

REFERENCE TITLE: foreclosure sales; housing department; registry

State of Arizona  
House of Representatives  
Fifty-sixth Legislature  
First Regular Session  
2023

## **HB 2412**

Introduced by  
Representative Gress

### **AN ACT**

AMENDING SECTIONS 33-808, 33-810 AND 33-811, ARIZONA REVISED STATUTES;  
AMENDING TITLE 33, CHAPTER 6.1, ARTICLE 1, ARIZONA REVISED STATUTES, BY  
ADDING SECTION 33-811.01; AMENDING SECTIONS 41-3953 AND 41-3955, ARIZONA  
REVISED STATUTES; RELATING TO RESIDENTIAL HOUSING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 33-808, Arizona Revised Statutes, is amended to  
3 read:

4 33-808. Notice of trustee's sale

5 A. The trustee shall give written notice of the time and place of  
6 sale legally describing the trust property to be sold by each of the  
7 following methods:

8 1. Recording a notice in the office of the recorder of each county  
9 where the trust property is situated.

10 2. Giving notice as provided in section 33-809 to the extent  
11 applicable.

12 3. Posting a copy of the notice of sale, ~~at~~ at least twenty days  
13 before the date of sale in some conspicuous place on the trust property to  
14 be sold, if posting can be accomplished without a breach of the peace. If  
15 access to the trust property is denied because a common entrance to the  
16 property is restricted by a limited access gate or similar impediment, the  
17 property shall be posted by posting notice at that gate or impediment.  
18 Notice shall also be posted at one of the places provided for posting  
19 public notices at any building that serves as a location of the superior  
20 court in the county where the trust property is to be sold. Posting is  
21 deemed completed on the date the trust property is posted. The posting of  
22 notice at the superior court location is deemed a ministerial act.

23 4. Publication of the notice of sale in a newspaper of general  
24 circulation in each county in which the trust property to be sold is  
25 situated. The notice of sale shall be published at least once a week for  
26 four consecutive weeks. The last date of publication shall not be less  
27 than ten days ~~prior to~~ BEFORE the date of sale. Publication is deemed  
28 completed on the date of the first of the four publications of the notice  
29 of sale pursuant to this paragraph.

30 B. The sale shall be held at the time and place designated in the  
31 notice of sale on a day other than a Saturday or legal holiday between  
32 9:00 a.m. and 5:00 p.m. mountain standard time at a specified place on the  
33 trust property, at a specified place at any building that serves as a  
34 location of the superior court or at a specified place at a place of  
35 business of the trustee, in any county in which part of the trust property  
36 to be sold is situated.

37 C. The notice of sale shall contain:

38 1. The date, time and place of the sale. The date, time and place  
39 shall be set pursuant to section 33-807, subsection D. The date shall be  
40 ~~no~~ NOT sooner than the ninety-first day after the date that the notice of  
41 sale was recorded.

42 2. The street address, if any, or identifiable location as well as  
43 the legal description of the trust property.

1           3. The county assessor's tax parcel number for the trust property  
2 or the tax parcel number of a larger parcel of which the trust property is  
3 a part.

4           4. The original principal balance as shown on the deed of  
5 trust. If the amount is not shown on the deed of trust, it shall be  
6 listed as "unspecified".

7           5. The names and addresses, as of the date the notice of sale is  
8 recorded, of the beneficiary and the trustee, the name and address of the  
9 original trustor as stated in the deed of trust, the signature of the  
10 trustee and the basis for the trustee's qualification pursuant to section  
11 33-803, subsection A, including an express statement of the paragraph  
12 under section 33-803, subsection A on which the qualification is  
13 based. The address of the beneficiary shall not be in care of the  
14 trustee.

15           6. The telephone number of the trustee.

16           7. The name of the state or federal licensing or regulatory body or  
17 controlling agency of the trustee as prescribed by section 33-803,  
18 subsection A.

19           8. FOR RESIDENTIAL PROPERTY WITH NOT MORE THAN FOUR RESIDENTIAL  
20 UNITS, THE FOLLOWING STATEMENT IN THE FIRST PARAGRAPH OF THE NOTICE,  
21 PRINTED IN BOLDFACED AND CAPITALIZED TYPE:

22           NOTICE TO TENANTS AND OTHER ELIGIBLE BIDDERS: YOU MAY  
23 HAVE A RIGHT TO BUY THIS PROPERTY AFTER THE TRUSTEE SALE. IF  
24 YOU ARE AN "ELIGIBLE TENANT BUYER", YOU CAN BUY THE PROPERTY  
25 IF YOU MATCH THE SUCCESSFUL BID MADE AT THE TRUSTEE SALE. IF  
26 YOU ARE AN "ELIGIBLE BIDDER", YOU MAY BE ABLE TO BUY THE  
27 PROPERTY IF YOU EXCEED THE SUCCESSFUL BID MADE AT THE TRUSTEE  
28 SALE. THERE ARE THREE STEPS YOU MUST FOLLOW. FIRST, TWO  
29 CALENDAR DAYS AFTER THE SALE YOU CAN CALL THE TELEPHONE NUMBER  
30 OR ACCESS THE WEBSITE ADDRESS ON THIS NOTICE TO FIND THE  
31 AMOUNT OF THE SUCCESSFUL BID AND THE ADDRESS OF THE PERSON WHO  
32 CONDUCTED THE SALE. SECOND, YOU MUST SEND THAT PERSON A  
33 WRITTEN NOTICE OF YOUR INTENT TO PLACE A BID SO THAT THE  
34 PERSON RECEIVES IT NOT MORE THAN FIFTEEN DAYS AFTER THE DATE  
35 OF THE SALE. THIRD, YOU MUST SUBMIT A BID TO THE PERSON WHO  
36 CONDUCTED THE SALE SO THAT THE PERSON RECEIVES IT NOT MORE  
37 THAN FORTY-FIVE DAYS AFTER THE DATE OF THE SALE. IF YOU THINK  
38 YOU MAY BE AN "ELIGIBLE TENANT BUYER" OR "ELIGIBLE BIDDER",  
39 CONSIDER CONTACTING AN ATTORNEY OR REAL ESTATE PROFESSIONAL  
40 IMMEDIATELY REGARDING THIS POTENTIAL RIGHT TO PURCHASE.

