

**NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.**



HOUSE BILL 18-1254

BY REPRESENTATIVE(S) Van Winkle, Covarrubias, Gray, McKean, Valdez, Humphrey, Rosenthal;  
also SENATOR(S) Smallwood, Cooke, Gardner, Holbert, Jahn, Lambert, Lundberg, Marble, Martinez Humenik, Neville T., Priola, Scott, Tate, Grantham.

CONCERNING THE MODIFICATION OF THE FORECLOSURE PROCESS ON  
PROPERTY THAT IS ENCUMBERED BY A DEED OF TRUST.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, 38-38-100.3, **amend** the introductory portion and (19) as follows:

**38-38-100.3. Definitions.** As used in articles 37 to 39 of this title TITLE 38, unless the context otherwise requires:

(19) "Publish", "publication", "republish", or "republish" means the placement by an officer of a legal notice that meets the requirements set forth in section 24-70-103 ~~C.R.S.~~, containing a combined notice that complies with the requirements of section 24-70-109 ~~C.R.S.~~, in a newspaper in the county or counties where the property to be sold is located. ~~Unless otherwise specified by the attorney for the holder,~~ The officer shall select

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*Capital letters or bold & italic numbers indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

the newspaper.

**SECTION 2.** In Colorado Revised Statutes, 38-38-101, **amend** (1)(d), (9), and (10)(a) as follows:

**38-38-101. Holder of evidence of debt may elect to foreclose.**

(1) **Documents required.** Whenever a holder of an evidence of debt declares a violation of a covenant of a deed of trust and elects to publish all or a portion of the property therein described for sale, the holder or the attorney for the holder shall file the following with the public trustee of the county where the property is located:

(d) A combined notice pursuant to section 38-38-103; except that the combined notice may be omitted with the prior approval of the ~~officer~~ **PUBLIC TRUSTEE**; ~~because the officer will supply the combined notice~~

(9) **Partial release from deed of trust.** At any time after the recording of the notice of election and demand but prior to the sale, a portion of the property may be released from the deed of trust being foreclosed pursuant to section 38-39-102 or as otherwise provided by order of a court of competent jurisdiction recorded in the county where the property being released is located. Upon recording of the release or court order, the holder of the evidence of debt or the attorney for the holder shall pay the fee described in section 38-37-104 (1)(b)(IX), amend the combined notice, and, in the case of a public trustee foreclosure, amend the notice of election and demand to describe the property that continues to be secured by the deed of trust or other lien being foreclosed as of the effective date of the release or court order; EXCEPT THAT THE AMENDED COMBINED NOTICE MAY BE OMITTED WITH THE PRIOR APPROVAL OF THE PUBLIC TRUSTEE. The public trustee shall record the amended notice of election and demand upon receipt. Upon receipt of the amended combined notice, IF PROVIDED BY THE HOLDER OR THE ATTORNEY FOR THE HOLDER, the public trustee shall republish and mail the amended combined notice in the manner set forth in section 38-38-109 (1)(b). IF THE AMENDED COMBINED NOTICE WAS OMITTED PURSUANT TO THIS SUBSECTION (9), UPON RECORDATION OF THE AMENDED NOTICE OF ELECTION AND DEMAND, THE PUBLIC TRUSTEE SHALL SUPPLY AN AMENDED COMBINED NOTICE AND SHALL THEN REPUBLISH AND MAIL THE AMENDED COMBINED NOTICE IN THE MANNER SET FORTH IN SECTION 38-38-109 (1)(b).

(10) **Deposit.** (a) The public trustee may require the holder or servicer to make a deposit of up to ~~six hundred fifty~~ FIVE HUNDRED dollars ~~or PLUS~~ the amount of the fee permitted pursuant to section 38-37-104 (1)(b)(I), ~~whichever is greater~~, at the time the notice of election and demand is filed, to be applied against the fees and costs of the public trustee.

