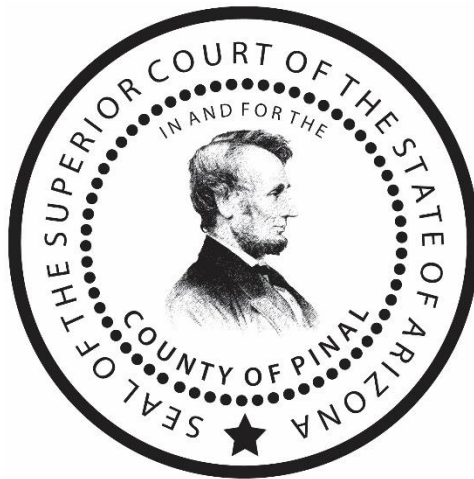


APPLICATION FOR RELEASE OF EXCESS PROCEEDS OF SALE BY OWNER



PINAL COUNTY

**How to File for a Refund of Excess Fund
Deposited with the Treasurer's Office**

INSTRUCTIONS AND FORMS

**Provided as a Public Service by
Rebecca Padilla
Clerk of the Superior Court**

APPLICATION FOR RELEASE OF EXCESS PROCEEDS OF SALE

This packet contains general information and instructions to file an Application for Release of Excess Proceeds of Sale. Be sure this packet contains the following documents:

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You have permission to use these documents 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.

**APPLICATION FOR RELEASE OF 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 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: It is very important for you to know that when you sign a court document, you may be helping or hurting your court case. Before you sign any court document, or get involved with a court case, it is important that you see a lawyer to make sure you are doing the right thing.

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

NOTE: 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 Pinal County Superior Court, Clerk of the Superior Court located at 971 Jason Lopez Circle, Building A, Florence AZ 85132.

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 as listed on the original complaint filed with the Clerk of the Superior Court.
- (3) Fill in the defendant’s name this may already be printed on the form.
- (4) Fill in your name and the name of your spouse or co-owner if applicable.
- (5) Fill in the street address or legal description of the property as written on the DEED and attach copy of the deed. Copies of the deed may be obtained from the Recorder’s Office.
- (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) Fill in specific dollar amount you are requesting to be released to you, not to exceed the amount on deposit with the Treasurer’s Office. The exact amount may be obtained from the Treasurer’s Office (520) 866-6425.
- (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 the law.

Make one copy of the Application for all “interested parties”. The list of interested parties is the mailing list attached to or made part of the “Complaint” in the case file. Make one copy for the Treasurer’s Office, one copy for the Judge assigned to the case, and one copy for your records.

Refer to the “**PROCEDURES:** How to File for Release of Excess Proceeds of Sale” in this package for instructions on how to file this document and other required papers and how to complete this process.

PROCEDURES
How to File for Release of Excess Proceeds of Sale

STEP 1 Fill out the “Application for Release of Excess Proceeds of Sale by Owner” and make copies as directed in the instructions provided in this package.

STEP 2 GO TO THE CLERK OF COURT TO FILE YOUR PAPERS:

Visit our website for office locations or feel free to give us a call.

Contact Information for all Offices

Toll Free: 888.431.1311 • Local: 520.509.3555 or call 311 • Fax: 520.866.5320
www.coscpinalcountyyaz.gov/office.html

FILING FEE There is a filing fee for filing this “Application for Release of Excess Proceeds of Sale by Owner” as well as other charges associated with this case. Inquire with the Clerk’s office regarding the filing fee amount. The fee is payable to the Clerk of the Superior Court Cash, Visa, MasterCard debit or credit or personal check with proper identification. If you cannot pay these fees, you may request the fee(s) be deferred or waived. The Clerk of the Superior Court has the necessary forms to ask for a deferral or waiver.

PAPERS Give the **original**, plus 1 copy for **EACH** interested party of the “Application for Release of Excess Proceed of Sale” to the deputy clerk at the customer service counter. The deputy clerk will process your application and collect the filing fee unless you are applying for a deferral. The deputy clerk will return all conform copies to you.

Note: Your case number on all conformed copies should be the same as the Complaint filed by the trustee depositing the funds with the Treasurer’s Office. If the number is different, notify the deputy clerk who processed your paperwork that you are filing into an existing case.

STEP 3 NOTIFY INTERESTED PARTIES Send copies of the “Application for Release of Excess Proceeds of Sale by Owner” to each party listed in the mailing list of the trustee’s complaint, the judge assigned to your case, and the Pinal County Treasurer’s Office, by any form of mail that requires a signed and returned receipt such as:

- Certified, with Return Receipt Requested, Priority Mail with Signature Conformation.
- Personal service by a licensed process server.

- For the Treasurer's copy ONLY – Hand Delivery with a request for signature of receipt or an “Acceptance of Service” or with an extra copy to be stamped “Received.”

Keep all return 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 of the “Acceptance of Service,” or copy stamped “Received” from the Treasurer's Office.

Interested parties have 30 days from the date they received their copy of the “Application for Release of Excess Proceeds of Sale” to file a response.
A.R.S. §33-812 (H).

STEP 4 AFFIDAVIT OF MAILING After you have received back the signed return receipts and/or original sealed “returned as non-delivered” envelopes addressed to each of the “interested parties” complete the “Affidavit of Mailing.”

