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HOUSE BILL 06-1387

BY REPRESENTATIVE(S) Garcia, May M., Borodkin, Buescher, Carroll M., Jahn, Berens, Coleman, Harvey, Marshall, McCluskey, Stafford, and Stengel;
also SENATOR(S) Veiga, Boyd, Brophy, Evans, May R., and Teck.

CONCERNING REAL ESTATE FORECLOSURES.

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

SECTION 1. 38-37-104 (1), (3), and (4), Colorado Revised Statutes, are amended to read:

38-37-104. Duties of public trustees - fees, expenses, and salaries - reports. (1) The public trustees of each county of this state shall perform the functions and exercise the powers conferred upon them by statute. They shall be entitled to receive as fees for such services the following sums and no other fees or perquisites whatever:

(a) For executing a release of a deed of trust, ~~including the acknowledgment thereof~~, the sum of fifteen dollars;

(b) FOR PERFORMING A FORECLOSURE UNDER ARTICLE 38 OF THIS TITLE, THE FOLLOWING SUMS, WHICH SHALL BE CUMULATIVE:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(I) For opening and administering a foreclosure under the powers conferred upon them by a deed of trust PURSUANT TO SECTION 38-38-101 where the original principal amount of the ~~indebtedness~~ DEBT secured by such deed of trust does not exceed four hundred eighty thousand dollars, a fee of one hundred fifty dollars, and, where such amount exceeds four hundred eighty thousand dollars, a fee of one thirty-second of one percent of such original principal amount or the outstanding principal balance, whichever is less, but in no case less than one hundred fifty dollars;

~~(e)~~ (II) For accepting the filing of a notice of intent to redeem ~~with the public trustee by a lienor or encumbrancer~~ PURSUANT TO SECTION 38-38-302, the sum of fifty dollars PER NOTICE;

~~(d)~~ (III) For processing and executing a certificate of redemption including the acknowledgment thereof, to a person or entity redeeming pursuant to the provisions of section 38-38-302 (2) or 38-38-402 SECTION 38-38-402, the sum of thirty dollars;

~~(e)~~ (IV) For executing a trustee's CONFIRMATION deed including the acknowledgment thereof PURSUANT TO SECTION 38-38-501, the sum of thirty dollars;

~~(f)~~ (V) For processing withdrawals in accordance with sections 38-38-101 (11) and 38-38-104 (2), such sums as are provided in said sections; PURSUANT TO SECTION 38-38-109 (3) (a), THE SUM OF THIRTY-FIVE DOLLARS;

~~(g)~~ For performing any duty of the public trustee prescribed by section 38-30-171 (3) (b), 38-30-173 (3) (b), or 38-34-104, the sum of twenty-five dollars or such greater amount as may be approved by a court of competent jurisdiction;

(VI) FOR PROCESSING AN ADMINISTRATIVE WITHDRAWAL PURSUANT TO SECTION 38-38-109 (3) (b), THE SUM OF FIFTY DOLLARS;

~~(h)~~ (VII) For performing those duties prescribed by section 38-38-109 (4) (b), an additional fee RECOMMENCING THE FORECLOSURE AFTER REINSTATEMENT WHERE A SALE WAS HELD IN VIOLATION OF THE AUTOMATIC STAY PROVISIONS OF THE FEDERAL BANKRUPTCY CODE OF 1978,

TITLE 11 OF THE UNITED STATES CODE, AS AMENDED, PURSUANT TO SECTION 38-38-109 (2) (d) (I), THE SUM OF fifty dollars;

~~(i) (VIII) For performing those duties required by section 38-38-109 (3) (b), an additional fee~~ RECOMMENCING THE FORECLOSURE AFTER BANKRUPTCY WHERE PUBLICATION WAS NOT COMPLETED PURSUANT TO SECTION 38-38-109 (2) (a) (II), THE SUM OF seventy-five dollars; ~~and~~

(IX) FOR PERFORMING THE ACTIONS DESCRIBED IN SECTION 38-38-101 (9), THE SUM OF ONE HUNDRED DOLLARS; AND

(X) THE SUM OF ALL AMOUNTS PAID BY THE PUBLIC TRUSTEE TO THIRD PARTIES IN CONNECTION WITH PROCESSING A FORECLOSURE, INCLUDING BUT NOT LIMITED TO ALL RECORDING, FILING, PUBLICATION, AND ELECTRONIC TRANSMISSION FEES.

