

**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 \$150,000

**Column 2:** Applies where amounts owing exceed \$150,000

**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;	\$147	\$183
2.	If applicable, further inquiries regarding:		
a.	For each additional service; (See also item 89)	\$24	\$31
b.	For second mortgage – is the first mortgage in default?	Hourly	Hourly
c.	If land is a condominium, is there default in payment of common element fees?	Hourly	Hourly
d.	For leasehold mortgage – is there default in payment of rent on landlease?	Hourly	Hourly
e.	Applicability of <i>Farm Debt Mediation Act and The Family Farm Protection Act</i> ;	Hourly	Hourly
3.	Prepare demand letter;	\$65	\$81
4.	Requesting and perusing necessary title, encumbrance and corporate searches (per search);	\$16	\$20
5.	Drafting of Notice Exercising Power of Sale (NEPS) - see also item 90	\$163	\$204
6.	File NEPS in Land Titles office;	\$16	\$20
7.	Requesting and perusing up to date Certified Status of Title/Certified Copy of Title;	\$33	\$41
8.	a. Arranging for the first service of NEPS;	\$33	\$41
	b. For each additional service; (See also item 89)	\$16	\$20
9.	a. Reviewing each Affidavit of Service of NEPS; or	\$16	\$20
	b. Preparing each Affidavit of Service of NEPS;	\$24	\$31
	c. Memo for further services if applicable;	\$20	\$31
10.	Letter paying account for service of NEPS (for each account). Review account for service and arranging for service;	\$33	\$41
11.	Report to mortgagee and diarize;	\$65	\$81

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

12.	Communications with mortgagee to confirm method of sale, obtain description of property for advertisement and obtain information with regard to <i>Farm Debt Mediation Act and The Family Farm Protection Act</i> ;	\$90	\$112
13.	Prepare Auction Advertisement;	\$73	\$92
14.	Prepare Auction Sale Conditions;	\$106	\$132
15.	Drafting statutory declaration of mortgagee, including evidence of continuing default and <i>The Family Farm Protection Act and Farm Debt Mediation Act evidence</i> ;	\$49	\$61
16.	a. Letter to mortgagee requiring execution of evidence, or	\$33	\$41
	b. attending on the mortgagee to complete execution of evidence;	\$65	\$81

17.	Drafting Request form for Application for Order for Sale (AFOS)	\$49	\$61
18.	File AFOS at Land Titles office;	\$16	\$20
19.	Receipt and perusal of Order for Sale;	\$65	\$81

#### AUCTION SALE

20.	Attending on auctioneer to arrange mortgage sale;		
	a. On auctioneer's premises;	\$33	\$41
	b. Not on auctioneer's premises;	\$49	\$61
21.	a. Arranging for service of Order for Sale and auction advertisement (for the first party and address to be served);	\$33	\$41
	b. For each additional party and address to be served;	\$16	\$20
22.	Communication with prior encumbrancer(s) to determine balance outstanding (if applicable);	\$49	\$61
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;	\$195	\$244
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;	\$265	\$331
25.	Arranging for publication of auction advertisement (each publication);		
	a. Non-local publication	\$98	\$122
	b. Local publication	\$57	\$71
26.	Telephone attendances to answer questions resulting from advertisement for sale (for each attendance);	Hourly	Hourly
27.	Communications to auctioneer:		
	a. Adjourning sale:		
	i. On auctioneer's premises	\$33	\$41
	ii. Not on auctioneer's premises	\$49	\$61
	b. Cancelling sale	\$33	\$41
28.	Sending copies of auction advertisement showing new date following adjournments by ordinary mail to parties previously served (for each party and address);	\$16	\$20
29.	Review publication and payment of account (per publication);	\$114	\$142
30.	a. Attendance at mortgage sale where solicitor practices;	\$244	\$305
	b. Where sale elsewhere, arranging for agent to attend;	Hourly	Hourly
	c. Attendance elsewhere, plus disbursements (if unable to retain agent);	Hourly	Hourly
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);	\$65	\$81
32.	Letter paying auctioneer;	\$33	\$41
33.	Reporting results of mortgage sale to mortgagee;	\$65	\$81

