

The Public Trustee's office does not have information on other liens. You must do your own research with a Title Company or with the El Paso County Clerk and Recorder's office, 1675 West Garden of the Gods.

Overbid Funds Disbursement

If an overbid has occurred at the sale, meaning that the property sold for more than the lender's bid, the funds are disbursed as follows:

- To the foreclosing lender to the extent of any deficiency bid.
- To junior lienors who filed a timely Notice of Intent to Redeem and whose liens have not been redeemed, in order of seniority and to the extent of the unpaid balance on the liens. A junior lienor does not need to redeem to collect overbid funds, and a junior lienor may still receive overbid funds after redeeming. A lienor who accepts a "short" redemption prior to the end of all applicable redemption periods will not be entitled to any excess proceeds.
- To the property owner or record as of the recording of the Notice of Election and Demand.

Unclaimed excess proceeds are turned over to the El Paso County Treasurer as soon as we determine that we cannot locate the property owner. The Treasurer is answerable for those funds for 5 years, after which they are turned over to the El Paso County General Fund.

The El Paso County Public Trustee does not maintain a list of unclaimed overbid funds. Please contact the County Treasurer.

This guide has been established as an informational tool for citizens. It is not intended to serve as legal advice



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**EL PASO COUNTY
PUBLIC TRUSTEE**
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Lienor Redemption / Overbid Funds



New to the Foreclosure Process?

Begin your research with our brochures or visit our Web site at:

www.elpasopublictrustee.com

Search individual foreclosure records
by number or address under
"foreclosure search"

Review policies under "foreclosure
reports"

What is a Redemption?

Redemption is a process whereby junior lien holders can recover their interest in a property that has been sold at foreclosure auction. The junior lien will be extinguished by the foreclosure, but the lien holder has the right to purchase interest in the property from the holder of the Certificate of Purchase.

NOTE: There is no Redemption period for the homeowner after the sale for Notices of Election and Demand recorded after 1/1/2008.

Intent to Redeem

In order to exercise their right of redemption, junior lien holders must file an Lienor Intent to Redeem with the Public Trustee by close of business (4:30 p.m.) on the 8th business day after the sale. The preferred form is located on our website under “Foreclosure Info – Forms.” When filing the intent, the lienor must include the \$50 fee, the original or a certified copy of the lien and any recorded assignments of the lien. This fee is not refundable if the sale is voided for any reason, or if the lien filed turns out not to have a right to redeem.

A lien may be redeemed if it was recorded prior to the Notice of Election and Demand and if it is junior to the Deed of Trust that was foreclosed on. Generally, this means that the lien was recorded after the Deed of Trust in foreclosure, but this could be affected by subordination agreements. The lien cannot be redeemed if the amount of the lien is zero, unless the lien is a recorded lease, or if it has already been released or otherwise satisfied.

Redemption Statement

A Redemption Statement is prepared by the holder of the Certificate of Purchase. A model Redemption Statement can be found on our website under “Foreclosure Info – Forms.” The Redemption Statement will include the purchase price at sale, interest through the redemption period at the rate in effect on the note in foreclosure, and certain other costs incurred AFTER the sale and listed in C.R.S. 38-38-107. Typical allowable costs include property insurance and the cost of physically securing an abandoned property. These costs must be accompanied by receipts. The Redemption Statement is due by the end of the 13th business day after sale.

If a lien holder successfully challenges the amount on a redemption statement, the person who prepared the “misstated” amount will be responsible for the lien holder’s legal fees.

HOA assessments

An assessment under the Colorado Common Interest Ownership Act (CCIOA) may have redemption rights, even if no lien has been filed separate from the declaration of covenants. See our website under “Foreclosure Reports – Policies and Procedures” for more information.

Redemption periods

After all Intents to Redeem have been filed, a redemption period is set up for each. The most senior of the junior lien holders may redeem starting on the 15th business day after sale, until noon on the 19th business day after sale. Subsequent 4½ day redemption periods will exist for other lienholders, in order of seniority.

Redemption Payment

The most common form of payment is “certified check, cashier’s check, teller’s check, or draft denominated as an official check that is a teller’s check or a cashier’s check” issued by a bank, savings and loan, or credit union licensed to do business in Colorado, payable to the El Paso County Public Trustee. You may also pay via a wire transfer or cash.

If there are other redemptions periods junior to your own, you must also provide a “Statement of Lienor,” similar to the Redemption Statement, with your payment. You will have no allowable costs at that time, since the costs would have to be incurred AFTER you redeem, but you can file an amended Statement of Lienor up until 2 days prior to the start of the next redemption period.

Certificate of Redemption

A Certificate of Redemption is executed and recorded by the Public Trustee. You will have paid the associated fees with your redemption.

Vesting of Title and Deed

Title vests in the holder of the latest Certificate of Redemption, or in the holder of the Certificate of Purchase if there was no redemption, at the end of the final redemption period. Until title vests in a new owner, the prior owner continues to own the property with all the rights of ownership.

Once title has vested, we will issue and record a confirmation deed upon your written request and receipt of \$41 (plus \$5 for any pages attached to the deed).