

654.18 Alternative nonjudicial voluntary foreclosure procedure.

1. Upon the mutual written agreement of the mortgagor and mortgagee, a real estate mortgage may be foreclosed pursuant to this section by doing all of the following:

a. The mortgagor shall convey to the mortgagee all interest in the real property subject to the mortgage.

b. The mortgagee shall accept the mortgagor’s conveyance and waive any rights to a deficiency or other claim against the mortgagor arising from the mortgage.

c. The mortgagee shall have immediate access to the real property for the purposes of maintaining and protecting the property.

d. The mortgagor and mortgagee shall file a jointly executed document with the county recorder in the county where the real property is located stating that the mortgagor and mortgagee have elected to follow the alternative voluntary foreclosure procedures pursuant to this section.

e. (1) The mortgagee shall send by certified mail a notice of the election to all junior lienholders as of the date of the conveyance under paragraph “a”, stating that the junior lienholders have thirty days from the date of mailing to exercise any rights of redemption. The notice may also be given in the manner prescribed in section 656.3 in which case the junior lienholders have thirty days from the completion of publication to exercise the rights of redemption.

(2) In addition to any other form of service authorized by law, service of process in an alternative nonjudicial voluntary foreclosure procedure filed pursuant to this section where in rem relief is the only relief requested shall be served in the manner provided in section 654.4A.

f. At the time the mortgagor signs the written agreement pursuant to this subsection, the mortgagee shall furnish the mortgagor a completed form in duplicate, captioned “Disclosure and Notice of Cancellation”. The form shall be attached to the written agreement, shall be in ten point boldface type and shall be in the following form:

**DISCLOSURE AND NOTICE
OF CANCELLATION**

.....
(enter date of transaction)

Under a forced foreclosure Iowa law requires that you have the right to reclaim your property within one year of the date of the foreclosure and that you may continue to occupy your property during that time. If you agree to a voluntary foreclosure under this procedure you will be giving up your right to reclaim or occupy your property.

Under a forced foreclosure, if your mortgage lender does not receive enough money to cover what you owe when the property is sold, you will still be required to pay the difference. If your mortgage lender receives more money than you owe, the difference must be paid to you. If you agree to a voluntary foreclosure under this procedure you will not have to pay the amount of your debt not covered by the sale of your property but you also will not be paid any extra money, if any, over the amount you owe. NOTE: There may be other advantages and disadvantages, including an effect on your income tax liability, to you depending on whether you agree or do not agree to a voluntary foreclosure. If you have any questions or doubts, you are advised to discuss them with your mortgage lender or an attorney.

You may cancel this transaction, without penalty or obligation, within five business days from the above date.

This transaction is entirely voluntary. You cannot be required to sign the attached foreclosure agreement.

This voluntary foreclosure agreement will become final unless you sign and deliver or mail this notice of cancellation to (name of mortgagee) before midnight of (enter proper date).

I HEREBY CANCEL THIS TRANSACTION.

..... DATE SIGNATURE

2. A junior lienholder may redeem the real property pursuant to section 628.29. If a junior lienholder fails to redeem its lien as provided in subsection 1, its lien shall be removed from the property.

3. Until the completion of foreclosure pursuant to this section, the mortgagee shall hold the real property subject to liens of record at the time of the conveyance by the mortgagor. However, the lien of the mortgagee shall remain prior to liens which were junior to the mortgage at the time of conveyance by the mortgagor to the mortgagee and may be foreclosed as provided otherwise by law.

4. A mortgagee who agrees to a foreclosure pursuant to this section shall not report to a credit bureau that the mortgagor is delinquent on the mortgage. However, the mortgagee may report that this foreclosure procedure was used.

85 Acts, ch 252, §46; 2012 Acts, ch 1053, §3

Referred to in §455B.751, 628.29, 654.1, 654.4A

[T] Subsection 1, paragraph e amended