

REFERENCE TITLE: right to redeem; lien; sale

State of Arizona
House of Representatives
Fifty-fourth Legislature
Second Regular Session
2020

HB 2445

Introduced by
Representative Kern

AN ACT

AMENDING SECTIONS 42-18152, 42-18204, 42-18205, 42-18302 AND 42-18303,
ARIZONA REVISED STATUTES; RELATING TO FORECLOSURE OF THE RIGHT TO REDEEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-18152, Arizona Revised Statutes, is amended
3 to read:

4 42-18152. Time lien may be fully redeemed; partial payment
5 refund

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

7 1. Within three years after the date of sale.

8 2. After three years but before **THE ENTRY OF A JUDGMENT FORECLOSING**
9 **THE RIGHT TO REDEEM OR** the delivery of a treasurer's deed to the purchaser
10 or the purchaser's heirs or assigns.

11 B. A lien that has been partially redeemed under section 42-18056,
12 subsection C must be fully redeemed before **THE ENTRY OF A JUDGMENT**
13 **FORECLOSING THE RIGHT TO REDEEM OR** the delivery of a treasurer's deed to
14 the purchaser.

15 C. The county treasurer shall refund all partial payment amounts
16 impounded under section 42-18056, subsection E, to the person or persons
17 or their heirs or assigns within thirty days after delivering the
18 treasurer's deed to the purchaser.

19 Sec. 2. Section 42-18204, Arizona Revised Statutes, is amended to
20 read:

21 42-18204. Judgment foreclosing right to redeem; effect

22 A. In an action to foreclose the right to redeem, if the court
23 finds that the sale **OF THE TAX LIEN** is valid and that the tax lien has not
24 been redeemed, the court shall enter judgment:

25 1. Foreclosing the right of the defendant to redeem.

26 2. Directing the county treasurer to **SELL THE PROPERTY IN**
27 **ACCORDANCE WITH THE REQUIREMENTS OF THIS CHAPTER AND** expeditiously execute
28 and deliver to the ~~party in whose favor judgment is entered, including the~~
29 ~~state;~~ **PURCHASER, AFTER THE PURCHASER PAYS,** a deed conveying the property
30 described in the certificate of purchase.

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

35 C. The foreclosure of the right to redeem does not extinguish any
36 **OF THE FOLLOWING:**

37 1. **AN** easement on or appurtenant to the property.

38 ~~B. The foreclosure of the right to redeem does not extinguish any~~

39 2. A lien for an assessment levied pursuant to title 48, chapter 4,
40 6, 14 or 18, or section 9-276.

41 3. **THE PROPERTY OWNER'S OR ANOTHER LIENHOLDER'S INTEREST IN THE**
42 **SURPLUS PROCEEDS FROM THE SALE OF THE PROPERTY.**

1 Sec. 3. Section 42-18205, Arizona Revised Statutes, is amended to
2 read:

3 42-18205. Sale of real property by county treasurer; deed
4 form; disposition of proceeds

5 A. On receiving a certified copy of a judgment foreclosing the
6 right to redeem and a fee of ~~fifty dollars~~ \$50 per parcel, the county
7 treasurer shall ~~execute and deliver to the party in whose favor the~~
8 ~~judgment was entered a deed conveying the property described in the~~
9 ~~judgment~~ ADD THE PROPERTY DESCRIBED IN THE JUDGMENT TO THE LIST OF
10 PROPERTIES TO BE SOLD AT PUBLIC AUCTION THAT IS PREPARED PURSUANT TO
11 SECTION 42-18301. THE TREASURER SHALL CONDUCT THE AUCTION IN THE SAME
12 MANNER AS PROVIDED IN SECTION 42-18303 AND PROVIDE NOTICE OF THE AUCTION
13 IN THE SAME MANNER AS PROVIDED IN SECTION 42-18302.

14 B. AFTER THE PURCHASER PAYS FOR THE PROPERTY IN FULL, THE COUNTY
15 TREASURER SHALL EXECUTE AND DELIVER TO THE PURCHASER A DEED CONVEYING THE
16 PROPERTY. The deed shall include the following information:

- 17 1. The date, court action number and name of the judgment
18 FORECLOSING THE RIGHT TO REDEEM.
19 2. The name of the purchaser.
20 3. The property description.
21 4. THE DATE OF THE PUBLIC AUCTION.
22 ~~4.~~ 5. The date of the conveyance.
23 ~~5.~~ 6. A formal acknowledgment by the treasurer.
24 7. THE PRICE THE PURCHASER PAID FOR THE PROPERTY.
25 C. THE PROCEEDS FROM THE SALE OF THE PROPERTY SHALL BE DISTRIBUTED
26 IN THE SAME MANNER AS PROVIDED IN SECTION 42-18303.

