

CONSTRUCTION LIEN ACT (EXCERPT)
Act 497 of 1980

570.1121 Judgment of foreclosure; sale of real property or improvement; satisfaction of lien from rents, profits, and income; adding tax and insurance premium payments; affidavit; redemption period; conduct of sale; right, title, and interest vested in grantee; final order; deficiency judgment; surplus; bringing sale proceeds into court; redemption.

Sec. 121.

(1) If the court finds that a lien claimant is entitled to a construction lien upon the real property to which he or she furnished an improvement, and the amount adjudged to be due has not been paid, the court may enter a judgment ordering the sale of any interest in the real property, or a part of the real property, to which the construction lien attaches. If the construction lien attaches only to the improvement furnished, the court may order a sale of the improvement. If the court finds that there is an interest in or encumbrance against the real property which is superior to the construction lien being foreclosed, the order for sale shall indicate that fact. The court may order a construction lien satisfied out of the rents, profits, and income from the real property to which the construction lien has attached.

(2) In a judgment of foreclosure, the court may provide for adding to the amount determined to be due any amount paid by any lien claimant, mortgagee, or receiver appointed by the court, after the foreclosure sale and before the expiration of the period of redemption, for taxes assessed against the real property sold or for that portion of the premium of an insurance policy covering the building located on the real property, which premium portion is required to keep the policy in force until the expiration of the period of redemption. After the making of any tax or premium payments, an affidavit with respect to the payments shall be recorded immediately in the office of the register of deeds for the county in which the deed on foreclosure sale was recorded.

(3) In the order for the foreclosure sale, the court shall fix a period for redemption. The period of redemption shall not exceed 4 months. The sale shall be conducted in the same manner as a sale on execution. The sale shall become final, subject to the period of redemption, upon the entry of an order of confirmation by the court. Pursuant to section 119(3) and subject to subsection (1), the foreclosure, upon becoming final, shall vest in the grantee named in the deed all the right, title, and interest in the real property which the owner, co-owner, lessee, or co-lessee whose interest is being foreclosed had at the date of the execution of the contract or at any time thereafter.

(4) The court shall enter a final order directing the distribution of all of the funds obtained from the foreclosure sale in accordance with the priorities of the parties as determined by the court. The court shall adjudicate the rights, if any, of lien claimants to a deficiency judgment against any owner or lessee contracting for an improvement. After the making of all payments directed by the court, any surplus from the proceeds of the sale of property on the foreclosure of a construction lien under this act shall be paid over to the owner, co-owner, lessee, co-lessee, or such other person as may be entitled to the surplus. However, the surplus shall be subject to a subsequent judgment or execution under this act in the same manner as if the surplus was derived from a sale made under the subsequent execution.

(5) If all claims of lien are not ascertained when a sale is ordered, or if for any other reason it is deemed proper to postpone the order of distribution of the proceeds of a sale on foreclosure, the court may direct the party making the sale to bring the proceeds of the sale into court, to be disposed of according to order of the court.

(6) Redemption from a foreclosure sale is complete upon payment of all sums set forth in the judgment of foreclosure, together with any sums due for the payment of taxes or insurance premiums as provided in subsection (2). If there is not a redemption from the foreclosure sale, taxes and insurance premiums paid after the sale shall not be included in any deficiency judgment.

History: 1980, Act 497, Eff. Jan. 1, 1982 ;-- Am. 1981, Act 191, Eff. Jan. 1, 1982