



Legislative
Council Staff

Nonpartisan Services for Colorado's Legislature

HB 18-1254

FINAL FISCAL NOTE

Drafting Number:	LLS 18-0823	Date:	June 14, 2018
Prime Sponsors:	Rep. Van Winkle Sen. Smallwood	Bill Status:	Signed into Law
		Fiscal Analyst:	Josh Abram 303-866-3561 Josh.Abram@state.co.us

Bill Topic: PUBLIC TRUSTEE DEED OF TRUST FORECLOSURE SALES

Summary of Fiscal Impact:	<input type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
	<input type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
	<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill modifies aspects of the foreclosure process and creates a minimal workload adjustment for public trustees in county government.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: This fiscal note reflects the enacted bill.

Summary of Legislation

The bill changes aspects of the foreclosure process on property encumbered by a deed of trust. Among its many provisions, the bill:

- modifies the amount of the deposit required for the fees and costs of the public trustee;
- clarifies the amount to be paid to the public trustee (or the sheriff conducting the foreclosure, if applicable) if the holder bids an amount that exceeds the total amount due;
- prorates the amount of insurance premiums that may be claimed as costs;
- specifies the interest and other amounts that may be charged by the holder of a certificate of purchase when property is redeemed; and
- modifies the proceedings for restarting a foreclosure proceeding when a property is subject to a federal bankruptcy case, or if a sale has been enjoined or set aside by a court.

Background

Foreclosure is a legal process in which a lender attempts to recover the balance of a loan from a borrower who has stopped making payments, by forcing the sale of the asset (the home or property) that was used as collateral for the loan. When the process is complete, the lender can keep the proceeds from the sale to recover its losses and pay for other legal expenses.

A public trustee is a position in county government that serves as a neutral intermediate party between a lender and a borrower to assure that each party can exercise their legal rights and remedies. The duties of the public trustee include processing documents pertaining to foreclosures of deeds of trust (mortgages) and releases of deeds of trust. The office of public trustee is typically cash funded from fees, and does not typically receive funding from a county's general operating budget.

Local Government Impact

The bill is not anticipated to significantly change fee revenue collected by public trustees or otherwise require new expenditures from that office in county government. Public trustees will have a minimal workload increase to align office policy with the bill's modifications to state law; however, this workload is not anticipated to require additional spending by county governments.

Effective Date

The bill was signed into law by the Governor and took effect on April 23, 2018.

State and Local Government Contacts

Judicial
Public Trustees

Law
Regulatory Agencies

Local Affairs