41           ~~8.~~ 9. The following statement in the ~~first~~ SECOND paragraph of the  
42 notice, printed in bold-faced and capitalized type:

43           Notice! If you believe there is a defense to the trustee sale  
44 or if you have an objection to the trustee sale, you must file  
45 an action and obtain a court order pursuant to rule 65,

1 Arizona rules of civil procedure, stopping the sale no later  
2 than 5:00 p.m. mountain standard time of the last business day  
3 before the scheduled date of the sale, or you may have waived  
4 any defenses or objections to the sale. Unless you obtain an  
5 order, the sale will be final.

6 D. The notice of sale shall be sufficient if made in substantially  
7 the following form:

8 Notice of Trustee's Sale

9 NOTICE TO TENANTS AND OTHER ELIGIBLE BIDDERS: YOU MAY  
10 HAVE A RIGHT TO BUY THIS PROPERTY AFTER THE TRUSTEE SALE. IF  
11 YOU ARE AN "ELIGIBLE TENANT BUYER", YOU CAN BUY THE PROPERTY  
12 IF YOU MATCH THE SUCCESSFUL BID MADE AT THE TRUSTEE SALE. IF  
13 YOU ARE AN "ELIGIBLE BIDDER", YOU MAY BE ABLE TO BUY THE  
14 PROPERTY IF YOU EXCEED THE SUCCESSFUL BID MADE AT THE TRUSTEE  
15 SALE. THERE ARE THREE STEPS YOU MUST FOLLOW. FIRST, TWO  
16 CALENDAR DAYS AFTER THE SALE YOU CAN CALL THE TELEPHONE NUMBER  
17 OR ACCESS THE WEBSITE ADDRESS ON THIS NOTICE TO FIND THE  
18 AMOUNT OF THE SUCCESSFUL BID AND THE ADDRESS OF THE PERSON WHO  
19 CONDUCTED THE SALE. SECOND, YOU MUST SEND THAT PERSON A  
20 WRITTEN NOTICE OF YOUR INTENT TO PLACE A BID SO THAT THE  
21 PERSON RECEIVES IT NOT MORE THAN FIFTEEN DAYS AFTER THE DATE  
22 OF THE SALE. THIRD, YOU MUST SUBMIT A BID TO THE PERSON WHO  
23 CONDUCTED THE SALE SO THAT THE PERSON RECEIVES IT NOT MORE  
24 THAN FORTY-FIVE DAYS AFTER THE DATE OF THE SALE. IF YOU THINK  
25 YOU MAY BE AN "ELIGIBLE TENANT BUYER" OR "ELIGIBLE BIDDER",  
26 CONSIDER CONTACTING AN ATTORNEY OR REAL ESTATE PROFESSIONAL  
27 IMMEDIATELY REGARDING THIS POTENTIAL RIGHT TO PURCHASE.

28 The following legally described trust property will be  
29 sold, pursuant to the power of sale under that certain trust  
30 deed recorded in docket or book \_\_\_\_\_ at  
31 page \_\_\_\_\_ records of \_\_\_\_\_ county, Arizona.  
32 Notice! if you believe there is a defense to the trustee sale  
33 or if you have an objection to the trustee sale, you must file  
34 an action and obtain a court order pursuant to rule 65,  
35 Arizona rules of civil procedure, stopping the sale no later  
36 than 5:00 p.m. mountain standard time of the last business day  
37 before the scheduled date of the sale, or you may have waived  
38 any defenses or objections to the sale. Unless you obtain an  
39 order, the sale will be final and will occur at public auction  
40 to the highest bidder at (specific place of sale as permitted  
41 by law) \_\_\_\_\_, in \_\_\_\_\_ county, in or  
42 near \_\_\_\_\_, Arizona, on \_\_\_\_\_, \_\_\_\_ at  
43 \_\_\_\_\_ o'clock \_\_\_\_m. of said day:

1 (street address, if any, or identifiable  
2 location of trust property)  
3 (legal description of trust property)  
4 Tax parcel number \_\_\_\_\_  
5 Original principal balance \$ \_\_\_\_\_  
6 Name and address of beneficiary \_\_\_\_\_  
7 \_\_\_\_\_  
8 \_\_\_\_\_  
9 Name and address of original trustor \_\_\_\_\_  
10 \_\_\_\_\_  
11 \_\_\_\_\_  
12 Name, address and telephone number of trustee \_\_\_\_\_  
13 \_\_\_\_\_  
14 \_\_\_\_\_  
15 WEBSITE ADDRESS TO OBTAIN INFORMATION FOR ELIGIBLE TENANT  
16 BUYERS AND ELIGIBLE BIDDERS \_\_\_\_\_  
17 Signature of trustee \_\_\_\_\_  
18 Manner of trustee qualification \_\_\_\_\_  
19 Name of trustee's regulator \_\_\_\_\_  
20 Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  
21 (Acknowledgement)

