the property is less than 40 acres then the borrower may cure any default at anytime prior to the date of the foreclosure sale. <p>CUSTOMARY SECURITY INSTRUMENT: Varies. Deed of Trust generally used for residential property that is less than 40 acres, and mortgage is typically used for loans exceeding \$500,000.</p> <p>TYPICAL FORECLOSURE TIME: 150 days.</p> <p>TRANSFER/CONVEYANCE TAX: No.</p> <p>ADDITIONAL NON-JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Notice Requirements: Notice must be recorded in the county where the property is located and then: (1) at least 120 days prior to sale, mailed by registered certified mail, to the borrower at his or her last known address, as well as any person in Montana claiming an interest in the property; (2) published once a week for 3 consecutive weeks in a newspaper of general circulation in county where property is located; and (3) posted on the property at least 20 days before sale. If property is residential and 40 acres or less, notice must be advertised at least 30 days prior to sale in newspaper of general circulation, if county does not have a newspaper, notice should be posted in 5 conspicuous places, one being the property. • Sale Guidelines: Sale must occur at the appropriate county courthouse between the hours of 9 am and 4 pm on the day designated in the notice. On or before the date of sale the trustee must record an affidavit to the county courthouse that mailing, posting and publication requirements have been satisfied. • Deficiency Judgment: Not permitted unless the foreclosure was done judicially and the sale proceeds were insufficient to pay the judgment. • Possession: A lender may obtain possession of the property on the tenth (10th) day following the foreclosure sale. <p>APPLICABLE LAW: MONT. CODE ANN. §§ 71-1-301 <i>et seq.</i>, 71-1-304(2) <i>et seq.</i>, 71-1-222 to 71-1-235, 71-1-321.</p>	<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: In Nebraska, foreclosures can be conducted either judicially or non-judicially, however, mortgages or deeds of trust without a power of sale provision must be foreclosed judicially. If suit has been brought to satisfy the amount due on the loan rather than as a true petition for foreclosure, the lender may only seek the amounts outstanding and possession of the property rather than in a true foreclosure, where the court can decree a sale of the mortgaged property.</p> <p>REDEMPTION: No post-sale redemption right available. However, within twenty (20) days following the entry of the order of sale, borrower may file to stay of the foreclosure sale which is granted automatically and delay the sale for up to nine (9) months.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: At any time prior to the final confirmation of the sale the borrower may stop foreclosure by paying debt plus any additional fees and costs outstanding. <p>CUSTOMARY SECURITY INSTRUMENT: Deed of Trust.</p> <p>TYPICAL FORECLOSURE TIME: 90-120 days.</p> <p>TRANSFER/CONVEYANCE TAX: Yes.</p> <p>ADDITIONAL JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Notice Requirements: <ul style="list-style-type: none"> • Notice of default must be (i) recorded with the register of deeds, and (ii) within ten (10) days after filing and at least one (1) month prior to filing of the notice sale, sent registered or certified mail to the borrower and other persons who requested notice. • Notice of sale must be recorded with the register of deeds and, unless the loan documents specify notice provision, lender must (i) post the notice of sale on the courthouse door, (ii) post the notice of sale in at least five (5) other public places where the property is located, and (iii) publish notice of sale once a week for five (5) consecutive weeks in a newspaper of general circulation. Publication must begin no later than 10 days after notice of sale was filed and the last publication must occur at least ten (10) days prior to the sale. • Sale Guidelines: Sales are conducted by the county sheriff and must occur at the appropriate county courthouse. • Deficiency Judgment: Permitted, however, deficiency is only possible as a continuation of the suit and may only be brought after the foreclosure is final. Deficiencies are limited to the lesser of the difference between the amount owed and the fair market values or the difference between the indebtedness and the sale price. <p>APPLICABLE LAW: NEB. REV. STAT. §§ 25-153, 25-2137 to 25-155, 76-214, 76-901, 76-1005 to 76-1018 <i>et seq.</i>; 350 NEB. ADMIN. CODE § 52-001 <i>et seq.</i></p>

