



# ARIZONA HOUSE OF REPRESENTATIVES

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Second Regular Session

Senate: FICO DPA 7-0-0-0 | 3<sup>rd</sup> Read 27-0-3-0-0

House: WM DP 9-0-0-1

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## **SB 1431: right to redeem; foreclosure; sale**

**Sponsor: Senator Mesnard, LD 13**

**Caucus & COW**

### **Overview**

Allows a property owner whose right to redeem is being foreclosed to have a sale of the property to cover excess proceeds. Outlines the details for a notice of sale, the sale by public auction, the payment of the bid and the disposition of the proceeds of sale.

### **History**

A real property tax lien currently may be full redeemed at any time within three years after the date of sale, or after three years but before the delivery of a treasurer's deed to the purchaser or the purchaser's heirs or assigns ([A.R.S. § 42-18152](#)).

In an action to foreclose the right to redeem, if the court finds that the sale is valid and that the tax lien has not been redeemed, the court must enter judgment by foreclosing the right of the defendant to redeem, and by directing the county treasurer to expeditiously execute and deliver to the party in whose favor judgment is entered, including the state, a deed conveying the property described in the certificate of purchase. The foreclosure of the right to redeem does not extinguish any easement on or appurtenant to the property, or any lien for a levied assessment ([A.R.S. § 42-18204](#)).

### **Provisions**

1. Excludes judgements directing the sale of property pursuant to the sale of property for excess proceeds from the issuance of a writ of execution. (Sec. 1)
2. Requires the county treasurer to issue a refund in specific instances within thirty days after delivering the treasurer's deed to the purchaser or entry of a judgement directing the sale of the property for excess proceeds. (Sec. 2)
3. Requires certain content in the statement contained in the notice of intent to file a foreclosure action. (Sec. 3)
4. Requires the court to enter judgement if the tax lien is valid, the tax lien has not been redeemed and the defendant's request for an excess proceeds sale is unreasonable or the defendant did not request an excess proceeds sale. (Sec. 4)
5. Specifies the court will enter a specific judgement if the tax lien is valid, the tax lien has not been redeemed and the defendant's request for excess proceeds is reasonable. (Sec. 4)
6. Allows a property owner whose right to redeem is being foreclosed to request the court to determine if the sale of the property to recover excess proceeds sale is reasonable. (Sec. 4)
7. Outlines the specific information that shall be provided to the court for the purposes of determining if an excess proceeds sale is reasonable. (Sec. 4)

8. Specifies that an assessment does not include an abatement lien imposed for municipal taxes and fees. (Sec. 4)
9. Outlines the costs and fees that can be included in a judgement. (Sec. 6)
10. Establishes an Article 6 to address the sale of property for excess proceeds. (Sec. 7)
11. Defines *qualified entity*. (Sec. 7)
12. Outlines the notice details and the information required in the notice of sale. (Sec. 7)
13. Outlines the format and content of the notice of sale for excess proceeds. (Sec. 7)
14. Specifies the date and time of sale. (Sec. 7)
15. Outlines the date, time and place requirements for a sale that takes place by public auction. (Sec. 7)
16. Specifies bidder requirements. (Sec. 7)
17. Allows a qualified entity to postpone or continue the sale by giving proper notice. (Sec. 7)
18. Specifies that a sale concluded under the sale of property for excess proceeds extinguishes any liens other than state liens and encumbrances by the state on the property. (Sec. 7)
19. Outlines the requirements for the payment of the bid. (Sec. 7)
20. Outlines the required information the qualified entity must include in the deed. (Sec. 7)
21. Outlines the requirements for a qualified entity when distributing the proceeds of sale. (Sec. 7)
22. Applies to actions to foreclosure the right to redeem for the judicial foreclosure of right of redemption after the effective date of this legislation. (Sec. 8)
23. Makes technical and conforming changes. (Sec. 2, 3, 4, 5, 6)

<input type="checkbox"/> Prop 105 (45 votes)	<input type="checkbox"/> Prop 108 (40 votes)	<input type="checkbox"/> Emergency (40 votes)	<input type="checkbox"/> Fiscal Note
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