

House Engrossed

~~tax liens; redemption; property sale~~
(now: property sale; redemption; tax liens)

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HOUSE BILL 2098

AN ACT

AMENDING SECTIONS 12-1551, 42-18152, 42-18202, 42-18204, 42-18205 AND 42-18206, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 18, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 6; RELATING TO TAX LIEN FORECLOSURE ACTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 12-1551, Arizona Revised Statutes, is amended to
3 read:

4 12-1551. Issuance of writ of execution; limitation; renewal;
5 death of judgment debtor; applicability

6 A. The party in whose favor a judgment is given, at any time within
7 ten years after entry of the judgment and within ten years after any
8 renewal of the judgment either by affidavit or by an action brought on it,
9 may have a writ of execution or other process issued for its enforcement.

10 B. An execution or other process shall not be issued on a judgment
11 after the expiration of ten years from the date of its entry unless the
12 judgment is renewed by affidavit or process pursuant to section 12-1612 or
13 an action is brought on it within ten years after the date of the entry of
14 the judgment or of its renewal.

15 C. The court shall not issue a writ of execution after the death of
16 the judgment debtor unless it is for the recovery of real or personal
17 property or enforcement of a lien.

18 D. This section applies to:

19 1. All judgments that were entered on or after August 3, 2013.

20 2. All judgments that were entered on or before August 2, 2013 and
21 that were renewed on or before August 2, 2018, except that a writ of
22 execution or other process may not be issued for a judgment entered on or
23 before August 2, 2013 that was not renewed on or before August 2, 2018.

24 E. This section does not apply to:

25 1. Criminal restitution orders entered pursuant to section 13-805.

26 2. Written judgments and orders for child support and spousal
27 maintenance and to associated costs and attorney fees.

28 3. Civil judgments obtained by this state that are either of the
29 following:

30 (a) Entered on or after September 13, 2013.

31 (b) Entered before September 13, 2013 and that were current and
32 collectable under the laws applicable on September 13, 2013.

33 4. JUDGMENTS DIRECTING THE SALE OF PROPERTY PURSUANT TO TITLE 42,
34 CHAPTER 18, ARTICLE 6.

35 Sec. 2. Section 42-18152, Arizona Revised Statutes, is amended to
36 read:

37 42-18152. When lien may be fully redeemed; partial payment
38 refund

39 A. A real property tax lien may be fully redeemed at any time:

40 1. Within three years after the date of TAX LIEN sale.

41 2. After three years but before the delivery of a treasurer's deed
42 to the ~~purchaser~~ CERTIFICATE OF PURCHASE HOLDER or the ~~purchaser's~~
43 CERTIFICATE OF PURCHASE HOLDER'S heirs or assigns.

1 B. A lien that has been partially redeemed under section 42-18056,
2 subsection C must be fully redeemed before the delivery of a treasurer's
3 deed to the purchaser.

4 C. The county treasurer shall refund all partial payment amounts
5 impounded under section 42-18056, subsection E, ~~to~~ to the person or persons
6 or their heirs or assigns within thirty days after delivering the
7 treasurer's deed to the purchaser OR ENTRY OF A JUDGMENT DIRECTING THE
8 SALE OF THE PROPERTY FOR EXCESS PROCEEDS PURSUANT TO ARTICLE 6 OF THIS
9 CHAPTER.

10 Sec. 3. Section 42-18202, Arizona Revised Statutes, is amended to
11 read:

12 42-18202. Notice

13 A. At least thirty days before filing an action to foreclose the
14 right to redeem under this article, but not more than one hundred eighty
15 days before such an action is commenced or may be commenced under section
16 42-18201, the ~~purchaser~~ CERTIFICATE OF PURCHASE HOLDER shall send notice
17 of intent to file the foreclosure action by certified mail to:

18 1. The property owner of record according to the records of the
19 county recorder in the county in which the property is located or to all
20 of the following:

21 (a) The property owner, as determined by section 42-13051, at the
22 property owner's mailing address according to the records of the county
23 assessor in the county in which the property is located.

24 (b) The situs address of the property, if shown on the tax roll and
25 if different from the property owner's address under subdivision (a) of
26 this paragraph.

27 (c) The tax bill mailing address according to the records of the
28 county treasurer in the county in which the property is located if that
29 address is different from the addresses under subdivisions (a) and (b) of
30 this paragraph.

31 2. The treasurer of the county in which the real property is
32 located. The county treasurer may not accept partial payments under
33 section 42-18056, subsection C after the date the treasurer receives a
34 notice of action to foreclose the right to redeem.

35 B. The notice shall include:

- 36 1. The property owner's name.
- 37 2. The real property tax parcel identification number.
- 38 3. The county assessor's description of the real property.
- 39 4. The certificate of purchase number.
- 40 5. The proposed date of filing the action.

41 6. THE FOLLOWING STATEMENT IN SUBSTANTIALLY THE FOLLOWING FORM:

42 NOTICE: IF YOU BELIEVE THAT YOUR PROPERTY HAS VALUE
43 BEYOND THE TAX BURDEN ON THE PROPERTY AND YOU DO NOT WANT TO
44 LOSE ANY INTEREST OR EQUITY IN THE PROPERTY, YOU MUST REQUEST

1 AN EXCESS PROCEEDS SALE PURSUANT TO SECTION 42-18204, ARIZONA
2 REVISED STATUTES.

3 C. If the ~~purchaser~~ CERTIFICATE OF PURCHASE HOLDER:

4 1. Complies with subsection A, paragraph 1, subdivisions (a), (b)
5 and (c) of this section, the ~~purchaser~~ CERTIFICATE OF PURCHASE HOLDER is
6 considered to have substantially complied with the requirements of this
7 section and is not required to send the notice to any other address.