22 E. Any error or omission in the information required by subsection  
23 C or D of this section, other than an error in the legal description of  
24 the trust property or an error in the date, time or place of sale, shall  
25 not invalidate a trustee's sale. Any error in the legal description of  
26 the trust property shall not invalidate a trustee's sale if, considered as  
27 a whole, the information provided is sufficient to identify the trust  
28 property being sold. If there is an error or omission in the legal  
29 description so that the trust property cannot be identified, or if there  
30 is an error in the date, time or place of sale, the trustee shall record a  
31 cancellation of notice of sale. The trustee or any person furnishing  
32 information to the trustee shall not be subject to liability for any error  
33 or omission in the information required by subsection C of this section  
34 except for the wilful and intentional failure to provide such information.  
35 This subsection does not apply to claims made by an insured under any  
36 policy of title insurance.

37 F. The notice of trustee sale may not be rerecorded for any reason.  
38 This subsection does not prohibit the recording of a new or subsequent  
39 notice of sale regarding the same property.

40 Sec. 2. Section 33-810, Arizona Revised Statutes, is amended to  
41 read:

42 33-810. Sale by public auction; postponement of sale

43 A. On the date and at the time and place designated in the notice  
44 of sale, the trustee shall offer to sell the trust property at public  
45 auction for cash to the highest bidder. The trustee may schedule more

1 than one sale for the same date, time and place. The attorney or agent  
 2 for the trustee may conduct the sale and act at such sale as the  
 3 auctioneer for the trustee. Any person, including the trustee or  
 4 beneficiary, may bid at the sale. Only the beneficiary may make a credit  
 5 bid in lieu of cash at sale. EXCEPT FOR BIDS PRESCRIBED BY SECTION  
 6 33-811.01, the trustee shall require every bidder except the beneficiary  
 7 to provide a ~~ten thousand dollar~~ \$10,000 deposit in any form that is  
 8 satisfactory to the trustee as a condition of entering a bid. The trustee  
 9 or auctioneer may control the means and manner of the auction. Every bid  
 10 shall be deemed an irrevocable offer until the sale is completed, except  
 11 that a subsequent bid by the same bidder for a higher amount shall cancel  
 12 that bidder's lower bid. To determine the highest price bid, the trustor  
 13 or beneficiary present at the sale may recommend the manner in which the  
 14 known lots, parcels or divisions of the trust property described in the  
 15 notice of sale be sold. The trustee shall conditionally sell the trust  
 16 property under each recommendation, and, in addition, shall conditionally  
 17 sell the trust property as a whole. The trustee shall determine which  
 18 conditional sale or sales result in the highest total price bid for all of  
 19 the trust property. The trustee shall return deposits to all but the  
 20 bidder or bidders whose bid or bids result in the highest bid price. The  
 21 sale shall be completed on payment by the purchaser of the price bid in a  
 22 form satisfactory to the trustee AND, FOR RESIDENTIAL PROPERTY WITH NOT  
 23 MORE THAN FOUR RESIDENTIAL UNITS, ON COMPLIANCE WITH SECTION 33-811.01 OR  
 24 EXPIRATION OF THE TIME FOR COMPLIANCE WITH SECTION 33-811.01. The  
 25 subsequent execution, delivery and recordation of the trustee's deed as  
 26 prescribed by section 33-811 are ministerial acts. If the trustee's deed  
 27 is recorded in the county in which the trust property is located within  
 28 fifteen business days after the date of the sale, the trustee's sale is  
 29 deemed perfected at the appointed date and time of the trustee's sale. If  
 30 the highest price bid at a completed sale is less than the amount of that  
 31 bidder's deposit, the amount of the deposit in excess of the bid price  
 32 shall be refunded by the trustee at the time of delivery of the trustee's  
 33 deed.

34 B. The person conducting the sale may postpone or continue the sale  
 35 from time to time or change the place of the sale to any other location  
 36 authorized pursuant to this chapter by giving notice of the new date, time  
 37 and place by public declaration at the time and place last appointed for  
 38 the sale. Any new sale date shall be a fixed date within ninety calendar  
 39 days of the date of the declaration. After a sale has been postponed or  
 40 continued, the trustee, on request, shall make available the date and time  
 41 of the next scheduled sale and, if the location of the sale has been  
 42 changed, the new location of the sale until the sale has been conducted or  
 43 canceled and providing this information shall be without obligation or  
 44 liability for the accuracy or completeness of the information. No other

1 notice of the postponed, continued or relocated sale is required except as  
2 provided in subsection C of this section.

3 C. A sale shall not be complete if the sale as held is contrary to  
4 or in violation of any federal statute in effect because of an unknown or  
5 undisclosed bankruptcy. A sale so held shall be deemed to be continued to  
6 a date, time and place announced by the trustee at the sale and shall  
7 comply with subsection B of this section or, if not announced, shall be  
8 continued to the same place and at the same time twenty-eight days later,  
9 unless the twenty-eighth day falls on a Saturday or legal holiday, in  
10 which event it shall be continued to the first business day thereafter.  
11 In the event a sale is continued because of an unknown or undisclosed  
12 bankruptcy, the trustee shall notify by registered or certified mail, with  
13 postage prepaid, all bidders who provide their names, addresses and  
14 telephone numbers in writing to the party conducting the sale of the  
15 continuation of the sale.