State Descriptive Summaries

NEVADA	NEW HAMPSHIRE
<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: In Nevada, foreclosures can be conducted either judicially or non-judicially, but common practice is non-judicial. Nevada subscribes to the one action rule, where lender may only bring one action for recovery.</p> <p>REDEMPTION: 12 months if judicially foreclosed. None for non-judicial foreclosures.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: Borrower or any other person with an interest in the property has thirty-five (35) days in which to cure any default starting on the day following the date of recording of the notice of default. Also, the owner of the property may stop the foreclosure proceeding by filing an "Intent to Cure" with the public trustee's office at least fifteen (15) days prior to the foreclosure sale and then paying the necessary amount to bring the loan current by noon the day before the foreclosure sale. <p>CUSTOMARY SECURITY INSTRUMENT: Deed of Trust.</p> <p>TYPICAL FORECLOSURE TIME: 120 days.</p> <p>TRANSFER/CONVEYANCE TAX: Yes.</p> <p>ADDITIONAL NON-JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Notice Requirements: <ul style="list-style-type: none"> • Notice of default and election to sale must be (i) recorded in the county where the property is located, and (ii) on day of such recording send to borrower and owner of the property. Within ten (10) days following the recording of such notice of default and election to sale, copies of same must be sent to all other parties which require notice. Borrower has between 15-35 days to cure starting on the day following the date of recording of the notice of default. • Notice of sale must be recorded at least twenty-one (21) days prior to trustee sale and must be (i) posted for at least twenty (20) days in 3 public places, one being the property, and (ii) notice must be published in local newspaper three times once each week for (three) 3 consecutive weeks. • Sale Guidelines: If the mortgage is silent, then sale must occur on the day and designated by the governing body of the county, as indicated in the notice between the hours of 9 am and 5 pm. • Special Procedures: Mortgages for high cost home loans entered into after October 1, 2003 may be subject to the Home Ownership and Equity Protection Act of 1994 which requires an additional sixty (60) days notice prior to the date of the sale and such notice be personally delivered. • Deficiency Judgment: Permitted for the difference between what the property sold for and the underlying debt. <p>APPLICABLE LAW: NEV. REV. STAT. § 107.080 <i>et seq.</i>, 40.455 to 40.463, 106.025, 107.080, 375.010 <i>et seq.</i></p>	<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: In New Hampshire, foreclosures can be conducted either judicially or non-judicially, but common practice is non-judicial.</p> <ul style="list-style-type: none"> • Special Methods of Foreclosure: In order to foreclose a lender must recover possession lawfully, and hold it for at least one year before title becomes final in the lender's name. There are three ways to recover possession: (1) <i>Entry under Process:</i> lender files a lawsuit and obtains a court order authorizing entry; (2) <i>Entry and Publication:</i> lender forecloses by peaceable entry and continues occupation. Lender publishes notice for 3 consecutive weeks, the first publication appearing 6 months before borrower's right to redeem expires; and (3) <i>Possession and Publication:</i> lender is already in possession of property and publishes notice for 3 consecutive weeks, stating that from one date to the end of another date the property will be held in default, lender must hold by possession for 1 year. <p>REDEMPTION: None.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: None <p>CUSTOMARY SECURITY INSTRUMENT: Mortgage.</p> <p>TYPICAL FORECLOSURE TIME: 60-70 days.</p> <p>TRANSFER/CONVEYANCE TAX: Yes.</p> <p>ADDITIONAL NON-JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Notice Requirements: A notice of sale must be recorded in the county where the property is located and: (1) mailed to the borrower at least 25 days before sale; and (2) published once a week for 3 consecutive weeks in a newspaper of general circulation in the county where the property is located, the first publication being not less than 20 days prior to sale. • Sale Guidelines: Sale shall occur as indicated in the notice of sale, however, typically sale will take place at mortgaged property unless another location is specified. • Deficiency Judgment: Permitted for the difference between what the property sold for and the loan amount. <p>APPLICABLE LAW: N.H. REV. STAT. ANN. §§ 479:19, 479:25, 78-B:1 <i>et seq.</i>; N.H. ADMIN. R. ANN. REV. 800 <i>et seq.</i></p>

State Descriptive Summaries

NEW JERSEY	NEW MEXICO
<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: New Jersey is primarily a judicial foreclosure state. Non-judicial foreclosures are seldom used and <i>only</i> permitted in the context of residential mortgages. A lender may file a suit simply to collect the unpaid payments and maintain the mortgage and note for the remainder of the loan balance.</p> <p>REDEMPTION: Possible, during the ten day period that the borrower is able to object following the foreclosure sale.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: None <p>CUSTOMARY SECURITY INSTRUMENT: Mortgage.</p> <p>TYPICAL FORECLOSURE TIME: 240-360 days.</p> <p>TRANSFER/CONVEYANCE TAX: Yes.</p> <p>ADDITIONAL JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Notice Requirements: Complaint filed in Superior Court, borrower has 35 days to answer, otherwise judgment will be entered. Upon entering of judgment, lender must wait another 45 days before court enters final judgment. Defaulting borrower must be given at least 10 days notice before sale can take place. Notice is posted in county where property located for 3 weeks, one notice being at the property itself. Notice must be published for 4 consecutive weeks in two newspapers in the county where the property is located. One of the publications must be in either the largest municipality in the county or the county seat. • Sale Guidelines: Sale conducted by sheriff in the manner directed by the court. • Deficiency Judgment: Permitted for the difference between what the property sold for and the loan amount, unless the lender holds a mortgage lien, and the new buyer takes title subject to the lien, in which case lender is not permitted to collect a deficiency judgment. Must be filed within three (3) months following foreclosure. Judgment is limited by the fair market value of the property. <p>APPLICABLE LAW: N.J. STAT. ANN. §§ 2A:50-53 to -68; 46:15-5 <i>et seq.</i>, 54A:8-8 <i>et seq.</i>, 54:15C-1.</p>	<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: New Mexico is primarily a judicial foreclosure state. Non-judicial foreclosures are rare and are only applicable to business and commercial real estate loans in excess of \$500,000 (as indicated in the N.M. Deed of Trust Act).</p> <p>REDEMPTION: 1 month if provided in document, otherwise 9 months, purchase price plus 10% interest.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: Borrower may prevent the foreclosure by paying the amount of the judgment. <p>CUSTOMARY SECURITY INSTRUMENT: Mortgage.</p> <p>TYPICAL FORECLOSURE TIME: 120-180 days, non-judicial; 1 year, judicial.</p> <p>TRANSFER/CONVEYANCE TAX: No.</p> <p>ADDITIONAL JUDICIAL/NON-JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Notice Requirements: Method of service can be either by publication or by posting in six of the most public places in the county. If by publication, notice must be placed in a publication for four (4) weeks following entry of judgment and the last add must occur at least three (3) days prior to the foreclosure sale, and sale cannot occur earlier than one (1) month after judgment. Notice must contain legal description of property, state the place, time and date, and be provided to defaulting borrower no later than 30 days of recording notice in county courthouse. Date of foreclosure must be at least 30 days from issuance of notice of sale. • Sale Guidelines: Sale conducted by trustee, on any day except for Saturday, Sunday or a national holiday in front of the county courthouse steps. Property cannot sell for less than 2/3 of its appraised value • Deficiency Judgment: Permitted for the difference between what the property sold for and the loan amount. <p>APPLICABLE LAW: N.M. STAT. ANN. § 48-7-7; § 48-10-16 <i>et seq.</i></p>