**SECTION 3.** In Colorado Revised Statutes, 38-38-103, **amend** (5)(a) as follows:

**38-38-103. Combined notice - publication - providing information.** (5) (a) No more than sixty calendar days nor less than forty-five calendar days prior to the first scheduled date of sale, unless a longer period of publication is specified in the deed of trust or other lien being foreclosed, a deed of trust or other lien being foreclosed ~~shall be~~ IS deemed to require the officer to commence publication of the combined notice, omitting both the statements under ~~subparagraphs (H) and (I) of paragraph (a) of subsection (4)~~ SUBSECTIONS (4)(a)(II), (4)(a)(III), AND (4)(a)(IX) of this section and the copies of the statutes under ~~paragraph (b) of subsection (4)~~ SUBSECTION (4)(b) of this section and adding the first and last publication dates if not already specified in the combined notice, for four weeks, which means publication once each week for five consecutive weeks.

**SECTION 4.** In Colorado Revised Statutes, 38-38-106, **amend** (2) and (7)(a) as follows:

**38-38-106. Bid required - form of bid.** (2) The holder of the evidence of debt shall submit a signed and acknowledged bid, or the attorney for the holder shall submit a signed bid, which ~~shall~~ MUST specify the following amounts, itemized in substantially the following categories and in substantially the following form:

BID

To: \_\_\_\_\_

Public Trustee (or Sheriff) of the County (or City and County) of \_\_\_\_\_, State of Colorado (hereinafter the "officer").

Date: \_\_\_\_\_

\_\_\_\_\_, whose mailing address is \_\_\_\_\_, bids the sum of \$ \_\_\_\_\_ in your Sale No. \_\_\_\_\_ to be held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. The following is an itemization of all amounts due the holder of the evidence of debt secured by the deed of trust or other lien being foreclosed.

Street address of property being  
foreclosed, if known: \_\_\_\_\_  
Regular [ ] / default [ ] rate of interest as of the date of  
sale: \_\_\_\_\_

(Inapplicable items may be omitted):

Amounts due under the evidence of debt:

Principal	\$ _____	
Interest	_____	
Late charges	_____	
Allowable prepayment penalties or premiums	_____	
Other amounts due under the evidence of debt (specify)	_____	_____
	_____	_____
Category subtotal:		\$ _____

Other fees and costs advanced by the holder of evidence of debt:

Property, general liability, and casualty insurance	_____
Property inspections	_____
Appraisals	_____
Taxes and assessments	_____
Utility charges owed or incurred	_____
Owner association assessment paid	_____
Permitted amounts paid on prior liens	_____
Permitted lease payments	_____
Less impound/escrow account credit	_____
Plus impound/escrow account deficiency	_____
Other (describe)	_____

Category subtotal: \$ \_\_\_\_\_

Attorney fees and advances:

Attorney fees \_\_\_\_\_

Title commitments and insurances or abstractor charges \_\_\_\_\_

Court docketing \_\_\_\_\_

Statutory notice \_\_\_\_\_

Postage \_\_\_\_\_

Electronic transmissions \_\_\_\_\_

Photocopies \_\_\_\_\_

Telephone \_\_\_\_\_

Other (describe) \_\_\_\_\_

Category subtotal: \$ \_\_\_\_\_

Officer fees and costs:

Officer statutory fee \_\_\_\_\_

Publication charges \_\_\_\_\_

CERTIFICATE OF PURCHASE

RECORDING FEE \_\_\_\_\_

Confirmation deed fee \_\_\_\_\_

Confirmation deed

recording fee \_\_\_\_\_

Other (describe) \_\_\_\_\_

Category subtotal: \$ \_\_\_\_\_

Total due holder of the evidence of debt \_\_\_\_\_

Initial Bid \$ \_\_\_\_\_

Deficiency \$ \_\_\_\_\_

Maximum Bid

(applies to

electronic

bids only) \$ \_\_\_\_\_

I enclose herewith the following:

1. Order authorizing sale.
2. Check (if applicable) to your order in the sum of \$ \_\_\_\_\_ covering the balance of your fees and costs.
3. Other: \_\_\_\_\_.

Please send us the following:

1. Promissory note with the deficiency, if any, noted thereon
2. Refund for overpayment of officer's fees and costs, if any
3. Other: \_\_\_\_\_.

