

# Non-Judicial Foreclosure Research Guide

## Overview

This research guide includes information and resources on non-judicial foreclosure. Sometimes referred to as a “power-of-sale” foreclosure, a non-judicial foreclosure is “a foreclosure method that does not require court involvement.” With a power-of-sale foreclosure, “according to the mortgage instrument and ad state statute, the mortgaged property is sold at a non-judicial public sale by a public official, the mortgagee, or a trustee, without the stringent notice requirements, procedural burdens, or delays of a judicial foreclosure.” (*Black’s Law Dictionary, 11<sup>th</sup> ed.*) The resources listed below are not exhaustive and may not include the most up-to-date information. It is for information purposes only and should not be construed as legal advice or act as the substitute for legal counsel.

## Statutes and Codes

Texas Statutes Online [www.statutes.capitol.texas.gov](http://www.statutes.capitol.texas.gov)

Texas Business and Commerce Code

- Ch. 22 Public Sale of Residential Real Property Under Power of Sale  
<https://statutes.capitol.texas.gov/Docs/BC/html/BC.22.htm>

Texas Finance Code

- §347.356 Requirements for Action to Repossess, Foreclose, or Accelerate Payment of Entire Debt  
<https://statutes.capitol.texas.gov/Docs/FI/html/FI.347.htm#347.356>

Texas Property Code

- Ch. 51 Provisions Generally Applicable to Liens  
<https://statutes.capitol.texas.gov/Docs/PR/html/PR.51.htm>

## Secondary Resources in Print

### **Texas Transaction Guide REF KFT 1268 .K45**

- Vol. 17, Ch. 72B Nonjudicial Foreclosure and Forfeiture
- Vol. 25 Transactions in Turbulent Times, Ch. 37 Mortgages and Deeds of Trust – Foreclosure; Trustees

### **Texas Foreclosure Manual REF KFT 1330.5 .F6S7**

- Ch. 11 Trustees and Substitute Trustees
- Ch. 12 Notice of Foreclosure Sale
- Ch. 14 Conducting the Sale
  - §14.14 Recissions of Foreclosure Sale
  - Form 14-10 Recission of Sale by Mutual Agreement

### **The Foreclosure Survival Guide, 8<sup>th</sup> ed. REF KF 697 .F6 E45**

- Ch. 2 Foreclosure Nuts and Bolts, p. 43
- Ch. 7 Fighting Foreclosure in Court, p. 152
- Ch. 9 How Long Can You Stay in Your House for Free?, p. 204

### **Texas Litigation Guide REF KFT 1730 .T4**

- Vol. 4, Ch. 50 Injunctions

### **Texas Practice Series REF KFT 1280 .T4**

- Vol. 11, Ch. 12 Foreclosure of Deeds of Trust
- Vol. 15, §1.12 Defense to Acceleration (estoppel); §16.05.1 Nature of Homestead Property (estoppel)
- Vol. 15, Ch. 17 Taxation of Foreclosures, Deeds in Lieu of Foreclosure, and Abandonments

### **How to File for Chapter 7 Bankruptcy, 22<sup>nd</sup> ed. REF KF 1524.60E4**

- Ch. 4 Your House, How to Raise a Foreclosure Defense, p. 127

**The New Bankruptcy Will It Work For You? 9<sup>th</sup> ed.  
REF KF 1524.6 .E452**

- Ch. 5 Your Home, p. 121-122

**Chapter 13 Bankruptcy 16<sup>th</sup> ed. REF KF 1524.6  
.L46**

- Nonjudicial foreclosure, p. 264

## CLE Materials

**Advanced Real Estate Drafting Course KFT 1312  
.A7527**

- 2021 Ch. 3 Deeds in Lieu of Foreclosure
- 2021 Ch. 10 What's New in Texas Real Estate for 2021, Section IV. A. The Special Warranty Deed After *Cochran* (involves case with a non-judicial foreclosure)
- 2021 Ch. 15 Excess Proceeds and How to Get Them, Section V. Deed of Trust Foreclosures

**Advanced Real Estate Law Course KFT 1312 .A75**

- 2020 Vol. 2, Ch. 26 Foreclosure on a Collateral Transfer of Note & Lien
- 2019 Ch. 4 Update and Refresher on Foreclosures and Workouts: Ten Things Every Real Estate Attorney Needs to Know
- 2017 Ch. 14 Foreclosures by Property Owners' Associations

**Handling Your First (or Next) HOA Assessment  
Lien Foreclosure for Condos and Subdivisions KFT  
1330.5 F6 H35**

**Real Estate Law 101 KFT 1312 .A75R22**

- 2020 Ch. 4 Texas Foreclosures and Evictions 101

**Advanced Real Estate Strategies (PDF only)**

- 2021 Ch. 2.1 Nonjudicial Foreclosure Sales of Commercial Real Property: Legal Considerations and Documentation
- 2021 Ch. 2.2 Post Foreclosure Attacks on Sale, Collection of Deficiency, Limitations and Related Matters
- 2021 Ch. 2.3 Pre-Foreclosure Remedies for Avoiding the Sale: Injunctive Relief and Bankruptcy

## Online Resources

Foreclosure Research Guide (TSLL)

<https://guides.sll.texas.gov/foreclosure>

Foreclosure Terminology (Nolo)

<https://www.nolo.com/legal-encyclopedia/foreclosure-terminology>

Foreclosure (TexasLawHelp.org)

<https://texaslawhelp.org/house-apartment/foreclosure>

Property Owners' Associations: Assessments and Foreclosure (TSLL)

<https://guides.sll.texas.gov/property-owners-associations/assessments-foreclosure>

Texas Non-Judicial Foreclosures – Basics You Should Know (attorney blog)

<https://www.brllawpllc.com/texas-non-judicial-foreclosures---basics-you-need-to-know>

Non-Judicial Foreclosures in Texas (attorney blog)

<https://www.guerradays.com/portfolio-items/real-estate-attorney-non-judicial-foreclosures-in-texas/>

## Legal Assistance

**Legal Lines – Ask Attorneys simple legal questions (free service)**

- Tarrant County LegalLine Sign-up  
<https://www.tarrantbar.org/>
- Dallas County LegalLine Sign-up  
<https://www.dallasbar.org/index.cfm?pg=legalline>

**Tarrant County Bar Association Lawyer Referral Service:** 817-336-4101 (\$20 for the first 30 minutes)