State Descriptive Summaries

NEW YORK	NORTH CAROLINA
<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: In New York, foreclosures can be conducted either judicially or non-judicially, but common practice is judicial.</p> <ul style="list-style-type: none"> • Strict Foreclosure: Not a method of foreclosure in New York, but a remedy typically used to correct a defect in the title of the property. <p>REDEMPTION: None.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: Borrower can pay the amount due to the court at any time before the final judgment and the case will be dismissed. <p>CUSTOMARY SECURITY INSTRUMENT: Mortgage.</p> <p>TYPICAL FORECLOSURE TIME: 120-280 days.</p> <p>TRANSFER/CONVEYANCE TAX: Yes. Additionally, the real estate transfer tax is imposed on the sale or transfer of at least a 50% ownership interest in a corporation, partnership, trust or other entity that owns or leases real property.</p> <p>ADDITIONAL JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Notice Requirements: Lender must give notice to defaulting borrower regarding information about the foreclosure process. Notice must be on separate sheet and delivered with summons and complaint. Title of notice must be printed in bold, 20-pt type, and text in bold 14-pt. type. Additionally, notice must be printed on color paper other than the color of the summons and complaint. After court signs judgment, a date is set for foreclosure, followed by the publication of a notice of sale, which typically is advertised 4-6 weeks in advance of sale. • Sale Guidelines: Public sale held at the county courthouse and conducted under the guidelines in the court judgment. • Deficiency Judgment: Permitted for the difference between the greater of the court determined "just and equitable" fair market value or what the property sold for and the underlying debt. <p>APPLICABLE LAW: N.Y. REAL PROP. ACTS. §1303 <i>et seq.</i>; N.Y. Tax §§ 250 <i>et seq.</i>, 1200 <i>et seq.</i>, 1400 <i>et seq.</i></p>	<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: In North Carolina, foreclosures can be conducted either judicially or non-judicially, but common practice is non-judicial.</p> <p>REDEMPTION: 10 days for non-judicial, none for judicial.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: Borrower can pay amount in full, plus expenses of proposed sale. Right is only available once every five years. <p>CUSTOMARY SECURITY INSTRUMENT: Deed of Trust.</p> <p>TYPICAL FORECLOSURE TIME: 60-120 days.</p> <p>TRANSFER/CONVEYANCE TAX: Yes.</p> <p>ADDITIONAL NON-JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Notice Requirements: All foreclosures must be heard before the county clerk, if the clerk finds the power of sale clause satisfactory he or she is obligated to authorize the trustee or lender to proceed under the deed of trust. Thereafter, lender must (1) mail notice to borrower at least 45 days before sale (as indicated in the Amendments to Mortgage Lending Act effective April 1, 2008); (2) publish notice in a newspaper of general circulation in the county where the property is located once a week for 2 consecutive weeks, the last publication being not less than 10 days prior to sale; and (3) must post notice 20 days prior to sale on county courthouse door. Effective April 1, 2008, lender's notice must also include, among other things, a detailed written description of the amount of principal, interest and any other fees owed, along with disclosures regarding borrower's rights. • Sale Guidelines: Sale must be conducted at county courthouse between the hours of 10 am and 4 pm, on any day other than Sunday or a national holiday. • Deficiency Judgment: Permitted for the difference between what the property sold for and the underlying debt. • Upset bid: Within 10 days after a foreclosure sale, any buyer can offer to buy the real estate for an amount exceeding 10% of the first \$1000 and 5% of any amount over \$1000 of the foreclosure price. Following this offer, a new sale occurs. <p>APPLICABLE LAW: N.C. GEN. STAT. §§ 45-7, 45-21.16, 45-21.16B, 45-21.20, 45-21.26, 45-21.27, 45.21.34, 45-21.35, 45-100 <i>et seq.</i>, 53-243.11, 105-228.28 <i>et seq.</i></p>

State Descriptive Summaries

NORTH DAKOTA	OHIO
<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: In North Dakota, foreclosures can be conducted either judicially or non-judicially, but common practice is judicial. Most non-judicial foreclosures are typically limited to state agencies.</p> <p>REDEMPTION: Judicial foreclosures: 1 year for agricultural property and 60 days for all other properties. None for non-judicial foreclosures.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: After judgment before sale, defendant can bring to court the amount due and proceedings will be stayed; however, court can enforce judgment if borrower later defaults. <p>CUSTOMARY SECURITY INSTRUMENT: Mortgage.</p> <p>TYPICAL FORECLOSURE TIME: 90 days.</p> <p>TRANSFER/CONVEYANCE TAX: No.</p> <p>ADDITIONAL JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Notice Requirements: Before foreclosure, lender must give borrower no less than 30 and no more than 90 days advance notice of their intent to foreclose. Notice must be in writing and sent by registered or certified mail or advertised. If by advertisement, must be once a week for three consecutive weeks with the last notice no less than 10 days before sale. Additionally, lender must send a statement, among other things, indicating that if borrower does not cure in 30 days, defaulted mortgage will be foreclosed. • Sale Guidelines: Public sale must be held at the county courthouse where the property is located and conducted by the sheriff or his deputy. • Deficiency Judgment: Permitted for the difference between the appraised value and the underlying debt owed. Deficiency judgments are not permitted if distressed property is 4 or fewer units of up to 40 contiguous acres containing a homestead residence occupied by the owner. In order to receive a deficiency judgment on commercial property lender must state in its initial pleading that such judgment is being sought. <p>APPLICABLE LAW: N.D. CENT. CODE §§ 32-19-01, 35-22-01.</p>	<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: Ohio is a judicial foreclosure state.</p> <p>REDEMPTION: Borrower may redeem the property at any time before the court confirms the foreclosure sale by paying the amount of the judgment, plus costs and interest.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: None <p>CUSTOMARY SECURITY INSTRUMENT: Mortgage.</p> <p>TYPICAL FORECLOSURE TIME: 150-180 days.</p> <p>TRANSFER/CONVEYANCE TAX: Yes.</p> <p>ADDITIONAL JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Foreclosure Procedures: Lender must sue borrower in county where the property is located to obtain judgment of foreclosure. If borrower fails to file an answer within the appropriate time period, a default judgment is entered. Prior to the foreclosure date, an appraisal by 3 disinterested parties is performed. The property cannot be offered for sale for less than two-thirds of the appraised value. Foreclosure sale must be advertised once a week for 3 consecutive weeks. • Sale Guidelines: Sheriff conducts sale at county courthouse. Sheriff will issue a writ of execution and a court will determine if sale is legal pursuant to a confirmation. • Deficiency Judgment: Permitted for the difference between what the property sold for and the loan amount. Judgment must be enforced within 2 years, unless borrower extends time to enforce. <p>APPLICABLE LAW: OHIO REV. CODE ANN. §§ 319.54, 319.202, 322.01 <i>et seq.</i>, 2323.07, 2329.02, 2329.09, 2703.26 <i>et seq.</i></p>

