

# EXCESS PROCEEDS OF SALE

# 1

## To File for Refund

## Self-Service Center

### APPLICATION FOR RELEASE OF EXCESS PROCEEDS OF SALE

This packet contains court forms and instructions to file an application for release of excess proceeds of sale. The documents should appear in the following order:

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The documents you have received are copyrighted by the Superior Court of Arizona in Maricopa County. You have permission to use them for any lawful purpose. These forms shall not be used to engage in the unauthorized practice of law. The Court assumes no responsibility and accepts no liability for actions taken by users of these documents, including reliance on their contents. The documents are under continual revision and are current only for the day they were received. It is strongly recommended that you verify on a regular basis that you have the most current documents.

## Self-Service Center

### EXCESS PROCEEDS OF SALE

#### CHECKLIST

**You may use these forms if the following factors apply to your situation:**

- ✓ You are a former owner/trustor, (or the guardian/conservator of any owner who is still under the age of 18).
- ✓ The Mortgage or Deed of Trust was foreclosed on and the property sold, AND
- ✓ The property was sold for more than the amount owed to the lender, AND
- ✓ The lender's attorney deposited the excess funds with the County Treasurer, AND
- ✓ You want the money.

**READ ME:** Before filing documents with the Court, consult a **lawyer** to help guard against undesired and unexpected consequences. The Self-Service Center has a list of lawyers who can give you legal advice and who can help you on a task-by-task basis for a fee, and a list of court-approved mediators as well. You may view the lists at the Self-Service Centers or from our web site at: <http://www.superiorcourt.maricopa.gov/ssc/provider/lawyers.asp>

## SELF-SERVICE CENTER

### PROCEDURES: HOW TO FILE FOR RELEASE OF EXCESS PROCEEDS OF SALE

**STEP 1** Fill out the ***“Application for Release of Excess Proceeds of Sale”*** and make copies as directed on the separate instructions for this form.

**STEP 2** **GO TO THE CLERK OF COURT TO FILE YOUR PAPERS:** The Court is open from 8am-5pm, Monday-Friday. You should go to the Court at least two hours before it closes. You may file your papers with the Clerk of the Superior Court at the following locations:

**Central Court Building**  
201 West Jefferson, 1st floor  
Phoenix, Arizona 85003

**Northeast Court Facility**  
18380 North 40<sup>th</sup> Street  
Phoenix, AZ 85032

**Southeast Court Facility**  
222 East Javelina Drive, 1st floor  
Mesa, Arizona 85210

**Northwest Court Facility**  
14264 West Tierra Buena Lane  
Surprise, Arizona 85374

For information on “alternative” and “after hours” filing services, contact the Clerk of the Court, or visit the Clerk’s website at: [http://clerkofcourt.maricopa.gov/alternative\\_filing.asp](http://clerkofcourt.maricopa.gov/alternative_filing.asp)

**FEES:** There are fees for filing petitions, responses, requests, motions, objections, and various forms with the Court. Cash, VISA/MasterCard debit or credit cards, money order, or personal in-state check made payable to the “Clerk of Superior Court” are acceptable forms of payment. The current filing fee for this process is **\$301.00**

If you cannot afford the filing fee and/or the fee for having the papers served by the Sheriff or by publication, you may request a **deferral** (payment plan) when you file your papers with the Clerk of the Court. **Deferral Applications** are available at **no charge** from the Self-Service Center.

**PAPERS:** Give the **original, plus 1 copy for EACH “interested party”** of the ***“Application”*** to the clerk at the Civil Filings Counter. The clerk will process your application and collect the filing fee (unless it has been deferred). **Make sure the clerk stamps and returns each copy to you.**

**VERIFY YOUR CASE NUMBER** after filing. It should remain the same as on the Complaint filed by the trustee depositing funds with the Treasurer’s Office. If the number is different, notify the Civil Filings clerk immediately as you are filing in response to *an existing case* and should be filing under *that case number*.