16 D. A sale is postponed by operation of law to the next business day  
17 at the same scheduled time and place if an act of force majeure prevents  
18 access to the sale location for the conduct of the sale.

19 Sec. 3. Section 33-811, Arizona Revised Statutes, is amended to  
20 read:

21 33-811. Payment of bid; trustee's deed

22 A. The highest bidder at the sale, other than the beneficiary to  
23 the extent of the credit bid, shall pay the price bid by ~~no~~ NOT later than  
24 5:00 p.m. mountain standard time of the following day, other than a  
25 Saturday or legal holiday. If the highest bidder fails to pay the amount  
26 bid for the property struck off to the bidder at the sale, the trustee, in  
27 the trustee's sole discretion, shall either continue the sale to reopen  
28 bidding or immediately offer the trust property to the second highest  
29 bidder who may purchase the trust property at that bidder's bid  
30 price. The deposit of the highest bidder who fails to pay the amount bid  
31 shall be forfeited and shall be treated as additional sale proceeds to be  
32 applied in accordance with section 33-812, subsection A. If the second  
33 highest bidder does not pay that bidder's bid price by 5:00 p.m. mountain  
34 standard time of the next day, excluding Saturdays and legal holidays,  
35 after the property has been offered to that bidder by the trustee, the  
36 trustee shall either continue the sale to reopen bidding or offer the  
37 trust property to each of the prior bidders on successive days, excluding  
38 Saturdays and legal holidays, in order of their highest bid, until a bid  
39 price is paid, or if there is no other bidder, the sale shall be deemed to  
40 be continued to a time and place designated by the trustee, or if not  
41 designated, the sale shall be continued to the same place and at the same  
42 time twenty-eight days after the last scheduled sale date. If the  
43 twenty-eighth day is a Saturday or legal holiday, the sale shall be  
44 continued to the next business day. If the sale is continued, the trustee  
45 shall provide notice of the continuation of the sale by registered or

1 certified mail, with postage prepaid, to all bidders who provide their  
2 names, addresses and telephone numbers in writing to the party conducting  
3 the sale AND, FOR A RESIDENTIAL PROPERTY WITH NOT MORE THAN FOUR  
4 RESIDENTIAL UNITS, TO EVERY PERSON RESIDING AT THOSE UNITS. EXCEPT FOR A  
5 BIDDER DEEMED THE SUCCESSFUL BIDDER PURSUANT TO SECTION 33-811.01, in  
6 addition to the forfeit of deposit, a highest bidder who fails to pay the  
7 amount bid by that bidder is liable to any person who suffers loss or  
8 expenses as a result, including attorney fees. In any subsequent sale of  
9 trust property, the trustee may refuse to accept any bid of that person.  
10 In any sale that is continued pursuant to this subsection, the trustee  
11 shall reject the bid from any previous bidder who elected not to pay that  
12 bidder's bid price.

13 B. The price bid shall be paid at the office of the trustee or the  
14 trustee's agent, or any other reasonable place designated by the trustee.  
15 The payment of the bid price may be made at a later time if agreed ~~upon~~ ON  
16 in writing by the trustee. Within seven business days after receipt of  
17 payment by the trustee or the trustee's agent, made in a form that is  
18 satisfactory to the trustee, the trustee shall execute and submit the  
19 trustee's deed to the county recorder for recording and, ~~upon~~ ON request,  
20 shall provide an unrecorded copy of the signed trustee's deed to the  
21 purchaser, EXCEPT THAT FOR A RESIDENTIAL PROPERTY WITH NOT MORE THAN FOUR  
22 RESIDENTIAL UNITS, THE TRUSTEE SHALL ALLOW ELIGIBLE TENANT BUYERS AND  
23 ELIGIBLE BIDDERS TO MATCH OR EXCEED THE BID AMOUNT PURSUANT TO SECTION  
24 33-811.01 AND MAY NOT EXECUTE THE TRUSTEE'S DEED UNTIL AFTER COMPLIANCE  
25 WITH SECTION 33-811.01 OR EXPIRATION OF THE TIME FOR COMPLIANCE WITH  
26 SECTION 33-811.01. The recording of the trustee's deed ~~upon~~ ON sale shall  
27 constitute delivery of the deed to the purchaser. The trustee is not  
28 liable for any damages resulting from the failure to record the trustee's  
29 deed ~~upon~~ ON sale after physical delivery of the deed to the purchaser.  
30 The trustee's deed shall raise the presumption of compliance with the  
31 requirements of the deed of trust and this chapter relating to the  
32 exercise of the power of sale and the sale of the trust property,  
33 including recording, mailing, publishing and posting of notice of sale and  
34 the conduct of the sale. A trustee's deed shall constitute conclusive  
35 evidence of the meeting of those requirements in favor of purchasers or  
36 encumbrancers for value and without actual notice. Knowledge of the  
37 trustee shall not be imputed to the beneficiary.

38 C. The trustor, its successors or assigns, and all persons to whom  
39 the trustee mails a notice of a sale under a trust deed pursuant to  
40 section 33-809 shall waive all defenses and objections to the sale not  
41 raised in an action that results in the issuance of a court order granting  
42 relief pursuant to rule 65, Arizona rules of civil procedure, entered  
43 before 5:00 p.m. mountain standard time on the last business day before  
44 the scheduled date of the sale. A copy of the order, the application for

1 the order and the complaint shall be delivered to the trustee within  
2 twenty-four hours after entering the order.

