

Markve and Zweifel, PLLC

Attorneys at Law

Re: Information regarding short sale negotiation and the foreclosure redemption period

Recently we have seen a growing number of short sale lenders who will not approve the short sale of a property when a property is in the redemption period. The redemption period is part of the mortgage foreclosure process and is the time period that runs after a sheriff's sale has occurred concerning that property.

Those lenders/investors who will not do a short sale in the redemption period include, but may not be limited to FHA and VA mortgages and conventional mortgages with Freddie Mac as the investor. We have also discovered that other lenders, who may offer some incentive money to the homeowner under the lender's short sale programs, will not pay that incentive money if the property is in the redemption period.

Thus, we are encouraging certain clients to take action to postpone a pending sheriff's sale so that the property does not enter the redemption period. Homeowners who occupy a property that is homesteaded for property tax purposes are allowed under Minnesota law to force a pending sheriff's sale to be postponed. This postponement can be done once by the homeowner.

Attached are instructions that you the homeowner can follow to postpone a sheriff's sale along with the required affidavit form. The full process for postponement must be completed at least 15 days before the scheduled sheriff's sale.

Postponing the sale through this process will postpone the sheriff's sale for 5 months, however, it will reduce the redemption period to 5 weeks. There can be some pros and cons to postponing a sale. IN SOME CASES IT MAY NOT BE IN YOUR BEST INTEREST TO POSTPONE THE SHERIFF'S SALE. This information is provided to you for information purposes only. If you have questions or concerns about whether postponing a sheriff's sale is in your best interest, please schedule a consultation with one of our firm's attorneys.

INSTRUCTIONS TO POSTPONE SHERIFF'S SALE

To postpone a Sheriff's Sale, the property must be owner occupied and classified as homestead and be one to four units. Also, the first publication of the Sheriff's Sale must have occurred AND the postponement process must be completed at **least 15 days before the scheduled Sheriff's Sale.**

To postpone a sale, you must complete all of the following steps:

1. Sign the postponement affidavit in front of a notary.
2. Record the postponement affidavit at the county recorder or registrar of titles where the mortgage was recorded. You may want to check with your county's recorder to determine how they handle these affidavits. Some will record the original and then mail it back to you. Other counties will allow you to bring a copy of the affidavit or additional affidavits with original signatures which then can be stamped upon recording and taken with you that same day to complete the process below. It might be a good idea to sign an extra couple copies when you sign the affidavit, depending on how your county recorder handles this process.

Note: fees are required for recording the affidavit; fees vary by county but expect about \$45 - \$50.

3. File a copy of the affidavit showing the date and office in which it was recorded with the sheriff conducting the sale. Include a copy of the Notice of Mortgage Foreclosure Sale. Contact the Sheriff's Office in your county to determine the process and any fee.
4. Deliver a copy of the affidavit showing the date and office in which it was recorded to the attorney conducting the foreclosure. Include a copy of the Notice of Mortgage Foreclosure Sale. Contact the foreclosure attorney to determine acceptable method of deliver (in person, mail and/or fax.)
5. Confirm receipt of the copies and the actual new sale date with the Sheriff's Office and the foreclosure attorney.

Other facts to know about postponing the Sheriff's Sale:

- The lender and foreclosure attorney are not required to publish notice or serve you with additional information about the change in the Sheriff's Sale or the date the redemption period ends.
- Postponement can only be done once, regardless of whether you bring the mortgage current or not.

(Top 3 inches reserved for recording data)

AFFIDAVIT OF POSTPONEMENT
Minn. Stat. 580.07

Minnesota Uniform Conveyancing Blanks
Form 60.8.1 (2011)

State of Minnesota, County of _____

(whether one or more, "Owner"), being first duly sworn on oath, states as follows:

He is the owner or mortgagor of the real property (the "**Property**") situated in _____ County,
(Insert name of county)

1. Minnesota, legally described in the attached published Notice of Mortgage Foreclosure Sale (the "**Notice**"), and makes this affidavit for the purpose of postponing the foreclosure sale of the Property pursuant to Minnesota Statutes, section 580.07, subdivision 2, for five months from the date scheduled in the attached Notice if the original redemption period is six months, or for 11 months if the original redemption period is 12 months.

2. The Property is classified as homestead under Minnesota Statutes, section 273.124, is occupied by the Owner as a homestead, and is improved with not more than four dwelling units.

3. Owner has elected to shorten the Owner's redemption period from any foreclosure sale of the Property to five weeks in exchange for the postponement of the foreclosure sale for five months if the original redemption period was six months, or for 11 months if the original redemption period was 12 months.

Check here if all or part of the described real property is registered (Torrens)

Owner

(signature)

(signature)

Note: The published Notice of Mortgage Foreclosure Sale must be attached to this document and recorded in order for it to be enforceable.

Note: After recording, Minn. Stat. 580.07 subd. 2 requires that a copy of this recorded affidavit be filed with the County Sheriff and delivered to the attorney foreclosing the mortgage.

Signed and sworn to before me on _____, by _____
(month/day/year)

(Insert name(s) of person(s) making statement)

(Stamp)

(signature of notarial officer)

Notary Public, Minnesota

My commission expires: _____
(month/day/year)

THIS INSTRUMENT WAS DRAFTED BY:

(insert name and address)