Fill in the information requested about you at the top and then the name of the Plaintiff (the trustee) and the same case number as written on the “Application for Release of Excess Proceed of Sale.” Mark each box and fill in the information requested to indicate what method of delivery was attempted for each “interested party.”

NOTE: If the return receipts card(s) are postcard size and/or the original sealed “returned as non-delivered” envelopes are the standard 4 ½ x 9 ½ size, tape card and/or envelopes to a white blank sheet of paper. Make sure the signature on the return card and the addressed envelope with the stamp “returned as non-delivered” is visible when taping. This allows for easier filing of the attachments to the “Affidavit of Mailing.”

Make two copies of the “Affidavit of Mailing” and all attachments.

File the original “Affidavit of Mailing,” along with attachments with the Clerk of the Court. If you have not signed the Affidavit prior to filing, the deputy clerk will notarize your signature at this time. Have the two copies conformed stamped, give one copy to the deputy clerk to forward to the judge assigned to the case. Keep the second copy for your records.

STEP 5 RESPONSE OR NO RESPONSE

A. If a Response (Objection) to your request **IS** filed:

A copy of any Response should be mailed to you at the address provided in the court records (Make sure you notify the court, in writing of change of address). You may then file a written reply within 10 days of the date that Response was mailed to you. You may use the blank pleading form (title

page) provide by the Court or your own form as long as it complies with the standard rules of civil procedures.

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

If the Court schedules a hearing, complete the “Order for Release Excess Proceeds of Sale.” Fill in the information requested about you at the top and then the name of the Plaintiff (the trustee) and the same case number as written on the “Application for Release of Excess Proceeds of Sale” leave the rest of the form blank. Take the “Order for Release of Excess Proceeds of Sale” with you to the hearing in case the Judge wants to sign the Order at that time.

If the Court finds that a person other than the 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 days, the 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 days 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 for the treasurer’s cost 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 signature. The “Order” should be for the same amount requested in the “Application” and not more than the amount deposited with the Treasurer’s Office (minus any Treasurer’s fee). Along with the original “Order” make sure to include copies for each interested party and copy for your records. Make sure to provide self addressed stamped envelopes to each interested party, including yourself.

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

STEP 7 **IF THE ORDER IS SIGNED** Purchase a certified copy of the “Order”. 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. 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.

Please inquire with the Treasurer’s Office of the timeframe of issuing payment from the receipt of the “Order and W-9. If you have not received payment within 7 business days after submitting the “Order and W-9, you may contact the Treasurer’s Office at (520) 866-6425.

(1)

Name of Person Filing: _____

Street Address: _____

City, State, Zip Code: _____

Telephone Number: _____

Email Address: _____

ATLAS Number (if applicable) _____

Representing Self (No Attorney) or Represented by Attorney

If Attorney, Bar Number: _____

**SUPERIOR COURT OF ARIZONA
PINAL COUNTY**

(2) CASE NUMBER: S1100

(2) Plaintiff
(Trustee from Original Complaint)

**APPLICATION FOR RELEASE OF
EXCESS PROCEEDS OF SALE BY
OWNER
A.R.S. §33-812**

(3) Defendant
(Name of County Treasurer)

HONORABLE: _____

(4) Applicant(s) _____

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

Applicant(s) is / are the former owner 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 Pinal 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, if applicable.

(8) _____
Date

Applicant’s Signature

Date

Applicant’s Signature

(1)

Name of Person Filing: _____

Street Address: _____

City, State, Zip Code: _____

Telephone Number: _____

Email Address: _____

ATLAS Number (if applicable) _____

Representing Self (No Attorney) or Represented by Attorney

If Attorney, Bar Number: _____

**SUPERIOR COURT OF ARIZONA
PINAL COUNTY**

(2) CASE NUMBER: S1100

(2) Plaintiff (Trustee from Original
Complaint)

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

(3) Defendant (Name of County
Treasurer)

HONORABLE: _____

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

YOU MUST ATTACH A COPY OF SIGNED RETURN RECEIPTS FOR DELIVERED MAIL
OR AN 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:** Pinal County Treasurer

DATE DOCUMENT MAILED OR HAND-DELIVERED TO TREASURER:

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 acknowledgement of receipt in the space provided:

B. NAME: _____
DATE DOCUMENTS MAILED: _____

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.
- Returned as unclaimed or undeliverable. Copy of original sealed, returned envelope is attached.

C. NAME: _____
DATE DOCUMENTS MAILED: _____

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.
- Returned as unclaimed or undeliverable. Copy of original sealed, returned envelope is attached.

(1)

Name of Person Filing: _____

Street Address: _____

City, State, Zip Code: _____

Telephone Number: _____

Email Address: _____

ATLAS Number (if applicable) _____

Representing Self (No Attorney) or Represented by Attorney

If Attorney, Bar Number: _____

**SUPERIOR COURT OF ARIZONA
PINAL COUNTY**

(2) Plaintiff
(Trustee from Original Complaint)

(2) CASE NUMBER: _____

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

(3) Defendant
(Name of County Treasurer)

HONORABLE: _____

(4) Applicant(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 Pinal 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 Pinal County Treasurer shall deduct its fee pursuant to A.R.S. §33-812 (G).

DONE IN OPEN COURT _____

(Judge of the Superior Court)