

Civil Process

- **Mortgage Foreclosure Sale Procedure**
- **Process of Unlawful Detainer Action**
- **Evictions**
- **Third Party Levies Involving the Collection of Monies**

This web site is only a guide on Civil Process for Fillmore County. We are providing information which answers some of the more common questions received by our staff.

The information included in this website is not comprehensive. We are not providing any legal advice, nor are we attempting to suggest a course of action if there are legal issues to be resolved.

If you need legal advice, please contact an attorney. Our office is not permitted to provide legal advice nor can we suggest any specific attorney.

We hope this website will be helpful in your civil process needs. Should you have any further questions, please contact the Fillmore County Sheriff's Office Civil Process Department at

507-765-3874

Mortgage Foreclosure Sale Procedure

Mortgage foreclosure sales are conducted by the Sheriff, or his designee, in an open bidding process. Sales are conducted on Thursday at 10am, with prior scheduling required, in the main lobby at the Fillmore County Courthouse at 101 Fillmore Street, Preston, MN 55965.

The mortgage company or plaintiff's representative is present and any interested parties. The attorney will start the bidding with the exact amount due at the time of the sale. If any other interested parties are there, they then will have the opportunity to give their bid. A successful bidder must have cash or certified funds (payable to the Fillmore County Sheriff's Office) to pay for the sale *at the time of the sale*.

All mortgage foreclosure sales are subject to a redemption period, usually 6 or 12 months. The length of this period is noted in the sale notice.

[Back to Top](#) ^

Process of Unlawful Detainer Action

To begin the process for Unlawful Detainer Action the property owner (plaintiff) starts by filing a "Complaint in Unlawful Detainer" with the [Court Administrator](#).

When a complaint has been filed, the Court Administrator will set a court date and issue a summons to be served. This summons must be served on each tenant/defendant no less than seven (7) days prior to the court date, exclusive of the court date. The service must be made by a third party who is not part of the court action. A notarized affidavit of service must be filed with the Court Administrator before the date of the court hearing.

The Fillmore County Sheriff's Office can serve the papers on the tenant/defendant. The original summons plus copies of the summons and complaint for the defendants should be delivered to the Fillmore County Sheriff's Office as soon as the plaintiff receives them. If the Sheriff's Deputy does

not find the defendants at home after making attempt on at least two different days, one day before 6:00 pm and one day after 6:00 pm, the Deputy will post the Summons and Complaint on the door of the premises involved in Unlawful Detainer Action.

[Back to Top ^](#)

Evictions

If a Judge finds in favor of the plaintiff at the hearing for the Unlawful Detainer Action, a Writ of Recovery will be authorized. This is an Order for the Sheriff to restore the premises to the plaintiff.

This Writ of Recovery is only valid for **thirty (30)** days so the plaintiff should not delay in bringing it to the Sheriff's Office. The Sheriff's Office will have this served on the defendant if they are home, or it will be posted on the door of the premises. This Writ of Recovery is a 24-hours notice advising them that they have to vacate the premises. If the defendant does not vacate in 24 hours, the Sheriff has the right to remove them. The plaintiff must contact the Fillmore County Sheriff's Office to schedule an eviction. When the eviction is scheduled, there are two options for storage of the defendants' personal property:

- On site storage for 60 days.
- Contract with a licensed and bonded mover to inventory and remove the property.

If the plaintiff chooses to store the property on site, the Deputy will remove the defendant(s) and stand by until the plaintiff has completed an inventory of the premises. If the defendant wants to recover their property, they must contact the plaintiff within 60 days and make arrangements to pick it up. The plaintiff must release the property to the defendant. After the 60 days is past, if the defendant has not picked up the property it is considered abandoned.

If the plaintiff selects to have the property removed, the plaintiff must contract with a licensed and bonded mover and make arrangements to have the mover there at the time of the eviction. The deputy will remove the defendant(s) and stand by until the moving company has loaded the property and completed an inventory. The plaintiff has a lien for the moving and storage expenses *only*. The defendant again has 60 days to contact the plaintiff to make arrangements to pick up the property and may be required to pay the moving costs before it is released. Most often, the value of the personal property is less than the moving costs and since the plaintiff is responsible for paying the movers, this option is not the most common.

[Back to Top ^](#)

Third Party Levies Involving the Collection of Monies

BANK ACCOUNTS (natural persons & corporations) - Third-party levy on bank accounts is served within five business days upon receipt of the Writ of Execution by the Sheriff's Office. Funds on deposit in the account(s) are frozen as of the date of service. Financial institutions respond by mail to the Sheriff's Office approximately 30 days after the date of service. At that time, if a check is received from the bank, it is deposited and after the bank check clears, the funds are remitted to you, by mail, in the form of a check from the Sheriff's Office.

WAGES - Third-party levy on wages is served within five business days upon receipt of the Writ of Execution by the Sheriff's Office. This service will secure the wages for 70 days at which time the employer will remit the funds to the Sheriff's Office. The Writ expires 180 days from the date it is issued by the court. When we stop levying, we will mail you the funds collected after the last check is received. If the judgment is not fully satisfied and the judgment debtor is still employed, you

must obtain a new Writ from the Court Administrator and deliver to the Sheriff's Office for another service process.

If no monies are collected for various reasons (i.e. - no funds, employment terminated, doesn't earn enough or on leave of absence), notice will be mailed to you, listing the reason and the Writ of Execution will be returned to the Court Administrator. You must locate other assets, obtain a new Writ and start the process over again. If no other assets can be found, contact [District Court](#) regarding the procedure of ordering the judgment debtor to court to disclose their assets.