

Mortgages and Other Liens

Service by publication (Mortgage Lien)

29-3-420

If a petition is filed to show cause on mortgage property and anyone having rights to that mortgage is dead, unknown within the state or if the property is a corporation that no longer exists in the state than a judge can order a publication for the ruling to show cause. This can only be done when facts are shown through an affidavit by the petitioner. The notice shall be placed in a newspaper located in the county that the property is in once a week for three straight weeks.

Section When	Notice	Where
29-3-420	A notice of the rule to show cause concerning mortgage property	A newspaper located in the county that the mortgage property is located

Exact wording:

“If (a) the mortgagee or any of his pledgees or assignees or any other person having any right, title or interest in or lien upon the mortgage shall be dead at or before the time of the filing of the petition and no legal representatives have been appointed and qualified for such person, (b) any of such persons cannot be found within this State or (c) the mortgagee, assignee, pledgee or interested person is a domestic or foreign corporation which has been dissolved or has ceased to do business in this State and no officer or agent authorized to accept service of the petition and rule can be found in this State, the court or judge, upon proof of such facts by affidavit of the petitioner, shall grant an order for the publication of the rule to show cause, such publication to be made once a week for three consecutive weeks in some newspaper published in the county in which the mortgaged property or some part thereof is situate or, if there is no newspaper in such county, by posting a copy of the petition and rule to show cause upon the courthouse door of the county for a period of three weeks. Such constructive service shall be complete upon the expiration of twenty-one days from the time of the first publication or posting of the petition and rule to show cause.”

Notice by publication or other than personal service (Mechanic’s Lien)

29-5-200

(Mechanic’s Lien = A person to whom a debt is due for labor performed or furnished or for materials in concern to real estate)

If the courts believe that any of the involved parties that are entitled to the notice of a “Mechanic’s Lien” are not present or cannot be found to be given the notice the petition shall be published. The notice should state the time and place of the hearing and the information that is found within the petition.

Section When	Notice	Where
29-5-200	A notice of petition to interested parties of a “Mechanic’s Lien”	A newspaper of some kind

Exact wording:

“If it appears to the court that any of the parties entitled to notice are absent or that they cannot probably be found or be served with the notice, the court may, instead of the personal notice before mentioned or in addition thereto, order notice given to all persons interested by publishing in some newspaper the substance of the petition with the order of the court thereon assigning the time and place for a hearing or may order such other notice to be given as may, under the circumstances of the case, be considered most proper and effectual.”

Enforcement of lien on textiles
29-15-80

In reference to this section “goods” may be sold at a public auction if sixty days has passed since the amount was due. Before the public action can be held a notice must be published in a newspaper in the county where the sale will be located. The time and place of the sale must be listed and the notice needs to be placed once a week for two straight weeks with the last placement occurring five days prior to the auction

Section When	Notice	Where	Where
29-15-80	A notice of a public auction for the purpose of selling unpaid “goods.” The notice must state the time and place of the auction along with the contents of the petition	A newspaper published in the city or town, if there is not one than the county where the sale will be located	Once a week for two straight weeks with the last placement occurring five days prior to the auction

Exact wording:

“If any part of the amount for which goods are held under such lien remains unpaid for a period of sixty days after the earliest item of such amount became due and payable, the lienor may sell such goods at public auction, first (a) publishing a notice of the time and place of such sale once in each of two successive weeks in a newspaper published in the city or town, if any there be, and otherwise in the county, in which the goods are situated, the last publication to be not less than five days prior to the sale.”