(c) FOR PERFORMING ANY DUTY OF THE PUBLIC TRUSTEE PURSUANT TO SECTION 38-30-171 (3) (b), 38-30-173 (3) (b), OR 38-34-104, THE SUM OF TWENTY-FIVE DOLLARS OR SUCH GREATER AMOUNT AS MAY BE APPROVED BY A COURT OF COMPETENT JURISDICTION; AND

~~(j) (d) For performing those duties required by~~ PURSUANT TO section 38-35-126 (1), an additional annual fee of seventy-five dollars, payable in advance, for each taxable year, or portion thereof, during which an escrow account is established.

(3) ~~Such~~ THE PUBLIC trustee OF EACH COUNTY shall quarterly make and file with the board of county commissioners OF THE COUNTY a full and complete statement under oath of all transactions of ~~his~~ THE office OF THE PUBLIC TRUSTEE and shall, upon the approval of said report, pay to the county treasurer all sums ~~which he~~ THAT THE PUBLIC TRUSTEE has received as fees ~~including all notary fees collected for acknowledgments of deeds and other documents;~~ in excess of the amount of salary then due to ~~him~~ THE PUBLIC TRUSTEE and in excess of all necessary and reasonable expenses ~~of clerk hire~~ FOR STAFF WAGES AND ANY BENEFITS PROVIDED PURSUANT TO COUNTY PERSONNEL POLICY and other expenses incidental to the conduct of the office of the public trustee for the quarter ending at the time of such report, which moneys shall, by the county treasurer, be placed to the credit of a fund to be known as the public trustee salary fund. ~~Said~~ THE PUBLIC trustee shall, before remitting such excess funds, retain such excess funds

in a special reserve fund, which fund shall be maintained in a separate interest-bearing account ~~in a financial institution insured by an agency of the United States government~~ AS PERMITTED UNDER SECTION 38-37-113, until such special reserve fund, including accrued interest, reaches an amount equal to ~~said~~ THE PUBLIC trustee's total operating expenses and authorized salary for the previous fiscal year, as filed ~~in accordance with~~ PURSUANT TO this subsection (3). If, in any particular quarter, ~~said~~ THE PUBLIC trustee's operating expenses and authorized salary exceed the fees collected in ~~such~~ THE quarter, ~~said~~ THE PUBLIC trustee may draw on the special reserve fund to cover ~~his~~ THE PUBLIC TRUSTEE'S operating expenses and authorized salary for that quarter. At such time as the special reserve fund has reached the permitted amount, excess funds shall be paid to the county treasurer to be placed in the public trustee salary fund. At the expiration of each year, the county treasurer shall, out of any moneys in the public trustee salary fund and not otherwise, pay to ~~such~~ THE public trustee such an amount, if any, as may be still due to ~~such~~ THE public trustee on account of ~~his~~ THE PUBLIC TRUSTEE'S salary for ~~the preceding~~ THAT year JUST EXPIRED, such payment to be made only upon the certificate of the board ~~of county commissioners~~ stating the amount of such salary still remaining due and unpaid, and the balance of said fund shall thereupon be transferred to the general fund of the county.

~~(4) Such trustee shall have no responsibility for determining:~~

~~(a) The amount or reasonableness of a bid at a foreclosure sale or the costs and expenses allowable in computing the total sum due;~~

~~(b) The amount necessary for the reinstatement of the loan;~~

~~(c) The amount required to redeem property sold at a foreclosure sale; or~~

~~(d) The description of property in a partial release of a deed of trust.~~

SECTION 2. 38-37-106 (2), Colorado Revised Statutes, is amended to read:

38-37-106. Public trustee to act as successor in trust - additional duties. (2) Whenever any deed of trust names the wrong public trustee OR OMITS THE NAME OF THE COUNTY OF THE PUBLIC TRUSTEE IN A DEED OF

TRUST CONTAINING A GRANT TO A PUBLIC TRUSTEE AND A PROVISION FOR A POWER OF SALE, the public trustee of each county ~~in which~~ WHERE the property or any ~~part~~ PORTION thereof is located shall act as A successor public trustee OR AS IF THE PUBLIC TRUSTEE AND COUNTY WERE NAMED IN THE DEED OF TRUST. A public trustee so acting ~~as a successor public trustee~~ shall have all powers, authority, and duties as if originally named in such deed of trust WITH RESPECT TO THE PORTION OF THE PROPERTY LOCATED IN SUCH COUNTY.

