

Senate Engrossed

right to redeem; foreclosure; sale

State of Arizona  
Senate  
Fifty-sixth Legislature  
Second Regular Session  
2024

# SENATE BILL 1431

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 PROPERTY TAX.

(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 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:

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

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

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

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

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

20 (e) THE ESTIMATED COST OF THE SALE OF PROPERTY PURSUANT TO ARTICLE  
21 6 OF THIS CHAPTER.

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

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

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

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

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

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

35 2. A lien for an assessment levied pursuant to title 48, chapter 4,  
36 6, 14 or 18, or section 9-276. FOR THE PURPOSES OF THIS PARAGRAPH,  
37 ASSESSMENT DOES NOT INCLUDE AN ABATEMENT LIEN IMPOSED UNDER SECTION 9-499.

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

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

43 42-18205. County treasurer's deed; form

44 A. On receiving a certified copy of a judgment foreclosing the  
45 right to redeem ISSUED PURSUANT TO SECTION 42-18204, SUBSECTION A,

1 PARAGRAPH 1 and a fee of ~~fifty dollars~~ \$50 per parcel, the county  
2 treasurer shall execute and deliver to the party in whose favor the  
3 judgment was entered a deed conveying the property described in the  
4 judgment.

5 B. The deed shall include the following information:

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

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

13 42-18206. Redemption during pendency of action to foreclose

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

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

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

28 ARTICLE 6. SALE OF PROPERTY FOR EXCESS PROCEEDS

29 42-18231. Definition of qualified entity

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

36 42-18232. Notice of sale

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

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

1 A COMMON ENTRANCE TO THE PROPERTY IS RESTRICTED BY A LIMITED ACCESS GATE  
2 OR SIMILAR IMPEDIMENT, THE NOTICE SHALL BE POSTED AT THAT GATE OR  
3 IMPEDIMENT.

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

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

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

16 B. THE NOTICE OF SALE SHALL CONTAIN:

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

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

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

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

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

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

29 NOTICE OF SALE FOR EXCESS PROCEEDS

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

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

41 (DATE)

42 (ACKNOWLEDGMENT)

43 LEGAL DESCRIPTION OF PROPERTY TO BE SOLD:

44 (STREET ADDRESS, IF ANY, OR IDENTIFIABLE  
45 LOCATION OF PROPERTY)

(LEGAL DESCRIPTION OF PROPERTY)

(TAX PARCEL NUMBER)

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

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

42-18233. Date and time of sale

THE SALE SHALL BE HELD:

1. NOT LATER THAN SIXTY DAYS AFTER THE DATE OF A JUDGMENT ENTERED PURSUANT TO SECTION 42-18204, SUBSECTION A, PARAGRAPH 2.
2. ON A DAY OTHER THAN A SATURDAY, SUNDAY OR LEGAL HOLIDAY.
3. BETWEEN 9:00 A.M. AND 5:00 P.M. MOUNTAIN STANDARD TIME.
4. AT A SPECIFIED PLACE ON THE PROPERTY, AT A SPECIFIED PLACE AT ANY BUILDING THAT SERVES AS A LOCATION OF THE SUPERIOR COURT OR AT A SPECIFIED PLACE AT A PLACE OF BUSINESS OF THE QUALIFIED ENTITY CONDUCTING THE SALE, IN ANY COUNTY IN WHICH THE PROPERTY TO BE SOLD IS SITUATED.

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

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

B. ANY PERSON, INCLUDING THE QUALIFIED ENTITY OR THE CERTIFICATE OF PURCHASE HOLDER, MAY BID AT THE SALE. ONLY THE CERTIFICATE OF PURCHASE HOLDER MAY MAKE A CREDIT BID IN LIEU OF CASH AT THE SALE. THE QUALIFIED ENTITY SHALL REQUIRE EVERY BIDDER TO PROVIDE A NONREFUNDABLE DEPOSIT IN AN AMOUNT EQUAL TO TEN PERCENT OF THE OPENING BID OR \$2,500, WHICHEVER IS GREATER, IN ANY FORM THAT IS SATISFACTORY TO THE QUALIFIED ENTITY AS A CONDITION OF ENTERING A BID.



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

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

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

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

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

40 42-18235. Payment of bid; qualified entity's deed

41 A. THE HIGHEST BIDDER AT THE SALE, OTHER THAN THE JUDGMENT HOLDER  
42 TO THE EXTENT OF THE CREDIT BID, SHALL PAY THE PRICE BID BY NOT LATER THAN  
43 5:00 P.M. MOUNTAIN STANDARD TIME OF THE DAY AFTER THE SALE, OTHER THAN A  
44 SATURDAY, SUNDAY OR LEGAL HOLIDAY. IF THE HIGHEST BIDDER FAILS TO PAY THE  
45 AMOUNT BID FOR THE PROPERTY STRUCK OFF TO THE BIDDER AT THE SALE, THE

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

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

44 1. THE DATE, COURT ACTION NUMBER AND NAME OF THE JUDGMENT ORDERING  
45 THE SALE OF THE PROPERTY.

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