

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2098

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

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.

1 E. This section does not apply to:

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

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

5 3. Civil judgments obtained by this state that are either of the
6 following:

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

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

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

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

14 42-18152. When lien may be fully redeemed: partial payment
15 refund

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

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

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

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

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

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

3 42-18202. Notice

4 A. At least thirty days before filing an action to foreclose the
5 right to redeem under this article, but not more than one hundred eighty
6 days before such an action is commenced or may be commenced under section
7 42-18201, the ~~purchaser~~ CERTIFICATE OF PURCHASE HOLDER shall send notice of
8 intent to file the foreclosure action by certified mail to:

9 1. The property owner of record according to the records of the
10 county recorder in the county in which the property is located or to all of
11 the following:

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

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

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

22 2. The treasurer of the county in which the real property is
23 located. The county treasurer may not accept partial payments under section
24 42-18056, subsection C after the date the treasurer receives a notice of
25 action to foreclose the right to redeem.

26 B. The notice shall include:

- 27 1. The property owner's name.
28 2. The real property tax parcel identification number.
29 3. The county assessor's description of the real property.
30 4. The certificate of purchase number.
31 5. The proposed date of filing the action.

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

2 NOTICE: IF YOU BELIEVE THAT YOUR PROPERTY HAS VALUE
3 BEYOND THE TAX BURDEN ON THE PROPERTY AND YOU DO NOT WANT TO
4 LOSE ANY INTEREST OR EQUITY IN THE PROPERTY, YOU MUST REQUEST
5 AN EXCESS PROCEEDS SALE PURSUANT TO SECTION 42-18204, ARIZONA
6 REVISED STATUTES.

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

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

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

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

19 42-18204. Judgment foreclosing right to redeem; effect

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

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

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

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

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

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

2 (b) DIRECTING THE SALE OF THE PROPERTY PURSUANT TO ARTICLE 6 OF THIS
3 CHAPTER.

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

7 B. A PROPERTY OWNER WHOSE RIGHT TO REDEEM IS BEING FORECLOSED MAY
8 REQUEST THE COURT TO DETERMINE IF THE SALE OF THE PROPERTY TO RECOVER
9 EXCESS PROCEEDS IS REASONABLE. THE COURT SHALL DETERMINE THAT THE SALE OF
10 THE PROPERTY FOR EXCESS PROCEEDS IS REASONABLE IF THE SALE PRICE OF THE
11 PROPERTY IS LIKELY TO BE MORE THAN \$2,500 ABOVE THE TOTAL OF THE AMOUNTS
12 DESCRIBED IN PARAGRAPH 1 OF THIS SUBSECTION. IF A REQUEST IS MADE FOR AN
13 EXCESS PROCEEDS SALE, THE FOLLOWING INFORMATION SHALL BE PROVIDED TO THE
14 COURT FOR THE PURPOSES OF DETERMINING IF AN EXCESS PROCEEDS SALE IS
15 REASONABLE:

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

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

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

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

29 (d) THE AMOUNT OF ALL OTHER RECORDED STATE LIENS OR ENCUMBRANCES ON
30 THE PROPERTY AS INDICATED ON A TITLE REPORT PROVIDED BY THE CERTIFICATE OF
31 PURCHASE HOLDER, INCLUDING OTHER YEARS IN WHICH TAXES ARE DELINQUENT. FOR
32 THE PURPOSES OF THIS SUBDIVISION, THE CERTIFICATE OF PURCHASE HOLDER DOES

1 NOT HAVE TO DETERMINE THE ACTUAL BALANCE OWED ON ANY LIEN OR ENCUMBRANCE ON
2 THE PROPERTY, EXCEPT FOR PROPERTY TAXES OWED.

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

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

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

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

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

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

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

18 2. A lien for an assessment levied pursuant to title 48, chapter 4,
19 6, 14 or 18, ~~or~~ or section 9-276. FOR THE PURPOSES OF THIS PARAGRAPH,
20 ASSESSMENT DOES NOT INCLUDE AN ABATEMENT LIEN IMPOSED UNDER SECTION 9-499.

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

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

26 42-18205. County treasurer's deed; form

27 A. On receiving a certified copy of a judgment foreclosing the right
28 to redeem ISSUED PURSUANT TO SECTION 42-18204, SUBSECTION A, PARAGRAPH 1
29 and a fee of ~~fifty dollars~~ \$50 per parcel, the county treasurer shall
30 execute and deliver to the party in whose favor the judgment was entered a
31 deed conveying the property described in the judgment.