State Descriptive Summaries

OKLAHOMA	OREGON
<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: In Oklahoma, foreclosures can be conducted either judicially or non-judicially, but common practice is non-judicial. Loans originated before November 1, 1986, must be judicially foreclosed.</p> <p>REDEMPTION: None.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: 35 day period following notice of default to cure default. <p>CUSTOMARY SECURITY INSTRUMENT: Mortgage.</p> <p>TYPICAL FORECLOSURE TIME: 90 days.</p> <p>TRANSFER/CONVEYANCE TAX: Yes.</p> <p>ADDITIONAL NON-JUDICIAL FORECLOSURE INFORMATION:</p> <ol style="list-style-type: none"> 1. Notice Requirements: Prior to notice of foreclosure sale, lender must send borrower, by certified mail, a written notice of intent to foreclose by power of sale. The notice must describe the default of the borrower under the loan and give borrower 35 days from day notice was sent to cure. If borrower has previously defaulted 3 times, lender need not send a second notice of its intent to foreclose, and if there have been 4 defaults in the past 24 months, a notice of intent to foreclose is not required to accelerate debt. An affidavit of proof of mailing and publication must be filed. Notice of sale must be recorded in the county where property is located within 10 days after 35-day cure period. Lender must then publish notice in a newspaper in the county where property is located once a day for 4 consecutive weeks, the first being not less than 30 days prior to sale. 2. Sale Guidelines: Property must be sold at a public auction between the hours of 9 am and 5 pm, anywhere in the county where the property is located, on any day but Sunday or a national holiday. 3. Deficiency Judgment: Under Oklahoma Power of Sale Mortgage Foreclosure Act, any action must be within 90 days of sale, and burden is on lender to prove that the FMV exceeded what the property sold for. The prevailing party may recover attorney's fees and costs of the action. <p>APPLICABLE LAW: OKLA. STAT. ANN. tit. 46 §§ 43 to 45, 12 §§ 762 to 765, 2004.2, 2012, 68 § 1901, 3201 <i>et seq.</i></p>	<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: In Oregon, foreclosures can be conducted either judicially or non-judicially, but common practice is non-judicial. More specifically, deeds of trust, unlike mortgages, may be non-judicially foreclosed.</p> <p>REDEMPTION: Borrower typically has 180 days in a judicial foreclosure unless the right is exercised by subsequent lien holders, in which case 60 days are given, and there is no right to redeem in a non-judicial foreclosure.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: Borrower has up until 5 days before sale to cure default. <p>CUSTOMARY SECURITY INSTRUMENT: Deed of Trust.</p> <p>TYPICAL FORECLOSURE TIME: 180 days.</p> <p>TRANSFER/CONVEYANCE TAX: No, except for Washington County. WASH. CO. CODE § 3.04.010 <i>et seq.</i></p> <p>ADDITIONAL NON-JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Notice Requirements: Prior to foreclosure, lender must record a notice of default in the county where the property is located. Subsequently, the borrower must be served with a copy at least 120 days prior to the sale. A copy of the notice must be published once a week for 4 weeks with the last notice being published at least 20 days before date of sale. • Sale Guidelines: Public sale to occur between the hours of 9 am and 4 pm at the location specified in the recorded notice. • Deficiency Judgment: For a judicial foreclosure that is not a residential mortgage, permitted for the difference between what the property sold for and the underlying debt. <p>APPLICABLE LAW: OR. REV. STAT. §§ 86.710, 86.735, 86.740, 86.742, 86.753, 86.770.</p>

