

NORTH CAROLINA POWER OF SALE FORECLOSURE ABSTRACT - SHORT FORM

(SUGGESTED USE: FORECLOSURE AT LEAST 4 YEARS BACK IN THE CHAIN OF TITLE OR
FOLLOWED BY SEVERAL LATER CONVEYANCES BEFORE DEED INTO CURRENT OWNER)

Special Proceeding No. _____ SP _____ County, North Carolina
Abstracted by _____ on _____, 20____

Instrument or Process <small>CSC = Clerk of Superior Court ROD = Register of Deeds</small>	Defects, Irregularities, Missing Information, Curative Notes, Comments
(1) DEED OF TRUST FORECLOSED (DTF) <i>Required ROD</i>	
Instrument date:	
Recording date/time:	
Recorded in Book _____, page _____ County	
Parties:	
Grantor/Owner:	
<input type="checkbox"/> All owners of record at time of execution of DTF named as grantors & instrument executed by all such owners & spouses	
Borrower (if different than Grantor/Owner):	
Trustee:	
Lender:	
Property: (ATTACH full legal description)	
Interest encumbered: <input type="checkbox"/> Fee <input type="checkbox"/> Leasehold <input type="checkbox"/> Other _____	
Note any specific provisions regarding foreclosure or sale requirements:	

(2) INSTRUMENTS SPECIFICALLY RELATED TO DTF AFFECTING PROPERTY ENCUMBERED, PRIORITY, PARTIES ENTITLED TO NOTICE, PARTY ENTITLED TO FORECLOSE	
Subordination, Non-disturbance Attornment Agreement? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Release deed? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Modification of DTF? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Subordination Agreement? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Recorded Assignment? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Substitution of Trustee? <input type="checkbox"/> Yes <input type="checkbox"/> No (GS 45-10)	
Request for Notice? <input type="checkbox"/> Yes <input type="checkbox"/> No (GS 45-21.17A)	
Other	

(3) OTHER MATTERS AFFECTING/POSSIBLY AFFECTING FORECLOSURE PROCEEDING	
Lease & Modifications-Extensions? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Right of First Refusal? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Transfer or reconveyance fees? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Deed, Option or Contract to Purchase? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Judgment in favor of United States of America? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Lis Pendens? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Federal Tax Lien? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Mechanics' or Materialmens Liens? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Death/Estate? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Special Proceeding (Partition, Incompetency, etc.)? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes: File # _____ SP _____	
Bankruptcy (during foreclosure proceeding) http://pacer.psc.uscourts.gov/ Owner: <input type="checkbox"/> Yes <input type="checkbox"/> No Borrower, if different than Owner: <input type="checkbox"/> Yes <input type="checkbox"/> No	

(4) AFFIDAVIT(S) OF NOTEHOLDER [GS 45-21.16(c), GS 45-21.16(c1), GS 45-21.16C(a), GS 45-93, GS 45-102, GS 53-267 and GS 53-268]	
<i>Required CSC</i>	
<input type="checkbox"/> Copy in special proceeding file.	

(5) CERTIFICATION(S) OF NOTEHOLDER/TRUSTEE/FILING PARTY [GS 45-21.16(c2) & GS 45-107(a)] as to PRE-FORECLOSURE NOTICE FOR SUBPRIME LOAN (foreclosures filed 11/15/08 – 10/31/10) OR HOME LOAN (foreclosures filed 11/1/10 – 5/31/13, unless extended) (AKA 45-DAY LETTER) (GS 45-102), and FILING WITH ADMINISTRATIVE OFFICE OF THE COURTS (GS 45-103)	
<i>Required CSC</i>	
<input type="checkbox"/> Not applicable.	
<input type="checkbox"/> Applicable - copy in special proceeding file.	

(6) NOTICE OF HEARING [GS 45-21.16(c)]	
<i>Required CSC</i>	
<input type="checkbox"/> Includes accurate description of property to be sold encumbered by the DTF.	
<input type="checkbox"/> Accurately describes DTF including date, original amount, original holder, and book and page.	
<input type="checkbox"/> Specifies following time and place for hearing: _____	
If a reverse mortgage loan, <input type="checkbox"/> confirms borrower given not less than 90 days' notice of intent to foreclose required by GS 53-268 (Applicable to foreclosure proceeding filed on or after 10/1/09) <input type="checkbox"/> event of default is one authorized under GS 53-267 <input type="checkbox"/> not applicable.	
<input type="checkbox"/> States that if debtor is currently on military duty, the foreclosure may be prohibited by GS 45-21.12A. (Applicable to foreclosure proceeding filed on or after 1/1/11)	