27 Sec. 4. Heading change

28 The article heading of title 42, chapter 18, article 7, Arizona
29 Revised Statutes, is changed from "SALE OF LAND HELD BY STATE UNDER TAX
30 DEED" to "SALE OF REAL PROPERTY BY COUNTY TREASURER".

31 Sec. 5. Section 42-18302, Arizona Revised Statutes, is amended to
32 read:

33 42-18302. Notice of sale

34 A. The ~~board of supervisors~~ COUNTY TREASURER shall advertise the
35 real property for sale at a public sale. The advertisement shall be by:

36 1. Publishing the list and notice of sale in a newspaper of general
37 circulation in the county at least once a week for at least two weeks, but
38 not more than three weeks, before the stated date of the sale.

39 2. Continuously posting a current list and notice in the offices
40 AND ON THE OFFICIAL WEBSITES of the board of supervisors AND THE COUNTY
41 TREASURER.

42 3. MAILING THE NOTICE OF SALE TO THE PREDECESSOR PROPERTY OWNER OF
43 RECORD ACCORDING TO THE RECORDS OF THE COUNTY RECORDER IN THE COUNTY IN
44 WHICH THE PROPERTY IS LOCATED, OR TO ALL OF THE FOLLOWING:

1 (a) THE PREDECESSOR PROPERTY OWNER ACCORDING TO THE RECORDS OF THE
2 COUNTY ASSESSOR IN THE COUNTY IN WHICH THE PROPERTY IS LOCATED AS
3 DETERMINED BY SECTION 42-13051.

4 (b) THE SITUS ADDRESS OF THE PROPERTY, IF SHOWN ON THE TAX ROLL.

5 (c) THE TAX BILL MAILING ADDRESS ACCORDING TO THE RECORDS OF THE
6 COUNTY TREASURER IN THE COUNTY IN WHICH THE PROPERTY IS LOCATED, IF THAT
7 ADDRESS IS DIFFERENT FROM THE ADDRESSES UNDER SUBDIVISIONS (a) AND (b) OF
8 THIS PARAGRAPH.

9 B. The newspaper that ~~prints~~ PUBLISHES the list and notice shall
10 also post the list and notice on the internet on a website that posts the
11 legal notices of ten or more Arizona newspapers.

12 Sec. 6. Section 42-18303, Arizona Revised Statutes, is amended to
13 read:

14 42-18303. Auction and sale of real property by treasurer;
15 disposition of proceeds; third-party claimant
16 identifier

17 A. After advertisement, ~~—~~ pursuant to section 42-18302, the ~~board of~~
18 ~~supervisors may~~ COUNTY TREASURER SHALL sell TO THE HIGHEST BIDDER FOR CASH
19 the real property in the county held by the state by tax deed ~~to the~~
20 ~~highest bidder for cash except as provided in subsections E and F of this~~
21 ~~section~~ AND THE REAL PROPERTY FOR WHICH A JUDGMENT FORECLOSING THE RIGHT
22 TO REDEEM HAS BEEN ENTERED. The property may also be posted on the
23 treasurer's website. The sale may include a live auction ~~or~~ BUT SHALL
24 INCLUDE an online bidding process in which the ~~board~~ TREASURER receives
25 bids electronically over the internet in a real-time, competitive bidding
26 event. THE AUCTION SHALL BE HELD WITHIN SIX MONTHS AFTER THE ENTRY OF A
27 JUDGMENT FORECLOSING THE RIGHT TO REDEEM.

28 B. THE COUNTY TREASURER SHALL POST THE PROPERTY AND DATE OF THE
29 AUCTION WITH A REAL ESTATE LISTING SERVICE PROVIDED BY AN ORGANIZATION OF
30 REAL ESTATE BROKERS LICENSED PURSUANT TO TITLE 32, CHAPTER 20, OR AN
31 EQUIVALENT SERVICE.