**STEP 3** **NOTIFY “INTERESTED” PARTIES. Send copies of *“The Application”* to:**

- **each party** listed in the mailing list of the trustee’s complaint,
- **the Judge** assigned to your case, and
- **the Maricopa County Treasurer’s Office**, “by any form of mail that requires a signed and returned receipt” (A.R.S. § 33-812(G), *such as:*
- **Certified, with Return Receipt Requested, Priority Mail with Signature Confirmation,**
- **Personal service by licensed process server,**
- (for the Treasurer’s copy ONLY) **Hand Delivery with a request for a signature of receipt or an “Acceptance of Service” or with an extra copy to be stamped “Received”.**

**Keep** all returned receipts from the mailings, and all “undeliverable” returned mailings, unopened and in the original condition as received back from the Post Office, as well as any signed receipt, ***“Acceptance of Service”***, or copy stamped “Received” from the Treasurer’s Office.

Interested parties have 30 days from of the date their copy of the "**Application**" was mailed to file a response to object to your "**Application**". (A.R.S. §33-812 (H))

## STEP 4 AFFIDAVIT OF MAILING.

Fill in the information requested about you at top left, and then the name of the plaintiff (the trustee) and case number (which should be the same as on your "**Application**"). Mark each box and fill in the information requested to indicate what method of delivery was attempted for each "interested party".

**Do not sign the form until you are in the presence of a Deputy Clerk of Court or Notary Public.**

**NEXT: AFTER you have received back the signed return receipts and any original sealed "returned as non-deliverable" envelopes addressed to each of the "interested parties":**

- **SIGN the original "Affidavit of Mailing" in front of a Deputy Clerk of Court** (at the filing counter) **or a Notary Public.**
- **MAKE TWO COPIES of the "Affidavit of Mailing" and all attachments** (return receipts and/or "undeliverable" returned envelopes).
- **FILE the original "Affidavit of Mailing" with the Clerk of Court at the Civil Filing Counter.** Attach copies of signed return receipts and copies of any sealed "returned-as-undeliverable" envelopes.
- **MAIL OR DELIVER A COPY TO THE ASSIGNED JUDGE of the "Affidavit" AND all attachments** (copies of signed return receipts and copies of any sealed "returned-as-undeliverable" envelopes) (Keep the second copy for your records). You may deliver the documents to the assigned Judge's office, or you may mail to the Judge in care of the Superior Court in Maricopa County. If mailing, you may use this address:

<p>The Honorable &lt;insert Judge's name&gt; c/o Maricopa County Superior Court 201 W Jefferson Street Phoenix, Arizona 85003</p>
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## STEP 5 RESPONSE OR NO RESPONSE.

(A) **IF A RESPONSE (Objection) TO YOUR REQUEST IS FILED:** (if *no* response, go to (B))

A copy of any Response should be mailed to you at the address contained in the court records (Make sure you file a "Change of Address" with the court if you move.). You may then file a written reply (with copies to all parties) **within 10 days of the date that Response was mailed to you.** You may use the "blank pleading or motion form" from the Court or your own form, but make sure the name of the Plaintiff (the trustee) and the Defendant (Maricopa County Treasurer), and the case number from the original complaint appear near the top of the first page.

After notifying all persons who have received a copy of the complaint or who have filed a responsive pleading, the court *may* hold a hearing. If there are competing claims to the proceeds, the Court *will* hold a hearing to determine who is entitled to the funds.

**If the Court schedules a hearing,** fill in the information requested at top left of the "**Order**" about you, the person filing the Application, then write in the name of the Plaintiff (the trustee) and the case number as from the Complaint on the "**Order to Release Excess Proceeds of Sale**". Leave the rest of the form blank and wait for the Court's decision. Take the "**Order**" with you to the hearing in case the Judge wants to sign the Order at that time.

**NOTE:** If the court finds that a person *other than an applicant or respondent* has a superior right to the proceeds:

- The court shall not issue an order on the proceeds until 180 days from the date the complaint was filed.
- At any time before the expiration of the 180 day period, an applicant or respondent may move for a

hearing to determine whether the claimed superior right is valid or enforceable and whether the claim is entitled to receive priority over the claim of the applicant or respondent.

- The motion shall set forth the specific facts and evidence that support the applicant's or respondent's position and shall be mailed to all persons who have received a copy of the complaint or filed a responsive pleading.
- If a response is not filed within the 180 day period by the person found by the court to have a superior right to the proceeds, the court shall enter an order in favor of any applicant or respondent entitled to the proceeds.
- On release of the proceeds, the county treasurer may assess and deduct from the proceeds a reasonable fee not to exceed one hundred dollars \$100.00 for the treasurer's costs associated with the civil action.

