

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 a 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, 11th 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.

Related guides: Foreclosure

Statutes and Codes

Texas Statutes Online 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/htm/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/htm/FI.347.htm#347.356>

Texas Property Code

- Ch. 51 Provisions Generally Applicable to Liens

<https://statutes.capitol.texas.gov/Docs/PR/htm/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, 8th 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, 22nd 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? 9th ed. REF KF 1524.6 .E452

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

Chapter 13 Bankruptcy 16th 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>

Texas Foreclosure Laws and Procedures (NOLo)

<https://www.nolo.com/legal-encyclopedia/texas-foreclosure-laws-procedures.html>

Foreclosure Terminology (NOLo)

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

How Nonjudicial Foreclosures Work (NOLo)

<https://www.nolo.com/legal-encyclopedia/how-foreclosure-works-30066-2.html>

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>

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)