8 2. Fails to send the notice required by this section, the ~~purchaser~~
9 CERTIFICATE OF PURCHASE HOLDER is considered to have substantially failed
10 to comply with this section. A court may not enter any judgment to
11 foreclose the right to redeem under this article until the ~~purchaser~~
12 CERTIFICATE OF PURCHASE HOLDER sends the notice required by this section.

13 Sec. 4. Section 42-18204, Arizona Revised Statutes, is amended to
14 read:

15 42-18204. Judgment foreclosing right to redeem; effect

16 A. In an action to foreclose the right to redeem: ~~;~~

17 1. If the court finds that the TAX LIEN sale is valid, ~~and that~~ the
18 tax lien has not been redeemed AND THE DEFENDANT'S REQUEST FOR AN EXCESS
19 PROCEEDS SALE IS UNREASONABLE OR THE DEFENDANT DID NOT REQUEST AN EXCESS
20 PROCEEDS SALE, the court shall enter judgment:

21 ~~1.~~ (a) Foreclosing the right of the defendant to redeem.

22 ~~2.~~ (b) Directing the county treasurer to expeditiously execute and
23 deliver to the party in whose favor judgment is entered, including the
24 state, a deed conveying the property described in the certificate of
25 purchase.

26 2. IF THE COURT FINDS THAT THE TAX LIEN SALE IS VALID, THE TAX LIEN
27 HAS NOT BEEN REDEEMED AND THE DEFENDANT'S REQUEST FOR AN EXCESS PROCEEDS
28 SALE IS REASONABLE, THE COURT SHALL ENTER JUDGMENT:

29 (a) FORECLOSING THE RIGHT OF THE DEFENDANT TO REDEEM.

30 (b) DIRECTING THE SALE OF THE PROPERTY PURSUANT TO ARTICLE 6 OF
31 THIS CHAPTER.

32 (c) SETTING THE OPENING BID FOR THE PROPERTY AS THE TOTAL OF THE
33 AMOUNTS DESCRIBED IN SUBSECTION B, PARAGRAPH 1 OF THIS SECTION AND ANY
34 OTHER REASONABLE FEES AS DETERMINED BY THE COURT.

35 B. A PROPERTY OWNER WHOSE RIGHT TO REDEEM IS BEING FORECLOSED MAY
36 REQUEST THE COURT TO DETERMINE IF THE SALE OF THE PROPERTY TO RECOVER
37 EXCESS PROCEEDS IS REASONABLE. THE COURT SHALL DETERMINE THAT THE SALE OF
38 THE PROPERTY FOR EXCESS PROCEEDS IS REASONABLE IF THE SALE PRICE OF THE
39 PROPERTY IS LIKELY TO BE MORE THAN \$2,500 ABOVE THE TOTAL OF THE AMOUNTS
40 DESCRIBED IN PARAGRAPH 1 OF THIS SUBSECTION. IF A REQUEST IS MADE FOR AN
41 EXCESS PROCEEDS SALE, THE FOLLOWING INFORMATION SHALL BE PROVIDED TO THE
42 COURT FOR THE PURPOSES OF DETERMINING IF AN EXCESS PROCEEDS SALE IS
43 REASONABLE:

44 1. THE CERTIFICATE OF PURCHASE HOLDER SHALL PROVIDE ALL OF THE
45 FOLLOWING:

1 (a) THE COSTS RELATED TO FILING THE CLAIM TO FORECLOSE THE RIGHT TO
2 REDEEM, INCLUDING ESTIMATED ATTORNEY FEES AND COSTS TO BE INCURRED THROUGH
3 THE DATE OF THE EXCESS PROCEEDS SALE, IF ORDERED.

4 (b) THE AMOUNT FOR WHICH THE REAL PROPERTY TAX LIEN WAS SOLD, WITH
5 INTEREST AT A RATE OF SIXTEEN PERCENT PER ANNUM FROM THE DATE OF THE TAX
6 LIEN SALE THROUGH THE DATE OF THE EXCESS PROCEEDS SALE, IF ORDERED.

7 (c) THE AMOUNT OF ANY STATUTORY FEES THE CERTIFICATE OF PURCHASE
8 HOLDER PAID IN CONNECTION WITH THE CERTIFICATE OF PURCHASE, EXCEPT THE
9 PROCESSING FEE IMPOSED BY SECTION 42-18116, SUBSECTION C, WITH INTEREST AT
10 A RATE OF SIXTEEN PERCENT PER ANNUM FROM THE DATE OF THE TAX LIEN SALE
11 THROUGH THE DATE OF THE EXCESS PROCEEDS SALE, IF ORDERED.