**(B) IF AFTER 30 DAYS, NO RESPONSE HAS BEEN FILED:**

Complete and submit the **"Order to Release Excess Proceeds of Sale"** to the assigned Judge for the Judge's signature. The **"Order"** should be for the same amount requested in the **"Application"** and not more than the amount deposited with the Treasurer (minus any Treasurer's fee).

Along with the original **"Order"**, **MAKE SURE YOU INCLUDE:**

- **One (1) copy for each interested party**
- **One (1) copy for the Treasurer's Office**
- **One (1) copy for your records**
- **One (1) copy for the Court to certify**
- **One (1) stamped business envelope addressed to each interested party (including yourself)**

You may deliver the documents and envelopes to the assigned Judge's office, or you may mail to the Judge in care of the Superior Court in Maricopa County at the address noted in **STEP 4**, above.

**STEP 6** **WAIT.** The Judge may sign the Order, schedule a hearing, or reject the request. The decision will be mailed to you and to all interested parties. If a hearing is scheduled, you must wait for the hearing.

**STEP 7** **IF THE ORDER IS SIGNED . . .**

- Get a certified copy of the **"Order"** (if one not sent by the Judge, see instructions below\*).
- Submit the certified copy of the Order *and* an IRS form W-9 to the Treasurer's Office.

The W-9 form is available at the Treasurer's Office or you may download it in Adobe PDF format from the IRS web site at: <http://www.irs.gov/pub/irs-pdf/fw9.pdf>. This is this is a statement **under penalty of law** that you have provided your correct Social Security Number (or Taxpayer Identification Number) and if applicable, a declaration that you are not subject to "backup withholding". For further information, see the instructions attached to the W-9 form.

**\*To get a certified copy of your court order** you will need to present your Judge-signed copy along with payment in cash, personal in-state check or money order (payable to "Clerk of Superior Court"), or VISA/Mastercard (for each certified copy) to the Filing Counter within **48 hours**. If you need certified copies **after that time**, you will need to go to the Court's Customer Service Center at 601 W. Jackson Street in Phoenix.

**The Treasurer's Office will generally disburse monies within 72 hours of receipt of the "Order" and W-9.** If you have not received payment within 5 business days after submitting the **"Order" and W-9**, you may contact the Treasurer's Office at **602-506-3980**.

## SELF-SERVICE CENTER

### INSTRUCTIONS: HOW TO FILL OUT THE “APPLICATION FOR RELEASE OF EXCESS PROCEEDS OF SALE”

TO COMPLETE THIS FORM **YOU WILL NEED THE CASE NUMBER AND OTHER INFORMATION FROM THE “COMPLAINT” FILED BY THE TRUSTEE AGAINST THE TREASURER THAT RESULTED IN THE EXCESS PROCEEDS BEING DEPOSITED WITH THE TREASURER’S OFFICE AFTER THE SALE OF YOUR PROPERTY.** This information may be obtained by reviewing the case file at the Court’s Customer Service Center at 601 West Jackson Street, Phoenix, Arizona 85003 OR via the Clerk of the Court’s website at <http://clerkofcourt.maricopa.gov> under “Court Case Information”. You may also search for information such as case number and amount of excess proceeds on deposit at the Treasurer’s website at <http://treasurer.maricopa.gov/excessproceeds/>

**Match the numbered instruction below to the number on the form. Type or Print Neatly. Use black ink.**

1. **Fill in the information** requested at top left about you, the person filing the Application.
2. **Case Caption:** List the same plaintiff (the trustee) and case number (beginning “CV”) as is listed on the original complaint (court case) filed to require the Treasurer to accept the deposit of excess proceeds that resulted from the trustee’s sale of your property.
3. **The Maricopa County Treasurer** is the Defendant. This has already been filled in for you.
4. **For “Applicants”**, list your name and the name of your spouse or co-owner.
5. **For “property identified as”**, list one or more of the following:
  - STREET ADDRESS;
  - LEGAL DESCRIPTION of the property *as written on the DEED and attach copy of the deed.*

Copies of deeds may be obtained from the Recorder’s Office at 111 S. 3<sup>rd</sup> Avenue, Phoenix, Arizona 85003 or from the Recorder’s web site at <http://recorder.maricopa.gov/web/recorder.aspx>

