

**SUPREME COURT OF YUKON**

Between

Petitioner

and

Respondent

**PETITION FOR FORECLOSURE**

THIS IS THE PETITION FOR FORECLOSURE OF:

*[Name and address of each petitioner]*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ON NOTICE TO:

*[Name and address of each person to be served]*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If you have interests that are affected by the order sought TAKE NOTICE that the petitioner applies to court for the relief set out in this Petition for Foreclosure.

**APPEARANCE REQUIRED BY RESPONDENT**

IF YOU WISH TO BE NOTIFIED of any further proceedings, YOU MUST GIVE NOTICE of your intention by filing an APPEARANCE in Form 9 in this court within the time for appearance and YOU MUST ALSO DELIVER a copy of the filed Appearance to the petitioner's address for delivery, which is set out in this Petition.

YOU OR YOUR LAWYER may file the APPEARANCE. You may obtain an APPEARANCE form at the registry or [www.yukoncourts.ca](http://www.yukoncourts.ca).

IF YOU FAIL to file the APPEARANCE within the proper time for appearance, the petitioner may continue this application without further notice to you.

**TIME FOR APPEARANCE**

Where this Petition for Foreclosure is served on a person in Yukon, the time for appearance by that person is 7 days from the date of service (not including the day of service).

Where this Petition for Foreclosure is served on a person outside Yukon, the time for appearance by that person is 21 days from the date of service (not including the day of service) in the case of a person residing anywhere within Canada, 28 days from the date of service (not including the day of service) in the case of a person residing in the United States of America, and 42 days from the date of service (not including the day of service) in the case of a person residing elsewhere.

OR

Where the time for appearance has been set by order of the court, within that time.

### TIME FOR RESPONSE

IF YOU WISH TO RESPOND to the Petition for Foreclosure, you must, on or before 8 days from the end of the time for appearance provided for above,

- (a) deliver to the petitioner
  - (i) 1 copy of a Response in Form 11, and
  - (ii) 1 copy of each affidavit in Form 59 on which you intend to rely at the hearing, and
- (b) deliver to every other party of record
  - (i) 1 copy of a Response in Form 11, and
  - (ii) 1 copy of each affidavit in Form 59 on which you intend to rely at the hearing.

(1) The address of the registry is: The Law Courts 2134 Second Avenue Whitehorse, Yukon Y1A 5H6 Telephone: (867) 667-5937 Fax: (867) 393-6212
(2) The petitioner's ADDRESS FOR DELIVERY ( <b>Required:</b> (per Rules 4(10) and (11)) <b>must be a</b> residential address OR business address <b>AND</b> postal address in Yukon) is:  _____ _____ _____ <u>Optional:</u> Telephone: _____ Email address: _____ Fax number for delivery: _____
(3) The name and office address of the petitioner's lawyer is:

**ENDORSEMENT FOR SERVICE OUTSIDE YUKON**  
(if applicable)

The petitioner claims the right to serve this Petition for Foreclosure on the respondent \_\_\_\_\_ outside Yukon on the ground that

*[State ground and provision in Rule 13(1) upon which the petitioner relies.]*

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**PETITION FOR FORECLOSURE**

The petitioner applies for an order that: *[set out orders sought in numbered paragraphs; a draft order may be attached]*

1.

2.

...

The petitioner will rely on *[set out statute, regulation or rule relied on]*

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The affidavit(s) of *[state names]* \_\_\_\_\_ will be relied on at the hearing, copies of which accompany this Petition for Foreclosure as per Rule 10(2.1).

The facts upon which this Petition is based are as follows: *[set out briefly the relevant facts in numbered paragraphs]*

1.

2.

...

The petitioner estimates that the application will take \_\_\_\_\_ minutes (hours).

**Attached:**

Explanatory Notes

Dated \_\_\_\_\_

\_\_\_\_\_  
Signature *[Petitioner or Petitioner's Lawyer]*

\_\_\_\_\_  
Print Name *[Petitioner or Petitioner's Lawyer]*

## Explanatory Notes

This summary is not intended to replace the advice of a lawyer or the provisions of the *Rules of Court*.

Attached is a foreclosure Petition to the Supreme Court of Yukon. The Petition is accompanied by an affidavit which attaches documents referred to in the Petition. This summary contains an explanation of only some of the matters which may arise in a foreclosure proceeding.

The Judge who hears the application will determine what is fair to the parties and what will be ordered. The result of these proceedings may be the foreclosure of your interest in the land and a personal judgment against you for the mortgage debt.

1. If you wish to be heard by the Court before any orders are made or wish to be notified of any further proceedings, you must file a document called an "Appearance" within the time set out in the Petition at the Registry and deliver a copy to the Petitioner's address for service. A form of "Appearance" is available at the Court Registry or under Rules and Forms at [www.yukoncourts.ca](http://www.yukoncourts.ca).
2. Any facts you wish to bring to the attention of the Court should be put in affidavit form, filed in the Court Registry and served on the other parties.
3. The petitioner may apply for the following orders:
  - (a) a declaration that the mortgage in question is in default;
  - (b) a declaration of the amount owing, which may be the full mortgage balance. If you consider the amount claimed to be incorrect, you should file an affidavit stating your position and send a copy to the petitioner's lawyer;
  - (c) fixing a redemption period during which the balance due must be paid to avoid foreclosure. The usual redemption period is six months, but the petitioner may seek a shorter period. If you object, you should file an affidavit stating your objections and send a copy to the petitioner's lawyer;
  - (d) the petitioner usually seeks personal judgment against the mortgagor and any guarantors for the amount due on the mortgage at the date of the hearing and for legal costs. Such a judgment enables the petitioner to have the Sheriff seize and sell assets other than the property referred to in the mortgage;  
or
  - (e) if the property is earning rent or is unoccupied, the petitioner may apply for the appointment of a Receiver to collect rents or

maintain the property.

4. When the redemption period has expired, the petitioner has two options:
  - (a) to apply for a final order of foreclosure. If this happens, the petitioner becomes the owner and is entitled to possession of the property. As a result, the petitioner can no longer seek personal judgment for the debt owing under the mortgage; or
  - (b) to apply for an order for sale. In that case, the petitioner may list the property for sale and must seek court approval of any sale. If the sale realizes less than the mortgage debt, the mortgagors and guarantors are still responsible for the deficiency, and a personal judgment can be made against them for that amount.
5. You may apply to have the redemption period extended, but you must be able to show both that the property value exceeds the mortgage debt and that there is a reasonable prospect of payment if further time is allowed.
6. If the term of the mortgage has not run out, any respondent may apply for an order that the mortgage be reinstated on payment of all arrears and costs. Often the petitioner will voluntarily accept such arrangements through its lawyer.
7. Any respondent may apply at any time for an order that the property be sold and for conduct of sale. The petitioner and all parties who have entered an "Appearance" must be notified of such an application and of any application to approve a sale.
8. Any order for legal costs of these proceedings will be fixed by the Court and will usually be based on the Court tariff called special (solicitor and client) costs if it is set out in the mortgage agreement. The amount may be subject to review by the Court. If the petitioner takes the property by foreclosure by what is called an order absolute, these costs are no longer payable.
9. Amounts paid by the petitioner for taxes, strata fees, insurance, appraisals, inspections, and other charges during the redemption period may be added to the redemption amount initially fixed by the Court.