3 D. A sale is not complete if the sale violates subsection C of this  
4 section because of an undisclosed order entered by the court within the  
5 time provided for in subsection C of this section. A sale held in  
6 violation of subsection C of this section shall be continued to a date,  
7 time and place announced by the trustee at the sale and shall comply with  
8 section 33-810, subsection B. If not announced, the sale shall be  
9 continued to the same place and at the same time twenty-eight days later.  
10 If the twenty-eighth day falls on a Saturday or legal holiday, the sale  
11 shall be continued to the next business day. If the sale is continued  
12 because of an unknown or undisclosed order as provided in this subsection,  
13 the trustee shall notify by registered or certified mail, with postage  
14 prepaid, all bidders who provide names, addresses and telephone numbers in  
15 writing to the party conducting the sale of the continuation of the sale.

16 E. The trustee's deed shall operate to convey to the purchaser the  
17 title, interest and claim of the trustee, the trustor, the beneficiary,  
18 their respective successors in interest and all persons claiming the trust  
19 property sold by or through them, including all interest or claim in the  
20 trust property acquired subsequent to the recording of the deed of trust  
21 and ~~prior to~~ BEFORE delivery of the trustee's deed. That conveyance shall  
22 be absolute without right of redemption and clear of all liens, claims or  
23 interests that have a priority subordinate to the deed of trust and shall  
24 be subject to all liens, claims or interests that have a priority senior  
25 to the deed of trust.

26 F. On completion of the sale and conveyance of the trustee's deed  
27 to the purchaser, the trustee shall notify the beneficiary of the  
28 beneficiary's obligations as prescribed by section 11-1133. The trustee  
29 shall provide notice to the beneficiary on or before the date of the  
30 trustee's sale.

31 Sec. 4. Title 33, chapter 6.1, article 1, Arizona Revised Statutes,  
32 is amended by adding section 33-811.01, to read:

33 33-811.01. Residential property; payment by eligible tenant  
34 buyers or eligible bidders; definitions

35 A. FOR A TRUSTEE SALE OF RESIDENTIAL PROPERTY WITH NOT MORE THAN  
36 FOUR RESIDENTIAL UNITS, AN ELIGIBLE TENANT BUYER MAY PROCEED AS FOLLOWS TO  
37 OBTAIN THE PROPERTY AFTER THE TRUSTEE SALE:

38 1. IF THE INITIALLY SUCCESSFUL BIDDER WAS NOT AN ELIGIBLE TENANT  
39 BUYER:

40 (a) THE ELIGIBLE TENANT BUYER MAY SUBMIT A BID IN AN AMOUNT EQUAL  
41 TO THE FULL AMOUNT OF THE SUCCESSFUL BID. THE ELIGIBLE TENANT BUYER MUST  
42 SUBMIT THE BID TO THE TRUSTEE BY CERTIFIED MAIL, OVERNIGHT DELIVERY OR  
43 OTHER METHOD THAT CONFIRMS THE DELIVERY DATE WITHIN THIRTY DAYS AFTER THE  
44 TRUSTEE SALE, AND THE BID MUST BE IN CASH OR A CASHIER'S CHECK.

1 (b) THE ELIGIBLE TENANT BUYER ALSO SHALL SUBMIT TO THE TRUSTEE AN  
2 AFFIDAVIT STATING THAT:

3 (i) THE ELIGIBLE TENANT BUYER WILL OCCUPY THE RESIDENTIAL PROPERTY  
4 AS THE ELIGIBLE TENANT BUYER'S PRIMARY RESIDENCE WITHIN SIXTY DAYS AFTER  
5 THE RECORDING OF A TRUSTEE'S DEED IN FAVOR OF THE ELIGIBLE TENANT BUYER.

6 (ii) THE ELIGIBLE TENANT BUYER WILL MAINTAIN OCCUPANCY AT THAT  
7 RESIDENTIAL PROPERTY FOR AT LEAST ONE YEAR.

8 (iii) THE ELIGIBLE TENANT BUYER IS NOT THE BENEFICIARY OF THE DEED  
9 OF TRUST OR THE CHILD, SPOUSE OR PARENT OF THE BENEFICIARY OF THE DEED OF  
10 TRUST.

11 (iv) THE ELIGIBLE TENANT BUYER IS NOT ACTING AS AN AGENT FOR ANY  
12 OTHER PERSON OR ENTITY PURCHASING THE REAL PROPERTY.

13 2. ON COMPLIANCE WITH PARAGRAPH 1 OF THIS SUBSECTION, THE ELIGIBLE  
14 TENANT BUYER IS DEEMED TO BE THE SUCCESSFUL BIDDER AT THE TRUSTEE SALE AND  
15 THE TRUSTEE SHALL PROCEED AS PRESCRIBED IN SECTION 33-811, SUBSECTIONS B  
16 THROUGH F WITH RESPECT TO THE ELIGIBLE TENANT BUYER WHO WAS DEEMED THE  
17 SUCCESSFUL BIDDER.