12 (d) THE AMOUNT OF ALL OTHER RECORDED STATE LIENS OR ENCUMBRANCES ON
13 THE PROPERTY AS INDICATED ON A TITLE REPORT PROVIDED BY THE CERTIFICATE OF
14 PURCHASE HOLDER, INCLUDING OTHER YEARS IN WHICH TAXES ARE DELINQUENT. FOR
15 THE PURPOSES OF THIS SUBDIVISION, THE CERTIFICATE OF PURCHASE HOLDER DOES
16 NOT HAVE TO DETERMINE THE ACTUAL BALANCE OWED ON ANY LIEN OR ENCUMBRANCE
17 ON THE PROPERTY, EXCEPT FOR PROPERTY TAXES OWED.

18 (e) THE ESTIMATED COST OF THE SALE OF PROPERTY PURSUANT TO ARTICLE
19 6 OF THIS CHAPTER.

20 (f) ANY OTHER EVIDENCE RELATING TO THE VALUE OF THE PROPERTY OR
21 OBJECTING TO THE EXCESS PROCEEDS SALE THAT THE CERTIFICATE OF PURCHASE
22 HOLDER DEEMS NECESSARY.

23 2. THE PROPERTY OWNER WHOSE RIGHT TO REDEEM IS BEING FORECLOSED
24 SHALL PROVIDE A REASONABLE ESTIMATE OF THE MARKET VALUE OF THE PROPERTY.

25 ~~B.~~ C. After entering judgment the parties whose rights to redeem
26 the tax lien are thereby foreclosed have no further legal or equitable
27 right, title or interest in the property subject to the right of appeal
28 and stay of execution as in other civil actions.

29 ~~C.~~ D. The foreclosure of the right to redeem does not extinguish
30 any OF THE FOLLOWING:

31 1. AN easement on or appurtenant to the property.

32 ~~D. The foreclosure of the right to redeem does not extinguish any~~

33 2. A lien for an assessment levied pursuant to title 48, chapter 4,
34 6, 14 or 18, or section 9-276. FOR THE PURPOSES OF THIS PARAGRAPH,
35 ASSESSMENT DOES NOT INCLUDE AN ABATEMENT LIEN IMPOSED UNDER SECTION 9-499.

36 3. IF THE COURT FINDS THAT THE REQUEST FOR AN EXCESS PROCEEDS SALE
37 IS REASONABLE, THE PROPERTY OWNER'S INTEREST IN THE EXCESS PROCEEDS FROM
38 THE SALE OF THE PROPERTY PURSUANT TO ARTICLE 6 OF THIS CHAPTER.

39 Sec. 5. Section 42-18205, Arizona Revised Statutes, is amended to
40 read:

41 42-18205. County treasurer's deed; form

42 A. On receiving a certified copy of a judgment foreclosing the
43 right to redeem ISSUED PURSUANT TO SECTION 42-18204, SUBSECTION A,
44 PARAGRAPH 1 and a fee of ~~fifty dollars~~ \$50 per parcel, the county
45 treasurer shall execute and deliver to the party in whose favor the

1 judgment was entered a deed conveying the property described in the
2 judgment.

3 B. The deed shall include the following information:

- 4 1. The date, court action number and name of the judgment.
- 5 2. The name of the purchaser.
- 6 3. The property description.
- 7 4. The date of the conveyance.
- 8 5. A formal acknowledgment by the treasurer.

9 Sec. 6. Section 42-18206, Arizona Revised Statutes, is amended to
10 read:

11 42-18206. Redemption during pendency of action to foreclose

12 Any person who is entitled to redeem under article 4 of this chapter
13 may redeem at any time before judgment is entered, notwithstanding that an
14 action to foreclose has been commenced, but if the person ~~who redeems has~~
15 ~~been served personally or by publication in the action, or if the person~~
16 ~~became an owner after the action began and~~ redeems after a notice is
17 recorded pursuant to section 12-1191, judgment shall be entered in favor
18 of the plaintiff against the person for the costs incurred by the
19 plaintiff, including ALL OF THE FOLLOWING:

- 20 1. THE COST OF A LITIGATION GUARANTEE OR OTHER INSURED TITLE
- 21 REPORT.
- 22 2. THE COST OF IDENTIFYING INTERESTS OF RECORD.
- 23 3. Reasonable attorney fees to be determined by the court.

24 Sec. 7. Title 42, chapter 18, Arizona Revised Statutes, is amended
25 by adding article 6, to read:

26 ARTICLE 6. SALE OF PROPERTY FOR EXCESS PROCEEDS

27 42-18231. Definition of qualified entity

28 FOR THE PURPOSES OF THIS ARTICLE, "QUALIFIED ENTITY" MEANS AN
29 ASSOCIATION OR CORPORATION DOING BUSINESS IN THIS STATE AS A BANK PURSUANT
30 TO TITLE 6, CHAPTER 2, CREDIT UNION PURSUANT TO TITLE 6, CHAPTER 4,
31 CONSUMER LENDER PURSUANT TO TITLE 6, CHAPTER 5, ESCROW AGENT PURSUANT TO
32 TITLE 6, CHAPTER 7, INSURANCE COMPANY PURSUANT TO TITLE 20, LAW FIRM OR A
33 SPECIAL MASTER APPOINTED BY THE COURT.

