

FORM 14B

*Courts of Justice Act*

STATEMENT OF CLAIM (MORTGAGE ACTION — FORECLOSURE)

*(General heading)*

*(Court seal)*

STATEMENT OF CLAIM (MORTGAGE ACTION — FORECLOSURE)

TO THE DEFENDANT

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service, in this court office, WITHIN 20 DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is 40 days. If you are served outside Canada and the United States of America, the period is 60 days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to 10 more days within which to serve and file your statement of defence.

*(Where payment of the mortgage debt is claimed, add:)*

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$ \_\_\_\_\_ for costs, within the time for serving and filing your statement of defence, you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and \$400 for costs and have the costs assessed by the court.

REQUEST TO REDEEM

Whether or not you serve and file a statement of defence, you may request the right to redeem the mortgaged property by serving a request to redeem (Form 64A) on the plaintiff and filing it in this court office within the time for serving and filing your statement of defence or at any time before being noted in default. If you do so, you will be entitled to seven days notice of the taking of the account of the amount due to the plaintiff, and to 60 days from the taking of the account within which to redeem the mortgaged property.

If you hold a lien, charge or encumbrance on the mortgaged property subsequent to the mortgage in question, you may file a request to redeem, which must contain particulars of your claim verified by an affidavit, and you will be entitled to redeem only if your claim is not disputed or, if disputed, is proved on a reference.

REQUEST FOR SALE

If you do not serve and file a statement of defence, you may request a sale of the mortgaged property by serving a request for sale (Form 64F) on the plaintiff and filing it in this court office within the time for serving and filing your statement of defence, or at any time before being noted in default. If you do so, the plaintiff will be entitled to obtain a judgment for a sale with a reference and you will be entitled to notice of the reference.

If you hold a lien, charge or encumbrance on the mortgaged property subsequent to the mortgage in question and you do not serve and file a request to redeem, you may file a request for sale which must contain particulars of your claim verified by an affidavit, and must be accompanied by a receipt showing that \$250 has been paid into court as security for the costs of the plaintiff(s) and of any other party having carriage of the sale.

DEFAULT JUDGMENT

IF YOU FAIL TO SERVE AND FILE A STATEMENT OF DEFENCE, JUDGMENT MAY BE GIVEN AGAINST YOU WITHOUT FURTHER NOTICE. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date \_\_\_\_\_

Issued by \_\_\_\_\_

Local registrar

Address of court office \_\_\_\_\_

\_\_\_\_\_

TO (Name and address of each defendant)

REQUEST TO REDEEM

(sale action)

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Date \_\_\_\_\_

Issued by \_\_\_\_\_

Local registrar

Address of court office \_\_\_\_\_

\_\_\_\_\_

TO: (Name and address of each defendant)

(Subsequent encumbrancers are not to be named as defendants in this statement of claim in a sale action.)

(In an action under the simplified procedure provided in Rule 76, add:)

THIS ACTION IS BROUGHT AGAINST YOU UNDER THE SIMPLIFIED PROCEDURE PROVIDED IN RULE 76 OF THE RULES OF CIVIL PROCEDURE.

CLAIM

1. The plaintiff claims:

(foreclosure)

(a) that the equity of redemption in the property secured by the mortgage mentioned below be foreclosed;

(or)

(sale)

(a) that the property secured by the mortgage mentioned below be sold and proceeds of sale applied towards the amount due under the mortgage, and payment to the plaintiff by the defendant (*name of defendant against whom payment of any deficiency is claimed*) personally of any deficiency if the sale proceeds are not sufficient to pay the amount found due to the plaintiff;

(possession)

(b) possession of the mortgaged property;

(payment of mortgage debt)

(c) payment by the defendant (*name of defendant against whom payment of mortgage debt is claimed*) of the sum of \$ \_\_\_\_\_ (from paragraph 6 below) now due under the mortgage together with interest at the rate of (*mortgage rate*) per cent per year until judgment;

(interest)

(d) post-judgment interest in accordance with the *Courts of Justice Act* (or where the mortgage provides for interest after judgment at the mortgage rate, substitute: post-judgment interest at the rate of (*mortgage rate*) per cent per year in accordance with the mortgage); and

(costs)

(e) the costs of this action (on a substantial indemnity basis if the mortgage so provides, or if it provides for costs on a solicitor and client basis).

2. The plaintiff's claim is on a mortgage dated (*date*), made between (*name of mortgagor*) and (*name of mortgagee*), and registered (*give particulars of registration and of any assignment of the mortgage*), under which the defendant (*or as may be*) mortgaged the property described below for a term of \_\_\_\_\_ years securing the sum of \$ \_\_\_\_\_ and interest on that sum at the rate of \_\_\_\_\_ per cent per year. The mortgage provides for the payment of principal and interest as follows: (*Set out terms of payment. Add a reference to provisions in the mortgage for solicitor and client costs and post-judgment interest if applicable.*)

3. The mortgage provides that on default of payment of any sum required to be paid under the mortgage, the principal becomes due and payable and the plaintiff is entitled to possession of the mortgaged property and to foreclosure of the equity of redemption in the mortgaged property (or sale of the mortgaged property or as may be).

4. (*Where a claim for payment is made under section 20 of the Mortgages Act against a person other than the original mortgagor, add:*) The defendant (*name*) became liable under section 20 of the *Mortgages Act* to pay the amount of the mortgage debt to the plaintiff by reason of (*set out particulars of the transfer of the mortgaged property from the original mortgagor to this defendant*).

5. Default in payment of principal and interest (*or as may be*) occurred on (*date*), and still continues.

6. There is now due under the terms of the mortgage:

(a) for principal \$ \_\_\_\_\_

(b) for taxes paid \$ \_\_\_\_\_

(c) for premiums of insurance paid \$ \_\_\_\_\_

(d) for maintenance costs paid \$ \_\_\_\_\_

(e) for heating costs paid \$ \_\_\_\_\_

(f) for utility costs paid \$ \_\_\_\_\_

(add any other costs in similar fashion)

(g) for interest (*set out particulars*) \$ \_\_\_\_\_

Total now due: \$ \_\_\_\_\_

The defendant (*name*) is liable to pay these sums and subsequent interest at the rate of \_\_\_\_\_ per cent per year.

7. The following is a description of the mortgaged property: (*Set out a description sufficient for registration. For Land Titles land, include the parcel number.*)

(*In a foreclosure action where one or more subsequent encumbrancers are named as defendants, add:*)

8. The defendant (*name*) has been made a party to this action as a subsequent encumbrancer.

(*Where the statement of claim is to be served outside Ontario without a court order, set out the facts and the specific provisions of Rule 17 relied on in support of the service.*)

(*Date*)

(*Name, address and telephone number of plaintiff's lawyer or plaintiff*)