

ARE YOUR DEFAULT NOTICES COMPLYING WITH THE NEW FORECLOSURE LAWS?

Lenders should make sure that when foreclosing on a property, all Default Notices sent to borrowers are fully compliant with new Minnesota Foreclosure Statute §§ 580.021 and 580.022. These new laws require the inclusion of a new and additional “Pre-Foreclosure Counseling Notice” to be sent with a Default Notice for mortgages on property consisting of 1-4 family dwelling units; one of which the owner occupies as the owner’s principal place of residency.

The Notice must be printed on colored paper and must contain the exact language referenced in Minnesota Foreclosure Statute [§580.022](#). In addition to providing the new “Pre-Foreclosure Counseling Notice” to a borrower, within one (1) week after sending the Default Notice, the bank must also notify the local counseling agency where the property is located and provide the borrower’s name, address, and phone number.

If a lender is contacted by the local counseling agency regarding the borrower, a lender must then provide the contact information for an agent/employee that is authorized to discuss the terms of the loan and negotiate any resolution of the default. Nothing in the new statutory provisions requires the lender to reach any sort of resolution regarding the default.

Borrowers are continually creating new arguments that a lender’s failure to properly comply with the foreclosure statutes is justification to nullify a foreclosure which makes it critical that lenders make sure that they are in full compliance with Minnesota Foreclosure Statutes prior to commencing any foreclosure.