18 B. FOR A TRUSTEE SALE OF RESIDENTIAL PROPERTY WITH NOT MORE THAN  
19 FOUR RESIDENTIAL UNITS, AN ELIGIBLE BIDDER MAY PROCEED AS FOLLOWS TO  
20 OBTAIN THE PROPERTY AFTER THE TRUSTEE SALE:

21 1. IF THE SUCCESSFUL BIDDER WAS NOT AN ELIGIBLE TENANT BUYER:

22 (a) THE ELIGIBLE BIDDER MAY SUBMIT A BID IN AN AMOUNT THAT EXCEEDS  
23 THE FULL AMOUNT OF THE SUCCESSFUL BID AND THE BIDS OF ALL OTHER ELIGIBLE  
24 BIDDERS. THE ELIGIBLE BIDDER MUST SUBMIT THE BID TO THE TRUSTEE BY  
25 CERTIFIED MAIL, OVERNIGHT DELIVERY OR OTHER METHOD THAT CONFIRMS THE  
26 DELIVERY DATE WITHIN THIRTY DAYS AFTER THE TRUSTEE SALE, AND THE BID MUST  
27 BE IN CASH OR A CASHIER'S CHECK.

28 (b) THE ELIGIBLE BIDDER ALSO SHALL SUBMIT TO THE TRUSTEE AN  
29 AFFIDAVIT STATING THAT THE ELIGIBLE BIDDER MEETS THE REQUIREMENTS FOR  
30 ELIGIBLE BIDDERS PRESCRIBED BY THIS SECTION AND SETTING OUT THE FACTS  
31 SUPPORTING THAT STATEMENT.

32 2. ON COMPLIANCE WITH PARAGRAPH 1 OF THIS SUBSECTION, THE ELIGIBLE  
33 BIDDER IS DEEMED TO BE THE SUCCESSFUL BIDDER AT THE TRUSTEE SALE AND THE  
34 TRUSTEE SHALL PROCEED AS PRESCRIBED IN SECTION 33-811, SUBSECTIONS B  
35 THROUGH F WITH RESPECT TO THE ELIGIBLE BIDDER WHO WAS DEEMED THE  
36 SUCCESSFUL BIDDER AND SHALL RETURN TO THE UNSUCCESSFUL BIDDERS ALL AMOUNTS  
37 BID.

38 C. FOR THE PURPOSES OF THIS SECTION:

39 1. "ELIGIBLE BIDDER" MEANS EITHER OF THE FOLLOWING:

40 (a) A NATURAL PERSON WHO STATES IN THE REQUIRED AFFIDAVIT THAT THE  
41 PERSON WILL OCCUPY THE RESIDENTIAL PROPERTY AS THE PERSON'S PRIMARY  
42 RESIDENCE WITHIN SIXTY DAYS AFTER THE RECORDING OF A TRUSTEE'S DEED IN  
43 FAVOR OF THE PERSON AND THAT THE PERSON WILL MAINTAIN OCCUPANCY AT THAT  
44 RESIDENTIAL PROPERTY FOR AT LEAST ONE YEAR.

1 (b) A PRIVATE NONPROFIT CORPORATION WHOSE PRIMARY ACTIVITIES  
2 INCLUDE OBTAINING, DEVELOPING OR MAINTAINING AFFORDABLE HOUSING IN THIS  
3 STATE.

4 2. "ELIGIBLE TENANT BUYER" MEANS A NATURAL PERSON WHO AT THE TIME  
5 OF THE TRUSTEE SALE IS ALL OF THE FOLLOWING:

6 (a) OCCUPYING THE RESIDENTIAL PROPERTY THAT IS THE SUBJECT OF THE  
7 TRUSTEE SALE AS THAT PERSON'S PRIMARY RESIDENCE.

8 (b) OCCUPYING THE RESIDENTIAL PROPERTY UNDER A RENTAL AGREEMENT  
9 THAT WAS ENTERED INTO AS THE RESULT OF AN ARM'S LENGTH TRANSACTION WITH  
10 THE BENEFICIARY OF THE DEED OF TRUST ON A DATE BEFORE THE DEFAULT ON THE  
11 OBLIGATION THAT IS SECURED BY THE DEED OF TRUST.

12 (c) NOT THE BENEFICIARY OF THE DEED OF TRUST OR THE CHILD, SPOUSE  
13 OR PARENT OF THE BENEFICIARY OF THE DEED OF TRUST.

14 Sec. 5. Section 41-3953, Arizona Revised Statutes, is amended to  
15 read:

16 41-3953. Department powers and duties

17 A. The department is responsible for establishing policies,  
18 procedures and programs that the department is authorized to conduct to  
19 address the affordable housing issues confronting this state, including  
20 housing issues of ~~low income~~ LOW-INCOME families, ~~moderate income~~  
21 MODERATE-INCOME families, housing affordability, special needs populations  
22 and decaying housing stock. Among other things, the department shall  
23 provide to qualified housing participants and political subdivisions of  
24 this state financial, advisory, consultative, planning, training and  
25 educational assistance for the development of safe, decent and affordable  
26 housing, including housing for low and moderate income households. The  
27 department is responsible for maintaining and enforcing standards of  
28 quality and safety for manufactured homes, mobile homes and factory-built  
29 buildings.

30 B. Under the direction of the director, the department shall:

31 1. Establish guidelines applicable to the programs and activities  
32 of the department for the construction and financing of affordable housing  
33 and housing for low and moderate income households in this state. These  
34 guidelines shall meet or exceed all applicable state or local building and  
35 health and safety code requirements and, if applicable, the national  
36 manufactured home construction and safety standards act of 1974 and title  
37 VI of the housing and community development act of 1974 (P.L. 93-383, as  
38 amended by P.L. 95-128, 96-153 and ~~96-339~~ 96-399). Guidelines established  
39 pursuant to this paragraph do not apply to the department's activities  
40 prescribed in section 35-726, subsection E.