SECTION 3. 38-37-108, Colorado Revised Statutes, is amended to read:

38-37-108. Payments to public trustee. All moneys payable to a public trustee at any foreclosure sale under the provisions of this article or upon redemption or cure ~~under the provisions of~~ PURSUANT TO article 38 of this title shall be in the form of cash, ~~or by~~ electronic transfer to an account of the public trustee available for such purpose, or ~~in the form of a~~ certified check, cashier's check, teller's check, or a draft denominated as an official check that is a teller's check or a cashier's check as those terms are defined in and governed by the "Uniform Commercial Code", title 4, C.R.S., made payable to ~~such~~ THE public trustee, AND certified or issued by a ~~federally chartered or state-chartered financial institution, as defined in section 15-15-201 (4), C.R.S.~~ BANK, SAVINGS AND LOAN ASSOCIATION, OR CREDIT UNION licensed to do business in the state of Colorado OR A FEDERALLY CHARTERED BANK, SAVINGS BANK, OR CREDIT UNION.

SECTION 4. 38-37-113 (1) and (2), Colorado Revised Statutes, are amended to read:

38-37-113. Checking account - custodial funds. (1) In the performance of his or her duties under this article and article 38 of this title, the public trustee of each county shall have the authority to establish and manage ~~a~~ ONE OR MORE OF THE FOLLOWING ACCOUNTS: AN AUTOMATED CLEARING HOUSE ACCOUNT, checking account, ESCROW ACCOUNT, CUSTODIAL ACCOUNT, or ANY similar banking services with a bank OR SAVINGS AND LOAN ASSOCIATION that has been designated as an eligible public depository under the "Public Deposit Protection Act", article 10.5 of title 11, C.R.S., OR THE "SAVINGS AND LOAN ASSOCIATION PUBLIC DEPOSIT PROTECTION ACT", ARTICLE 47 OF TITLE 11, C.R.S., OR ANY INTEREST IN A LOCAL GOVERNMENT INVESTMENT POOL TRUST FUND ORGANIZED PURSUANT

TO PART 7 OF ARTICLE 75 OF TITLE 24, C.R.S.

(2) Other than fees and costs, which shall be governed by section 38-37-104, all moneys received by a public trustee for the purposes of a CURE, A bid, ~~a cure under section 38-38-104~~, as excess funds ~~under section 38-38-111~~ PROCEEDS, or for A redemption under ~~sections 38-38-302 and 38-38-303~~ ARTICLE 38 OF THIS TITLE shall be held as custodial funds for the party entitled to receive such moneys. ANY MONEYS THAT A HOLDER OF AN EVIDENCE OF DEBT IS ENTITLED TO RECEIVE MAY BE TRANSMITTED ELECTRONICALLY TO THE ATTORNEY FOR THE HOLDER IN THE MANNER SET FORTH IN A MEMORANDUM OF UNDERSTANDING BETWEEN THE ATTORNEY FOR THE HOLDER AND THE PUBLIC TRUSTEE. ALL ELECTRONIC TRANSMISSION FEES AND COSTS BETWEEN THE OFFICE OF THE PUBLIC TRUSTEE AND THE ATTORNEY FOR THE HOLDER SHALL BE AN ADDITIONAL FEE AND COST OF THE FORECLOSURE.

SECTION 5. 38-37-113 (1) and (2), Colorado Revised Statutes, as the said (1) is amended by House Bill 06-1287, enacted at the Second Regular Session of the Sixty-fifth General Assembly, are amended to read:

38-37-113. Checking account - custodial funds. (1) In the performance of his or her duties under this article and article 38 of this title, the public trustee of each county shall have the authority to establish and manage ~~a~~ ONE OR MORE OF THE FOLLOWING ACCOUNTS: AN AUTOMATED CLEARING HOUSE ACCOUNT, checking account, ESCROW ACCOUNT, CUSTODIAL ACCOUNT, similar banking services, or similar overnight depository account with A BANK OR SAVINGS AND LOAN ASSOCIATION THAT IS an eligible public depository under the "Public Deposit Protection Act", article 10.5 of title 11, C.R.S., OR THE "SAVINGS AND LOAN ASSOCIATION PUBLIC DEPOSIT PROTECTION ACT", ARTICLE 47 OF TITLE 11, C.R.S. A PUBLIC TRUSTEE MAY ALSO PARTICIPATE in local government investment pool trust funds as described in part 7 of article 75 of title 24, C.R.S., and INVEST PUBLIC FUNDS in eligible money market mutual funds described in part 6 of article 75 of title 24, C.R.S.