32 B. The deed shall include the following information:

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

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

8 42-18206. Redemption during pendency of action to foreclose

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

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

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

22 ARTICLE 6. SALE OF PROPERTY FOR EXCESS PROCEEDS

23 42-18231. Definition of qualified entity

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

30 42-18232. Notice of sale

31 A. THE QUALIFIED ENTITY CONDUCTING THE SALE OF THE PROPERTY SHALL
32 PROVIDE NOTICE OF THE TIME AND PLACE OF THE SALE, A DESCRIPTION OF THE

1 PROPERTY TO BE SOLD AND THE AMOUNT OF THE OPENING BID BY EACH OF THE
2 FOLLOWING METHODS:

3 1. RECORDING A NOTICE IN THE OFFICE OF THE RECORDER OF EACH COUNTY
4 WHERE THE PROPERTY IS SITUATED.

5 2. IF THE PROPERTY IS REASONABLY ACCESSIBLE, POSTING A COPY OF THE
6 NOTICE OF SALE IN A CONSPICUOUS PLACE ON THE PROPERTY TO BE SOLD AT LEAST
7 TWENTY DAYS BEFORE THE SALE. IF ACCESS TO THE PROPERTY IS DENIED BECAUSE A
8 COMMON ENTRANCE TO THE PROPERTY IS RESTRICTED BY A LIMITED ACCESS GATE OR
9 SIMILAR IMPEDIMENT, THE NOTICE SHALL BE POSTED AT THAT GATE OR IMPEDIMENT.

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

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

20 5. SENDING THE NOTICE TO THE PROPERTY OWNERS NOTIFIED PURSUANT TO
21 SECTION 42-18202.

22 B. THE NOTICE OF SALE SHALL CONTAIN:

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

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

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

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

31 5. THE TELEPHONE NUMBER OF THE QUALIFIED ENTITY CONDUCTING THE SALE.

1 C. THE NOTICE OF SALE IS SUFFICIENT IF MADE IN SUBSTANTIALLY THE
2 FOLLOWING FORM:

3 NOTICE OF SALE FOR EXCESS PROCEEDS

4 THERE ARE UNPAID TAXES ON THE PROPERTY LOCATED AT
5 (ADDRESS) THAT YOU MAY OWN OR HAVE A LEGAL INTEREST IN OR THAT
6 MAY BE CONTIGUOUS TO YOUR PROPERTY. THE PROPERTY WILL BE SOLD
7 AT PUBLIC AUCTION AT (SPECIFIC PLACE OF SALE) ON (DATE AND
8 TIME) AND THAT SALE WILL BE FINAL UNLESS THE OUTSTANDING TAXES
9 ARE PAID. THE OPENING BID AT THE PUBLIC AUCTION IS (OPENING
10 BID AMOUNT).

11 TO MAKE PAYMENT OR TO RECEIVE FURTHER INFORMATION,
12 CONTACT THE (COUNTY) COUNTY TREASURER IMMEDIATELY AT (ADDRESS)
13 OR (TELEPHONE NUMBER) OR THE (QUALIFIED ENTITY) AT (ADDRESS) OR
14 (TELEPHONE NUMBER).

15 _____
(DATE)

16 _____
(ACKNOWLEDGMENT)

17 LEGAL DESCRIPTION OF PROPERTY TO BE SOLD:

18 (STREET ADDRESS, IF ANY, OR IDENTIFIABLE

19 LOCATION OF PROPERTY)

20 (LEGAL DESCRIPTION OF PROPERTY)

21 (TAX PARCEL NUMBER)

22 D. ANY ERROR OR OMISSION IN THE INFORMATION REQUIRED BY SUBSECTION B
23 OR C OF THIS SECTION, OTHER THAN AN ERROR IN THE LEGAL DESCRIPTION OF THE
24 PROPERTY OR AN ERROR IN THE DATE, TIME OR PLACE OF SALE, DOES NOT
25 INVALIDATE THE SALE. ANY ERROR IN THE LEGAL DESCRIPTION OF THE PROPERTY
26 DOES NOT INVALIDATE THE SALE IF, CONSIDERED AS A WHOLE, THE INFORMATION
27 PROVIDED IS SUFFICIENT TO IDENTIFY THE PROPERTY BEING SOLD. IF THERE IS AN
28 ERROR OR OMISSION IN THE LEGAL DESCRIPTION SO THAT THE PROPERTY CANNOT BE
29 IDENTIFIED, OR IF THERE IS AN ERROR IN THE DATE, TIME OR PLACE OF SALE, THE
30 QUALIFIED ENTITY SHALL RECORD A CANCELLATION OF NOTICE OF SALE. THE
31 QUALIFIED ENTITY OR ANY PERSON FURNISHING INFORMATION TO THE QUALIFIED
32 ENTITY IS NOT SUBJECT TO LIABILITY FOR ANY ERROR OR OMISSION IN THE

1 INFORMATION REQUIRED BY SUBSECTION B OF THIS SECTION EXCEPT FOR THE WILFUL
2 AND INTENTIONAL FAILURE TO PROVIDE SUCH INFORMATION.