**SUCCESSFUL AUCTION (TPS)**

34.	Completion of agreement in mortgage sale conditions;	\$163	\$204
35.	a. Drafting and completing affidavit of service of Order for Sale and advertisement;	\$57	\$71
	b. For each additional address served over three;	\$16	\$20
36.	Preparing Transfer Under Power of Sale, vendors 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;		
	a. Single family, residential	\$977	\$1,221
	b. other (commercial, leasehold, condominium)	Hourly	Hourly
37.	If surplus funds and subsequent charges:	\$265	\$331
38.	Final report to mortgagee on proceedings including drawing up final statement of account and closing file.	\$195	\$244

**APPLICATION FOR APPROVAL OF SALE  
PRICE ONLY (RSPA)**

39.	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);	Hourly	Hourly
40.	Letter paying account for appraisal/opinion of value (for each appraisal/opinion of value);	\$33	\$41
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);	Hourly	Hourly
42.	Receipt and review of Order Approving Sale Price and reporting to client;	\$33	\$41

**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;	Hourly	Hourly
44.	a. Drafting and completing Affidavit of Service of Order for Sale for first party and address to be served;	\$24	\$31
	b. For each additional address served over three;	\$16	\$20
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;	\$33	\$41
	b. For each additional service thereafter;	\$16	\$20
46.	a. Drafting Affidavit of Service of Notice that a private contract is being submitted for approval, if applicable;	\$24	\$31
	b. For each additional address served over three;	\$16	\$20

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);	\$57	\$71
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);	Hourly	Hourly
49.	Letter paying account for appraisal/opinion of value (for each appraisal/opinion of value) (if not previously charged under item 40);	\$33	\$41
50.	Communications with purchaser or solicitor for same for the purpose of obtaining the 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 final statement of account and closing file (-see also item 90);	Hourly	Hourly

**APPLICATION FOR FORECLOSURE/FINAL  
NOTICE TO REDEEM (AFOF)**

51.	Advising mortgagee on effect of foreclosure and requesting instructions;	\$65	\$81
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;	Hourly	Hourly
53.	Drafting statutory declaration of mortgagee, including evidence of continuing default and <i>The Family Farm Protection Act</i> and <i>Farm Debt Mediation Act</i> evidence – see also item 90;	\$49	\$61
54.	a. Drafting affidavit of service of Order for Sale and auction advertisement;	\$57	\$71
	b. For each additional address served over three;	\$16	\$20
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;	\$147	\$183
56.	a. Letter to mortgagee enclosing application for execution of evidence;	\$33	\$41
	Or		
	b. Attending on mortgagee to complete execution of evidence;	\$65	\$81
57.	File Application for Foreclosure/Final Notice to Redeem and other material in Land Titles office;	\$16	\$20
58.	Receipt and perusal of Notice of Application for Order of Foreclosure/Final Notice to Redeem;	\$65	\$81
59.	a. Arranging the first service of Notice of Application for Order of	\$33	\$41

	Foreclosure/Final Notice to Redeem;		
b.	For each additional party to be served;	\$16	\$20
60.	a. Reviewing each affidavit of service of Notice of Application or Order of foreclosure/Final Notice to Redeem; or	\$16	\$20
	b. Preparing each affidavit of service of Application for Order of Foreclosure/Final Notice to Redeem;	\$24	\$31
61.	Letter paying account for service of Notice of application for Order of Foreclosure/Final Notice to Redeem (for each account);	\$33	\$41
62.	Report to mortgagee and diarize;	\$65	\$81

**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;	\$49	\$61
64.	a. Letter to mortgagee enclosing RFOF for execution of evidence;	\$33	\$41
	b. Attending on mortgagee to complete execution of evidence;	\$65	\$81
65.	Filing Request for Order of Foreclosure at Land Titles office;	\$16	\$20
66.	Receipt and perusal of Order of Foreclosure;	\$65	\$81