Name of the holder of the evidence of debt  
and the attorney for the holder:  
Holder: \_\_\_\_\_  
Attorney: \_\_\_\_\_  
By: \_\_\_\_\_  
Attorney registration number: \_\_\_\_\_  
Attorney address: \_\_\_\_\_  
Attorney business telephone: \_\_\_\_\_

(7) (a) (I) Other than a bid by the holder of the evidence of debt not exceeding the total amount due shown on the bid pursuant to subsection (2) of this section, the payment of any bid amount at sale must be received by the officer no later than the date and time of the sale, or at an alternative time after the sale and on the day of the sale, as specified in writing by the officer. The payment ~~shall~~ MUST be in the form specified in section 38-37-108. If the officer has not received full payment of the bid amount from the highest bidder at the sale pursuant to this subsection (7), the next highest bidder who has timely tendered the full amount of the bid under this subsection (7) ~~shall be~~ IS deemed the successful bidder at the sale.

(II) IF THE HOLDER OF THE EVIDENCE OF DEBT IS THE HIGHEST BIDDER WITH A BID THAT EXCEEDS THE TOTAL AMOUNT DUE SHOWN ON THE BID PURSUANT TO SUBSECTION (2) OF THIS SECTION, THE HOLDER OF THE EVIDENCE OF DEBT IS ONLY REQUIRED TO PAY THE EXCESS OF THE AMOUNT BID OVER THE AMOUNT DUE THE HOLDER OF THE EVIDENCE OF DEBT, AS SHOWN ON THE BID SUBMITTED PURSUANT TO SUBSECTION (2) OF THIS SECTION.

**SECTION 5.** In Colorado Revised Statutes, 38-38-109, **amend** (2)(b)(II), (2)(c), and (2)(d) as follows:

**38-38-109. Continuance of sale - effect of bankruptcy - withdrawal of sale. (2) Effect of bankruptcy proceedings.**  
(b) (II) (A) ~~When the property is to be sold by the public trustee, the public trustee shall rerecord the notice of election and demand and proceed with all additional foreclosure procedures provided by this article, as though the foreclosure had just been commenced, upon:~~ UPON THE TERMINATION OF ANY INJUNCTION OR UPON THE ENTRY OF A BANKRUPTCY COURT ORDER DISMISSING THE BANKRUPTCY CASE, ABANDONING THE PROPERTY BEING FORECLOSED, CLOSING THE BANKRUPTCY CASE, OR GRANTING RELIEF FROM

THE AUTOMATIC STAY PROVISIONS OF THE FEDERAL BANKRUPTCY CODE OF 1978, TITLE 11 OF THE UNITED STATES CODE, AS AMENDED, AND UPON RECEIPT OF A REQUEST FROM THE HOLDER OF THE EVIDENCE OF DEBT OR THE ATTORNEY FOR THE HOLDER TO RESTART THE ACTION, THE PUBLIC TRUSTEE SHALL RERECORD THE NOTICE OF ELECTION AND DEMAND AND PROCEED WITH ALL ADDITIONAL FORECLOSURE PROCEDURES PROVIDED BY THIS ARTICLE 38 AS THOUGH THE FORECLOSURE HAD JUST BEEN COMMENCED.

~~(A) The termination of any injunction or upon the entry of a bankruptcy court order dismissing the bankruptcy case, abandoning the property being foreclosed, closing the bankruptcy case, or granting relief from the automatic stay provisions of the federal bankruptcy code of 1978, title 11 of the United States Code, as amended; and~~

~~(B) Receipt of a request from the holder of the evidence of debt or the attorney for the holder to restart the action. The public trustee shall rerecord the notice within ten business days of the request~~ IF THE REQUEST IS NOT RECEIVED BY THE PUBLIC TRUSTEE WITHIN ONE YEAR FROM THE DATE OF THE TERMINATION OF ANY INJUNCTION OR THE ENTRY OF A BANKRUPTCY COURT ORDER DISMISSING THE BANKRUPTCY CASE, ABANDONING THE PROPERTY BEING FORECLOSED, CLOSING THE BANKRUPTCY CASE, OR GRANTING RELIEF FROM THE AUTOMATIC STAY, THE FORECLOSURE SHALL BE WITHDRAWN ACCORDING TO SUBSECTION (3)(b) OF THIS SECTION.