(7) PROOF OF SERVICE OF NOTICE OF HEARING [GS 45-21.16(a) & GS 1A-1, Rule 4(j)], OR WAIVER OF RIGHT TO NOTICE AND HEARING [GS 45-21.16(f)]	
<i>Required CSC</i>	
NOTE: Must be served at least 10 days before hearing unless service by posting in which case posted at least 20 days before hearing.	
Scheduled hearing date: _____	
Proper service/waiver for: <input type="checkbox"/> Owner (time of filing Notice of Hearing) & spouse, if any: Person(s) served: _____ <input type="checkbox"/> Borrower (identified in DTF), if different than Owner at time of filing of Notice of Hearing: Person(s) served: _____ <input type="checkbox"/> Tenant under recorded lease: Person(s) served: _____ <input type="checkbox"/> Other (including any person DTF directs notice be sent): Person(s) served: _____	

(8) AFFIDAVIT REGARDING MILITARY STATUS [50 USCS Appx Sec 521(b)(1) and 533], and COMPLIANCE WITH SERVICEMEMBERS' CIVIL RELIEF ACT (50 USCS Appx Sec 501 et seq.)
<https://www.dmdc.osd.mil/app/scra/scraHome.do>
 NOTE: Temporary extension of the period from 90 days to 9 months after the termination of the servicemember's military service, effective for the period from July 30, 2008, until December 31, 2010, and for one year until December 31, 2017 (if not further extended). *Required CSC*

<input type="checkbox"/> States whether or not _____ is in military service OR has been within last year and shows necessary facts to support the affidavit, OR <input type="checkbox"/> States that unable to determine whether or not _____ is in military service.	
<input type="checkbox"/> Servicemember received actual notice of Notice of Hearing and foreclosure proceeding.	
Was stay requested or granted by court? <input type="checkbox"/> Yes <input type="checkbox"/> No If stay granted, <input type="checkbox"/> order dissolving stay entered on _____, or <input type="checkbox"/> waiver of agreement by _____, a servicemember during or after military service (50 USCS Appx Sec 517).	
<input type="checkbox"/> Certification that the hearing will take place at a time that is not during, or within 90 days after, a period of military service for the mortgagor, trustor or debtor. (This subsection applies only to mortgages and deeds of trust that originated before the mortgagor's or trustor's period of military service). OR <input type="checkbox"/> Waiver by written agreement executed during or after the mortgagor's, trustor's, or debtor's period of military service, as an instrument separate from the obligation or liability to which the waiver applies, in at least 12 point type, specifying the legal instrument creating the obligation or liability to which the waiver applies. (Effective for foreclosures filed on or after 1/1/11.) N.C.Gen. 45-21.12A	

(9) CONTINUANCES [GS 45-21.16(a) or GS 45-21.16C(b)], CONTINUATION OF HEARING [GS 45-21.16C(b)], INJUNCTIONS [GS 45-21.34], POSTPONEMENTS [GS 45-21.21], APPEALS [GS 45-21.16(d) or (d1)], and BANKRUPTCY [GS 45.21.22(c)]
Required CSC

<input type="checkbox"/> Not Applicable	
<input type="checkbox"/> Applicable as to: _____	

(10) CLERK'S ORDER OF SALE/RESALE [GS 45-21.16] and [GS 45-21.21(d) & GS 45-21.22(c) & GS 45-21.33(c)] *Required CSC*

<input type="checkbox"/> Copy in special proceeding file.	
<input type="checkbox"/> Filed in each county in which part of property located.	

(11) NOTICE OF SALE [GS 45-21.16A] *Required CSC*

<input type="checkbox"/> Copy in special proceeding file.	
<input type="checkbox"/> Accurately identifies property and DTF.	

(12) AFFIDAVIT OF PUBLICATION [GS 45-21.17 & GS 45-21.33(e)] *Required CSC*

<input type="checkbox"/> Copy in special proceeding file.	
<input type="checkbox"/> Accurately identifies property and DTF.	

Instrument or Process

CSC = Clerk of Superior Court ROD = Register of Deeds

Defects, Irregularities, Missing Information, Curative Notes, Comments

(13)SERVICE AND POSTING OF NOTICE OF SALE [GS 45-21.17] (Also see next 2 sections-service on IRS/United States)

NOTE: Must be mailed by first-class mail at least 20 days prior to the date of sale to each party entitled to notice of hearing (GS 45-21.16), any party desiring a copy who has complied with GS 45-21.17A, and tenant under residential rental agreement of property containing less than 15 rental units.
Required CSC

Posted on _____

Proper service for:

- Owner (time of filing Notice of Hearing) & spouse, if any:
Person(s) served: _____
- Borrower (identified in DTF), if different than Owner at time of filing of Notice of Hearing:
Person(s) served: _____
- Tenant under recorded lease:
Person(s) served: _____
- Tenant(s) of residential property with less than 15 rental units: [GS 42-45.2]
Person(s) served: _____
- Party filing Request for Notice of Sale:
Person(s) served: _____
- Party filing Request for Notice of Sale:
Person(s) served: _____
- Subordinate lienholder: (no Request for Notice)
Person(s) served: _____
- Subordinate lienholder: (no Request for Notice)
Person(s) served: _____
- Special posting or publishing provisions in DTF:
Person(s) served: _____
- Other (including any person DTF directs notice be sent):
Person(s) served: _____