41 2. Accept and allocate any monies as from time to time may be  
42 appropriated by the legislature for the purposes set forth in this  
43 article.

44 3. Perform other duties necessary to administer this chapter.

45 4. Perform the duties prescribed in sections 35-726 and 35-728.

1           5. Stimulate and encourage all local, state, regional and federal  
2 governmental agencies and all private persons and enterprises that have  
3 similar and related objectives and purposes, cooperate with the agencies,  
4 persons and enterprises and correlate department plans, programs and  
5 operations with those of the agencies, persons and enterprises.

6           6. Conduct research on its own initiative or at the request of the  
7 governor, the legislature or state or local agencies pertaining to any  
8 department objectives.

9           7. Provide information and advice on request of any local, state or  
10 federal agencies, private persons and business enterprises on matters  
11 within the scope of department activities.

12           8. ESTABLISH AND OPERATE A REGISTRY OF PERSONS OR ENTITIES THAT OWN  
13 MORE THAN TWENTY-FIVE RESIDENTIAL PROPERTIES IN THIS STATE, MONITOR THE  
14 LEVEL OF COMPLIANCE WITH STATE AND LOCAL LAWS WITH RESPECT TO THOSE  
15 PROPERTIES AND INCLUDE THAT INFORMATION IN THE ANNUAL REPORT TO THE  
16 GOVERNOR AND THE LEGISLATURE PRESCRIBED BY THIS SUBSECTION.

17           9. ACQUIRE AND ASSIST IN ACQUIRING AT TRUSTEE SALES RESIDENTIAL  
18 HOUSING APPROPRIATE FOR MAINTAINING AND INCREASING THE SUPPLY OF HOUSING  
19 FOR PURCHASE OR RENT BY LOW AND MODERATE INCOME PERSONS, INCLUDING  
20 ASSISTING NONPROFIT CORPORATIONS THAT PROVIDE HOUSING ASSISTANCE ACQUIRE  
21 RESIDENTIAL PROPERTIES FOR SALE OR RENT.

22           ~~8.~~ 10. Consult with and make recommendations to the governor and  
23 the legislature on all matters concerning department objectives.

24           ~~9.~~ 11. Make annual reports to the governor and the legislature on  
25 its activities, including the geographic location of its activities, its  
26 finances and the scope of its operations.

27           ~~10.~~ 12. Maintain and enforce standards of quality and safety for  
28 manufactured homes, mobile homes and factory-built buildings and enforce  
29 rules adopted by the board pursuant to section 41-4010.

30           C. Under the direction of the director, the department may:

31           1. Assist in securing construction and mortgage financing from  
32 public and private sector sources.

33           2. Assist mortgage financing programs established by industrial  
34 development authorities and political subdivisions of this state.

35           3. Assist in the acquisition and use of federal housing assistance  
36 programs pertinent to enhance the economic feasibility of a proposed  
37 residential development.

38           4. Assist in the compliance of a proposed residential development  
39 with applicable federal, state and local codes and ordinances.

40           5. Prepare and publish planning and development guidelines for the  
41 establishment and delivery of housing assistance programs.

42           6. Contract with a federal agency to carry out financial work on  
43 the federal agency's behalf and accept payment for the work.

- 1           7. Subcontract for the financial work prescribed in paragraph 6 of  
2 this subsection and make payments for that subcontracted work based on the  
3 expectation that the federal agency will pay for that work.
- 4           8. Accept payment from a federal agency for work prescribed in  
5 paragraph 6 of this subsection and deposit those payments in the Arizona  
6 department of housing program fund established by section 41-3957.
- 7           9. Contract for the services of outside advisers, consultants and  
8 aides reasonably necessary or desirable to enable the department to  
9 adequately perform its duties.
- 10          10. Contract for and incur obligations reasonably necessary or  
11 desirable within the general scope of department activities and operations  
12 to enable the department to adequately perform its duties.
- 13          11. Use any media of communication, publication and exhibition in  
14 the dissemination of information, advertising and publicity in any field  
15 of its purposes, objectives or duties.
- 16          12. Adopt rules deemed necessary or desirable to govern its  
17 procedures and business.
- 18          13. Contract with other agencies in furtherance of any department  
19 program.
- 20          14. Use monies, facilities or services to provide contributions  
21 under federal or other programs that further the objectives and programs  
22 of the department.
- 23          15. Accept gifts, grants, matching monies or direct payments from  
24 public or private agencies or private persons and enterprises for the  
25 conduct of programs that are consistent with the general purposes and  
26 objectives of this article and deposit these monies in the Arizona  
27 department of housing program fund established by section 41-3957.
- 28          16. Establish and collect fees and receive reimbursement of costs  
29 in connection with any programs or duties performed by the department and  
30 deposit the fees and cost reimbursements in the Arizona department of  
31 housing program fund established by section 41-3957.
- 32          17. Provide staff support to the board of manufactured housing.
- 33          D. For the purposes of this section, the department is exempt from  
34 chapter 23 of this title.
- 35          E. The department is the designated state public housing agency as  
36 defined in the United States housing act of 1937 (42 United States Code  
37 sections 1401 through 1440) for the purpose of accepting federal housing  
38 assistance monies and may participate in the housing assistance payments  
39 program. Federal monies may be secured for all areas of this state  
40 subject only to the limitations prescribed in subsection F of this  
41 section.
- 42          F. For areas of this state where an existing public housing  
43 authority has not been established pursuant to section 36-1404, subsection  
44 A, the department acting as a public housing agency may undertake all  
45 activities under the section 8 tenant-based rental housing assistance

