

§6203-E. Liability for deficiency on sale; necessity of notice; form; affidavit

No action for a deficiency may be brought by the holder of the mortgage note or other obligation secured by mortgage of real estate after foreclosure by exercise of the power of sale, unless a notice in writing of the mortgagee's intention to foreclose the mortgage has been served on the mortgagor or its representative in interest or the same has been sent by registered or certified mail with return receipt requested at its last address then known to the mortgagee, to such address as may be agreed upon in the mortgage, together with a naming of liability for the deficiency, in substantially the form below, at least 21 days before the date of the sale under the power in the mortgage, and an affidavit has been signed and sworn to, within 30 days after the date of delivery of the deed to the purchaser or purchaser's agent, of the mailing of the notice. A notice mailed as aforesaid is a sufficient notice, and such an affidavit made within the time specified is prima facie evidence in such action of the mailing of such notice. [PL 2015, c. 147, §4 (AMD).]

The following form of notice and affidavit may be used and may be altered as circumstances require; but nothing herein may be construed to prevent the use of other forms:

FORM

Notice of Intention to Foreclose and of Liability for Deficiency After Foreclosure of Mortgage

To: A. B. of Street, Town of County of
and State of

You are hereby notified in accordance with the statute, of my intention, on
(date of sale), to foreclose by sale under the Power of Sale for breach of condition, the Mortgage held by me on property located on Street, Town of, County of and State of dated and recorded in the County Registry of Deeds, Book, Page, to secure a note (or other obligation) signed by you, for the whole, or any part, of which you may be liable to me and in case of a deficiency in the proceeds of the Foreclosure Sale to hold you liable for the whole or any part thereof still remaining unpaid.

Very truly yours,

.....
(Name of holder of said Mortgage)

Affidavit

I hereby certify on oath that on the day of 20....., I mailed by registered or certified mail with return receipt requested, the notice a copy of which is hereinabove set forth, direct to such person or persons at the address therein named that was the last address of such person known to me at the time of mailing or to such person or persons at the address therein named that was the person and the address agreed upon in said Mortgage.

Subscribed and sworn to before me this day of 20.....

.....
Notary Public [PL 2015, c. 147, §4 (AMD).]

In the event that the mortgagee is the purchaser at the public sale, any deficiency is limited to the difference between the fair market value of the premises at the time of the sale, as established by an independent appraisal, and the sum due the mortgagee with interest plus the expenses incurred in making the sale. [PL 2015, c. 147, §4 (NEW).]

SECTION HISTORY

PL 1967, c. 424, §2 (NEW). PL 1987, c. 736, §17 (AMD). PL 2015, c. 147, §4 (AMD).

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