

§6323. Sale following expiration of period of redemption

1. Procedures for all civil actions. Upon expiration of the period of redemption, if the mortgagor or the mortgagor's successors, heirs or assigns have not redeemed the mortgage, any remaining rights of the mortgagor to possession terminate, and the mortgagee shall cause notice of a public sale of the premises stating the time, place and terms of the sale to be published once in each of 3 successive weeks in a newspaper of general circulation in the county in which the premises are located, the first publication to be made not more than 90 days after the expiration of the period of redemption. Except when otherwise required under 12 Code of Federal Regulations, Section 1024.41 or any successor provision, the public sale must be held not less than 30 days nor more than 45 days after the first date of that publication. Except for sales of premises that the court has determined to be abandoned pursuant to section 6326, the public sale may be adjourned, for any time not exceeding 60 days, by announcement to those present at any such adjournment. The court, upon motion of the mortgagee, filed before the deadline for sale and showing good cause, may grant such further extensions of the mortgagee's time to sell as it considers appropriate. For sales of premises that the court has determined to be abandoned pursuant to section 6326, the public sale may be adjourned once for any time not exceeding 7 days, except that the court may permit one additional adjournment for good cause shown. Adjournments may also be made in accordance with the requirements of 12 Code of Federal Regulations, Section 1024.41 or any successor provision. The mortgagee, in its sole discretion, may allow the mortgagor to redeem or reinstate the loan after the expiration of the period of redemption but before the public sale. The mortgagee shall convey the property to the mortgagor upon redemption or may execute a waiver of foreclosure in conjunction with a reinstatement only with the written consent of the mortgagor. A waiver of foreclosure and the consent of the mortgagor to the waiver must be included in a stipulation of dismissal of the foreclosure and signed by the mortgagee and mortgagor or their respective attorneys, and, upon the filing of the stipulation of dismissal with the court, all other rights of all other parties remain as if no foreclosure had been commenced. The mortgagee shall sell the premises to the highest bidder at the public sale and deliver a deed of that sale and any writ of possession that has been issued to the purchaser. The deed conveys the premises free and clear of all interests of the parties in interest joined in the action. The mortgagee or any other party in interest may bid at the public sale. If the mortgagee is the highest bidder at the public sale, there is no obligation to account for any surplus upon a subsequent sale by the mortgagee. Any rights of the mortgagee to a deficiency claim against the mortgagors are limited to the amount established as of the date of the public sale. The date of the public sale is the date on which bids are received to establish the sales price, no matter when the sale is completed by the delivery of the deed to the highest bidder. If the property is conveyed by deed pursuant to a public sale in accordance with this subsection, a copy of the judgment of foreclosure and evidence of compliance with the requirements of this subsection for the notice of public sale and the public sale itself must be attached to or included within the deed, or both, or otherwise be recorded in the registry of deeds.

[PL 2019, c. 408, §1 (AMD).]

2. Additional notice requirements for civil actions commenced on or after January 1, 1995. In foreclosures by civil action commenced on or after January 1, 1995, the mortgagee shall cause notice of the public sale to be mailed by ordinary mail to all parties who appeared in the foreclosure action or to their attorneys of record. The notice must be mailed no less than 30 calendar days before the date of sale. Failure to provide notice of the public sale to any party who appeared does not affect the validity of the sale.

[PL 1993, c. 544, §1 (NEW).]

3. Extension of deadline. Upon a showing of good cause, the court may extend a deadline established by this section for the publication of the notice of sale or conducting the public sale.

[PL 2009, c. 402, §20 (NEW).]

SECTION HISTORY

PL 1975, c. 552, §5 (NEW). PL 1983, c. 447, §4 (RPR). PL 1993, c. 373, §2 (AMD). PL 1993, c. 544, §1 (RPR). PL 2005, c. 291, §1 (AMD). PL 2007, c. 103, §1 (AMD). PL 2009, c. 402, §20 (AMD). PL 2013, c. 521, Pt. C, §1 (AMD). PL 2019, c. 408, §1 (AMD).

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