

TARIFF OF COSTS

In Mortgage Sale and Foreclosure Proceedings
Pursuant to Section 143(2) of
The Real Property Act R.S.M. 1988 c. R30

Column 1 - Applies where the amount owing on the mortgage at the time the Notice of Exercising Power of Sale is registered does not exceed \$75,000
Column 2 - Applies where amounts owing exceed \$75,000

NOTICE OF EXERCISING POWER OF SALE (NEPS)

1.	Receiving instructions to commence mortgage sale proceedings, including perusing mortgage and statement as to balance and opening file;	75.00	90.00
2.	If applicable, further inquiries regarding: a. Property taxes current? b. For second mortgage - Is first mortgage in default? c. If land is a condominium, is there default in payment of common element fees? d. For leasehold mortgage - Is there default in payment of rent on landlease? e. Applicability of <i>Farm Debt Review Act</i> and <i>Family Farm Protection Act</i> ;	15.00	15.00
			- At hourly rate - (See also item 89)
3.	Prepare demand letter;	30.00	40.00
4.	Requesting and perusing necessary title, encumbrance and corporate searches (per search);	10.00	10.00
5.	Drafting of Notice of Exercising Power of Sale (NEPS) - see also item 90;	85.00	100.00
6.	File NEPS in Land Titles office;	10.00	10.00
7.	Requesting and perusing up to date Certified Status of Title/Certified Copy of Title;	20.00	20.00
8.	a) Arranging for the first service of NEPS;	20.00	20.00

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| | b) For each additional service;
(See also item 89); | 10.00 | 10.00 |
| 9. | a. Reviewing each Affidavit of Service of NEPS; or | 10.00 | 10.00 |
| | b. Preparing each Affidavit of Service of NEPS; | 15.00 | 15.00 |
| 10. | Letter paying account for service of NEPS (for each account). Review account for service and arranging for service; | 20.00 | 20.00 |
| 11. | Report to mortgagee and diarize; | 30.00 | 40.00 |

**APPLICATION FOR ORDER FOR SALE
(AFOS)**

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| 12. | Communications with mortgagee to confirm method of sale, obtain description of property for advertisement and obtain information with regard to <i>Farm Debt Review Act</i> and <i>Family Farm Protection Act</i> ; | 45.00 | 55.00 |
| 13. | Prepare Auction Advertisement; | 35.00 | 45.00 |
| 14. | Prepare Auction Sale Conditions; | 50.00 | 65.00 |
| 15. | Drafting statutory declaration of mortgagee, including evidence of continuing default and <i>Family Farm Protection Act</i> and <i>Farm Debt Review Act</i> evidence; | 30.00 | 30.00 |
| 16. | a. Letter to mortgagee requiring execution of evidence, or | 20.00 | 20.00 |
| | b. attending on the mortgagee to complete execution of evidence; | - | - at hourly rate - |

17.	Drafting Request form for Application for Order for Sale (AFOS);	30.00	30.00
18.	File AFOS at Land Titles office;	10.00	10.00
19.	Receipt and perusal of Order for Sale;	30.00	40.00

AUCTION SALE

20.	Attending on auctioneer to arrange mortgage sale;		
	a. On auctioneer's premises	20.00	20.00
	b. Not on auctioneer's premises	30.00	30.00
21.	a. Arranging for service of Order for Sale and auction advertisement (for the first party and address to be served);	20.00	20.00
	b. For each additional party and address to be served;	10.00	10.00
22.	Communication with prior encumbrancer(s) to determine balance outstanding (if applicable);	20.00	30.00
23.	Communications with mortgagee regarding reserve bid including preparation of reserve bid where the reserve bid is based on an amount outstanding under the mortgage and costs occasioned by the sale;	105.00	120.00
24.	Communications with mortgagee regarding reserve bid including preparation of reserve bid where the reserve bid is based on an amount that is reasonable in the circumstances;		- At hourly rate - (See also item 87)
25.	Arranging for publication of auction advertisement (each publication);		
	a. Non-local publication	40.00	60.00
	b. Local publication	25.00	35.00
26.	Telephone attendances to answer questions resulting from advertisement for sale (for each attendance);		- At hourly rate -