1 payment program, except that the department shall not undertake a section  
2 8 tenant-based rental housing assistance payment program within the  
3 boundaries of a city, town or county unless authorized by resolution of  
4 the governing body of the city, town or county. If the department accepts  
5 monies for a section 8 tenant-based rental housing assistance payment  
6 program for areas of this state where an existing public housing authority  
7 has been established pursuant to section 36-1404, subsection A, the  
8 department shall only accept and secure federal monies to provide housing  
9 for the seriously mentally ill or other populations with  
10 disabilities. The department may accept and secure federal monies for  
11 undertaking all contract administrator activities authorized under a  
12 section 8 project-based rental housing assistance payment program in all  
13 areas of this state and this participation does not require the  
14 authorization of any local governing body.

15 G. The department shall not itself directly own, construct, operate  
16 or rehabilitate any housing units, except as may be necessary to protect  
17 the department's collateral or security interest arising out of any  
18 department programs.

19 H. Notwithstanding any other provision of this section, the  
20 department may obligate monies as loans or grants applicable to programs  
21 and activities of the department for the purpose of providing housing  
22 opportunities for low or moderate income households or for housing  
23 affordability or to prevent or combat decaying housing stock. Unless  
24 otherwise required by federal or state law, any loan repayments shall be  
25 deposited in the Arizona department of housing program fund established by  
26 section 41-3957.

27 I. For any construction project financed by the department pursuant  
28 to subsection C of this section, except for contract administration  
29 activities in connection with the project-based section 8 program, the  
30 department shall notify a city, town, county or tribal government that a  
31 project is planned for its jurisdiction and, before proceeding, shall seek  
32 comment from the governing body of the city, town, county or tribal  
33 government or an official authorized by the governing body of the city,  
34 town, county or tribal government. The department shall not interfere  
35 with or attempt to override the local jurisdiction's planning, zoning or  
36 land use regulations.

37 J. The department has the administrative responsibility through its  
38 hearing officer function concerning alleged violations of the Arizona  
39 mobile home parks residential landlord and tenant act under title 33,  
40 chapter 11.

41 K. The ARIZONA department OF HOUSING shall act consistently with  
42 the minimum standards of the United States department of housing and urban  
43 development so as to be designated the ~~"state inspector"~~ for  
44 manufactured homes and related industries. The ARIZONA department OF

1 HOUSING shall implement all existing laws and regulations established by  
2 the federal government, its agencies and this state for that purpose.

3 Sec. 6. Section 41-3955, Arizona Revised Statutes, is amended to  
4 read:

5 41-3955. Housing trust fund; purpose; annual report

6 A. The housing trust fund is established, and the director shall  
7 administer the fund. The fund consists of monies from unclaimed property  
8 deposited in the fund pursuant to section 44-313, monies transferred  
9 pursuant to section 35-751 and investment earnings.

10 B. On notice from the department, the state treasurer shall invest  
11 and divest monies in the fund as provided by section 35-313, and monies  
12 earned from investment shall be credited to the fund.

13 C. Except as provided in subsection D of this section, fund monies  
14 shall be spent on approval of the department for developing projects and  
15 programs connected with providing housing opportunities for low and  
16 moderate income households and for housing affordability programs,  
17 INCLUDING ACQUIRING AND ASSISTING IN ACQUIRING RESIDENTIAL PROPERTIES AT  
18 TRUSTEE SALES AS PRESCRIBED BY SECTION 33-811.01. ~~Pursuant to section~~  
19 ~~44-313, subsection A,~~ A portion of fund monies shall be used exclusively  
20 for housing in rural areas.

21 D. Fund monies may be spent on constructing or renovating  
22 facilities and on housing assistance, including support services, for  
23 persons who have been determined to be seriously mentally ill and to be  
24 chronically resistant to treatment.

25 E. For the purposes of subsection C of this section, in approving  
26 the expenditure of monies, the director shall give priority to funding  
27 projects that provide for ACQUIRING, operating, constructing or renovating  
28 facilities for housing for low-income families and that provide housing  
29 and shelter to families that have children.

30 F. The director shall report annually to the legislature on the  
31 status of the housing trust fund. The report shall include a summary of  
32 facilities for which funding was provided during the preceding fiscal year  
33 and shall show the cost and geographic location of each facility and the  
34 number of individuals benefiting from the operation, construction or  
35 renovation of the facility. The report shall also include the number of  
36 individuals who benefit from housing assistance pursuant to subsection D  
37 of this section. The report shall be submitted to the president of the  
38 senate and the speaker of the house of representatives, and a copy  
39 provided to the secretary of state, not later than September 1 of each  
40 year.

41 G. Monies in the housing trust fund are exempt from the provisions  
42 of section 35-190 relating to lapsing of appropriations.

1           H. An amount not to exceed ten percent of the housing trust fund  
2 monies may be appropriated annually by the legislature to the department  
3 for administrative costs in providing services relating to the housing  
4 trust fund.

5           I. For any construction project financed by the department pursuant  
6 to this section, the department shall notify a city, town, county or  
7 tribal government that a project is planned for its jurisdiction and,  
8 before proceeding, shall seek comment from the governing body of the city,  
9 town, county or tribal government or an official authorized by the  
10 governing body of the city, town, county or tribal government. The  
11 department shall not interfere with or attempt to override the local  
12 jurisdiction's planning, zoning or land use regulations.