34 42-18232. Notice of sale

35 A. THE QUALIFIED ENTITY CONDUCTING THE SALE OF THE PROPERTY SHALL
36 PROVIDE NOTICE OF THE TIME AND PLACE OF THE SALE, A DESCRIPTION OF THE
37 PROPERTY TO BE SOLD AND THE AMOUNT OF THE OPENING BID BY EACH OF THE
38 FOLLOWING METHODS:

- 39 1. RECORDING A NOTICE IN THE OFFICE OF THE RECORDER OF EACH COUNTY
- 40 WHERE THE PROPERTY IS SITUATED.
- 41 2. IF THE PROPERTY IS REASONABLY ACCESSIBLE, POSTING A COPY OF THE
- 42 NOTICE OF SALE IN A CONSPICUOUS PLACE ON THE PROPERTY TO BE SOLD AT LEAST
- 43 TWENTY DAYS BEFORE THE SALE. IF ACCESS TO THE PROPERTY IS DENIED BECAUSE
- 44 A COMMON ENTRANCE TO THE PROPERTY IS RESTRICTED BY A LIMITED ACCESS GATE

1 OR SIMILAR IMPEDIMENT, THE NOTICE SHALL BE POSTED AT THAT GATE OR
2 IMPEDIMENT.

3 3. POSTING AT ONE OF THE PLACES PROVIDED FOR POSTING PUBLIC NOTICES
4 AT ANY BUILDING THAT SERVES AS A LOCATION OF THE SUPERIOR COURT IN THE
5 COUNTY WHERE THE PROPERTY IS TO BE SOLD.

6 4. PUBLISHING THE NOTICE OF SALE IN A NEWSPAPER OF GENERAL
7 CIRCULATION IN THE COUNTY IN WHICH THE PROPERTY TO BE SOLD IS SITUATED.
8 THE NOTICE OF SALE SHALL BE PUBLISHED AT LEAST ONCE A WEEK FOR FOUR
9 CONSECUTIVE WEEKS. THE LAST DATE OF PUBLICATION MAY NOT BE LESS THAN TEN
10 DAYS BEFORE THE DATE OF SALE. THE NEWSPAPER THAT PUBLISHES THE NOTICE
11 SHALL ALSO POST THE NOTICE ON A WEBSITE THAT POSTS THE LEGAL NOTICES OF
12 TEN OR MORE ARIZONA NEWSPAPERS.

13 5. SENDING THE NOTICE TO THE PROPERTY OWNERS NOTIFIED PURSUANT TO
14 SECTION 42-18202.

15 B. THE NOTICE OF SALE SHALL CONTAIN:

16 1. THE DATE, TIME AND PLACE OF THE SALE. THE DATE, TIME AND PLACE
17 SHALL BE SET PURSUANT TO SECTION 42-18233. THE DATE MAY NOT BE LATER THAN
18 THE SIXTIETH DAY AFTER THE DATE THAT THE NOTICE OF SALE WAS RECORDED.

19 2. THE STREET ADDRESS, IF ANY, OR IDENTIFIABLE LOCATION AS WELL AS
20 THE LEGAL DESCRIPTION OF THE PROPERTY.

21 3. THE COUNTY ASSESSOR'S TAX PARCEL NUMBER FOR THE PROPERTY.

22 4. THE AMOUNT OF THE OPENING BID. THE OPENING BID SHALL BE SET
23 PURSUANT TO SECTION 42-18204.

24 5. THE TELEPHONE NUMBER OF THE QUALIFIED ENTITY CONDUCTING THE
25 SALE.

26 C. THE NOTICE OF SALE IS SUFFICIENT IF MADE IN SUBSTANTIALLY THE
27 FOLLOWING FORM:

28 NOTICE OF SALE FOR EXCESS PROCEEDS

29 THERE ARE UNPAID TAXES ON THE PROPERTY LOCATED AT
30 (ADDRESS) THAT YOU MAY OWN OR HAVE A LEGAL INTEREST IN OR THAT
31 MAY BE CONTIGUOUS TO YOUR PROPERTY. THE PROPERTY WILL BE SOLD
32 AT PUBLIC AUCTION AT (SPECIFIC PLACE OF SALE) ON (DATE AND
33 TIME) AND THAT SALE WILL BE FINAL UNLESS THE OUTSTANDING TAXES
34 ARE PAID. THE OPENING BID AT THE PUBLIC AUCTION IS (OPENING
35 BID AMOUNT).

36 TO MAKE PAYMENT OR TO RECEIVE FURTHER INFORMATION,
37 CONTACT THE (COUNTY) COUNTY TREASURER IMMEDIATELY AT (ADDRESS)
38 OR (TELEPHONE NUMBER) OR THE (QUALIFIED ENTITY) AT (ADDRESS)
39 OR (TELEPHONE NUMBER).

