

§ 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, exclusive of Sunday, after the original date for the sale -

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

The person exercising a power of sale may postpone the sale more than once whenever any of the above conditions are met, so long as the sale is held not later than 90 days after the original date for the sale.

(b) Upon postponement of a sale, the person exercising the power of sale shall personally, or through his agent or attorney -

- (1) At the time and place advertised for the sale, publicly announce the postponement thereof;
- (2) On the same day, attach to or enter on the original notice of sale or a copy thereof, posted at the courthouse door, as provided by G.S. 45-21.17, a notice of the postponement; and
- (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 -

- (1) State that the sale is postponed,
- (2) State the hour and date to which the sale is postponed,
- (3) State the reason for the postponement, and
- (4) Be signed by the person authorized to hold the sale, or by his agent or attorney.

(d) If a sale is not held at the time fixed therefor and is not postponed as provided by this section, or if a postponed sale is not held at the time fixed therefor or within 90 days of the date originally fixed for the sale, then prior to such sale taking place the provisions of G.S. 45-21.16 need not be complied with but the provisions of G.S. 45-21.16A, 45-21.17, and 45-21.17A shall be again complied with, or if on appeal, the appellate court orders the sale to be held, as to such sale so authorized the provisions of G.S. 45-21.16 need not be complied with again but those of G.S. 45-21.16A, 45-21.17, and 45-21.17A shall be.

(e) A sale may be postponed more than once provided the final postponed sale date is not later than 90 days, exclusive of Sunday and legal holidays when the courthouse is closed for transactions, after the original date for the sale.

(f) A sale shall begin at the time designated in the notice of sale or as soon thereafter as practicable, but not later than one hour after the time fixed therefor unless it is delayed by other sales held at the same place. The sale shall be held between the hours of 10:00 A.M. and 4:00 P.M. on any day on which the Clerk's office is normally open for transactions.

(g) If it is determined that the sale cannot be held in accordance with this section or 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 mortgagor(s) and record owner(s) name(s).

- (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 his or her agent or attorney, do all of the following:

- (1) At the time and place advertised for the sale, publicly announce the cancellation thereof;
- (2) On the same day, attach to or enter on the original notice of sale or a copy thereof, posted at the courthouse door, as provided by G.S. 45-21.17, 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; and
- (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 therein, the Clerk's office shall, upon request, provide to the person exercising the power of sale an e-mail address and/or fax telephone number to use for delivery of said notices.

(j) Should the Clerk's office be unexpectedly closed on the day of the sale, the requirements of this subsection shall be 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, that notice shall remain in that location for no less than 30 days. If the sale has been postponed, that notice shall remain in that 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) A clerk of superior court may report habitual noncompliance with this subsection to the Administrative Office of the Courts. (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.)