

REFERENCE TITLE: right to redeem; lien; sale

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SB 1426

Introduced by
Senator Wadsack

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)

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

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

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

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

1. Within three years after the date of sale.

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

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

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

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

42-18204. Judgment foreclosing right to redeem; effect

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

1. Foreclosing the right of the defendant to redeem.

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

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

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

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

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

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

3. **THE PROPERTY OWNER'S OR ANOTHER LIENHOLDER'S INTEREST IN THE 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~~

10 ADD THE PROPERTY DESCRIBED IN THE JUDGMENT TO THE LIST OF
11 PROPERTIES TO BE SOLD AT PUBLIC AUCTION THAT IS PREPARED PURSUANT TO
12 SECTION 42-18301. THE TREASURER SHALL CONDUCT THE AUCTION IN THE SAME
13 MANNER AS PROVIDED IN SECTION 42-18303 AND PROVIDE NOTICE OF THE AUCTION
14 IN THE SAME MANNER AS PROVIDED IN SECTION 42-18302.

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

18 1. The date, court action number and name of the judgment
19 FORECLOSING THE RIGHT TO REDEEM.

20 2. The name of the purchaser.

21 3. The property description.

22 4. THE DATE OF THE PUBLIC AUCTION.

23 ~~4.~~ 5. The date of the conveyance.

24 ~~5.~~ 6. A formal acknowledgment by the treasurer.

25 7. THE PRICE THE PURCHASER PAID FOR THE PROPERTY.

26 C. THE PROCEEDS FROM THE SALE OF THE PROPERTY SHALL BE DISTRIBUTED
27 IN THE SAME MANNER AS PROVIDED IN SECTION 42-18303.

28 Sec. 4. Heading change

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

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

34 42-18302. Notice of sale

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

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

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

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

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

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

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

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

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

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

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

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

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

1 D. A JUDGMENT FORECLOSING THE RIGHT TO REDEEM GIVES THE COUNTY
2 TREASURER THE RIGHT TO POSSESS AND ACCESS THE PROPERTY FOR THE PURPOSES OF
3 PROTECTING THE FORMER OWNER'S EQUITY INTEREST BY ATTRACTING HIGHER BIDS
4 FOR THE PROPERTY. THE COUNTY TREASURER MAY ALLOW A PRIVATE PARTY TO
5 ACCESS THE PROPERTY TO PHOTOGRAPH OR OTHERWISE VIEW THE PROPERTY.

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

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

20 ~~C.~~ G. The purchase ~~money~~ MONIES shall be paid to the county
21 treasurer. After deducting and distributing interest, penalties, fees and
22 costs charged against the parcel, the COUNTY treasurer shall ~~apportion~~
23 ~~monies to the funds of the various taxing authorities in proportion to~~
24 ~~their current share of the taxes charged against real property. Any~~
25 ~~balance remaining with the treasurer after payment of the taxes, interest,~~
26 ~~penalties, fees and costs shall be paid to the owner of the property who~~
27 ~~was dispossessed by the sale~~ POST A PUBLIC LIST OF THE REMAINING MONIES
28 THAT ANY PARTY THAT HAD A LEGAL INTEREST IN THE PROPERTY BEFORE THE
29 JUDGMENT FORECLOSING THE RIGHT TO REDEEM OR THE ISSUANCE OF THE TAX DEED
30 TO THIS STATE MAY CLAIM. THE COUNTY TREASURER SHALL ADD THE PROPERTY, THE
31 AMOUNT OF SURPLUS MONIES FROM THE SALE OF THE PROPERTY AND THE DATE OF THE
32 SALE OF THE PROPERTY TO A LIST OF PROPERTIES SOLD IN THE PAST FIVE YEARS
33 PURSUANT TO THIS SECTION. THE LIST SHALL BE CONTINUOUSLY POSTED IN THE
34 TREASURER'S OFFICE AND ON THE COUNTY TREASURER'S OFFICIAL WEBSITE.