40 (DATE)

41 (ACKNOWLEDGMENT)

1 LEGAL DESCRIPTION OF PROPERTY TO BE SOLD:
2 (STREET ADDRESS, IF ANY, OR IDENTIFIABLE
3 LOCATION OF PROPERTY)
4 (LEGAL DESCRIPTION OF PROPERTY)
5 (TAX PARCEL NUMBER)

6 D. ANY ERROR OR OMISSION IN THE INFORMATION REQUIRED BY SUBSECTION
7 B OR C OF THIS SECTION, OTHER THAN AN ERROR IN THE LEGAL DESCRIPTION OF
8 THE PROPERTY OR AN ERROR IN THE DATE, TIME OR PLACE OF SALE, DOES NOT
9 INVALIDATE THE SALE. ANY ERROR IN THE LEGAL DESCRIPTION OF THE PROPERTY
10 DOES NOT INVALIDATE THE SALE IF, CONSIDERED AS A WHOLE, THE INFORMATION
11 PROVIDED IS SUFFICIENT TO IDENTIFY THE PROPERTY BEING SOLD. IF THERE IS
12 AN ERROR OR OMISSION IN THE LEGAL DESCRIPTION SO THAT THE PROPERTY CANNOT
13 BE IDENTIFIED, OR IF THERE IS AN ERROR IN THE DATE, TIME OR PLACE OF SALE,
14 THE QUALIFIED ENTITY SHALL RECORD A CANCELLATION OF NOTICE OF SALE. THE
15 QUALIFIED ENTITY OR ANY PERSON FURNISHING INFORMATION TO THE QUALIFIED
16 ENTITY IS NOT SUBJECT TO LIABILITY FOR ANY ERROR OR OMISSION IN THE
17 INFORMATION REQUIRED BY SUBSECTION B OF THIS SECTION EXCEPT FOR THE WILFUL
18 AND INTENTIONAL FAILURE TO PROVIDE SUCH INFORMATION.

19 E. THE NOTICE OF SALE FOR EXCESS PROCEEDS MAY NOT BE RERECORDED FOR
20 ANY REASON. THIS SUBSECTION DOES NOT PROHIBIT THE RECORDING OF A NEW OR
21 SUBSEQUENT NOTICE OF SALE REGARDING THE SAME PROPERTY.

22 42-18233. Date and time of sale

23 THE SALE SHALL BE HELD:

24 1. NOT LATER THAN SIXTY DAYS AFTER THE DATE OF A JUDGMENT ENTERED
25 PURSUANT TO SECTION 42-18204, SUBSECTION A, PARAGRAPH 2.

26 2. ON A DAY OTHER THAN A SATURDAY, SUNDAY OR LEGAL HOLIDAY.

27 3. BETWEEN 9:00 A.M. AND 5:00 P.M. MOUNTAIN STANDARD TIME.

28 4. AT A SPECIFIED PLACE ON THE PROPERTY, AT A SPECIFIED PLACE AT
29 ANY BUILDING THAT SERVES AS A LOCATION OF THE SUPERIOR COURT OR AT A
30 SPECIFIED PLACE AT A PLACE OF BUSINESS OF THE QUALIFIED ENTITY CONDUCTING
31 THE SALE, IN ANY COUNTY IN WHICH THE PROPERTY TO BE SOLD IS SITUATED.

32 42-18234. Sale by public auction; bidder requirements;
33 postponement of sale

34 A. ON THE DATE AND AT THE TIME AND PLACE DESIGNATED IN THE NOTICE
35 OF SALE, THE QUALIFIED ENTITY SHALL OFFER TO SELL THE PROPERTY AT PUBLIC
36 AUCTION FOR CASH TO THE HIGHEST BIDDER. THE MINIMUM BID SHALL BE THE
37 TOTAL OF THE AMOUNTS DESCRIBED IN SECTION 42-18204, SUBSECTION B,
38 PARAGRAPH 1. THE QUALIFIED ENTITY MAY SCHEDULE MORE THAN ONE SALE FOR THE
39 SAME DATE, TIME AND PLACE.

40 B. ANY PERSON, INCLUDING THE QUALIFIED ENTITY OR THE CERTIFICATE OF
41 PURCHASE HOLDER, MAY BID AT THE SALE. ONLY THE CERTIFICATE OF PURCHASE
42 HOLDER MAY MAKE A CREDIT BID IN LIEU OF CASH AT THE SALE. THE QUALIFIED
43 ENTITY SHALL REQUIRE EVERY BIDDER TO PROVIDE A NONREFUNDABLE DEPOSIT IN AN
44 AMOUNT EQUAL TO TEN PERCENT OF THE OPENING BID OR \$2,500, WHICHEVER IS

1 GREATER, IN ANY FORM THAT IS SATISFACTORY TO THE QUALIFIED ENTITY AS A
2 CONDITION OF ENTERING A BID.

3 C. THE QUALIFIED ENTITY OR THE QUALIFIED ENTITY'S AUCTIONEER MAY
4 CONTROL THE MEANS AND MANNER OF THE AUCTION, EXCEPT THE OPENING BID SHALL
5 BE AN AMOUNT EQUAL TO THE TOTAL OF THE AMOUNTS DESCRIBED IN SECTION
6 42-18204, SUBSECTION B, PARAGRAPH 1. EVERY BID SHALL BE DEEMED AN
7 IRREVOCABLE OFFER UNTIL THE SALE IS COMPLETED, EXCEPT THAT A SUBSEQUENT
8 BID BY THE SAME BIDDER FOR A HIGHER AMOUNT SHALL CANCEL THAT BIDDER'S
9 LOWER BID. THE QUALIFIED ENTITY SHALL RETURN DEPOSITS TO ALL BUT THE
10 BIDDER WHOSE BID RESULTED IN THE HIGHEST BID PRICE. THE SALE IS DEEMED
11 COMPLETED ON PAYMENT BY THE PURCHASER OF THE PRICE BID IN A FORM
12 SATISFACTORY TO THE QUALIFIED ENTITY.

