

Utah Mortgage and Deed of Trust Foreclosure

78-37-1. Form of action -- Judgment -- Special execution.

There can be but one action for the recovery of any debt or the enforcement of any right secured solely by mortgage upon real estate which action must be in accordance with the provisions of this chapter. Judgment shall be given adjudging the amount due, with costs and disbursements, and the sale of mortgaged property, or some part thereof, to satisfy said amount and accruing costs, and directing the sheriff to proceed and sell the same according to the provisions of law relating to sales on execution, and a special execution or order of sale shall be issued for that purpose.

78-37-2. Deficiency judgment -- Execution.

If it appears from the return of the officer making the sale that the proceeds are insufficient and a balance still remains due, judgment therefor must then be docketed by the clerk and execution may be issued for such balance as in other cases; but no general execution shall issue until after the sale of the mortgaged property and the application of the amount realized as

78-37-3. Necessary parties -- Unrecorded rights barred.

No person holding a conveyance from or under the mortgagor of the property mortgaged, or having a lien thereon, which conveyance or lien does not appear of record in the proper office at the time of the commencement of the action, need be made a party to such action, and the judgment therein rendered, and the proceedings therein had, are as conclusive against the party holding such unrecorded conveyance or lien as if he had been made a party aforesaid.

78-37-6. Right of redemption -- Sales by parcels -- Of land and water stock.

Sales of real estate under judgments of foreclosure of mortgages and liens are subject to redemption as in case of sales under executions generally. In all cases where the judgment directs the sale of land, together with shares of corporate stock evidencing title to a water right used or intended to be used, or suitable for use, on the land, the court shall equitably apportion such water stock to the land, or some part thereof, in one or more parcels, as it may deem suitable for the sale thereof, and the land and water stock in each parcel shall be sold together, and for the purpose of such sale shall be regarded as real estate and subject to redemption as above specified. In all sales of real estate under foreclosure the court may determine the parcels and the order in which such parcels of property shall be sold.

78-37-8. Restraining possessor from injuring property.

The court or judge may by injunction, on good cause shown, restrain the party in possession from doing any act to the injury of real property during the foreclosure of a mortgage thereon, or after a sale on execution.

78-37-9. Attorney fees.

In all cases of foreclosure when an attorney's fee is claimed by the plaintiff, the amount thereof shall be fixed by the court, any stipulation to the contrary notwithstanding; provided, no other or greater amount shall be allowed or decreed than the sum which shall appear by the evidence to be actually charged by and to be paid to the attorney for the plaintiff. If it shall appear that there is an agreement or understanding to divide such fees between the plaintiff and his attorney, or between the attorney and any other person except an attorney associated with him in the cause, only the amount to be retained by the attorney or attorneys shall be decreed as against the defendant.

Statutes relating to Deeds of Trust are at http://le.utah.gov/~code/TITLE57/57_01.htm.