State Descriptive Summaries

PENNSYLVANIA	RHODE ISLAND
<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: Pennsylvania is a judicial foreclosure state.</p> <p>REDEMPTION: None.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: Up to one hour before bidding, but no more than 3 times in one year <p>CUSTOMARY SECURITY INSTRUMENT: Mortgage.</p> <p>TYPICAL FORECLOSURE TIME: 90-120 days.</p> <p>TRANSFER/CONVEYANCE TAX: Yes. Additionally, a real estate company is subject to pay a state tax based on the value of the real estate held by the real estate company when it becomes an acquired company under 61 PA. CODE § 91.202.</p> <p>ADDITIONAL JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Foreclosure Procedures: Prior to a residential foreclosure, a lender must give borrower a letter advising of his or her right to meet with lender and availability of financial assistance with the loan (Act 91 notice). If borrower meets with lender, a 60-day stay is implemented on the property. If borrower fails to meet with lender, lender must send notice, by first class mail, of its intent to foreclose and accelerate (Act 6 notice). If borrower does not cure within 30 days of notice, lender may file complaint to foreclose. Lender may state two or more grounds for foreclosure, but may not state more than 1 cause of action. If court finds in favor of lender borrower still retains right to cure one hour before sheriff's foreclosure sale. When filing, lender must serve both the occupant and the owner of the property • Sale Guidelines: Public sale held at the county courthouse and conducted under the guidelines set forth in the notice. • Deficiency Judgment: Separate action. Permitted for the difference between what the property sold for and the underlying debt. Limited to fair market value if judgment creditor is also the purchaser. Action must be brought within 6 months of sale. <p>APPLICABLE LAW: 41 PA. STAT. ANN. § 101 <i>et seq.</i>, 35 PA. STAT. ANN. § 1680.401 <i>et seq.</i>; PA. R. CIV. PRO. 1141-1164, 3180-3183, 8103 <i>et seq.</i>; 61 PA. CODE § 91.101 <i>et seq.</i></p>	<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: In Rhode Island, foreclosures can be conducted either judicially, non-judicially or by other possessory actions, including evictions, or peaceable and open entry.</p> <p>REDEMPTION: Up to three years after the sale by filing a lawsuit, if mortgagee takes title to the property.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: yes <p>CUSTOMARY SECURITY INSTRUMENT: Mortgage.</p> <p>TYPICAL FORECLOSURE TIME: 60-80 days.</p> <p>TRANSFER/CONVEYANCE TAX: Yes.</p> <p>ADDITIONAL NON-JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Notice Requirements: Notice must be mailed 30 days prior to first publication. Publication of notice must appear in daily newspaper, in county where property located, at least once a week on the same weekday for 3 consecutive weeks before sale. First notice must appear at least 21 days before the date of sale. • Sale Guidelines: Public sale held at the county courthouse and conducted under the guidelines set forth in the notice. • Deficiency Judgment: Permitted for the difference between what the property sold for and the underlying debt. <p>APPLICABLE LAW: R.I. GEN. LAWS §§ 34-11-22, 34-20-4, 34-23-3, 34-27-1, 34-27-4 to -5, 44-25-1 <i>et seq.</i></p>

State Descriptive Summaries

SOUTH CAROLINA	SOUTH DAKOTA
<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: South Carolina is a judicial foreclosure state.</p> <p>REDEMPTION: None, but upset bids are allowed within 30 days after sale.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: Yes, for past-due installments <p>CUSTOMARY SECURITY INSTRUMENT: Mortgage.</p> <p>TYPICAL FORECLOSURE TIME: 150-180 days.</p> <p>TRANSFER/CONVEYANCE TAX: Yes.</p> <p>ADDITIONAL JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Notice Requirements: Prior to foreclosure, a lender must file a complaint against the borrower and obtain a decree of sale from the court, if the borrower does not cure within the time set forth by the courts the lender may proceed with sale. Lender must publish notice of sale at the courthouse door and two other public places at least 3 weeks prior to date of sale. Notice must also be published in a newspaper of general circulation within the county for 3 weeks prior to sale. • Sale Guidelines: Unless otherwise ordered by the court, sheriff must conduct sale at the county courthouse where the property is located, on the first Monday of the month, unless it is a holiday, in which case, sale may take place the following Tuesday, between the hours of 11 am and 5 pm. • Deficiency Judgment: Permitted for the difference between what the property sold for and the underlying debt, but subject to the orders of appraisals (see below). Judge has the discretion to render a personal deficiency judgment against the mortgagor. Lender or borrower may request, within 30 days of sale, an order of appraisal (but only if such right has not been waived). This order allows an independent appraiser to determine the high value of the property, which may take precedent over the sale amount. Consequences include either: (1) a borrower credit; (2) a deficiency judgment for the lender; or (3) no deficiency at all. • Upset bid: Within 30 days after a foreclosure sale, any buyer can offer to buy the real estate for an amount exceeding 10% of the first \$1000 and 5% of any amount over \$1000 of the foreclosure price. Following this offer, a new sale occurs. <p>APPLICABLE LAW: S.C. CODE ANN. §§ 29-3-610 <i>et seq.</i>, 12-24-10.</p>	<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: In South Dakota, foreclosures can be conducted either judicially or non-judicially, but common practice is judicial. Borrower has the option to request that a non-judicial foreclosure be conducted judicially. In a judicial foreclosure lender may seek either or both an order of sale and a judgment for the balance due on the mortgage.</p> <p>REDEMPTION: Typically 1 year. If property, however, is 40 acres or less, and mortgage contains power of sale clause, then 180-day redemption period exists, if same property is abandoned redemption period is reduced to 60 days.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: No right to cure for power of sale foreclosures. Debtor can cure default and stay proceedings in a foreclosure by action by paying amount owed into court. <p>CUSTOMARY SECURITY INSTRUMENT: Mortgage.</p> <p>TYPICAL FORECLOSURE TIME: 90-150 days.</p> <p>TRANSFER/CONVEYANCE TAX: Yes.</p> <p>ADDITIONAL NON-JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Notice Requirements: A foreclosure notice must be published once a week for 4 weeks in a newspaper of general circulation in the county where the property is located. At least 21 days prior to sale, lender must serve a written copy of notice to the borrower and any other lien holder whose interest in the property will be affected by foreclosure. Notice must contain: (1) names of borrower and lender; (2) mortgage date; (3) amounts due; (4) description of the premises; (5) time and place of sale; (6) description of the default; and (7) option for mortgagor to apply for judicial foreclosure. Prior to foreclosure, a lender must file a complaint against the borrower and obtain a decree of sale from the court, if the borrower does not cure within the time set forth by the courts the lender may proceed with sale. Lender must publish notice of sale at the courthouse door and two other public places at least 3 weeks prior to date of sale. Notice must also be published in a county newspaper of general circulation for 3 weeks prior to sale. • Sale Guidelines: Sheriff conducts public auction between the hours of 9 am and 5 pm, in the county where the property is located. Once redemption period runs buyer gets the deed. • Deficiency Judgment: Lenders must give credit for the FMV of the property if FMV higher than what property sold for. In judicial foreclosures, a deficiency judgment is not permitted if mortgage is a purchase money mortgage. <p>APPLICABLE LAW: S.D. CODIFIED LAWS §§ 21-47-1 <i>et seq.</i>, 21-48-1 <i>et seq.</i>, 43-4-20 <i>et seq.</i></p>