27.	Communications to auctioneer:		
	a. Adjourning sale:		
	i. On auctioneer's premises	20.00	20.00
	ii. Not on auctioneer's premises	30.00	30.00
	b. Cancelling sale	20.00	20.00
28.	Sending copies of auction advertisement showing new date following adjournments by ordinary mail to parties previously served (for each party and address);	10.00	10.00
29.	Review publication and payment of account (per publication);	55.00	70.00
30.	a. Attendance at mortgage sale where solicitor practices;	130.00	150.00
	b. Where sale elsewhere, arranging for agent to attend;		- at hourly rate -
	c. Attendance elsewhere, plus disbursements (if unable to retain agent)		(See also item 89)
31.	Completion of Auction Sale Conditions, including declaration of auctioneer and declaration proving publication (to include evidence as to number and length of adjournments and cancellations);	35.00	40.00
32.	Letter paying auctioneer;	20.00	20.00
33.	Reporting results of mortgage sale to mortgagee;	30.00	40.00

SUCCESSFUL AUCTION (TPS)

34.	Completion of agreement in mortgage sale conditions;	85.00	100.00
35.	a. Drafting and completing affidavit of service of Order for Sale and advertisement;	35.00	35.00
	b. For each additional address served over three;	10.00	10.00

36. Preparing Transfer Under Power of Sale, vendor's caveat and discharge thereof, mortgagee's affidavit of bona fides and of continuing default and, if applicable, transferee's transmission and affidavit of bona fides. Forwarding Transfer Under Power of Sale and other material to purchaser. All communications with purchaser subsequent to successful sale for the purpose of finalizing transaction and receiving balance of purchase monies.
- This fee may be payable by the auction sale purchaser as per mortgage sale conditions.*
- a. Single family, residential 500.00 600.00
 b. other (commercial, leasehold, condominium) - At hourly rate - (See also items 89 & 90)
37. If surplus funds and subsequent charges; - At hourly rate - (See also item 89)
38. Final report to mortgagee on proceedings including drawing up final statement of account and closing file; 105.00 120.00

APPLICATION FOR APPROVAL OF SALE PRICE ONLY (RSPA)

39. a. Communications with party preparing appraisal/opinion of value for the purpose of requesting appraisal/opinion of value and providing instructions as to form (for each appraisal/opinion of value); - At hourly rate -
40. Letter paying account for appraisal/opinion of value (for each appraisal/opinion of value); 20.00 20.00
41. Drafting and filing Request form for Application for Approval of Sale Price Only including preparation of required notarial copies (including Agreement for Purchase and Sale and valuations); - At hourly rate - (See also item 89)

42.	Receipt and review of Order Approving Sale Price and reporting to client;	20.00	20.00
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**APPLICATION FOR DISTRICT REGISTRAR
APPROVAL OF PRIVATE SALE (MSREQ)**

43.	Review Offer to Purchase prior to acceptance and advise mortgagee, including determining closing process, services, redemption statements, conditions on approval and covenants to be agreed upon;	- At hourly rate - (See also item 89)	
44.	a. Drafting and completing Affidavit of Service of Order for Sale for first party and address to be served;	15.00	15.00
	b. For each additional address served over three;	10.00	10.00
45.	Where required, sending Notice that a private contract is being submitted to the District Registrar for approval by regular mail to parties required to be served (for each party and address);		
	a. for first party and address to be served;	20.00	20.00
	b. For each additional service thereafter;	10.00	10.00
46.	a. Drafting Affidavit of Service of Notice that a private contract is being submitted for approval, if applicable;	15.00	15.00
	b. For each additional address served over three;	10.00	10.00
47.	Preparing statutory declaration re advertisement of auction and/or service of auction advertisement or Notice of Application for Order of Foreclosure/Final Notice to Redeem if applicable (if applicable);	35.00	35.00

48. Communications with party preparing appraisal/opinion of value for the purpose of requesting appraisal/opinion of value and providing instructions as to form (for each appraisal/opinion of value) (if not previously charged under item 40); - at hourly rate -
49. Letter paying account for appraisal/opinion of value (for each appraisal/opinion of value) (if not previously charged under item 40); 20.00 20.00
50. Communications with purchaser or solicitor for same for the purpose of obtaining purchaser's affidavit of bona fides or preparing transferee's transmission and affidavit of bona fides, drafting Request form, including preparation of required notarial copies (including Agreement of Purchase and Sale and valuations), preparing Transfer Under Power of Sale, mortgagee's affidavit of bona fides and of continuing default, statement of adjustments, vendor's caveat and discharge thereof. Forwarding Transfer Under Power of Sale and other material to purchaser's solicitor. Finalizing transaction and receiving balance of purchase monies. Final report to mortgagee on proceedings including drawing up final statement of account and closing file (- see also item 90); - at hourly rate -
(See also item 89)