32 C. THE COUNTY TREASURER MAY CONTRACT WITH A PRIVATE PARTY TO
33 OPERATE AND ADVERTISE THE AUCTION AND TO ADVERTISE THE PROPERTY. THE
34 CONTRACT MAY PROVIDE THAT IF THE PROPERTY SELLS FOR MORE THAN THE AMOUNT
35 OF THE TAXES, PENALTIES, INTEREST AND COSTS CHARGED AGAINST THE PROPERTY,
36 THE PRIVATE PARTY OPERATING AND ADVERTISING THE AUCTION AND ADVERTISING
37 THE PROPERTY MAY RECEIVE UP TO THREE PERCENT OF THE AMOUNT OF THE SALE
38 PRICE OF A PROPERTY THAT IS MORE THAN THE AMOUNT OF THE TAXES, PENALTIES,
39 INTEREST AND COSTS CHARGED AGAINST THE PROPERTY.

40 D. A JUDGMENT FORECLOSING THE RIGHT TO REDEEM GIVES THE COUNTY
41 TREASURER THE RIGHT TO POSSESS AND ACCESS THE PROPERTY FOR THE PURPOSES OF
42 PROTECTING THE FORMER OWNER'S EQUITY INTEREST BY ATTRACTING HIGHER BIDS
43 FOR THE PROPERTY. THE TREASURER MAY ALLOW A PRIVATE PARTY TO ACCESS THE
44 PROPERTY TO PHOTOGRAPH OR OTHERWISE VIEW THE PROPERTY.

1 E. THE COUNTY TREASURER SHALL SET THE MINIMUM BID FOR THE PROPERTY
2 AT THE PROPERTY'S LIMITED CASH VALUE. IF THERE ARE NO BIDS AT THE FIRST
3 ACTION OF THE PROPERTY, A SECOND AUCTION FOR THE PROPERTY SHALL BE HELD
4 WITHIN SIX MONTHS AFTER THE FIRST AUCTION. IF ADVERTISEMENTS FOR THE
5 FIRST AUCTION OF THE PROPERTY MEET THE REQUIREMENTS OF THIS SECTION, THE
6 COUNTY TREASURER SHALL SET THE MINIMUM BID FOR THE PROPERTY AT THE SECOND
7 AUCTION AT THE AMOUNT OF TAXES, PENALTIES, INTEREST AND COSTS CHARGED
8 AGAINST THE PROPERTY.

9 ~~B.~~ F. On selling the property AND AFTER RECEIVING FULL PAYMENT FOR
10 THE PROPERTY, the ~~board~~ COUNTY TREASURER shall execute and deliver to the
11 purchaser, at the purchaser's cost, a deed conveying the title ~~of the~~
12 ~~state~~ in and to the parcel purchased. The deed shall be acknowledged by
13 the chairman OF THE BOARD OF SUPERVISORS and clerk of the board.

14 ~~C.~~ G. The purchase ~~money~~ MONIES shall be paid to the county
15 treasurer. After deducting and distributing interest, penalties, fees and
16 costs charged against the parcel, the treasurer shall ~~apportion the~~
17 ~~remainder to the funds of the various taxing authorities in proportion to~~
18 ~~their current share of the taxes charged against real property~~ POST A
19 PUBLIC LIST OF THE REMAINING MONIES THAT ANY PARTY THAT HAD A LEGAL
20 INTEREST IN THE PROPERTY BEFORE THE JUDGMENT FORECLOSING THE RIGHT TO
21 REDEEM OR THE ISSUANCE OF THE TAX DEED TO THIS STATE MAY CLAIM. THE
22 TREASURER SHALL ADD THE PROPERTY, THE AMOUNT OF SURPLUS MONIES FROM THE
23 SALE OF THE PROPERTY AND THE DATE OF THE SALE OF THE PROPERTY TO A LIST OF
24 PROPERTIES SOLD IN THE PAST FIVE YEARS PURSUANT TO THIS SECTION. THE LIST
25 SHALL BE CONTINUOUSLY POSTED IN THE TREASURER'S OFFICE AND ON THE
26 TREASURER'S OFFICIAL WEBSITE.

27 ~~D. If the property is not sold before the time for the next~~
28 ~~succeeding notice of sale, the board may omit it from the notice.~~

29 ~~E. The board of supervisors may accept an offer from, and sell real~~
30 ~~property held by this state by tax deed to, the county or a city, town or~~
31 ~~special taxing district in the county for a public purpose related to~~
32 ~~transportation or flood control. The board of supervisors shall convey~~
33 ~~the deed and apportion the monies received in the transaction in the~~
34 ~~manner prescribed by this section.~~

35 ~~F. The board of supervisors may sell real property in the county~~
36 ~~held by the state by tax deed to the owner of contiguous real property~~
37 ~~that is used for residential purposes, and the board may accept an offer~~
38 ~~by the contiguous owner to purchase the property, if both of the following~~
39 ~~conditions apply:~~

