



TWENTIETH JUDICIAL DISTRICT BOULDER COUNTY COMBINED COURTS

PLEASE NOTE: By law, the Court is not permitted to give you legal advice. This information being provided to you is intended to provide clarification and guidance to self-represented litigants. If you require additional information, please contact an attorney.

Information for Rule 120 Respondents

If you have been served with court papers indicating that you are a party in a foreclosure (Rule 120) action, please read the following information carefully.

What is a Rule 120 proceeding?

Rule 120 is a Colorado Rule of Civil Procedure which addresses “Court Proceedings for Sales Under Powers” which essentially means foreclosure. Foreclosure is a legal process used to take possession of property that is the collateral for a loan by forcing the sale of the property after the borrower defaults on the terms of the loan. Foreclosures in Colorado must follow the procedure in Rule 120 of the Colorado Rules of Civil Procedures. You can read the full Rule online at:

<http://www.lexisnexis.com/hottopics/colorado/>. Then click “I agree” → Colorado Court Rules → Colorado Rules of Civil Procedure → Chapter 17 Court Proceedings: Sales Under Powers

When does the Court hold a Rule 120 hearing?

The Court may hold a hearing to determine if the lender has the right to foreclose on the property and have it sold at a public auction. The Court may vacate (cancel) the hearing and grant the lender’s request to authorize the sale of the property if the borrower does not file an answer with the Court by the deadline. The hearing may also be vacated if a response is filed and the Court orders the lender to file a written reply. The Court may make a decision in your case based on what is filed in the case (the pleadings) without holding a hearing.

To find out whether your hearing has been vacated or is still scheduled, you may check the court docket online or call a clerk of the court at (303) 441-3750. You should assume that a hearing is going forward unless you receive confirmation from the Court that the hearing has been vacated.

What will happen at Rule 120 hearing?

At the hearing, the judge follows the process outlined in Rule 120(d). S/he will examine the motion and response, and will determine whether there is a reasonable probability that a default (or other

circumstance authorizing exercise of a power of sale) has occurred. The judge will then grant or deny the motion.

How do I file a response?

You must file a Verified (notarized) Response (also called an Answer) to the Rule 120 proceedings no less than SEVEN (7) days prior to the hearing date. Form JDF 621 (Verified Response to a Rule 120 Notice) is available online:

<http://www.courts.state.co.us/Forms/PDF/JDF%20621%20Response%20to%20Rule%20120%20Notice.pdf>.

Your response must include all defenses that you wish to raise before the Court. You should contact an attorney to discuss what defenses, if any, you may have and what information should be provided to the Court.

The inability to pay is NOT a defense. Common defenses to a Rule 120 Action include:

1. The money is not due
2. The action is barred under the Service Member Civil Relief Act (SCRA), 50 U.S.C. §520
3. The petitioner is not the real party in interest.

Please be aware that the Court's review is very limited under Rule 120. The Court can only determine whether there is a reasonable probability of default and whether the Service Member Civil Relief Act bars this action.

The response and all supporting documents must be filed with the Court and served upon (mailed to) the other parties no later than SEVEN (7) days before the hearing. You must pay \$158.00 to file your response unless you qualify to have the fee waived. Information about filing fee waivers is available here: http://www.courts.state.co.us/Forms/Forms_List.cfm?Form_Type_ID=176. (Use JDF 205 and JDF 206).

What if I am working on a loan modification?

In general, a modification or short sale agreement is between you and your mortgage company. The Court cannot intervene unless the agreement is complete and has final approval. You should talk to an attorney for more information about a modification agreement and your legal rights.

What if I have filed for bankruptcy?

A bankruptcy may prohibit a Rule 120 action from being filed or from proceeding. You should consult a bankruptcy attorney for more information.

I have other questions about my Rule 120 case.

Additional information is available at the Colorado Judicial Branch website:

1. Residential foreclosures: http://www.courts.state.co.us/Self_Help/residentialforeclosures/
2. Verified Rule 120 Response forms and instructions:
http://www.courts.state.co.us/Forms/Forms_List.cfm?Form_Type_ID=197

You may also contact the Self-Represented Litigant Coordinators in Boulder County for help with general questions, resources and forms. The Coordinators can be reached at (303) 441-4741 or by e-mail at BoulderCourtSelfHelp@judicial.state.co.us. You can speak with the coordinators in-person or by phone.

You should contact an attorney for legal advice about your case. A HUD-certified housing counselor can also provide non-legal information about your loss mitigation options at no charge. Contact information for legal and non-legal resources in Boulder County is included in this packet.

20TH JUDICIAL DISTRICT RESOURCES

Boulder County Bar Association

1942 Broadway, Suite 205
Boulder, CO 80302
www.boulder-bar.org
(303) 440-4758

* Provides referrals to private attorneys, including attorneys that offer reduced rates

Boulder County Housing Authority

3482 Broadway St.
Boulder, CO 80304
303-441-3929
www.boulderhousing.org

* Non-legal housing resource

Boulder County Legal Services (Colorado Legal Services)

315 W. South Boulder Road
Louisville, CO 80027
(303) 449-7575
www.coloradolegalervices.org

* Provides free legal representation and advice to qualifying low-income clients

Boulder County Public Trustee

1790 38th Street, Suite 100
Boulder, CO 80301
(303)443-3636
www.bouldercountypt.org

* Maintains public information for homeowners facing foreclosure about scheduled sales

Colorado Attorney General – Mortgage Fraud Information Center

1300 Broadway, 10th Floor
Denver, CO 80203
1-800-222-4444 Consumer Line
www.coloradoattorneygeneral.gov/departments

* Receives and investigates mortgage fraud and consumer protection complaints

Colorado Bar Association

1900 Grant Street, Suite 900
Denver, CO 80203
(303) 860-1115
www.cobar.org

* Provides referrals to private attorneys

Colorado Foreclosure Hotline

1-877-601-HOPE (4673)
www.coloradoforeclosurehotline.org/

* Non-legal housing resource to facilitate referrals to local HUD-approved counseling agencies