

# The Foreclosure Process

---

## Foreclosure Process:

- Notice of Election and Demand (NED) is recorded within 10 business days of receiving a packet from the lender's attorney.
- Sale date is set between 110-125 calendar days after the NED was recorded (non-ag).
- Combined Notice is mailed within 20 calendar days after the NED was recorded.
- Second combined Notice is mailed with 45-60 calendar days prior to first scheduled sale date.
- Combined Notice published in local paper 45-60 calendar days prior to the first scheduled sale date.
- Notice of Intent to Cure must be received at least 15 calendar days prior to the first scheduled sale date. A cure, in the form of a cashier's check, must be paid by noon the day before the sale.
- The court order authorizing the sale and the signed and itemized bid must be received by noon two (2) business days prior to sale day.
- The pre-sale list is made available by 2:00 p.m. on Tuesday before Thursday's sale.
- The sale is conducted at the Gilpin County Courthouse, office of the Treasurer & Public Trustee at 10 a.m. on Thursdays.
- The certificate of purchase is recorded within five (5) business days.
- A Notice of Intent to Redeem must be filed by a junior lienholder within eight (8) business days after the sale. Foreclosures started in 2008 and newer do not allow for owner redemptions.

## Commencing a Foreclosure in Gilpin County:

Pursuant to laws effective 1/1/2010, in order to start the foreclosure process, the following is submitted to the Public Trustee's office, along with a referral of the case and a Certificate of the Current Owner of the debt:

1. Original or certified copy of the recorded deed of trust.
2. Original promissory note or bond if original note has been lost. Some qualified foreclosing lenders may submit certain documentation in lieu of the note if they fall under the guidelines of C.R.S. 38-38-100.3(20). Or, if qualified holder, copy of the original promissory note and Certification of Qualified Holder, signed by attorneys representing holder.
3. Notice of Election and Demand for Foreclosure.
4. Mailing List, which includes names and addresses of parties to receive Combined Notice of the sale, rights to cure and rights to redeem.
5. Additional documents required under foreclosure statutes.
6. Payment of required fees.

The above documents are submitted to the Public Trustee by a Colorado-licensed attorney representing the lender of the loan in default. The Public Trustee records the Notices of Election and Demand (NED) and starts the foreclosure proceedings. This must be done within ten business days after receiving the documents from the lender's attorney. A Combined Notices of Sale, Rights to Cure and Redeem is sent to parties listed on the mailing list or amended mailing list. The mailing list or lists must include all parties whose interests appear in an instrument recorded subsequent to the foreclosed deed of trust and prior to the recording of the NED.

The notices are sent to the addresses shown on the recorded instrument. If there is no address, then by statute it is not necessary to send the notice in care of the county seat. The Public Trustee sets the sale date to be not less than 110 calendar days nor more than 125 calendar days from the date of recording of the NED for non-agricultural properties or not less than 215 calendar days nor more than 230 calendar days from the date of recording of the NED for agricultural properties. Gilpin County requires an initial deposit of \$650 for all foreclosures.

**Determining agricultural status C.R.S. 38-38-108(2(a)(I)):**

1. If necessary, the Gilpin County Public Trustee shall make a determination immediately upon the opening of the foreclosure.
2. This office shall accept as evidence:
  - a. Certified copy of recorded subdivision plat
  - b. Written statement from city or town clerk
  - c. Written statement from county assessor
  - d. Statements must be dated no more than 6 months before the NED was filed.
3. Our determination is binding
4. Statements used in determining agricultural status no longer need to be recorded
5. Cost for determining status may be included as a portion of the fees and costs charged by the attorney. Please do not include copies of statutes for mailing. This is covered in the cost of postage and copies.

**Help for Homeowners in Foreclosure**

The Colorado Foreclosure Hotline is a program of the Colorado Foreclosure Prevention Task Force. Don't become a victim of a loan modification scam. Call the Colorado Foreclosure Hotline for free, professional assistance. (877) 601-HOPE (4673)