40 ~~1. Both the property offered for sale and the contiguous property~~
41 ~~were at one time under common ownership, or the property offered for sale~~
42 ~~is part of a common area maintained by a homeowners' association as~~
43 ~~determined by the county assessor.~~

44 ~~2. The property offered for sale cannot be separately used for~~
45 ~~residential purposes pursuant to applicable building codes and ordinances~~

1 ~~of the jurisdiction in which the property is located due to its size,~~
2 ~~configuration or recorded common area restrictions.~~

3 ~~G. If an offer under subsection E or F of this section is pending~~
4 ~~at the time of the auction under this section, the board of supervisors~~
5 ~~shall remove the property from the auction.~~

6 ~~H. Subsection F of this section does not apply if there is more~~
7 ~~than one contiguous parcel of property that meets the requirements~~
8 ~~prescribed by subsection F of this section.~~

9 H. AFTER RECEIVING FULL PAYMENT FOR THE PROPERTY, THE COUNTY
10 TREASURER SHALL NOTIFY BY MAIL THE FORMER PROPERTY OWNER AND ANY PERSON
11 WITH A RECORDED INTEREST IN THE PROPERTY. THE NOTICE SHALL STATE THE
12 FOLLOWING:

13 1. THAT THE PROPERTY WAS SOLD.

14 2. THE PURCHASE PRICE OF THE PROPERTY.

15 3. THE TOTAL AMOUNT OWED AS A RESULT OF DELINQUENT PROPERTY TAXES
16 AND WATER AND SEWER BILLS.

17 4. ANY OTHER AMOUNT OWED THAT EXCEEDS THE AMOUNT IN PARAGRAPH 3 OF
18 THIS SUBSECTION.

19 5. THAT ALL INTERESTED PARTIES, INCLUDING THE FORMER PROPERTY
20 OWNER, MUST FILE A STATEMENT OF INTEREST TO CLAIM ANY SURPLUS MONIES
21 WITHIN SIX MONTHS AFTER THE DATE THE NOTICE IS MAILED.

22 6. THAT, IF ANY FILED CLAIMS DISPUTE ENTITLEMENT TO THE SURPLUS
23 MONIES, THE MONIES SHALL BE DEPOSITED WITH THE SUPERIOR COURT IN THE
24 COUNTY IN WHICH THE REAL PROPERTY IS LOCATED AND THE COURT WILL DETERMINE
25 ENTITLEMENT TO THE SURPLUS MONIES.

26 7. THAT, REGARDLESS OF WHETHER THE FORMER PROPERTY OWNER OR THE
27 OWNER'S HEIRS OR ASSIGNS FILE A CLAIM WITHIN THE SIX-MONTH PERIOD, ANY
28 AMOUNT REMAINING AFTER DISBURSEMENT OF SURPLUS MONIES TO ANY LIENHOLDERS
29 OR OTHER INTERESTED PARTIES THAT FILED A CLAIM WILL BE AVAILABLE FOR THE
30 FORMER PROPERTY OWNER OR THE OWNER'S HEIRS OR ASSIGNS TO CLAIM FOR UP TO
31 FIVE YEARS.

32 8. THAT FAILURE TO FILE A CLAIM WITHIN THE SIX-MONTH PERIOD MAY
33 FORFEIT THE RIGHT TO PREVENT THE COUNTY TREASURER FROM DISBURSING THE
34 SURPLUS MONIES TO OTHER INTERESTED PARTIES THAT TIMELY FILED A CLAIM AND
35 DEMONSTRATED AN APPARENTLY VALID INTEREST IN THE SURPLUS MONIES.

36 9. THAT FAILURE TO FILE A CLAIM WITHIN THE SIX-MONTH PERIOD MAY
37 ENTITLE A THIRD PARTY TO CHARGE A FEE OF UP TO \$500 AS PROVIDED IN
38 SUBSECTION K OF THIS SECTION FOR PROVIDING THE TREASURER WITH CONTACT
39 INFORMATION FOR THE RIGHTFUL OWNER OR OTHER INTERESTED PARTIES.

40 I. IF MORE THAN ONE INTERESTED PARTY FILES A CLAIM FOR ONLY A
41 PORTION OF THE MONIES, AFTER THE COUNTY TREASURER DISBURSES THE MONIES TO
42 THOSE INTERESTED PARTIES, THE COUNTY TREASURER SHALL PUBLICLY LIST THE
43 AMOUNT OF THE MONIES REMAINING AND THE NAMES OF THE FORMER PROPERTY OWNER
44 AND OTHER INTERESTED PARTIES.