35 ~~D. If the property is not sold before the time for the next~~
36 ~~succeeding notice of sale, the board of supervisors may omit it from the~~
37 ~~notice.~~

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

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

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

10 ~~2. The property offered for sale cannot be separately used for~~
11 ~~residential purposes pursuant to applicable building codes and ordinances~~
12 ~~of the jurisdiction in which the property is located due to its size,~~
13 ~~configuration or recorded common area restrictions.~~

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

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

20 H. AFTER RECEIVING FULL PAYMENT FOR THE PROPERTY, THE COUNTY
21 TREASURER SHALL NOTIFY BY MAIL THE FORMER PROPERTY OWNER AND ANY PERSON
22 WITH A RECORDED INTEREST IN THE PROPERTY. THE NOTICE SHALL STATE THE
23 FOLLOWING:

24 1. THAT THE PROPERTY WAS SOLD.
25 2. THE PURCHASE PRICE OF THE PROPERTY.
26 3. THE TOTAL AMOUNT OWED AS A RESULT OF DELINQUENT PROPERTY TAXES
27 AND WATER AND SEWER BILLS.

28 4. ANY OTHER AMOUNT OWED THAT EXCEEDS THE AMOUNT IN PARAGRAPH 3 OF
29 THIS SUBSECTION.

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

33 6. THAT, IF ANY FILED CLAIMS DISPUTE ENTITLEMENT TO THE SURPLUS
34 MONIES, THE MONIES SHALL BE DEPOSITED WITH THE SUPERIOR COURT IN THE
35 COUNTY IN WHICH THE REAL PROPERTY IS LOCATED AND THE COURT WILL DETERMINE
36 ENTITLEMENT TO THE SURPLUS MONIES.

37 7. THAT, REGARDLESS OF WHETHER THE FORMER PROPERTY OWNER OR THE
38 OWNER'S HEIRS OR ASSIGNS FILE A CLAIM WITHIN THE SIX-MONTH PERIOD, ANY
39 AMOUNT REMAINING AFTER DISBURSEMENT OF SURPLUS MONIES TO ANY LIENHOLDERS
40 OR OTHER INTERESTED PARTIES THAT FILED A CLAIM WILL BE AVAILABLE FOR THE
41 FORMER PROPERTY OWNER OR THE OWNER'S HEIRS OR ASSIGNS TO CLAIM FOR UP TO
42 FIVE YEARS.

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

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

9 I. IF MORE THAN ONE INTERESTED PARTY FILES A CLAIM FOR ONLY A
10 PORTION OF THE MONIES, AFTER THE COUNTY TREASURER DISBURSES THE MONIES TO
11 THOSE INTERESTED PARTIES, THE COUNTY TREASURER SHALL PUBLICLY LIST THE
12 AMOUNT OF THE MONIES REMAINING AND THE NAMES OF THE FORMER PROPERTY OWNER
13 AND OTHER INTERESTED PARTIES.

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

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

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

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

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

35 L. A THIRD PARTY THAT SEEKS TO IDENTIFY THE RIGHTFUL OWNER OF THE
36 SURPLUS MONIES OR OTHER INTERESTED PARTIES FOR THE PURPOSE OF CLAIMING
37 SURPLUS MONIES SHALL DISCLOSE IN WRITING THAT THE PERSON MAY BE ELIGIBLE
38 TO CLAIM SURPLUS MONIES AND THAT THE THIRD PARTY MAY CHARGE A FEE ON THE
39 AMOUNT SUCCESSFULLY CLAIMED BY THE PERSON IDENTIFIED. THE THIRD PARTY
40 SHALL ENTER INTO A WRITTEN CONTRACT WITH THE PERSON WHO MAY BE ELIGIBLE TO
41 CLAIM SURPLUS MONIES. THE CONTRACT SHALL SUBSTANTIALLY CONFORM WITH THE
42 FOLLOWING FORMAT:

1 THE COUNTY TREASURER'S OFFICE, _____ COUNTY,
2 STATE OF ARIZONA, IS HOLDING \$ (AMOUNT) _____ IN SURPLUS MONIES
3 FROM THE SALE OF THE PROPERTY LOCATED AT _____ (ADDRESS) _____. IF
4 YOU OWNED ALL OR SOME PORTION OF THIS PROPERTY OR AN INTEREST
5 IN THIS PROPERTY WHEN THE PROPERTY WAS SOLD FOR FAILURE TO
6 PAY _____ (PROPERTY TAXES OR OTHER PUBLIC DEBT) _____, SOME OF THAT
7 MONEY MAY BELONG TO YOU. THE FORM AND PROCEDURES REQUIRED TO
8 CLAIM THAT MONEY ARE AVAILABLE FROM THE COUNTY TREASURER'S
9 OFFICE. FOR \$ (FEE) _____, I WILL HELP YOU CLAIM THAT MONEY.

10 Sec. 7. Short title

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

12 Sec. 8. Emergency

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