



## Foreclosure Timeline, Part 1

This timeline is a simplified summary of the basic procedures under the foreclosure statute and does not attempt to cover all aspects. This is a complex statute and an attorney should be consulted before taking any steps or making any decisions regarding the foreclosure process.

Note that, unless otherwise stated, all references to “days” are “calendar days.”

### Pre-foreclosure

- Watch for FHA, HUD, and VA loans for additional rules for when foreclosure can be commenced. For example, under HUD rules, foreclosure can be commenced only if at least 3 full monthly installments are due and unpaid, subject to exceptions.
- At least 30 days before filing the notice of election and demand and at least 30 days after default, the lender is required to mail a notice to the borrower containing the telephone numbers of the Colorado foreclosure hotline and the direct telephone number of the lender’s loss mitigation department.

### Commencement of foreclosure

The lender’s attorney will commence the sale by filing, with the public trustee of the county where the property is situated:

- Notice of election and demand for sale (NED).
- Original evidence of debt, or lost instrument bond if the evidence of debt is mislaid, unless the lender is a financial institution that can provide an indemnity.
- Mailing list containing the names and addresses of owners, guarantors, lessees, and occupants (as shown by the public records or records of the lender), who will receive notice of the sale.
- The combined notice that the public trustee mails to the persons in the mailing list.
- A deposit on the fees of the public trustee.

Not more than 60 and not less than 45 days prior to the sale date, a supplemental mailing list must be filed containing, in addition to the names of the parties in the original mailing list, the names of persons who have an interest in the property as shown by an instrument recorded prior to the recording of the NED.

### Foreclosure Deferment

- This applies to borrowers who occupy and intend to continue to occupy the property as their primary residence, who are personally obligated on the debt which was incurred primarily for household, personal, or family purposes, and when the original principal amount is less than \$500,000.
- No later than 15 days after the filing of the documents by the attorney, and acceptance by the public trustee, the lender/attorney must personally serve on the borrower, or post in a conspicuous place on the property (front door, guard gate, or similar) a notice that the property is being foreclosed.
- The lender/attorney must file an affidavit with the public trustee within 20 days after the initial filing stating that the posting has been made.

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- If the posting is not done, no publications can be made and the sale must be continued week by week until the posting has been done.
- No later than 30 days after the initial contact, the counselor must determine whether the borrower is eligible for deferment and, if eligible, certify this determination to the borrower and the lender, and to the public trustee.
- The public trustee will immediately cancel all remaining publications, not mail any notices, and continue the sale.
- When the deferment has been terminated or has ended, the public trustee will begin the sale process by publishing the required notices.

### Public Trustee procedures on commencement of the sale

On receipt of the request for sale, the public trustee must:

- Record the NED — no later than 10 business days after receipt from the attorney.
- No more than 60 days and no less than 45 days prior to the first scheduled date of sale, advertise the sale in a newspaper once a week for 5 successive weeks (unless the deed of trust requires a longer period), only after the affidavit of posting of the deferment notice has been received. Sale is continued until this affidavit received.
- Mail copies of the combined notice to the specified parties within 20 days after the NED is recorded.
- Mail copies of the combined notice to the parties shown in the supplemental mailing list no more than 60 days and no less than 45 days prior to the scheduled date of sale.
- Sale must be scheduled for a date that is not less than 110 days and not more than 125 days after the recording of the NED for non-agricultural property. For agricultural property, the date of sale must be scheduled no less than 215 days and no more than 230 days after the recording of the NED.
- If it is determined after the commencement of the sale and the recording of the NED that posting of the deferment notice is required, then the dates and deadlines for the sale are calculated from the date of the re-recording of the NED, once the posting and the deferment have been made.

### Expedited sale

- This applies only to (1) a residential mortgage loan that is a first lien on the property, and (2) the deed of trust does not specify a longer publication date. It does not apply to any judicial foreclosures
- A lender can elect to have an expedited sale of residential property, which will occur between 40 and 55 calendar days after the recording of the NED.
- A court must issue an order for expedited sale, and a copy of the order must be filed with the public trustee. The court will only issue an order if, among other things, the property has been abandoned or the grantor requests the order for expedited sale.
- All Notices for Election and Demand must be filed with the public trustee by August 1, 2013. The entire section is automatically repealed on July 1, 2014.



This is Part 1 of the Timeline only. Please use in conjunction with Foreclosure Timeline, Part 2, June 2012.

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