APPLICATION FOR FORECLOSURE/FINAL NOTICE TO REDEEM (AFOF)

51. Advising mortgagee on effect of foreclosure and requesting instructions; 30.00 40.00
52. Receiving instructions from mortgagee to commence foreclosure proceedings including discussions with mortgagee relating to the final Order of Foreclosure and other remedies affecting the realization of the outstanding debt; - At hourly rate -

53.	Drafting statutory declaration of mortgagee, including evidence of continuing default and Family Farm Protection Act and Farm Debt Review Act evidence - see also item 90;	30.00	30.00
54.	<ul style="list-style-type: none"> a. Drafting affidavit of service of Order for Sale and auction advertisement; b. For each additional address served over three; 	35.00 10.00	35.00 10.00
55.	Drafting Request form for Application for Foreclosure/Final Notice to Redeem including evidence that the land has been offered for sale, the date and place of auction, whether the sale was abortive or no bid or that the amount of the highest bid was insufficient and evidence showing completion of the auction sale conditions, publications and adjournments if any; - see also item 90;	75.00	90.00
56.	<ul style="list-style-type: none"> a. Letter to mortgagee enclosing application for execution of evidence; or b. Attending on mortgagee to complete execution of evidence; 	20.00	20.00 - at hourly rate -
57.	File Application for Foreclosure/Final Notice to Redeem and other material in Land Titles office;	10.00	10.00
58.	Receipt and perusal of Notice of Application for Order of Foreclosure/Final Notice to Redeem;	30.00	40.00
59.	<ul style="list-style-type: none"> a. Arranging the first service of Notice of Application for Order of Foreclosure/Final Notice to Redeem b. For each additional party to be served; 	20.00 10.00	20.00 10.00

60. a. Reviewing each affidavit of service of Notice of Application for Order of Foreclosure/Final Notice to Redeem; 10.00 10.00
 or
 b. Preparing each affidavit of service of Application for Order of Foreclosure/Final Notice to Redeem; 15.00 15.00

61. Letter paying account for service of Notice of Application for Order of Foreclosure/Final Notice to Redeem (for each account); 20.00 20.00

62. Report to mortgagee and diarise; 30.00 40.00

APPLICATION FOR ISSUE OF ORDER OF FORECLOSURE (RFOF)

63. Drafting Request form for Order of Foreclosure and mortgagee's statutory declaration of Continuing Default - see also item 90; 30.00 30.00

64. a. Letter to mortgagee enclosing RFOF for execution of evidence; 20.00 20.00
 b. Attending on mortgagee to complete execution of evidence. - at hourly rate -

65. Filing Request for Order of Foreclosure at Land Titles office; 10.00 10.00

66. Receipt and perusal of Order of Foreclosure; 30.00 40.00

APPLICATION TO REGISTER ORDER OF FORECLOSURE (FOF)

67. Communications with mortgagee for the purpose of obtaining instructions to file Order of Foreclosure; 75.00 90.00

68. Drafting Transmission form, including evidence of continuing default - see also item 90; 45.00 55.00

69.	<ul style="list-style-type: none"> a. Letter to mortgagee enclosing transmission for execution of evidence and transmission; b. Attending on mortgagee to complete execution of evidence. 	20.00	20.00	- at hourly rate -
70.	File Transmission and Order of Foreclosure at Land Titles office;	10.00	10.00	
71.	Requesting and perusing title search to confirm new ownership;	20.00	20.00	
72.	Final report to mortgagee on proceedings including drawing up final statement of account;	105.00	120.00	

SUBSTITUTIONAL SERVICE

73.	Reviewing information regarding attempted service including instructions to process server regarding additional attempts and reviewing and preparing affidavits of attempted service;	- at hourly rate - (See also item 89)
74.	Drafting Request form for Substitutional Service;	30.00 30.00
75.	Filing Request for Order of Substitutional Service and supporting material in Land Titles office;	10.00 10.00
76.	Receipt and perusal of Order for Substitutional Service;	30.00 40.00
77.	Sending copies of Order for Substitutional Service and accompanying Notice by registered mail to parties required to be served (for each party);	30.00 40.00
78.	Giving instructions for service in accordance with Order (for each party to be served);	20.00 20.00