State Descriptive Summaries

TENNESSEE	TEXAS
<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: In Tennessee, foreclosures can be conducted either judicially or non-judicially, but common practice is non-judicial.</p> <p>REDEMPTION: 2 years, unless right waived in loan documents.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: Yes <p>CUSTOMARY SECURITY INSTRUMENT: Deed of Trust.</p> <p>TYPICAL FORECLOSURE TIME: 60-120 days.</p> <p>TRANSFER/CONVEYANCE TAX: Yes.</p> <p>ADDITIONAL NON-JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Notice Requirements: Effective April 10, 2008, notice must be addressed to the debtor, or co-debtor (if applicable) and sent to mailing address of the property. Notice of sale must be published at least 3 different times, the first appearing 20 days prior to sale in a newspaper located in the same county as the property. If no newspaper is published in that county, the notice must be posted at least 30 days prior to sale in at least 5 places within the county, one being the county courthouse door and another in the neighborhood of the property. • Sale Guidelines: Sale should occur between the hours of 10 am and 4 pm in the county where the property is located. • Deficiency Judgment: Permitted for the difference between what the property sold for and the loan amount. <p>APPLICABLE LAW: TENN. CODE ANN. §§ 35-5-106 to -107, 35-5-115, 45-20-104, 66-8-101, 67-4-409.</p>	<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: In Texas, foreclosures can be conducted either judicially or non-judicially, but common practice is non-judicial.</p> <p>REDEMPTION: None.</p> <ul style="list-style-type: none"> • Borrower's Right to Cure: Yes, prior to sale. <p>CUSTOMARY SECURITY INSTRUMENT: Deed of Trust.</p> <p>TYPICAL FORECLOSURE TIME: 30-60 days. Under certain circumstances, foreclosure can be completed in as little as 21 days.</p> <p>TRANSFER/CONVEYANCE TAX: No.</p> <p>ADDITIONAL NON-JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Notice Requirements: Requires (1) notice of default and notice of intent to accelerate the debt to the extent not waived by borrower; and (2) at least 21 days prior to sale, notice of sale must be (a) posted at county courthouse, (b) filed with the county clerk, and (c) served on borrower. • Sale Guidelines: Sale held on the first Tuesday of the month between the hours of 10 am and 4 pm in the county where property is located. Sale performed by trustee or trustee's agent. • Deficiency Judgment: Permitted for the difference between what the property sold for and the loan amount. Borrower may have deficiency reduced if court determines that property was sold for less than FMV. Action must be brought within two years of sale. FMV determined by appraisal. <p>APPLICABLE LAW: TEX. PROP. CODE § 51.0001 <i>et seq.</i></p>

State Descriptive Summaries

UTAH	VERMONT
<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: In Utah, foreclosures can be conducted either judicially or non-judicially, but common practice is non-judicial. Utah subscribes to the one action rule, meaning lenders may only bring one action for recovery.</p> <p>REDEMPTION: If non-judicial foreclosure, no right of redemption available. If judicial foreclosure, redemption right is within court's discretion.</p> <ul style="list-style-type: none"> • Borrower's Right to Cure: Within 3 months of the filing of the notice of default <p>CUSTOMARY SECURITY INSTRUMENT: Deed of Trust.</p> <p>TYPICAL FORECLOSURE TIME: 120-150 days.</p> <p>TRANSFER/CONVEYANCE TAX: No.</p> <p>ADDITIONAL NON-JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Notice Requirements: Requires (1) notice of default must be filed in the office of the recorder where the property is located; and (2) not earlier than 3 months after the notice of default is filed, notice of sale containing the information required by law is to be (a) published once a week for 3 consecutive weeks with the last notice published at least 10 but not more than 30 days prior to the sale date; (b) posted in a conspicuous place on the property at least 20 days prior to the sale; and (c) posted at the office of the county recorder. • Sale Guidelines: Sale shall take place between the hours of 8 am and 5 pm either at the county courthouse or the property. • Deficiency Judgment: Permitted within 3 months of a foreclosure sale. However, court is not permitted to render a judgment for more than the amount by which the indebtedness exceeds the FMV as of the date of sale. <p>APPLICABLE LAW: UTAH CODE ANN. §§ 57-1-23 to -26, 57-1-28, 57-1-31, 57-1-32, 78-37-1.</p>	<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: In Vermont, foreclosures can be conducted either judicially or non-judicially, but common practice is judicial and more specifically strict foreclosure.</p> <p>REDEMPTION: 6 months for mortgages executed after 1968 and 12 months for mortgages executed prior to 1968.</p> <ul style="list-style-type: none"> • Borrower right to cure: At any time before the sale. <p>CUSTOMARY SECURITY INSTRUMENT: Mortgage.</p> <p>TYPICAL FORECLOSURE TIME: 210 days.</p> <p>TRANSFER/CONVEYANCE TAX: Yes. Additionally, there is a tax on the gain from the sale or exchange of Vermont land that has been held for less than 6 years.</p> <p>ADDITIONAL JUDICIAL/NON-JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Notice Requirements: Notice of intent to foreclose must be sent to the borrower, by registered or certified mail, at his or her last known address, at least 30 days prior to notice of sale. Notice of sale must be sent sixty days prior to sale. Notice should be published once a week for 3 weeks, no less than 21 days prior to sale. For non-judicial foreclosures borrower should receive 60 days notice. • Sale Guidelines: Sale occurs on the property at the time and date indicated in the notice of sale. • Deficiency Judgment: For a strict foreclosure, no deficiency judgment. Otherwise, plaintiff must request deficiency in the complaint. Permitted for the difference between what the property sold for and the loan amount plus the foreclosure expenses, unless mortgagee is the purchaser, then limited by FMV. <p>Applicable Law: VT. STAT. ANN. tit. 12 §§ 4528, 4531, VT. STAT. ANN. tit. 32 §§ 9601 <i>et seq.</i>, 10001 <i>et seq.</i>, 5847.</p>