13 D. THE SUBSEQUENT EXECUTION, DELIVERY AND RECORDING OF THE
14 QUALIFIED ENTITY'S DEED AS PRESCRIBED BY SECTION 42-18235 ARE MINISTERIAL
15 ACTS. IF THE QUALIFIED ENTITY'S DEED IS RECORDED IN THE COUNTY IN WHICH
16 THE PROPERTY IS LOCATED WITHIN FIFTEEN BUSINESS DAYS AFTER THE DATE OF THE
17 SALE, THE SALE IS DEEMED PERFECTED AT THE APPOINTED DATE AND TIME OF THE
18 SALE.

19 E. THE QUALIFIED ENTITY MAY POSTPONE OR CONTINUE THE SALE FROM TIME
20 TO TIME OR CHANGE THE PLACE OF THE SALE TO ANY OTHER LOCATION AUTHORIZED
21 PURSUANT TO THIS CHAPTER BY GIVING NOTICE OF THE NEW DATE, TIME AND PLACE
22 BY PUBLIC DECLARATION AT THE TIME AND PLACE LAST APPOINTED FOR THE SALE.
23 ANY NEW SALE DATE SHALL BE A FIXED DATE WITHIN SIXTY CALENDAR DAYS AFTER
24 THE DATE OF THE DECLARATION. AFTER A SALE HAS BEEN POSTPONED OR
25 CONTINUED, THE QUALIFIED ENTITY, ON REQUEST, SHALL MAKE AVAILABLE THE DATE
26 AND TIME OF THE NEXT SCHEDULED SALE AND, IF THE LOCATION OF THE SALE HAS
27 BEEN CHANGED, THE NEW LOCATION OF THE SALE UNTIL THE SALE HAS BEEN
28 CONDUCTED OR CANCELED AND PROVIDING THIS INFORMATION SHALL BE WITHOUT
29 OBLIGATION OR LIABILITY FOR THE ACCURACY OR COMPLETENESS OF THE
30 INFORMATION. OTHER NOTICE OF THE POSTPONED, CONTINUED OR RELOCATED SALE
31 IS NOT REQUIRED.

32 F. A SALE IS POSTPONED BY OPERATION OF LAW TO THE NEXT BUSINESS DAY
33 AT THE SAME SCHEDULED TIME AND PLACE IF AN ACT OF FORCE MAJEURE PREVENTS
34 ACCESS TO THE SALE LOCATION FOR THE CONDUCT OF THE SALE.

35 G. EXCEPT FOR THE ASSESSMENTS PROVIDED IN SECTION 42-18204,
36 SUBSECTION D AND PROPERTY TAX LIENS ON THE PROPERTY, A SALE CONCLUDED
37 UNDER THIS ARTICLE EXTINGUISHES ANY OTHER LIENS AND ENCUMBRANCES HELD BY
38 THIS STATE ON THE PROPERTY, WHETHER SATISFIED OR NOT FROM THE PROCEEDS OF
39 THE SALE. TO THE EXTENT NOT SATISFIED FROM THE PROCEEDS OF THE SALE,
40 LIENS AND ENCUMBRANCES HELD BY THIS STATE AS TO THE TAXPAYER AND THE
41 TAXPAYER'S OTHER PROPERTY ARE NOT AFFECTED.

42 42-18235. Payment of bid; qualified entity's deed

43 A. THE HIGHEST BIDDER AT THE SALE, OTHER THAN THE JUDGMENT HOLDER
44 TO THE EXTENT OF THE CREDIT BID, SHALL PAY THE PRICE BID BY NOT LATER THAN
45 5:00 P.M. MOUNTAIN STANDARD TIME OF THE DAY AFTER THE SALE, OTHER THAN A