79.	Arranging for publication as per Substitutional Service Order (each publication);		
	a) Non-local publication	40.00	60.00
	b) Local publication	25.00	35.00
80.	Review publication and payment of account (per publication);	55.00	70.00
81.	Giving instructions for service in accordance with Order (for each party to be served);	20.00	20.00
82.	Letter paying account for service (for each account);	20.00	20.00
83.	Drafting and completing Affidavit of compliance with Substitutional Service Order;	40.00	40.00

SETTLEMENT

84.	Telephone attendances, personal interviews or correspondence undertaken at the request of the mortgagor, the Mortgagor's Solicitor or Agent or any other interested party regarding settlement;		- at hourly rate -
85.	Drafting and filing Discharge of Notice Exercising Power of Sale(see also item 90);	40.00	40.00
86.	Letter to mortgagor confirming discharge of Notice of Exercising Power of Sale;	20.00	20.00
87.	Final report to mortgagor on proceedings including drawing up final statement of account;	105.00	120.00

MISCELLANEOUS

88.	Drawing Bill of Costs <u>AT THE REQUEST</u> <u>OF the Mortgagor, or other interested party</u> or for the purpose of taxation hearing:	75.00	90.00
	For the original Bill of Cost:		
	a) at any time prior to the application for Order for Sale;	30.00	40.00
	b) prior to the date of the auction sale;		
	c) at any time after the date of the auction sale;	105.00	120.00
	For each additional bill drawn.		

89. For necessary services undertaken in
conduct of proceedings and not otherwise
itemized under this tariff including but not
restricted to the following: - at hourly rate -

Telephone attendances;
Personal interviews or
correspondence;

Services undertaken incidental to
exercise of mortgagee's Power of
Sale and Foreclosure proceedings
including but not limited to
proceedings regarding *The Farm
Debt Review Act, and Bankruptcy and
Insolvency Act.*

Note: No amount is allowable under this
section for services rendered where
compensation is available from
another venue (i.e. section 9(9)
Family Farm Protection Act)

TAKING EVIDENCE

90.	Meeting with mortgagee or another party for execution of an instrument or taking evidence under oath (for each instrument or statutory declaration/affidavit).	30.00	40.00
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91. Attendance on taxation hearing;

- at hourly rate -

HOURLY RATE

For those services which are compensated at an hourly rate, the maximum hourly rate which will be permitted to be charged will be \$175 for Column "1" and \$200 for Column "2".

The lawyer will be allowed a fair and reasonable fee within these limits based on the following factors:

- a) The time and effort required and spent;
- b) The difficulty and importance of the matter;
- c) Whether special skill or service has been required and provided. This may include number of years at the bar and demonstrated experience and expertise in this area of the law;
- d) The customary charges of other lawyers of equal standing in the locality in like matters and circumstances;
- e) The results obtained.

FEES TAXED OFF

- a) Where fees taxed off exceed 20% of the fees claimed in the bill submitted for taxation, no fee will be allowed for attendance on the taxation hearing;
- b) Where the fees taxed off exceed 30% of the fees claimed in the bill submitted for taxation, a fee in accordance with a) hereof shall be allowed for the attendance of the

- at hourly rate -
(See also item 90)

solicitor for the Mortgagor or other interested party and shall be deducted from the account as taxed, together with the Mortgagor's associated disbursements. The District Registrar has discretion regarding the allocation of this fee in the event of attendance by more than one solicitor;

FORM AND NOTICE OF TAXATION

On any taxation of costs by the District Registrar of a Land Titles office, the taxation shall be completed in accordance with the tariff of costs as established by the Registrar General.

An itemized account must be forwarded to the District Registrar and to any other party to the taxation, in the same format as the tariff of costs, at least 14 days prior to the taxation hearing.

Disbursements may also be subject to taxation.

LAND TITLES OFFICE FEE FOR TAXATION

A fee, based on the hourly rate of the District Registrar as set out in the tariff of fees under *The Real Property Act*, shall be assessed the applicant. This fee, for the first hour, is payable in advance.

TRANSITIONAL PROVISIONS

Proceedings commenced under the former tariff of costs will be taxed at the rate set out in the previous tariff for all procedural items completed before the coming in place of this tariff of costs.

Subsequent proceedings and procedural items taken after this tariff of costs comes into place will be taxed at the rate set out in this tariff.