6. **Verify** whether there are any liens or claims superior to yours listed in the Trustee’s Sale Guarantee attached to the Complaint and check the appropriate box.
7. **Enter the specific dollar amount** you are requesting to be released to you, not to exceed the amount on deposit with the Treasurer. The exact amount can be obtained online at:  
[http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter/Forms/CivilCases/civil\\_cvep1.asp](http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter/Forms/CivilCases/civil_cvep1.asp)  
or by calling the Maricopa County Treasurer’s Office at 602-506-3980.
8. **SIGN AND DATE** the “APPLICATION”. Signing this document is a statement to the Court that the information you have provided is true and correct to the best of your belief and knowledge, under penalty of law.

**MAKE COPIES** of the Application for all “interested parties”. The list of interested parties is the mailing list attached to or made part of the Complaint that resulted in the deposit of the excess proceeds with the Treasurer.

Make one copy for each of those parties **PLUS:**

- One (1) copy for the Treasurer,
- One (1) copy for the Judge,
- One (1) copy to be stamped by the Clerk of Court for you to keep for your records.

REFER TO THE “PROCEDURES” PAGE IN THIS PACKET FOR INSTRUCTIONS ON HOW TO FILE THIS DOCUMENT AND OTHER REQUIRED PAPERS AND HOW TO COMPLETE THE PROCESS.

(1) Applicant: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_ / \_\_\_\_\_  
Person Filing is:  SELF (No Attorney) OR  Attorney  
If Attorney, Bar No. \_\_\_\_\_

FOR CLERK USE ONLY

## SUPERIOR COURT OF ARIZONA IN MARICOPA COUNTY

(2) \_\_\_\_\_  
Plaintiff (Trustee from Original Complaint)

(2) Case Number CV \_\_\_\_\_

### APPLICATION FOR RELEASE OF EXCESS PROCEEDS OF SALE BY OWNER

A.R.S. § 33-812

(3) MARICOPA COUNTY TREASURER  
Defendant

Applicant(s) (4) \_\_\_\_\_,  
(name(s))

hereby request(s) release of the excess proceeds on deposit with the Maricopa County Treasurer under the above-captioned case number pursuant to A.R.S. § 33-812.

Applicant(s) is(are) the former owner(s) of the property identified as:

(5) \_\_\_\_\_

and sold at Trustee's sale and, as such, is (are) entitled to submit this Application for Release of Excess Proceeds. A copy of the deed to this property is attached.

(6) Applicant(s) has(have) reviewed the Trustee's Sale Guarantee and affirm to the Court there  are  are not liens superior to the interest of the Applicant(s).

Applicant(s) request(s) that the Court issue an order directing the Maricopa County Treasurer to release to the above-named applicant(s) excess proceeds on deposit in the amount of (7) \$ \_\_\_\_\_, after presentation to the Treasurer of a certified copy of the signed Order, (or a certified copy of a "Minute Entry" signed by the Judge), a U. S. Treasury Form W-9, and the Treasurer's fee.

(8) Today's Date: \_\_\_\_\_ Applicant's Signature: \_\_\_\_\_

Today's Date: \_\_\_\_\_ Applicant's Signature: \_\_\_\_\_

Attachment – Deed/Deed of Trust

Attachment – Copy of "Interested Parties" list from original complaint against Treasurer.

(1) Applicant: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_ / \_\_\_\_\_  
Person Filing is:  SELF (No Attorney) OR  Attorney  
If Attorney, Bar No. \_\_\_\_\_

FOR CLERK'S USE ONLY

**SUPERIOR COURT OF ARIZONA  
IN MARICOPA COUNTY**

(2) \_\_\_\_\_  
Plaintiff (Trustee from Original Complaint)

(2) Case Number CV \_\_\_\_\_

vs.

(3) MARICOPA COUNTY TREASURER  
Defendant.