1 SATURDAY, SUNDAY OR LEGAL HOLIDAY. IF THE HIGHEST BIDDER FAILS TO PAY THE
2 AMOUNT BID FOR THE PROPERTY STRUCK OFF TO THE BIDDER AT THE SALE, THE
3 QUALIFIED ENTITY, IN THE QUALIFIED ENTITY'S SOLE DISCRETION, SHALL EITHER
4 CONTINUE THE SALE TO REOPEN BIDDING OR IMMEDIATELY OFFER THE PROPERTY TO
5 THE SECOND HIGHEST BIDDER WHO MAY PURCHASE THE PROPERTY AT THAT BIDDER'S
6 BID PRICE. THE DEPOSIT OF THE HIGHEST BIDDER WHO FAILS TO PAY THE AMOUNT
7 BID SHALL BE APPLIED TO THE COSTS OF FACILITATING THE SALE AND THE
8 BALANCE, IF ANY, AND TREATED AS ADDITIONAL SALE PROCEEDS TO BE DISTRIBUTED
9 PURSUANT TO SECTION 42-18236, SUBSECTION A. IF THE SECOND HIGHEST BIDDER
10 DOES NOT PAY THAT BIDDER'S BID PRICE BY 5:00 P.M. MOUNTAIN STANDARD TIME
11 OF THE NEXT DAY, EXCLUDING SATURDAYS, SUNDAYS AND LEGAL HOLIDAYS AFTER THE
12 QUALIFIED ENTITY OFFERS THE PROPERTY TO THAT BIDDER, THE QUALIFIED ENTITY
13 SHALL EITHER CONTINUE THE SALE TO REOPEN BIDDING OR OFFER THE PROPERTY TO
14 EACH OF THE PRIOR BIDDERS ON SUCCESSIVE DAYS EXCLUDING SATURDAYS, SUNDAYS
15 AND LEGAL HOLIDAYS IN ORDER OF THEIR HIGHEST BID, UNTIL A BID PRICE IS
16 PAID, OR IF THERE IS NO OTHER BIDDER, THE SALE SHALL BE DEEMED TO BE
17 CONTINUED TO A TIME AND PLACE DESIGNATED BY THE QUALIFIED ENTITY, OR IF
18 NOT DESIGNATED, THE SALE SHALL BE CONTINUED TO THE SAME PLACE AND AT THE
19 SAME TIME TWENTY-EIGHT DAYS AFTER THE LAST SCHEDULED SALE DATE. IF THE
20 TWENTY-EIGHTH DAY IS A SATURDAY, SUNDAY OR LEGAL HOLIDAY, THE SALE SHALL
21 BE CONTINUED TO THE NEXT BUSINESS DAY. IF THE SALE IS CONTINUED, THE
22 QUALIFIED ENTITY SHALL PROVIDE NOTICE OF THE CONTINUATION OF THE SALE BY
23 REGISTERED OR CERTIFIED MAIL, WITH POSTAGE PREPAID, TO ALL BIDDERS WHO
24 PROVIDE THEIR NAMES, ADDRESSES AND TELEPHONE NUMBERS IN WRITING TO THE
25 QUALIFIED ENTITY. IN ADDITION TO THE FORFEIT OF DEPOSIT, A HIGHEST BIDDER
26 WHO FAILS TO PAY THE AMOUNT BID BY THAT BIDDER IS LIABLE TO ANY PERSON WHO
27 SUFFERS LOSS OR EXPENSES AS A RESULT, INCLUDING ATTORNEY FEES. IN ANY
28 SUBSEQUENT SALE OF PROPERTY, THE QUALIFIED ENTITY MAY REFUSE TO ACCEPT ANY
29 BID OF THAT PERSON. IN ANY SALE THAT IS CONTINUED PURSUANT TO THIS
30 SUBSECTION, THE QUALIFIED ENTITY SHALL REJECT A BID FROM ANY PREVIOUS
31 BIDDER WHO ELECTED NOT TO PAY THAT BIDDER'S BID PRICE.

32 B. THE PRICE BID SHALL BE PAID AT THE OFFICE OF THE QUALIFIED
33 ENTITY OR THE QUALIFIED ENTITY'S AGENT, OR ANY OTHER REASONABLE PLACE
34 DESIGNATED BY THE QUALIFIED ENTITY. THE PAYMENT OF THE BID PRICE MAY BE
35 MADE AT A LATER TIME IF AGREED ON IN WRITING BY THE QUALIFIED ENTITY.
36 WITHIN SEVEN BUSINESS DAYS AFTER RECEIPT OF PAYMENT BY THE QUALIFIED
37 ENTITY OR THE QUALIFIED ENTITY'S AGENT, MADE IN A FORM THAT IS
38 SATISFACTORY TO THE QUALIFIED ENTITY, THE QUALIFIED ENTITY SHALL EXECUTE
39 AND SUBMIT THE QUALIFIED ENTITY'S DEED TO THE COUNTY RECORDER FOR
40 RECORDING AND, ON REQUEST, SHALL PROVIDE AN UNRECORDED COPY OF THE SIGNED
41 QUALIFIED ENTITY'S DEED TO THE PURCHASER. THE RECORDING OF THE QUALIFIED
42 ENTITY'S DEED ON SALE CONSTITUTES DELIVERY OF THE DEED TO THE PURCHASER.
43 THE QUALIFIED ENTITY IS NOT LIABLE FOR ANY DAMAGES RESULTING FROM THE
44 FAILURE TO RECORD THE DEED ON SALE AFTER PHYSICAL DELIVERY OF THE DEED TO
45 THE PURCHASER. THE DEED SHALL INCLUDE THE FOLLOWING INFORMATION:

