Cherokee Nation Code Annotated
Title 33: Housing
Chapter 1: Cherokee Nation Mortgage Foreclosure Act
§ 6. Foreclosure procedures
Cite as: 33 CNCA § 6

A. A borrower/mortgagor shall be considered to be in default when he is thirty (30) days past due on his mortgage payment(s) to the lender/mortgagee.

B. Before a borrower/mortgagor becomes ninety (90) days delinquent on his mortgage payments and before any foreclosure action or activity is initiated, the lender/mortgagee shall complete the following:

1. Make a reasonable effort to arrange a face-to-face interview with the borrower/mortgagor. This shall include at least one (1) trip to meet with the borrower/mortgagor at the mortgaged property;

2. Lender/mortgagee shall document that it has made at least one (1) phone call to the borrower/mortgagor (or the nearest phone as designated by the borrower/mortgagor, able to receive and relay messages to the borrower/mortgagor) for the purpose of trying to arrange a face-to-face interview.

C. Lender/mortgagee may appoint an agent to perform the services or arrange and conduct the face-to-face interview specified in this action.

D. Before the borrower/mortgagor has been delinquent for ninety (90) days and at least ten (10) days before initiating a foreclosure action in Cherokee Nation Court, the lender/mortgagee shall provide the following advice to the borrower/mortgagor in writing by mail or by posting prominently on the unit, with a copy provided to the Nation:

1. advise the borrower/mortgagor that information regarding the loan and default will be given to credit bureaus;

2. advise the borrower/mortgagor of home ownership counseling opportunities/programs available through the lender or otherwise.

3. advise the borrower/mortgagor of other available assistance regarding the mortgage/default.

4. In addition to the preceding notification requirements, the lender/mortgagee shall complete the following additional notice requirements when a leasehold mortgage is involved:

a. notify the borrower/mortgager that if the leasehold mortgage remains in default for more than ninety (90) days, the lender/mortgagee may ask the applicable governmental agency to accept assignment of the leasehold mortgage if this is a requirement of the governmental program;

b. notify the borrower/mortgagor of the qualifications for forbearance relief from the lender/mortgagee, if any, and that forbearance relief may be available from the government if the mortgage is assigned; and

c. provide the borrower/mortgager with names and address of government officials to whom further communications may be addressed, if any.

E. If a borrower/mortgagor has been in default for ninety (90) days or more and the lender/mortgagee has complied with the procedures set forth in the first part of this section, the lender/mortgagee may commence a foreclosure proceeding in the Cherokee Nation District Court by filing a complaint as set forth in § 1–5–4 of this Code.[1]

Historical Data

LA 21–96, eff. December 16, 1996.

[1] So in original.