State Descriptive Summaries

VIRGINIA	WASHINGTON
<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: In Virginia, foreclosures can be conducted either judicially or non-judicially, but common practice is non-judicial.</p> <p>REDEMPTION: If non-judicial foreclosure, no right of redemption available. In certain judicial foreclosures, a right to redemption is permitted, and the period varies by case.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: Borrower has right to cure <p>CUSTOMARY SECURITY INSTRUMENT: Deed of Trust.</p> <p>TYPICAL FORECLOSURE TIME: 60-90 days for non-judicial sale, 9 months for judicial foreclosure</p> <p>TRANSFER/CONVEYANCE TAX: Yes.</p> <p>ADDITIONAL NON-JUDICIAL FORECLOSURE INFORMATION:</p> <ol style="list-style-type: none"> a. Notice Requirements: Even when the deed of trust specifies the manner for advertising the foreclosure sale, Virginia statute require notice to be published no less than once a day for 3 consecutive days. This requirement is in addition to the terms found in the deed of trust. If the deed of trust does not provide for advertising, then the notice shall run once a week for 4 consecutive weeks. If property is near a city, however, trustee may publish on 5 different days and fully satisfy the notice requirement. A copy of the published notice or a notice with the same information must be mailed to the borrower at least 14 days before the foreclosure sale. The notice of foreclosure sale must include information required by the deed, the name of trustee, contact information for inquiries, the time, place and terms of the sale and may even include the property description. b. Sale Guidelines: The sale, which may be held no earlier than 8 days after the first notice is published and no more than 30 days after the last notice is published, is to be made at auction to the highest bidder. Any person other than the trustee may bid at the foreclosure sale, including a person who has submitted a written one-price bid. Written one-price bids may be made and shall be received by the trustee for entry by announcement of the trustee at the sale. Any bidder in attendance may inspect written bids. Additionally, the trustee may require bidders to place a cash deposit of up to 10% of the sale price, unless the deed of trust specifies a higher or lower amount. In the event of postponement of sale, which may be done at the discretion of the trustee, notice of such postponed sale shall be in the same manner as the original notice of sale. c. Deficiency Judgment: No limits on deficiency judgments. <p>Applicable Law: VA. CODE ANN. §§ 55-59 <i>et seq.</i>, 58.1-800 <i>et seq.</i></p>	<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: In Washington, foreclosures can be conducted either judicially or non-judicially, but common practice is non-judicial. Filing concurrent actions are strictly prohibited.</p> <p>REDEMPTION: Redemption not permitted for non-judicial foreclosures, however, redemption right is 1 year for judicial foreclosures.</p> <ul style="list-style-type: none"> ▪ Borrower Right to Cure: Up to 11 days before sale <p>CUSTOMARY SECURITY INSTRUMENT: Deed of Trust.</p> <p>TYPICAL FORECLOSURE TIME: 120 days.</p> <p>TRANSFER/CONVEYANCE TAX: Yes. Additionally, the real estate excise tax applies to transfers of controlling interests (50% or more) in entities that own property in Washington.</p> <p>ADDITIONAL NON-JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Notice Requirements: Lender must serve notice of default 30 days within 30 days. Lender must serve notice of sale to borrower, by regular and certified mail, at least 90 days prior to sale. The sheriff must then publish a notice of sale once a week for no less than 4 weeks in any daily or weekly legal newspaper of general circulation in which the property is located. Additionally, prior to sale the sheriff must post notice in 2 public places, one being the county courthouse door. Sale may not take place less than 190 days after default. • Sale Guidelines: Sale must occur at county courthouse door between the hours of 9 am and 4 pm, on Friday unless Friday is a legal holiday in which case sale is postponed until following regular business day. • Deficiency Judgment: Permitted in judicial foreclosures for the difference between what the property sold for and the loan amount. No deficiency decree if the foreclosure is by power of sale. <p>APPLICABLE LAW: WASH. REV. CODE §§ 61.12 <i>et seq.</i>, 82.45.010 <i>et seq.</i>, 82.46.010 <i>et seq.</i>; WASH. ADMIN. CODE 458-61A-200 <i>et seq.</i></p>