(c) (I) If a sale is held in violation of the automatic stay provisions of the federal bankruptcy code of 1978, title 11 of the United States Code, as amended, and an order is subsequently entered by a bankruptcy court of competent jurisdiction dismissing the bankruptcy, abandoning the property being foreclosed, or closing the bankruptcy case, or an order is subsequently entered granting relief from the automatic stay provided by the federal bankruptcy code, then the evidence of debt, deed of trust, or other lien being foreclosed shall immediately be deemed reinstated, and the deed of trust or other lien shall have the same priority as if the sale had not occurred. ~~The reinstatement shall be confirmed by the officer's indorsement on the original evidence of debt and deed of trust or other lien, if deposited with the officer, or on the copy thereof if one has been submitted pursuant to section 38-38-101 (1), although the failure to so indorse shall not affect the validity of the reinstatement.~~ Immediately upon reinstatement, the power of sale provided therein, if any, shall be deemed revived. ~~The indorsement shall be in substantially the following form:~~

The undersigned, as \_\_\_\_\_ (Public Trustee) (Sheriff) \_\_\_\_\_ for the \_\_\_\_\_, county of \_\_\_\_\_, state of Colorado, by this indorsement, hereby confirms the reinstatement of this \_\_\_\_\_ (evidence of debt) (deed of trust) (lien) \_\_\_\_\_ in accordance with the requirements of section 38-38-109 (2)(c)(I), Colorado Revised Statutes.

Date:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
(Public Trustee) (Sheriff)

For the \_\_\_\_\_,  
County of \_\_\_\_\_,  
State of Colorado.

(II) If the holder of the evidence of debt, deed of trust, or other lien reinstated pursuant to this ~~paragraph (c)~~ SUBSECTION (2)(c) or the attorney for the holder notifies the officer in writing of the entry of an order dismissing the bankruptcy case, abandoning the property being foreclosed, closing the bankruptcy case, or granting relief from the automatic stay provided by the federal bankruptcy code of 1978, title 11 of the United States Code, as amended, ~~within sixty calendar days of the date on which the foreclosed property is no longer subject to the automatic stay~~ NO LATER THAN FIFTY CALENDAR DAYS PRIOR TO THE LAST POSSIBLE SALE DATE PURSUANT TO SUBSECTIONS (1)(a) AND (2)(e) OF THIS SECTION, the officer shall set a new date of sale at least twenty-four calendar days but not more than forty-nine calendar days after the date on which the official receives such notice. No later than ten business days after receiving such notice, the officer shall mail an amended combined notice containing the date of the rescheduled sale to each person appearing on the most recent mailing list. No later than twenty calendar days after receiving such notice, but no less than ten calendar days prior to the new date of sale, the officer shall publish the amended combined notice, omitting the copies of the statutes, one time only in a newspaper of general circulation in the county where the property is located.

(III) IF THE HOLDER OF THE EVIDENCE OF DEBT, DEED OF TRUST, OR OTHER LIEN REINSTATED PURSUANT THIS SUBSECTION (2)(c) OR THE ATTORNEY FOR THE HOLDER DOES NOT NOTIFY THE OFFICER IN WRITING OF THE ENTRY OF AN ORDER DISMISSING THE BANKRUPTCY CASE, ABANDONING THE PROPERTY BEING FORECLOSED, CLOSING THE BANKRUPTCY CASE, OR



GRANTING RELIEF FROM THE AUTOMATIC STAY PROVIDED BY THE FEDERAL BANKRUPTCY CODE OF 1978, TITLE 11 OF THE UNITED STATES CODE, AS AMENDED, WITHIN THE TIME ALLOWED UNDER SUBSECTION (2)(c)(II) OF THIS SECTION, THE OFFICER SHALL ADMINISTRATIVELY WITHDRAW THE SALE PURSUANT TO SUBSECTION (3)(b) OF THIS SECTION UPON RECEIPT OF THE ORDER DISMISSING THE BANKRUPTCY CASE, ABANDONING THE PROPERTY BEING FORECLOSED, CLOSING THE BANKRUPTCY CASE, OR GRANTING RELIEF FROM THE AUTOMATIC STAY PROVIDED BY THE FEDERAL BANKRUPTCY CODE OF 1978, TITLE 11 OF THE UNITED STATES CODE, AS AMENDED.

~~(HH)~~ (IV) All fees and costs of providing and publishing the amended combined notice and publication shall be part of the foreclosure costs.