(14)INTERNAL REVENUE SERVICE - SUBORDINATE FEDERAL TAX LIEN
 [26 USCS 7425(b),(c) & (d); IRS Publication 786 & Treasury Reg. 301.7425-2 et seq.]
 NOTES:
 1. Federal tax liens with priority over the DTF are NOT extinguished by this procedure.
 2. Subordinate federal tax liens filed more than 30 days prior to the actual final foreclosure sale date will NOT be extinguished by the foreclosure unless this notice procedure is followed precisely or the IRS files either discharge of property or consent to sale.
 3. The IRS Right of Redemption continues for 120 days after date of sale, unless released, EVEN IF the notice procedure is followed. (For risk purposes, most title insurers look to the date 120 days after expiration of the last upset bid period.) *Recommended CSC*

<input type="checkbox"/> Not applicable.	
<input type="checkbox"/> Applicable – copy of Service of Notice of Sale in file. IRS lien file # _____, filed _____ Date of delivery of Notice to IRS: _____ (must be delivered by registered or certified mail or by personal service, not less than 25 days prior to sale) Method/Proof: <input type="checkbox"/> Affidavit of Trustee as to service by either <input type="checkbox"/> Registered or certified mail (return receipt attached) <input type="checkbox"/> Personal Delivery to IRS office Contains: <input type="checkbox"/> Name/address of person submitting notice of sale <input type="checkbox"/> Copy of each notice of Federal Tax Lien [Form 668(Y)(c)] or (A) IRS office named on notice of lien (B) name and address of taxpayer (C) date and place notice of lien filed <input type="checkbox"/> Complete physical address, legal description, and, if available, title abstract of property <input type="checkbox"/> Date, time, place, and terms of sale <input type="checkbox"/> Approximate amount of principal obligation, interest, and expenses. Redemption: <input type="checkbox"/> Redemption period has expired. (conservative calculation @ 120 days after expiration of last upset bid period)	

(15)UNITED STATES - SUBORDINATE FEDERAL LIEN, JUDGMENT OR MORTGAGE (OTHER THAN FEDERAL TAX LIEN):
 (28 USCS 2410) *Recommended CSC*

<input type="checkbox"/> Not Applicable	
<input type="checkbox"/> Applicable: <input type="checkbox"/> Notice given as required by applicable federal statute creating the lien. Method/Proof: _____ Waiver by United States of 1-year right of redemption [28 USCS 2410(c)]? <input type="checkbox"/> Yes <input type="checkbox"/> No	

(16)PRELIMINARY REPORT OF FORECLOSURE SALE/RESALE (Typically AOC-SP-400) [GS 45-21.26] *Required CSC*

<input type="checkbox"/> Copy in special proceeding file.	
Is high bidder the borrower or a related person/entity? <input type="checkbox"/> Yes <input type="checkbox"/> No	

(17)UPSET BID/NOTICE OF UPSET BID (Typically AOC-SP-403) [GS 45-21.27]
 NOTE: If high bidder fails to comply with bid, see GS 45-21.30. *Required CSC*

<input type="checkbox"/> Not Applicable	
<input type="checkbox"/> Applicable - copy in special proceeding file.	

(18)ASSIGNMENT OF BID		<i>Required CSC</i>
<input type="checkbox"/> Not Applicable		
<input type="checkbox"/> Applicable: Assignment to _____ for consideration of \$ _____		

(19)TRUSTEE'S/SUBSTITUTE TRUSTEE'S DEED		<i>Required ROD</i>
Recorded in Book _____ page _____, _____ County Registry, from the authorized Trustee/Substitute Trustee to _____.		
<input type="checkbox"/> Consistent with foreclosure proceedings and accurately identifies property and DTF.		
<input type="checkbox"/> Grantee was highest bidder or assignee of highest bidder.		

(20)NOTICE OF FORECLOSURE [GS 45-38]		<i>Required ROD</i>
Recorded in Book _____ page _____, _____ County Registry.		
<input type="checkbox"/> Copy recorded in Register of Deeds in each county in which part of property located.		

(21)FINAL REPORT & ACCOUNT OF FORECLOSURE SALE (Typically AOC-SP-402) [GS 45-21.31, 45-21.33]		<i>Required CSC</i>
<input type="checkbox"/> Copy in special proceeding file.		

(22)POST FORECLOSURE PROCEEDINGS INCLUDING ACTION BY PARTY ENTITLED TO NOTICE NOT PROVIDED [GS 45-21.33], APPEAL [GS 1-301.2], ACTION FOR SURPLUS FUNDS [GS 45-21.31], ORDER FOR POSSESSION [GS 45-21.29, GS 45-21.33A], [50 USCS Appx Sec 531 and 532] & [Protecting Tenants at Foreclosure Act of 2009, P.L. 111-22, if extended past 12/31/2014]		<i>Required CSC</i>
<input type="checkbox"/> Not Applicable		
<input type="checkbox"/> Applicable as to: _____ _____		

ATTORNEY COMMENTS/ITEMS TO DISCUSS WITH CLIENT AND/OR TITLE INSURER	
Comments by _____	Date: _____