

Table of Contents

CHAPTER 1. THE DEED OF TRUST

- § 1:1 Introduction
- § 1:2 Content of deed of trust
- § 1:3 Power of sale
- § 1:4 The lien theory
- § 1:5 Limitations

CHAPTER 2. THE TRUSTEE

- § 2:1 Qualifications
- § 2:2 Authority
- § 2:3 Duties
- § 2:4 Federal Fair Debt Collection Practices Act
- § 2:5 Compensation
- § 2:6 Delegation of power
- § 2:7 Trustee purchasing from herself
- § 2:8 Conflict of interest
- § 2:9 Disbursement of proceeds
- § 2:10 Appointment of successor
- § 2:11 Cotrustees
- § 2:12 Sheriff as trustee
- § 2:13 Law firm as trustee

CHAPTER 3. PREPARING FOR SALE

- § 3:1 Default
- § 3:2 Pre-foreclosure duties imposed under RESPA
- § 3:3 Tender
- § 3:4 Acceleration
- § 3:5 Second mortgages—Applicability of statutes
- § 3:6 —Statutory requirements
- § 3:7 Records search
- § 3:8 Advertisement—Requirements
- § 3:9 —Contents
- § 3:10 —Newspaper
- § 3:11 —Irregularity
- § 3:12 Notice of sale by certified mail
- § 3:13 Junior federal tax liens—Notice requirements
- § 3:14 Foreclosure of federally related loans
- § 3:15 Common problems associated with ownership of the indebtedness
- § 3:16 Procedure when property is subject to a nonrevenue lien in favor of the United States

CHAPTER 4. THE SALE

- § 4:1 Moratorium on sale—Calamity or disability of mortgagor
- § 4:2 —Death of mortgagor
- § 4:3 —Military service
- § 4:4 —The COVID 19 coronavirus pandemic
- § 4:5 Day of sale
- § 4:6 Time of sale
- § 4:7 Place of sale
- § 4:8 Adjournment of sale
- § 4:9 Lulling
- § 4:10 Chilled bidding
- § 4:11 The sale
- § 4:12 Property used as meth lab
- § 4:13 Loan secured partly by personalty
- § 4:14 Sale in bulk or in parcels
- § 4:15 Marshalling assets
- § 4:16 Sale price
- § 4:17 Lender bidding strategy
- § 4:18 Relief from mistake
- § 4:19 Void or merely voidable sale
- § 4:20 Junior lienholders
- § 4:21 Priority of claims to surplus
- § 4:22 Vendors' and vendees' liens
- § 4:23 Bona fide purchaser
- § 4:24 Potential liability for Missouri taxes
- § 4:25 Purchaser's potential liability for toxic waste cleanup
- § 4:26 Crops and fixtures
- § 4:27 Junior federal tax liens—Right to redeem
- § 4:28 Trustee's deed
- § 4:29 Trustee's accounting
- § 4:30 Foreclosure on a condominium
- § 4:31 Foreclosure on a manufactured home
- § 4:32 Gramm-Leach-Bliley Act privacy considerations
- § 4:33 Title insurance
- § 4:34 Post-foreclosure notice to tenant of residential property
- § 4:35 Special risk imposed by reverse mortgages

CHAPTER 5. ANCILLARY AND ALTERNATE REMEDIES OF THE MORTGAGEE

- § 5:1 Right to possession after default
- § 5:2 Securing possession after foreclosure

TABLE OF CONTENTS

- § 5:3 Appointment of a receiver
- § 5:4 Deeds in lieu of foreclosure
- § 5:5 Deficiency
- § 5:6 Recovery of attorney's fees
- § 5:7 Insured casualty loss
- § 5:8 Judicial foreclosure

CHAPTER 6. REMEDIES OF THE MORTGAGOR

- § 6:1 Injunction of sale
- § 6:2 Redemption in equity
- § 6:3 —The effect of laches, waiver and estoppel
- § 6:4 —Parties
- § 6:5 Statutory redemption
- § 6:6 —Who may redeem
- § 6:7 —Notice of intention to redeem
- § 6:8 —Sufficiency of bond
- § 6:9 —Notice, hearing and approval of bond
- § 6:10 —Tolling of period
- § 6:11 —Damages recoverable
- § 6:12 Bankruptcy—Automatic stay
- § 6:13 —Fraudulent transfer
- § 6:14 —Voidable preference
- § 6:15 Wrongful foreclosure
- § 6:16 Prima facie tort
- § 6:17 Standing: ownership and possession of the note
- § 6:18 Workouts and short sales
- § 6:19 Recharacterization of purported sale as equitable mortgage
- § 6:20 Borrower's rescission right under Truth in Lending Act
- § 6:21 Relief from unfair, deceptive, or abusive acts and practices through the Consumer Financial Protection Bureau