1 1. THE DATE, COURT ACTION NUMBER AND NAME OF THE JUDGMENT ORDERING
2 THE SALE OF THE PROPERTY.
3 2. THE NAME OF THE PURCHASER.
4 3. THE PROPERTY DESCRIPTION.
5 4. THE DATE OF THE CONVEYANCE.
6 5. A FORMAL ACKNOWLEDGMENT BY THE QUALIFIED ENTITY.
7 C. ALL PERSONS TO WHOM THE QUALIFIED ENTITY MAILES A NOTICE OF A
8 SALE PURSUANT TO SECTION 42-18232 SHALL WAIVE ALL DEFENSES AND OBJECTIONS
9 TO THE SALE NOT RAISED IN AN ACTION THAT RESULTS IN AN INJUNCTION BEFORE
10 THE SCHEDULED DATE OF THE SALE. A COPY OF THE INJUNCTION SHALL BE
11 DELIVERED TO THE QUALIFIED ENTITY WITHIN TWENTY-FOUR HOURS AFTER THE ORDER
12 IS ENTERED.
13 D. A SALE IS NOT COMPLETE IF THE SALE VIOLATES SUBSECTION C OF THIS
14 SECTION BECAUSE OF AN UNDISCLOSED ORDER ENTERED BY THE COURT WITHIN THE
15 TIME PROVIDED FOR IN SUBSECTION C OF THIS SECTION. A SALE HELD IN
16 VIOLATION OF SUBSECTION C OF THIS SECTION SHALL BE CONTINUED TO A DATE,
17 TIME AND PLACE ANNOUNCED BY THE QUALIFIED ENTITY AT THE SALE AND SHALL
18 COMPLY WITH SECTION 42-18234. IF NOT ANNOUNCED, THE SALE SHALL BE
19 CONTINUED TO THE SAME PLACE AND AT THE SAME TIME TWENTY-EIGHT DAYS LATER.
20 IF THE TWENTY-EIGHTH DAY FALLS ON A SATURDAY, SUNDAY OR LEGAL HOLIDAY, THE
21 SALE SHALL BE CONTINUED TO THE NEXT BUSINESS DAY.
22 E. THE DEED CONVEYED PURSUANT TO THIS SECTION SHALL OPERATE TO
23 CONVEY TO THE PURCHASER TITLE OF THE PURCHASED PROPERTY. THAT CONVEYANCE
24 SHALL BE ABSOLUTE WITHOUT RIGHT OF REDEMPTION AND CLEAR OF ALL SUBORDINATE
25 LIENS, CLAIMS OR INTERESTS.
26 42-18236. Disposition of proceeds of sale
27 A. THE QUALIFIED ENTITY SHALL DISTRIBUTE THE PROCEEDS OF THE SALE
28 AS FOLLOWS:
29 1. TO THE QUALIFIED ENTITY, AN AMOUNT EQUAL TO THE COST OF
30 FACILITATING THE SALE OF THE PROPERTY, INCLUDING THE COSTS OF PROVIDING
31 THE NOTICE REQUIRED BY SECTION 42-18232, SUBSECTION A.
32 2. TO THE CERTIFICATE OF PURCHASE HOLDER, AN AMOUNT EQUAL TO THE
33 AMOUNTS PROVIDED IN SECTION 42-18204, SUBSECTION B, PARAGRAPH 1,
34 SUBDIVISIONS (a), (b) AND (c).
35 3. TO OTHER PROPERTY TAX LIENS, THEN OTHER STATE LIEN AND
36 ENCUMBRANCE HOLDERS, AN AMOUNT EQUAL TO THEIR RESPECTIVE LIEN OR
37 ENCUMBRANCE AS INDICATED ON A TITLE REPORT PROVIDED BY THE CERTIFICATE OF
38 PURCHASE HOLDER AND PROVIDED TO THE COURT PURSUANT TO 42-18204, SUBSECTION
39 B, PARAGRAPH 1, SUBDIVISION (d), ADJUSTED BY ANY LIEN OR ENCUMBRANCE
40 AMOUNT THAT HAS BEEN PAID OR INCREASED DUE TO DELINQUENCIES SINCE THE
41 TITLE REPORT WAS PROVIDED TO THE COURT.
42 4. TO THE PROPERTY OWNER WHOSE RIGHT TO REDEEM WAS FORECLOSED, ANY
43 REMAINING PROCEEDS OF THE SALE. THE PROPERTY OWNER IS NOT REQUIRED TO BE
44 PRESENT AT THE EXCESS PROCEEDS SALE IN ORDER TO RECEIVE THE PROPERTY
45 OWNER'S DISTRIBUTION OF PROCEEDS FROM THE SALE UNDER THIS SUBSECTION.

1 B. THE QUALIFIED ENTITY SHALL DISTRIBUTE THE PROCEEDS OF THE SALE
2 PURSUANT TO SUBSECTION A OF THIS SECTION WITHIN NINETY DAYS AFTER THE SALE
3 OF THE PROPERTY AND NOTIFY THE COURT THAT THE DISTRIBUTIONS HAVE BEEN
4 MADE. THE QUALIFIED ENTITY SHALL DISPOSE OF ANY MONIES UNCLAIMED AFTER
5 NINETY DAYS PURSUANT TO TITLE 44, CHAPTER 3. IF THE QUALIFIED ENTITY
6 FAILS TO COMPLY WITH THIS SUBSECTION, THE QUALIFIED ENTITY SHALL PAY
7 INTEREST AT THE RATE PROVIDED FOR JUDGMENTS PURSUANT TO SECTION 44-1201
8 FROM THE DATE OF COMPLETION OF THE SALE UNTIL THE QUALIFIED ENTITY
9 COMPLIES WITH THIS SUBSECTION. ANY PARTY IN THE ACTION TO FORECLOSE THE
10 RIGHT TO REDEEM RELATING TO THE PROPERTY MAY COMMENCE A CIVIL ACTION
11 AGAINST THE QUALIFIED ENTITY FOR THE QUALIFIED ENTITY'S FAILURE TO COMPLY
12 WITH THIS SUBSECTION. THE COURT MAY AWARD THE PREVAILING PARTY ITS
13 REASONABLE ATTORNEY FEES AND COSTS INCURRED IN THAT CIVIL ACTION.

14 Sec. 8. Applicability

15 This act applies to actions to foreclose the right to redeem filed
16 pursuant to title 42, chapter 18, article 5, Arizona Revised Statutes,
17 from and after the effective date of this act.