(d) If a sale is ~~enjoined or~~ set aside by court order, UNLESS THE COURT ORDER SPECIFIES OTHERWISE, ~~the same~~ FOLLOWING procedures ~~as set forth in paragraphs (a), (b), and (c) of this subsection (2) shall apply unless the court order specifies otherwise. The fees prescribed in section 38-37-104 (1)(b)(VII) and (1)(b)(VIII) shall apply to the procedures described in this subsection (2)~~ APPLY:

(I) UPON RECEIPT OF THE COURT ORDER, THE PUBLIC TRUSTEE'S FEE SPECIFIED IN SECTION 38-37-104 (1)(b)(XI), AND THE COSTS OF RECORDING THE COURT ORDER AS SPECIFIED IN THIS SUBSECTION (2)(d), THE PUBLIC TRUSTEE SHALL ATTACH TO THE ORDER A COPY OF THE CERTIFICATE OF PURCHASE, ANY ASSIGNMENTS THEREOF, AND, IF APPLICABLE, THE CONFIRMATION DEED, EACH MARKED "NULL AND VOID", AND RECORD THE ORDER TOGETHER WITH THESE DOCUMENTS.

(II) UPON RECORDATION OF THE COURT ORDER, THE CERTIFICATE OF PURCHASE SHALL BE DEEMED CANCELED AS IF THE SALE HAD NOT OCCURRED, AND THE EVIDENCE OF DEBT AND DEED OF TRUST ARE DEEMED FULLY REINSTATED WITH THE SAME LIEN PRIORITY AS IF THE SALE HAD NOT OCCURRED.

(III) WITHIN TEN CALENDAR DAYS AFTER RECEIPT OF ALL DOCUMENTS, FEES, AND COSTS SPECIFIED IN SUBSECTION (2)(d) OF THIS SECTION, THE PUBLIC TRUSTEE SHALL MAIL A COPY OF THE COURT ORDER TO EACH PERSON ENTITLED TO RECEIVE THE COMBINED NOTICE PURSUANT TO SECTION 38-38-103.

(IV) (A) AFTER THE RECORDING OF THE COURT ORDER, THE HOLDER OF THE EVIDENCE OF DEBT OR THE HOLDER'S ASSIGNEE OR THE ATTORNEY FOR THE HOLDER OR THE ATTORNEY FOR THE ASSIGNEE MAY NOTIFY THE PUBLIC TRUSTEE IN WRITING TO RESCHEDULE THE SALE WITHIN ONE YEAR OF THE ISSUANCE OF THE ORDER. THE PUBLIC TRUSTEE SHALL SET A NEW DATE OF SALE AT LEAST THIRTY CALENDAR DAYS BUT NOT MORE THAN FORTY-FIVE CALENDAR DAYS AFTER THE DATE ON WHICH THE PUBLIC TRUSTEE RECEIVES NOTICE TO SCHEDULE A NEW DATE OF SALE SUBJECT TO THE REQUIREMENTS OF SUBSECTIONS (1)(a) AND (2)(e) OF THIS SECTION, BUT NOT EARLIER THAN THE SCHEDULED SALE DATE AS OF THE DATE OF THE COURT ORDER.

(B) NO LATER THAN TEN CALENDAR DAYS AFTER RECEIVING NOTICE TO SCHEDULE A NEW DATE OF SALE, THE PUBLIC TRUSTEE SHALL MAIL A COMBINED NOTICE SETTING FORTH THE RESCHEDULED DATE OF SALE TO EACH PERSON ENTITLED TO RECEIVE THE COMBINED NOTICE PURSUANT TO SECTION 38-38-103.

(C) NO LATER THAN TWENTY CALENDAR DAYS AFTER RECEIVING NOTICE TO SCHEDULE A NEW DATE OF SALE, BUT NO LESS THAN TEN CALENDAR DAYS PRIOR TO THE NEW DATE OF SALE, THE PUBLIC TRUSTEE SHALL PUBLISH THE SALE ONE TIME ONLY. SUCH PUBLICATION MUST BE IN THE FORMAT SPECIFIED FOR PUBLICATION BY SECTION 38-38-103.

(D) ALL FEES AND COSTS OF THE PUBLIC TRUSTEE FOR ACTIONS PERFORMED UNDER THIS SECTION AND THE COST OF RECORDING THE COURT ORDER AND DOCUMENTS INCORPORATED INTO THE COURT ORDER BY ATTACHMENT ARE PART OF THE FORECLOSURE COSTS.

