

§ 45-21.21. Postponement of sale; notice of cancellation.

(a) Any person exercising a power of sale may postpone the sale to a day certain not later than 90 days after the original date for the sale if any of the following occurs:

- (1) There are no bidders.
- (2) In the person's judgment, the number of prospective bidders at the sale is substantially decreased by inclement weather or by any casualty.
- (3) There are so many other sales advertised to be held at the same time and place as to make it inexpedient and impracticable, in the person's judgment, to hold the sale on that day.
- (4) The person is unable to hold the sale because of illness or for other good reason.
- (5) Other good cause exists.

The person exercising a power of sale may postpone the sale more than once whenever any of these conditions are met, so long as the sale is held not later than 90 days after the original date for the sale. The 90-day time period is computed in the manner provided by G.S. 1A-1, Rule 6.

(b) Upon postponement of a sale, the person exercising the power of sale shall personally, or through the person's agent or attorney, do all of the following:

- (1) At the time and place advertised for the sale, publicly announce the postponement.
- (2) On the same day, attach to or enter on the notice of sale, posted as provided by G.S. 45-21.17(1)a., a notice of the postponement.
- (3) Give written or oral notice of postponement to each party entitled to notice of sale under G.S. 45-21.17.

(c) The posted notice of postponement shall be signed by the person authorized to hold the sale, or by the person's agent or attorney, and shall state the following:

- (1) That the sale is postponed.
- (2) The hour and date to which the sale is postponed.
- (3) The reason for the postponement.
- (4) Repealed by Session Laws 2022-60, s. 3, effective October 1, 2022, and applicable to sales noticed on or after that date.

(d) If a sale is not held at the time fixed for the sale and is not postponed as provided by this section, or if on appeal, the appellate court orders a sale to be held, then prior to the sale taking place, G.S. 45-21.16 does not apply, but G.S. 45-21.16A, 45-21.17, and 45-21.17A again apply.

(e) Repealed by Session Laws 2022-60, s. 3, effective October 1, 2022, and applicable to sales noticed on or after that date.

(f) Repealed by Session Laws 2019-243, s. 26(a), effective November 6, 2019.

(g) If the sale is postponed pursuant to this section, then the person exercising the power of sale shall, immediately upon determining that the sale will not occur and prior to the scheduled time of the sale, deliver a written notice to the clerk of superior court that is to include all of the following:

- (1) The case number assigned by the clerk.
- (2) The name of each mortgagor and record owner.
- (3) The United States Postal Service address of the property or, if no address has been assigned, a brief description of the location of the property.
- (4) The originally scheduled date and time for the sale.
- (5) A statement that the foreclosure sale has been withdrawn, rescheduled for a specific date and time, or postponed with no date yet set, as appropriate.

(h) If the notice required by subsection (g) of this section is not received by the clerk prior to the scheduled time of the sale, then the person exercising the power of sale shall personally, or through the person's agent or attorney, do all of the following:

- (1) At the time and place advertised for the sale, publicly announce the cancellation.
- (2) On the same day, attach to or enter on the notice of sale, posted as provided by G.S. 45-21.17(1)a., a notice of the cancellation.
- (3) Give written or oral notice of cancellation to each party entitled to notice of sale under G.S. 45-21.17.
- (4) Hand-deliver the written notice required under subdivision (2) of this subsection to the clerk's office.

(i) So that the notice required by subsection (g) of this section may be delivered in the time frame required, the clerk's office shall, upon request, provide to the person exercising the power of sale an email address or fax telephone number, or both, to use for delivery of notices.

(j) Should the clerk's office be unexpectedly closed on the day of the sale or at the time designated for the sale to take place pursuant to G.S. 45-21.23, the requirements of this section related to notice to or filings with the clerk are delayed until the next day the clerk's office is open for transactions.

(k) All notices of a scheduled foreclosure sale, withdrawal of a scheduled sale, or postponement of a scheduled sale shall, on the day of receipt by the clerk, be posted by the person exercising the power of sale in the location at the county courthouse normally used for the posting of public notices. If a scheduled sale has been withdrawn, the notice shall remain in the location for no less than 30 days. If the sale has been postponed, the notice shall remain in the location until it is replaced by a notice of a rescheduled sale or of a withdrawn sale.

(l) The delivery of notices required by this section in no way removes any responsibility of any party to file documents with the clerk as required elsewhere by law.

(m) Repealed by Session Laws 2022-60, s. 3, effective October 1, 2022, and applicable to sales noticed on or after that date. (1949, c. 720, s. 1; 1967, c. 562, s. 2; 1975, c. 492, ss. 4-6; 1983, c. 335, s. 2; 1989, c. 257; 1991 (Reg. Sess., 1992), c. 777, s. 1; 1993, c. 305, s. 12; 1995, c. 509, s. 25; 2003-337, s. 3; 2018-40, s. 11.1; 2018-145, s. 16; 2019-243, s. 26(a); 2022-60, s. 3.)