State Descriptive Summaries

WASHINGTON D.C.	WEST VIRGINIA
<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: Washington D.C. is a non-judicial foreclosure district.</p> <p>REDEMPTION: None.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: One time a year borrower can cure up to 5 days before foreclosure sale by paying all sums due <p>CUSTOMARY SECURITY INSTRUMENT: Deed of Trust.</p> <p>TYPICAL FORECLOSURE TIME: 60 days.</p> <p>TRANSFER/CONVEYANCE TAX: Yes. Additionally, certain transfers of interests in corporations, partnerships, and associations are subject to a recordation tax based upon the total consideration price allocable to the real property.</p> <p>ADDITIONAL NON-JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Notice Requirements: 30 days prior to sale lender must give written notice, by certified mail, return receipt requested, to the borrower at his last known address as well as, to the Mayor of DC, or his designated agent. Notice must include amount of loan and default, and date, time, and place of sale. • Sale Guidelines: Sale must occur as indicated in the notice of sale. • Deficiency Judgment: Permitted for the difference between what the property sold for and the loan amount. <p>APPLICABLE LAW: D.C. CODE ANN. §§ 42-803, 42-805, 42-815, 42-1101 <i>et seq.</i>, 47-901 <i>et seq.</i></p>	<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: In West Virginia, foreclosures can be conducted either judicially or non-judicially, but common practice is non-judicial.</p> <p>REDEMPTION: None.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: Notice of right to cure can be served 5 days after default. Borrower must cure within 10 days following service of notice of right to cure. No right to cure if in default and notice is served three or more times. <p>CUSTOMARY SECURITY INSTRUMENT: Mortgage.</p> <p>TYPICAL FORECLOSURE TIME: 60-90 days</p> <p>TRANSFER/CONVEYANCE TAX: Yes.</p> <p>ADDITIONAL NON-JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Notice Requirements: For mortgages executed after July 1, 1980, trustee must publish notice of sale in county where property is located once a week for 4 weeks in the county in which the property is located. Notice must be served on the borrower, by certified mail, return receipt requested, as well as any subordinate lien holders no less than 20 days prior to sale. Notice of foreclosure sale should be posted once a week for two successive weeks. Notice should also be posted on the front door of the courthouse for the county where the property is located, and 3 other public places, one of which must be the property itself. • Sale Guidelines: Sale must be conducted as indicated in the notice of sale and completed by public auction, unless the deed specifies the terms of sale. The buyer must pay one-third of the bid amount in cash at the sale. • Deficiency Judgments: Generally not permitted, but when allowed lender must file a separate lawsuit. <p>APPLICABLE LAW: W.VA. CODE §§ 38-1-3 <i>et seq.</i>, 59-1-1 <i>et seq.</i>, 8A-12-21, 11-22-1 <i>et seq.</i></p>

State Descriptive Summaries

WISCONSIN	WYOMING
<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: Wisconsin is both a judicial and non-judicial foreclosure state, but the most common practice is judicial.</p> <p>REDEMPTION: Unless foreclosure sale has been confirmed by the court, 12 months if property is owner-occupied, 6 months if property is 20 acres or less and borrower waives right to deficiency judgment and 2 months if property is abandoned.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: Borrower can cure by bringing amount due into court before judgment and the case will be dismissed. <p>CUSTOMARY SECURITY INSTRUMENT: Mortgage.</p> <p>TYPICAL FORECLOSURE TIME: 90 days.</p> <p>TRANSFER/CONVEYANCE TAX: Yes.</p> <p>ADDITIONAL NON-JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Notice Requirements: Foreclosure notice must be recorded with the county prior to the time the first notice is published. Notice should be published once a week for 6 consecutive weeks in a newspaper of general circulation in the county where the property is located. Borrower should be personally served with notice of sale, if borrower can not be found notice should be posted on the mortgaged property and served to the occupant. • Sale Guidelines: Sale cannot take place until one year after judgment is entered, unless lender waives the right to a deficiency, in which case delay is 6 months, or 2 months if abandoned. Sales by consent can be earlier. Sale must be held as indicated in the notice. Must take place between 9 am and sunset. • Deficiency Judgment: Permitted for the difference between what the property sold for and the loan amount, but only if lender indicated such action in their application for sales confirmation. <p>APPLICABLE LAW: WIS. STAT. ANN. §§ 846.01 to .02, 77.21.</p>	<p>JUDICIAL/NON-JUDICIAL FORECLOSURE: In Wyoming, foreclosures can be conducted either judicially or non-judicially, but common practice is non-judicial.</p> <p>REDEMPTION: 3 months. Right only granted in judicial sales.</p> <ul style="list-style-type: none"> • Borrower Right to Cure: None <p>CUSTOMARY SECURITY INSTRUMENT: Deed of Trust.</p> <p>TYPICAL FORECLOSURE TIME: 90 days.</p> <p>TRANSFER/CONVEYANCE TAX: No.</p> <p>ADDITIONAL NON-JUDICIAL FORECLOSURE INFORMATION:</p> <ul style="list-style-type: none"> • Notice Requirements: Prior to initiating a foreclosure the lender must file a written notice of intent to foreclose with the courts and serve notice to the borrower, by certified mail requesting the return receipt, at least 10 days prior to the first publication of notice of sale. A copy of notice of sale must be published 4 consecutive weeks in a newspaper of general circulation in the county where the property is located. • Sale Guidelines: Sale must occur in the front of the county courthouse door between the hours of 9 am and 5 pm, and must be conducted by the person appointed for that purpose in the mortgage. • Deficiency Judgment: Permitted for the difference between what the property sold for and the loan amount if a separate written agreement obliges the mortgagor <p>APPLICABLE LAW: WYO. STAT. ANN. §§ 34-4-104 to -105, 34-4-108, 34-4-111, 34-4-113.</p>