**AFFIDAVIT OF MAILING APPLICATION  
FOR RELEASE OF EXCESS PROCEEDS  
OF SALE**  
A.R.S. § 33-812 (G)

"The applicant shall mail postage prepaid by any form of mail that requires a signed and returned receipt a copy of the application to the county treasurer and all persons at each of the addresses named on the list of persons that is incorporated in or attached to the complaint." A.R.S. § 33-812(G)

**YOU MUST ATTACH A COPY OF SIGNED RETURN RECEIPTS FOR DELIVERED MAIL OR A COPY OF ORIGINAL SEALED ENVELOPE THAT WAS RETURNED AS UNCLAIMED OR UNDELIVERABLE.**

The person who signs below swears or affirms the following to be true under penalty of perjury:

I provided copies of the "Application for Release of Excess Proceeds of Sale" to all interested parties as listed below:

A. Name MARICOPA COUNTY TREASURER

Date documents mailed, or if to Treasurer, hand-delivered: \_\_\_\_\_

How I mailed or delivered the documents:

- U.S. Mail (Express Mail, Priority Mail with Delivery or Signature Confirmation, Certified or Registered Mail. **Copy of Signed Receipt is attached.**
- Commercial Delivery Service (UPS, FEDEX, DHL, etc.) **Copy of Signed Receipt is attached.**
- Hand Delivered (County Treasurer's Office ONLY) as acknowledged below:  
(Treasurer's Office will sign and / or stamp an acknowledgment of receipt.)

B. Name: \_\_\_\_\_

Date documents mailed: \_\_\_\_\_

How I mailed the documents:

- U.S. Mail (Express Mail, Priority Mail with Delivery or Signature Confirmation, Certified or Registered Mail (**Copy of Signed Receipt is attached**))
- Commercial Delivery Service (UPS, FEDEX, DHL, etc.) **Copy of Signed Receipt is attached.**
- Returned as unclaimed or undeliverable. Copy of original sealed, returned envelope is attached.

C. **Name:** \_\_\_\_\_

**Date** documents mailed: \_\_\_\_\_

**How I mailed the documents:**

- U.S. Mail (Express Mail, Priority Mail with Delivery or Signature Confirmation, Certified or Registered Mail **(Copy of Signed Receipt is attached)**)
- Commercial Delivery Service (UPS, FEDEX, DHL, etc.) **Copy of Signed Receipt is attached.**
- Returned as unclaimed or undeliverable. Copy of original sealed, returned envelope is attached.

D. **Name:** \_\_\_\_\_

**Date** documents mailed : \_\_\_\_\_

**How I mailed the documents:**

- U.S. Mail (Express Mail, Priority Mail with Delivery or Signature Confirmation, Certified or Registered Mail **(Copy of Signed Receipt is attached)**)
- Commercial Delivery Service (UPS, FEDEX, DHL, etc.) **Copy of Signed Receipt is attached.**
- Returned as unclaimed or undeliverable. Copy of original sealed, returned envelope is attached.

**OATH OR AFFIRMATION OF APPLICANT**

**I state to the Court under penalty of perjury that the contents of this document are true and correct to the best of my knowledge and belief.**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date (Month/Day/Year)

Signed, sworn to or affirmed before me this date: \_\_\_\_\_

Michael K. Jeanes, Clerk of Superior Court

\_\_\_\_\_  
Notary

OR

My commission expires: \_\_\_\_\_

By: \_\_\_\_\_  
Deputy Clerk of Court

(1) Applicant: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_ / \_\_\_\_\_  
Person Filing is:  SELF (No Attorney) OR  Attorney  
If Attorney, Bar No. \_\_\_\_\_

FOR CLERK'S USE ONLY

## SUPERIOR COURT OF ARIZONA IN MARICOPA COUNTY

(2) \_\_\_\_\_  
Plaintiff (Trustee from Original Complaint)

(2) Case Number CV \_\_\_\_\_

### ORDER FOR RELEASE OF EXCESS PROCEEDS OF SALE A.R.S. § 33-812

(3) MARICOPA COUNTY TREASURER  
Defendant

Applicant(s) (4) \_\_\_\_\_,  
(name(s))

having made application to this Court for an Order for Release of Excess Proceeds of Trustee Sale, no objection having been made, proper notice having been given to all interested parties as shown by Affidavit of Mailing, and good cause appearing,

### IT IS ORDERED THAT

The Maricopa County Treasurer, upon presentation of a certified copy of this Order and the U. S. Treasury Form W-9, is hereby directed to release the Excess Proceeds in the amount of (5) \$ \_\_\_\_\_ to the Applicant(s) above-named. The Maricopa County Treasurer shall deduct its fee pursuant to A.R.S. § 33-812(G).

DONE IN OPEN COURT \_\_\_\_\_  
JUDGE/COMMISSIONER