1 J. ANY PORTION OF THE SURPLUS MONIES THAT REMAINS UNCLAIMED AFTER
2 FIVE YEARS SHALL BE TREATED AS UNCLAIMED PROPERTY PURSUANT TO TITLE 44,
3 CHAPTER 3.

4 K. WITHIN SIX MONTHS AFTER THE DATE THE NOTICE REQUIRED BY
5 SUBSECTION H OF THIS SECTION IS MAILED, A THIRD PARTY MAY SEEK OUT THE
6 RIGHTFUL OWNER OF THE SURPLUS MONIES OR OTHER INTERESTED PARTIES. A THIRD
7 PARTY MAY NOT PURCHASE A RIGHT TO CLAIM THE MONIES BUT MAY CHARGE A FEE
8 FOR BEING THE FIRST PERSON TO IDENTIFY THE RIGHTFUL OWNER OR OTHER
9 INTERESTED PARTIES AND SUBMIT THAT INFORMATION TO THE COUNTY TREASURER.
10 THE AMOUNT OF THE FEE SHALL BE DETERMINED AS FOLLOWS:

11 1. IF THE PERSON IDENTIFIED IS THE RIGHTFUL OWNER OR OTHER
12 INTERESTED PARTY THAT CAN SUCCESSFULLY CLAIM AT LEAST \$1,500 OF THE
13 SURPLUS MONIES, \$500.

14 2. IF THE PERSON IDENTIFIED IS THE RIGHTFUL OWNER OR OTHER
15 INTERESTED PARTY THAT CAN SUCCESSFULLY CLAIM LESS THAN \$1,500, AN AMOUNT
16 EQUAL TO THIRTY PERCENT OF THE AMOUNT THE PERSON IDENTIFIED SUCCESSFULLY
17 CLAIMS.

18 3. AN AMOUNT AGREED ON BY THE THIRD PARTY AND THE PERSON
19 IDENTIFIED. IF THIS AMOUNT IS MORE THAN \$500, THE CONTRACT REQUIRED BY
20 SUBSECTION L OF THIS SECTION SHALL BE SIGNED AND NOTARIZED WITH A WITNESS
21 PRESENT.

22 L. A THIRD PARTY THAT SEEKS TO IDENTIFY THE RIGHTFUL OWNER OF THE
23 SURPLUS MONIES OR OTHER INTERESTED PARTIES FOR THE PURPOSE OF CLAIMING
24 SURPLUS MONIES SHALL DISCLOSE IN WRITING THAT THE PERSON MAY BE ELIGIBLE
25 TO CLAIM SURPLUS MONIES AND THAT THE THIRD PARTY MAY CHARGE A FEE ON THE
26 AMOUNT SUCCESSFULLY CLAIMED BY THE PERSON IDENTIFIED. THE THIRD PARTY
27 SHALL ENTER INTO A WRITTEN CONTRACT WITH THE PERSON WHO MAY BE ELIGIBLE TO
28 CLAIM SURPLUS MONIES. THE CONTRACT SHALL SUBSTANTIALLY CONFORM WITH THE
29 FOLLOWING FORMAT:

30 THE COUNTY TREASURER'S OFFICE, _____ COUNTY,
31 STATE OF ARIZONA, IS HOLDING \$ (AMOUNT) _____ IN SURPLUS MONIES
32 FROM THE SALE OF THE PROPERTY LOCATED AT _____ (ADDRESS) _____. IF
33 YOU OWNED ALL OR SOME PORTION OF THIS PROPERTY OR AN INTEREST
34 IN THIS PROPERTY WHEN THE PROPERTY WAS SOLD FOR FAILURE TO
35 PAY _____ (PROPERTY TAXES OR OTHER PUBLIC DEBT) _____, SOME OF THAT
36 MONEY MAY BELONG TO YOU. THE FORM AND PROCEDURES REQUIRED TO
37 CLAIM THAT MONEY ARE AVAILABLE FROM THE TREASURER'S OFFICE.
38 FOR \$ (FEE) _____, I WILL HELP YOU CLAIM THAT MONEY.

39 Sec. 7. Short title

40 This act may be cited as the "Equity Theft Prevention Act".

41 Sec. 8. Emergency

42 This act is an emergency measure that is necessary to preserve the
43 public peace, health or safety and is operative immediately as provided by
44 law.