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

6 42-18233. Date and time of sale

7 THE SALE SHALL BE HELD:

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

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

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

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

16 42-18234. Sale by public auction; bidder requirements;
17 postponement of sale

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

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

31 C. THE QUALIFIED ENTITY OR THE QUALIFIED ENTITY'S AUCTIONEER MAY
32 CONTROL THE MEANS AND MANNER OF THE AUCTION, EXCEPT THE OPENING BID SHALL

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

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

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

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

29 G. EXCEPT FOR THE ASSESSMENTS PROVIDED IN SECTION 42-18204,
30 SUBSECTION D AND PROPERTY TAX LIENS ON THE PROPERTY, A SALE CONCLUDED UNDER
31 THIS ARTICLE EXTINGUISHES ANY OTHER LIENS AND ENCUMBRANCES HELD BY THIS
32 STATE ON THE PROPERTY, WHETHER SATISFIED OR NOT FROM THE PROCEEDS OF THE

1 SALE. TO THE EXTENT NOT SATISFIED FROM THE PROCEEDS OF THE SALE, LIENS AND
2 ENCUMBRANCES HELD BY THIS STATE AS TO THE TAXPAYER AND THE TAXPAYER'S OTHER
3 PROPERTY ARE NOT AFFECTED.

4 42-18235. Payment of bid; qualified entity's deed

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

1 TO PAY THE AMOUNT BID BY THAT BIDDER IS LIABLE TO ANY PERSON WHO SUFFERS
2 LOSS OR EXPENSES AS A RESULT, INCLUDING ATTORNEY FEES. IN ANY SUBSEQUENT
3 SALE OF PROPERTY, THE QUALIFIED ENTITY MAY REFUSE TO ACCEPT ANY BID OF THAT
4 PERSON. IN ANY SALE THAT IS CONTINUED PURSUANT TO THIS SUBSECTION, THE
5 QUALIFIED ENTITY SHALL REJECT A BID FROM ANY PREVIOUS BIDDER WHO ELECTED
6 NOT TO PAY THAT BIDDER'S BID PRICE.

7 B. THE PRICE BID SHALL BE PAID AT THE OFFICE OF THE QUALIFIED ENTITY
8 OR THE QUALIFIED ENTITY'S AGENT, OR ANY OTHER REASONABLE PLACE DESIGNATED
9 BY THE QUALIFIED ENTITY. THE PAYMENT OF THE BID PRICE MAY BE MADE AT A
10 LATER TIME IF AGREED ON IN WRITING BY THE QUALIFIED ENTITY. WITHIN SEVEN
11 BUSINESS DAYS AFTER RECEIPT OF PAYMENT BY THE QUALIFIED ENTITY OR THE
12 QUALIFIED ENTITY'S AGENT, MADE IN A FORM THAT IS SATISFACTORY TO THE
13 QUALIFIED ENTITY, THE QUALIFIED ENTITY SHALL EXECUTE AND SUBMIT THE
14 QUALIFIED ENTITY'S DEED TO THE COUNTY RECORDER FOR RECORDING AND, ON
15 REQUEST, SHALL PROVIDE AN UNRECORDED COPY OF THE SIGNED QUALIFIED ENTITY'S
16 DEED TO THE PURCHASER. THE RECORDING OF THE QUALIFIED ENTITY'S DEED ON
17 SALE CONSTITUTES DELIVERY OF THE DEED TO THE PURCHASER. THE QUALIFIED
18 ENTITY IS NOT LIABLE FOR ANY DAMAGES RESULTING FROM THE FAILURE TO RECORD
19 THE DEED ON SALE AFTER PHYSICAL DELIVERY OF THE DEED TO THE PURCHASER. THE
20 DEED SHALL INCLUDE THE FOLLOWING INFORMATION:

- 21 1. THE DATE, COURT ACTION NUMBER AND NAME OF THE JUDGMENT ORDERING
22 THE SALE OF THE PROPERTY.
- 23 2. THE NAME OF THE PURCHASER.
- 24 3. THE PROPERTY DESCRIPTION.
- 25 4. THE DATE OF THE CONVEYANCE.
- 26 5. A FORMAL ACKNOWLEDGMENT BY THE QUALIFIED ENTITY.

