CHAPTER 655A

NONJUDICIAL FORECLOSURE OF NONAGRICULTURAL MORTGAGES

Referred to in §455B.172, §455B.751, §558A.1, §654.2B, §654.2D, §654.4A

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655A.1 Title.

This chapter shall be known as the *"Nonjudicial Foreclosure of Nonagricultural Mortgages"*.

87 Acts, ch 142, §17

655A.2 Conditions prescribed.

Except as provided in section 655A.9, a mortgage may be foreclosed, at the option of the mortgagee, as provided in this chapter.

87 Acts, ch 142, §18

655A.3 Notice.

1. *a.* The nonjudicial foreclosure is initiated by the mortgagee by serving on the mortgagor a written notice which shall:

(1) Reasonably identify by a document reference number the mortgage and accurately describe the real estate covered.

(2) Specify the terms of the mortgage with which the mortgagor has not complied. The terms shall not include any obligation arising from acceleration of the indebtedness secured by the mortgage.

(3) State that, unless within thirty days after the completed service of the notice the mortgagor performs the terms in default or files with the recorder of the county where the mortgaged property is located a rejection of the notice pursuant to section 655A.6 and serves a copy of the rejection upon the mortgagee, the mortgage will be foreclosed.

(4) Specify a postal or electronic mail address where rejection of the notice may be served.

b. The notice shall contain the following in capital letters of the same type or print size as the rest of the notice:

> WITHIN THIRTY DAYS AFTER YOUR RECEIPT OF THIS NOTICE, YOU MUST EITHER CURE THE DEFAULTS DESCRIBED IN THIS NOTICE OR FILE WITH THE RECORDER OF THE COUNTY WHERE THE MORTGAGED PROPERTY IS LOCATED A REJECTION OF THIS NOTICE AND SERVE A COPY OF YOUR REJECTION ON THE MORTGAGEE IN THE MANNER PROVIDED IN SECTION 655A.4. IF YOU WISH TO REJECT THIS NOTICE, YOU SHOULD CONSULT AN ATTORNEY AS TO THE PROPER MANNER TO MAKE THE REJECTION.
>
> IF YOU DO NOT TAKE EITHER OF THE ACTIONS DESCRIBED ABOVE WITHIN THE THIRTY-DAY PERIOD, THE FORECLOSURE WILL BE COMPLETE AND YOU WILL LOSE TITLE TO THE MORTGAGED PROPERTY. AFTER THE FORECLOSURE IS COMPLETE THE DEBT SECURED BY THE MORTGAGED PROPERTY WILL BE EXTINGUISHED.

2. The mortgagee shall also serve a copy of the notice required in subsection 1 on the person in possession of the real estate, if different than the mortgagor, and on all junior lienholders of record.

3. The mortgagee may file a written notice required in subsection 1 together with proof of service on the mortgagor with the recorder of the county where the mortgaged property

is located. Such a filing shall have the same force and effect on third parties as an indexed notation entered by the clerk of the district court pursuant to section 617.10, commencing from the filing of proof of service on the mortgagors and terminating on the filing of a rejection pursuant to section 655A.6, an affidavit of completion pursuant to section 655A.7, or the expiration of ninety days from completion of service on the mortgagors, whichever occurs first.

4. As used in this chapter, *"mortgagee"* and *"mortgagor"* include a successor in interest.

87 Acts, ch 142, §19; 2001 Acts, ch 44, §30; 2006 Acts, ch 1132, §13, 16; 2007 Acts, ch 126, §107; 2009 Acts, ch 51, §11, 17; 2012 Acts, ch 1021, §110; 2012 Acts, ch 1053, §4

655A.4 Service.

Notice under this chapter shall be served as provided in the rules of civil procedure for service of original notice or as provided in section 654.4A. Rejection of notice under this chapter shall be served by ordinary or electronic mail addressed as provided in the notice, or if no address is provided, to the last address of the mortgagee known to the mortgagor.

87 Acts, ch 142, §20; 2009 Acts, ch 51, §12, 17; 2012 Acts, ch 1053, §5

Service of original notice, R.C.P. 1.302 et seq.

655A.5 Compliance with notice.

If the mortgagor or a junior lienholder performs, within thirty days of completed service of notice, the breached terms specified in the notice, then the right to foreclose for the breach is terminated.

87 Acts, ch 142, §21

Referred to in **§655A.8**

655A.6 Rejection of notice.

If either the mortgagor, or successor in interest of record including a contract purchaser, within thirty days of service of the notice pursuant to section 655A.3, files with the recorder of the county where the mortgaged property is located, a rejection of the notice reasonably identifying the notice which is rejected together with proofs of service required under section 655A.4 that the rejection has been served on the mortgagee, the notice served upon the mortgagor pursuant to section 655A.3 is of no force or effect.

87 Acts, ch 142, §22; 2001 Acts, ch 44, §31; 2009 Acts, ch 51, §13, 17

655A.7 Proof and record of service.

If the terms and conditions as to which there is default are not performed within the thirty days, the party serving the notice or causing it to be served shall file for record in the office of the county recorder a copy of the notice with proofs of service required under section 655A.4 attached or endorsed on it and, in case of service by publication, a personal affidavit that personal service could not be made within this state, and when those documents are filed and recorded, the record is constructive notice to all parties of the due foreclosure of the mortgage.

87 Acts, ch 142, §23

Referred to in **§655A.3**, **§655A.8**

655A.8 Effect of foreclosure — reopening.

Upon completion of the filings required under section 655A.7 and if no rejection of notice has been filed pursuant to section 655A.6, then without further act or deed:

1. The mortgagee acquires and succeeds to all interest of the mortgagor in the real estate.
2. All liens which are inferior to the lien of the foreclosed mortgage are extinguished.
3. The indebtedness secured by the foreclosed mortgage is extinguished.
4. If, after completion of the filings required under section 655A.7, it appears that a junior lienholder was not properly served with a notice pursuant to section 655A.3, the mortgagee may serve the lienholder with an amended notice specifying the provisions of the mortgage currently in default. Unless, within thirty days, the junior lienholder performs pursuant to section 655A.5, the mortgagee may file a supplemental affidavit indicating service and nonperformance to extinguish the lien.

5. A foreclosure under this chapter shall not bar a mortgagee or its successor in interest from action under chapter 654 to resolve matters which have not been resolved under this chapter.

87 Acts, ch 142, §24; 2009 Acts, ch 51, §14, 17

655A.9 Application of chapter.

This chapter does not apply to real estate used for an agricultural purpose as defined in section 535.13, or to a one or two family dwelling which is, at the time of the initiation of the foreclosure, occupied by a legal or equitable titleholder.

87 Acts, ch 142, §25; 2006 Acts, ch 1132, §14, 16; 2009 Acts, ch 51, §15, 17