CHAPTER 7. FORMS

- § 7:1 Deed of trust
- § 7:2 —With assignment of leases and rents and security agreement
- § 7:3 Resignation of trustee
- § 7:4 Appointment of successor trustee by mortgagee
- § 7:5 Appointment of successor trustee after commencement of advertisement
- § 7:6 Affidavit for appointment of successor trustee by circuit court

MISSOURI FORECLOSURE MANUAL—MISSOURI PRACTICE SERIES

§ 7:7	Order appointing successor trustee
§ 7:8	Affidavit of holder
§ 7:9	Notice of default—Second mortgage
§ 7:10	Affidavit of second mortgagee
§ 7:11	Affidavit of no military service
§ 7:12	Notice of trustee's sale (long form)
§ 7:13	Notice of trustee's sale (short form)
§ 7:14	Notice of disposition of collateral under UCC Article 9
§ 7:15	Notice of sale to the Internal Revenue Service holding a junior federal tax lien
§ 7:16	Request for notice of sale
§ 7:17	Notice of intention to redeem
§ 7:18	Certificate of sale
§ 7:19	Redemption bond
§ 7:20	Motion for approval of redemption bond
§ 7:21	Notice of hearing on motion for approval of bond
§ 7:22	Order approving redemption bond
§ 7:23	Receipt and acknowledgment of redemption
§ 7:24	Order extinguishing liability on bond
§ 7:25	Trustee's affidavit of mailing (presale)
§ 7:26	Trustee's script for trustee's sale of real estate to be read prior to sale
§ 7:27	Trustee's accounting
§ 7:28	Trustee's deed under sale
§ 7:29	Trustee's affidavit of mailing (postsale)
§ 7:30	Release of right of redemption by Internal Revenue Service
§ 7:31	Estoppel affidavit for deed in lieu of foreclosure
§ 7:32	Petition for judicial foreclosure of mortgage
§ 7:33	Decree of foreclosure of mortgage
§ 7:34	Writ of execution fieri facias
§ 7:35	Petition for judicial foreclosure of a contract for deed
§ 7:36	Decree of foreclosure of a contract for deed
§ 7:37	Petition for judicial foreclosure
§ 7:38	Answer and counterclaim for redemption
§ 7:39	Decree fixing redemption period
§ 7:40	Motion for appointment of a receiver
§ 7:41	Order appointing receiver
§ 7:42	Oath of receiver
§ 7:43	Bond of receiver
§ 7:44	Notice to debtors of defendant
§ 7:45	Petition for judicial foreclosure
§ 7:46	Answer and counterclaim of mechanic's lien claimant
§ 7:47	Judgment of foreclosure and ranking of claims
§ 7:48	Petition for reformation and for judicial foreclosure

TABLE OF CONTENTS

- § 7:49 Notice of lis pendens
- § 7:50 Decree of reformation and foreclosure
- § 7:51 Notice of sheriff's sale by plaintiff to defendant owner
- § 7:52 Sheriff's notice of sale (for publication)
- § 7:53 Sheriff's report of sale
- § 7:54 Order of confirmation of sale
- § 7:55 Sheriff's deed on sale under execution
- § 7:56 Occupancy termination agreement
- § 7:57 Petition to set aside foreclosure—Breach of duty by trustee—Seeking to enjoin removal from property and to quiet title
- § 7:58 Notice of removal—Action to set aside foreclosure
- § 7:59 Motion—By mortgagee—For extension of time—Unopposed
- § 7:60 ——To dismiss petition to set aside foreclosure
- § 7:61 Memorandum—In support of mortgagee's motion to dismiss petition to set aside foreclosure

APPENDICES

- APPENDIX A. Customary Times and Places of Sale by County
- APPENDIX B. Trustee's Checklist
- APPENDIX C. Missouri Foreclosure Statutes and Rules
- APPENDIX D. Title Insurance Company Foreclosure Requirement
- APPENDIX E. Fannie Mae/Freddie Mac uniform instruments

Table of Laws and Rules

Table of Cases

Index