27 C. ALL PERSONS TO WHOM THE QUALIFIED ENTITY MAILES A NOTICE OF A SALE
28 PURSUANT TO SECTION 42-18232 SHALL WAIVE ALL DEFENSES AND OBJECTIONS TO THE
29 SALE NOT RAISED IN AN ACTION THAT RESULTS IN AN INJUNCTION BEFORE THE
30 SCHEDULED DATE OF THE SALE. A COPY OF THE INJUNCTION SHALL BE DELIVERED TO
31 THE QUALIFIED ENTITY WITHIN TWENTY-FOUR HOURS AFTER THE ORDER IS ENTERED.

1 D. A SALE IS NOT COMPLETE IF THE SALE VIOLATES SUBSECTION C OF THIS
2 SECTION BECAUSE OF AN UNDISCLOSED ORDER ENTERED BY THE COURT WITHIN THE
3 TIME PROVIDED FOR IN SUBSECTION C OF THIS SECTION. A SALE HELD IN
4 VIOLATION OF SUBSECTION C OF THIS SECTION SHALL BE CONTINUED TO A DATE,
5 TIME AND PLACE ANNOUNCED BY THE QUALIFIED ENTITY AT THE SALE AND SHALL
6 COMPLY WITH SECTION 42-18234. IF NOT ANNOUNCED, THE SALE SHALL BE
7 CONTINUED TO THE SAME PLACE AND AT THE SAME TIME TWENTY-EIGHT DAYS LATER.
8 IF THE TWENTY-EIGHTH DAY FALLS ON A SATURDAY, SUNDAY OR LEGAL HOLIDAY, THE
9 SALE SHALL BE CONTINUED TO THE NEXT BUSINESS DAY.

10 E. THE DEED CONVEYED PURSUANT TO THIS SECTION SHALL OPERATE TO
11 CONVEY TO THE PURCHASER TITLE OF THE PURCHASED PROPERTY. THAT CONVEYANCE
12 SHALL BE ABSOLUTE WITHOUT RIGHT OF REDEMPTION AND CLEAR OF ALL SUBORDINATE
13 LIENS, CLAIMS OR INTERESTS.

14 42-18236. Disposition of proceeds of sale

15 A. THE QUALIFIED ENTITY SHALL DISTRIBUTE THE PROCEEDS OF THE SALE AS
16 FOLLOWS:

17 1. TO THE QUALIFIED ENTITY, AN AMOUNT EQUAL TO THE COST OF
18 FACILITATING THE SALE OF THE PROPERTY, INCLUDING THE COSTS OF PROVIDING THE
19 NOTICE REQUIRED BY SECTION 42-18232, SUBSECTION A.

20 2. TO THE CERTIFICATE OF PURCHASE HOLDER, AN AMOUNT EQUAL TO THE
21 AMOUNTS PROVIDED IN SECTION 42-18204, SUBSECTION B, PARAGRAPH 1,
22 SUBDIVISIONS (a), (b) AND (c).

23 3. TO OTHER PROPERTY TAX LIEN, OTHER THAN THIS STATE, AND
24 ENCUMBRANCE HOLDERS, AN AMOUNT EQUAL TO THEIR RESPECTIVE LIEN OR
25 ENCUMBRANCE AS INDICATED ON A TITLE REPORT PROVIDED BY THE CERTIFICATE OF
26 PURCHASE HOLDER AND PROVIDED TO THE COURT PURSUANT TO 42-18204, SUBSECTION
27 B, PARAGRAPH 1, SUBDIVISION (d), ADJUSTED BY ANY LIEN OR ENCUMBRANCE AMOUNT
28 THAT HAS BEEN PAID OR INCREASED DUE TO DELINQUENCIES SINCE THE TITLE REPORT
29 WAS PROVIDED TO THE COURT.

30 4. TO THE PROPERTY OWNER WHOSE RIGHT TO REDEEM WAS FORECLOSED, ANY
31 REMAINING PROCEEDS OF THE SALE. THE PROPERTY OWNER IS NOT REQUIRED TO BE

1 PRESENT AT THE EXCESS PROCEEDS SALE IN ORDER TO RECEIVE THE PROPERTY
2 OWNER'S DISTRIBUTION OF PROCEEDS FROM THE SALE UNDER THIS SUBSECTION.

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

16 Sec. 8. Applicability

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

20 Amend title to conform

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