**APPLICATION TO REGISTER ORDER OF FORECLOSURE (FOF)**

67.	Communications with mortgagee for the purpose of obtaining instructions to file Order of Foreclosure;	\$147	\$183
68.	Drafting Transmission form, including evidence of continuing default – see also item 90;	\$90	\$112
69.	a. Letter to mortgagee enclosing transmission for execution of evidence and transmission;	\$33	\$41
	b. Attending on mortgagee to complete execution of evidence;	\$65	\$81
70.	File Transmission and Order of Foreclosure at Land Titles office;	\$16	\$20
71.	Requesting and perusing title search to confirm new ownership;	\$33	\$41
72.	Final report to mortgagee on proceedings including drawing up final statement of account;	\$195	\$244

**SUBSTITUTIONAL SERVICE**

73.	Reviewing information regarding attempted service including instructions to process server regarding additional attempts and reviewing and preparing affidavits of attempted service;	Hourly	Hourly
74.	Drafting Request form for Substitutional Service;	\$49	\$61
75.	Filing Request for Order of Substitutional Service and supporting material in Land Titles office;	\$16	\$20
76.	Receipt and perusal of Order for Substitutional Service;	\$65	\$81
77.	Sending copies of Order for Substitutional Service and accompanying Notice by registered mail to parties required to be served (for each party);	\$65	\$81
78.	Giving instructions for service in accordance with Order (for each party to be served);	\$33	\$41
79.	Arranging for publication as per Substitutional Service Order (each		

	publication);		
	a. Non-local publication;	\$98	\$122
	b. Local publication;	\$57	\$71
80.	Review publication and payment of account (per publication);	\$114	\$142
81.	Giving instructions for service in accordance with Order (for each party to be served);	\$33	\$41
82.	Letter paying account for service (for each account);	\$33	\$41
83.	Drafting and completing Affidavit of compliance with Substitutional Service Order;	\$65	\$81

**SETTLEMENT**

84.	Telephone attendances, personal interviews or correspondence undertaken at the request of the mortgagor, the Mortgagor's Solicitor or Agent or any other interest party regarding settlement;	Hourly*	Hourly
85.	Drafting and filing Discharge of Notice Exercising Power of Sale (see also item 90);	\$65	\$81
86.	Letter to mortgagor confirming discharge of Notice of Exercising Power of Sale;	\$33	\$41
87.	Final report to mortgagee on proceedings including drawing up final statement of account;	\$195	\$244

**MISCELLANEOUS**

88.	Drawing Bill of Costs <u>AT THE REQUEST OF</u> the Mortgagor, or other interested party or for the purpose of taxation hearing:		
	For the original Bill of Cost:		
	a. at any time prior to the application for Order for Sale;	\$147	\$183
	b. prior to the date of the auction sale;	\$171	\$214
	c. at any time after the date of the auction sale;	\$195	\$244
	For each additional bill drawn;	\$65	\$81
89.	For necessary services undertaken in conduct of proceedings and not otherwise itemized under this tariff including but not restricted to the following:	Hourly	Hourly
	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 <i>The Family Farm Protection Act</i> , <i>Farm Debt Mediation Act</i> , and <i>Bankruptcy and Insolvency Act</i> .		

Note: No amount is allowable under this section for services rendered where compensation is available from another venue (section 9(9) *Family Farm Protection Act* or other court ordered compensation or costs)

**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).	\$65	\$81
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**ATTENDANCE**

91. Attendance on taxation hearing;

Hourly

Hourly

### 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 \$266 for Column "1" and \$327 for Column "2" and references to those numbers in columns "1" and "2" are maximum per hour rates.

\*For Item 84, Settlement Discussions, Column 1 Hourly Rate is \$327.

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 AT TAXATION HEARING

- 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;

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 solicitor for the Mortgagor or other interested party and shall be deducted

- b. 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.

## **ANNUAL ADJUSTMENT**

Fees will be adjusted annually on January 1 of each year using the formula

Previous Year Fee as of December 31 x (0.5 x C), rounded to nearest whole dollar

C is defined as set out in *Land Titles Fee Regulation*, section 3(2)