

MONTANA NON-JUDICIAL FORECLOSURE PROCESS

Non-Judicial foreclosures are processed without court intervention by following the requirements established by state statutes. This process is utilized when a Deed of Trust, or Trust Indenture, contains a “power of sale” clause, which gives the lender or their representative, typically referred to as the trustee, the authority to sell the subject property to pay off the balance on a loan in the event of default. The process for a Montana Non-Judicial Foreclosure is outlined below:

NOTICE OF TRUSTEE'S SALE	<i>The Notice of Trustee's Sale is prepared by the trustee and recorded in the office of the County Recorder. The Notice of Trustee's Sale sets the foreclosure sale date—Sale date can be set no sooner than 120 days from the date the Notice of Trustee's Sale is sent to all interested parties.</i>
UP TO THE SALE DATE	<i>Any person of interest has the right, until the time of the foreclosure sale, to stop the foreclosure action by curing the default and paying all fees and costs incurred.</i>
NOTIFICATION REQUIREMENTS:	<i>Three forms of notification are required before sale of property can take place: mailing, posting & service, and publication.</i>
MAILING	<i>Notice of Trustee's Sale must be mailed to all interested parties by certified mail at least 120 days before the scheduled sale date.</i>
POSTING & SERVICE	<i>The Sheriff's Office or Constable of the county wherein the property is located, must post a copy of the recorded Notice of Sale in a conspicuous place on property to be sold at least 20 days prior to the scheduled sale date.</i>
PUBLICATION	<i>Notice of Trustee's Sale must be published in a county newspaper of general circulation where the property is situated for 3 consecutive weeks. The final publication must be at least 20 days prior to the scheduled sale date.</i>
AFFIDAVITS RECORDED	<i>On or before the date of the sale, an affidavit of mailing, an affidavit of posting and service, and an affidavit of publication must be recorded in the office of the County Recorder.</i>
25 DAYS PRIOR TO SALE DATE	<i>The IRS must be notified at least 25 days prior to the scheduled sale date if an IRS tax lien is shown of record.</i>
SALE DATE	<i>Barring any actions to stop the sale, the public auction is held and property is sold. Anyone interested in bidding at the sale must attend with Certified Funds to be qualified to bid.</i>
AFTER THE SALE	<i>A Trustee's Deed is prepared and recorded conveying property to the winning bidder or back to the Beneficiary if there are no purchasers in attendance. The winning bidder is entitled to possession of the property 10 days after the sale.</i>