(E) AFTER A SALE HAS BEEN SET ASIDE AND SUBSEQUENTLY RESCHEDULED PURSUANT TO THIS SUBSECTION (2)(d)(IV), THE SALE MAY BE CONTINUED IN ACCORDANCE WITH SUBSECTIONS (1)(a) AND (2)(e) OF THIS SECTION.

(F) IF A WRITTEN REQUEST TO RESCHEDULE THE SALE IS NOT RECEIVED BY THE PUBLIC TRUSTEE WITHIN ONE YEAR OF THE ISSUANCE OF THE ORDER, THE FORECLOSURE MUST BE WITHDRAWN ACCORDING TO SUBSECTION (3)(b) OF THIS SECTION.

(V) NOTHING IN THIS SECTION PREVENTS THE FORECLOSING LENDER

FROM SEEKING A RESCISSION OF SALE PURSUANT TO SECTION 38-38-113 IF THE REQUIREMENTS WITHIN SECTION 38-38-113 (1) ARE MET.

**SECTION 6.** In Colorado Revised Statutes, 38-38-111, **amend** (3) as follows:

**38-38-111. Treatment of an overbid - agreements to assist in recovery of overbid prohibited - penalty - definition.** (3) (a) (I) When the property is sold by the sheriff, all of the sale proceeds must be deposited into the registry of the court.

(II) WHEN THE PROPERTY IS SOLD BY THE PUBLIC TRUSTEE, any unclaimed remaining overbid from a foreclosure sale ~~held prior to September 1, 2012, shall be transferred by the officer to the county treasurer within ninety calendar days after the expiration of all redemption periods as provided in section 38-38-302 and held in escrow, and any unclaimed remaining overbid from a foreclosure sale held on or after September 1, 2012, shall be held by the officer~~ PUBLIC TRUSTEE in escrow. ~~In either case, The remaining overbid shall be held for six months from the date of the sale. The county treasurer or officer, whomever holds the remaining overbid in escrow, shall be~~ PUBLIC TRUSTEE IS answerable for the funds without interest at any time within the six-month period to any person legally entitled to the funds. Any interest earned on the escrowed funds ~~shall~~ MUST be paid to the county at least annually. Unclaimed remaining overbids that are less than twenty-five dollars and that are not claimed within six months from the date of sale ~~shall~~ MUST be paid to the general fund of the county, and such ~~moneys~~ MONEY paid to the general fund of the county ~~become~~ BECOMES the property of the county. Unclaimed remaining overbids that are equal to or greater than twenty-five dollars and that are not claimed within six months from the date of the sale are unclaimed property for purposes of the "Unclaimed Property Act", article 13 of this ~~title~~ TITLE 38, and ~~shall~~ MUST be transferred to the administrator in accordance with ~~that article~~ ARTICLE 13. After the unclaimed remaining overbids are transferred to the administrator or to the general fund of the county, the ~~county treasurer and officer are~~ PUBLIC TRUSTEE IS discharged from any further liability or responsibility for the ~~moneys~~ MONEY.

(b) If the unclaimed remaining overbids exceed five hundred dollars and have not been claimed by any person entitled thereto within sixty calendar days after the expiration of all redemption periods as provided by

section 38-38-302, the ~~county treasurer or officer~~ PUBLIC TRUSTEE shall, within ninety calendar days after the expiration of all redemption periods, commence publication of a notice for four weeks, which means publication once each week for five successive weeks, in a newspaper of general circulation in the county where the subject property is located. ~~The county treasurer is responsible for the notice of an overbid from a foreclosure sale held prior to September 1, 2012, and the officer is responsible for the notice of an overbid from a foreclosure sale held on or after September 1, 2012.~~ The notice must contain the name of the owner, the owner's address as given in the recorded instrument evidencing the owner's interest, and the legal description and street address, if any, of the property sold at the sale and must state that an overbid was realized from the sale and that, unless the funds are claimed by the owner or other person entitled thereto within six months after the date of sale, the funds shall be transferred to the state treasurer as part of the "Unclaimed Property Act". ~~The county treasurer or officer, whomever holds the remaining overbid in escrow,~~ PUBLIC TRUSTEE shall also mail a copy of the notice to the owner at the best available address.

