

## CHAPTER 581

## MORTGAGES; FORECLOSURE BY ACTION

|        |   |        |                                      |
|--------|---|--------|--------------------------------------|
| 581 01 | Rules governing                                 | 581 08 | Report of sale, confirmation, resale |
| 581 02 | Application, certain sections                   | 581 09 | Satisfaction of judgment             |
| 581 03 | Judgment, transcript                            | 581 10 | Redemption by mortgagor, creditor    |
| 581 04 | Separate tracts                                 | 581 11 | Delivery of possession               |
| 581 05 | Purchase by mortgagee                           | 581 12 | Strict foreclosure                   |
| 581 06 | Surplus   |        |                                      |
| 581 07 | Foreclosure for installment, dismissal,<br>stay |        |                                      |

**581.01 RULES GOVERNING.**

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

**History:** (9634) *RL s 4486*

**581.015** [Renumbered 582 039]**581.02 APPLICATION, CERTAIN SECTIONS.**

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

**History:** (9635) *RL s 4487*

**581.03 JUDGMENT, TRANSCRIPT.**

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 the sheriff's authority for making the sale

**History:** (9636) *RL s 4488; 1986 c 444*

**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

**History:** (9637) *RL s 4489*

**581.05 PURCHASE BY MORTGAGEE.**

The mortgagee, or any one claiming under the mortgagee, 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

**History:** (9638) *RL s 4490, 1986 c 444*

**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.

**History:** (9639) *RL s 4491*

**581.07 FORECLOSURE FOR INSTALLMENT; 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 default in the payment of any portion of the principal or of interest thereafter to become due.

**History:** (9640) *RL s 4492*

**581.08 REPORT OF SALE; 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.

**History:** (9641) *RL s 4493*

**581.09 SATISFACTION OF JUDGMENT.**

Upon confirmation of the report of sale, the court administrator shall enter satisfaction of the judgment to the extent of the sum bid for the premises, less expenses and costs. The amount entered is full satisfaction of the judgment unless a deficiency is allowed under section 582 30. If a deficiency judgment is allowed under section 582 30, the balance of the judgment remaining unpaid may be executed and satisfied in the same manner as a personal judgment against the mortgagor.

**History:** (9642) *RL s 4494, 1986 c 398 art 19 s 4, 1Sp1986 c 3 art 1 s 82*

**581.10 REDEMPTION BY MORTGAGOR, CREDITOR.**

The mortgagor, or those claiming under the mortgagor, within the time specified in section 580 23 or 582 032, whichever applies, 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 eight percent per annum, and, if no rate to be provided in the mortgage, at the rate of six percent, together with any further sum which may be payable pursuant to section 582 03 and 582 031. Creditors having a lien may redeem in the order and manner specified in section 580 24, but no creditor shall be entitled to redeem unless within the applicable redemption period the creditor files with the court administrator notice of intention to redeem.

**History:** (9643) *RL s 4496, 1967 c 248 s 4, 1986 c 444, 1Sp1986 c 3 art 1 s 82, 1989 c 328 art 3 s 10*

**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.

**History:** (9644) *RL s 4497*

**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.

**History:** (9645) *RL s 4498*