

CHAPTER 581

FORECLOSURE OF REAL ESTATE MORTGAGES BY ACTION

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581.01 BY ACTION; WHAT RULES GOVERN. Actions for the foreclosure of mortgages shall be governed by the same rules and provisions of statute as civil actions, except as in this chapter otherwise provided.

[R. L. s. 4486] (9634)

581.02 APPLICATION OF SECTIONS 580.08, 580.09, 580.12, 580.16, 580.22, 580.25, AND 580.27. The provisions of sections 580.08, 580.09, 580.12, 580.16, 580.22, 580.25, and 580.27, so far as they relate to the form of the certificate of sale, shall apply to and govern the foreclosure of mortgages by action.

[R. L. s. 4487] (9635)

581.03 JUDGMENT; TRANSCRIPT TO SHERIFF. Judgment shall be entered, under the direction of the court, adjudging the amount due, with costs and disbursements, and the sale of the mortgaged premises, or some part thereof, to satisfy such amount, and directing the sheriff to proceed to sell the same according to the provisions of law relating to the sale of real estate on execution, and to make report to the court. A certified transcript of the judgment shall be delivered to the sheriff, and shall be his authority for making the sale.

[R. L. s. 4488] (9636)

581.04 SEPARATE TRACTS. When it appears that the sale of the whole of the mortgaged premises in one parcel will be most beneficial to the interests of the parties, the court may adjudge that the same be so sold, notwithstanding that they consist of distinct farms or tracts.

[R. L. s. 4489] (9637)

581.05 PURCHASE BY MORTGAGEE. The mortgagee, or any one claiming under him, may fairly and in good faith bid off the premises at such sale; and in such case the statement of such fact in the report of sale shall have the same effect as a receipt for money paid upon a sale for cash.

[R. L. s. 4490] (9638)

581.06 SURPLUS. When the sale is for cash, if, after satisfying the mortgage debt, with costs and expenses, there is a surplus, it shall be brought into court for the benefit of the mortgagor or the person entitled thereto, subject to the order of the court. If such surplus remains in court for three months without being applied for, the judge may direct it to be put out at interest, subject to the order of the court, for the benefit of the persons entitled thereto, to be paid to them upon order of the court.

[R. L. s. 4491] (9639)

581.07 FORECLOSURE FOR INSTALMENT; DISMISSAL; STAY. When an action is brought for the foreclosure of a mortgage on which there is due any interest, or any portion of the principal, and there are other portions to become due subsequently, the action shall be dismissed, upon the defendant bringing into court, at any time before the judgment of sale, the principal and interest due, with costs. If, after such judgment of sale, the defendant brings into court the principal and interest due, with costs, the action shall be stayed; but the court shall enter judgment of foreclosure and sale, to be enforced by a further order upon a subsequent

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default in the payment of any portion of the principal or of interest thereafter to become due.

[R. L. s. 4492] (9640)

581.08 REPORT; CONFIRMATION; RESALE. Upon the coming in of the report of sale, the court shall grant an order confirming the sale, or, if it appears upon due examination that justice has not been done, it may order a resale on such terms as are just. If the sale is confirmed, the sheriff shall forthwith execute the proper certificate of sale, which shall be recorded within 20 days after such confirmation.

[R. L. s. 4493] (9641)

581.09 SATISFACTION OF JUDGMENT; EXECUTION FOR DEFICIENCY. Upon confirmation of the report of sale, the clerk shall enter satisfaction of the judgment to the extent of the sum bid for the premises, less expenses and costs, and for any balance of such judgment, execution may issue as in other cases; but no such execution shall issue on the judgment until after a sale of the mortgaged premises, and the application of the amount realized as aforesaid.

[R. L. s. 4494] (9642)

581.10 REDEMPTION BY MORTGAGOR, CREDITOR. The mortgagor, or those claiming under him, within one year after the date of the order of confirmation, may redeem the premises sold, or any separate portion thereof, by paying the amount bid therefor, with interest thereon from the time of sale at the rate provided to be paid on the mortgage debt, not to exceed ten per cent per annum, and, if no rate be provided in the mortgage, at the rate of six per cent, together with any further sum which may be payable pursuant to section 582.03. Creditors having a lien may redeem in the order and manner in this chapter specified, but no creditor shall be entitled to redeem unless within such year he files with the clerk notice of his intention to redeem.

[R. L. s. 4496] (9643)

581.11 DELIVERY OF POSSESSION. When possession of lands is wrongfully withheld after expiration of the time of redemption, the court may compel delivery of possession to the party entitled thereto by order directing the sheriff to effect such delivery.

[R. L. s. 4497] (9644)

581.12 STRICT FORECLOSURE. Judgment for the strict foreclosure of a mortgage may be given when such remedy is just or appropriate, but in such case no final decree of foreclosure shall be rendered until the lapse of one year after the judgment adjudging the amount due on such mortgage.

[R. L. s. 4498] (9645)