(c) The fees and costs of publication and mailing required pursuant to this subsection (3) ~~shall~~ MUST be paid from the ~~moneys~~ MONEY escrowed by the ~~county treasurer or officer, whomever holds the remaining overbid in escrow~~ PUBLIC TRUSTEE.

**SECTION 7.** In Colorado Revised Statutes, 38-38-113, **amend** (3); and **add** (4)(f) as follows:

**38-38-113. Rescission of public trustee sale.** (3) Within ten calendar days after receipt of all documents and fees and costs specified in subsection (1) of this section, the public trustee shall mail a copy of the notice of rescission of sale to each person who was entitled to receive the combined notice pursuant to section 38-38-103. ~~The person rescinding the sale shall provide addressed and stamped envelopes to the public trustee for mailing the copies.~~

(4) (f) IF A WRITTEN REQUEST TO RESCHEDULE THE SALE IS NOT RECEIVED BY THE PUBLIC TRUSTEE WITHIN ONE YEAR OF THE RECORDING OF THE NOTICE OF RESCISSION, THE FORECLOSURE MUST BE WITHDRAWN ACCORDING TO SECTION 38-38-109 (3) (b).

**SECTION 8.** In Colorado Revised Statutes, 38-38-302, **amend** (3)(a) as follows:

**38-38-302. Redemption by lienor - procedure. (3) Statement of redemption.** (a) Upon receipt of notice that an intent to redeem was filed, the holder of a certificate of purchase shall submit a signed and acknowledged statement, or the attorney for the holder shall submit a signed statement, to the officer, no later than thirteen business days following the sale, specifying ~~all sums necessary to redeem as of the date of the statement, the amount of per diem interest accruing thereafter, and the interest rate on which the amount is based~~ INTEREST CALCULATED THROUGH THE DATE OF THE SALE, THE AMOUNT OF PER DIEM INTEREST ACCRUING THEREAFTER, THE INTEREST RATE ON WHICH THE AMOUNT IS BASED, AND ALL OTHER SUMS NECESSARY TO REDEEM AS OF THE DATE OF THE STATEMENT. INTEREST ON THE AMOUNT FOR WHICH THE PROPERTY WAS SOLD MUST BE CHARGED AT THE DEFAULT RATE SPECIFIED IN THE EVIDENCE OF DEBT, DEED OF TRUST, OR OTHER LIEN BEING FORECLOSED OR, IF NOT SO SPECIFIED, AT THE REGULAR RATE SPECIFIED IN THE EVIDENCE OF DEBT, DEED OF TRUST, OR OTHER LIEN BEING FORECLOSED. IF DIFFERENT INTEREST RATES ARE SPECIFIED IN THE EVIDENCE OF DEBT, DEED OF TRUST, OR OTHER LIEN BEING FORECLOSED, THE INTEREST RATE SPECIFIED IN THE EVIDENCE OF DEBT PREVAILS. IF THE EVIDENCE OF DEBT DOES NOT SPECIFY AN INTEREST RATE, INCLUDING A DEFAULT INTEREST RATE, THE APPLICABLE INTEREST RATE AS SPECIFIED IN THE DEED OF TRUST OR OTHER LIEN BEING FORECLOSED APPLIES. A holder of the certificate of purchase that is not a qualified holder, or the attorney for the holder, shall also submit to the officer receipts, invoices, evidence of electronic account-to-account transfers, or copies of loan servicing computer screens evidencing the fees and costs and verifying that the fees and costs were actually incurred as of the date of the statement, along with the per diem amounts that accrue after the date of sale. The holder or the attorney for the holder may amend the statement from time to time to reflect additional sums advanced as allowed by law, but the statement shall not be amended later than two business days prior to the commencement of the redemption period pursuant to ~~paragraph (a) of subsection (4)~~ SUBSECTION (4)(a) of this section or each subsequent redemption period pursuant to ~~paragraph (b) of subsection (4)~~ SUBSECTION (4)(b) of this section.

**SECTION 9. Act subject to petition - effective date.** This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August

8, 2018, if adjournment sine die is on May 9, 2018); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

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Crisanta Duran  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

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Kevin J. Grantham  
PRESIDENT OF  
THE SENATE

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Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

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Effie Ameen  
SECRETARY OF  
THE SENATE

APPROVED \_\_\_\_\_

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John W. Hickenlooper  
GOVERNOR OF THE STATE OF COLORADO