(2) Other than fees and costs, which shall be governed by section 38-37-104, all moneys received by a public trustee for the purposes of a CURE, A bid, ~~a cure under section 38-38-104~~, as excess funds PROCEEDS ~~under section 38-38-111~~, or for A redemption under ~~sections 38-38-302 and 38-38-303~~ ARTICLE 38 OF THIS TITLE shall be held as custodial funds for the

party entitled to receive such moneys. ANY MONEYS THAT A HOLDER OF AN EVIDENCE OF DEBT IS ENTITLED TO RECEIVE MAY BE TRANSMITTED ELECTRONICALLY TO THE ATTORNEY FOR THE HOLDER IN THE MANNER SET FORTH IN A MEMORANDUM OF UNDERSTANDING BETWEEN THE ATTORNEY FOR THE HOLDER AND THE PUBLIC TRUSTEE. ALL ELECTRONIC TRANSMISSION FEES AND COSTS BETWEEN THE OFFICE OF THE PUBLIC TRUSTEE AND THE ATTORNEY FOR THE HOLDER SHALL BE AN ADDITIONAL FEE AND COST OF THE FORECLOSURE.

SECTION 6. Part 1 of article 38 of title 38, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

38-38-100.3. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "AGRICULTURAL PROPERTY" MEANS PROPERTY, NONE OF WHICH, ON THE DATE OF RECORDING OF THE DEED OF TRUST OR OTHER LIEN OR AT THE TIME OF THE RECORDING OF THE NOTICE OF ELECTION AND DEMAND OR LIS PENDENS, IS:

(a) PLATTED AS A SUBDIVISION;

(b) LOCATED WITHIN AN INCORPORATED TOWN, CITY, OR CITY AND COUNTY; OR

(c) VALUED AND ASSESSED AS OTHER THAN AGRICULTURAL PROPERTY PURSUANT TO SECTIONS 39-1-102 (1.6) (a) AND 39-1-103 (5), C.R.S., BY THE ASSESSOR OF THE COUNTY WHERE THE PROPERTY IS LOCATED.

(2) "ATTORNEY FOR THE HOLDER" MEANS AN ATTORNEY LICENSED AND IN GOOD STANDING IN THE STATE OF COLORADO TO PRACTICE LAW AND RETAINED BY THE HOLDER OF AN EVIDENCE OF DEBT TO PROCESS A FORECLOSURE UNDER THIS ARTICLE.

(3) "CERTIFIED COPY" MEANS, WITH RESPECT TO A RECORDED DOCUMENT, A COPY OF THE DOCUMENT CERTIFIED BY THE CLERK AND RECORDER OF THE COUNTY WHERE THE DOCUMENT WAS RECORDED.

(4) "COMBINED NOTICE" MEANS THE COMBINED NOTICE OF SALE,

RIGHT TO CURE, AND RIGHT TO REDEEM DESCRIBED IN SECTION 38-38-103 (4) (a).

(5) "CONFIRMATION DEED" MEANS THE DEED DESCRIBED IN SECTION 38-38-501 IN THE FORM SPECIFIED IN SECTION 38-38-502 OR 38-38-503.

(6) "CURE STATEMENT" MEANS THE STATEMENT DESCRIBED IN SECTION 38-38-104 (2) (a).

(7) "DEED OF TRUST" MEANS A SECURITY INSTRUMENT CONTAINING A GRANT TO A PUBLIC TRUSTEE TOGETHER WITH A POWER OF SALE.

(8) "EVIDENCE OF DEBT" MEANS A WRITING THAT EVIDENCES A PROMISE TO PAY OR A RIGHT TO THE PAYMENT OF A MONETARY OBLIGATION, SUCH AS A PROMISSORY NOTE, BOND, NEGOTIABLE INSTRUMENT, A LOAN, CREDIT, OR SIMILAR AGREEMENT, OR A MONETARY JUDGMENT ENTERED BY A COURT OF COMPETENT JURISDICTION.

(9) "FEES AND COSTS" MEANS ALL FEES, CHARGES, EXPENSES, AND COSTS DESCRIBED IN SECTION 38-38-107.

(10) "HOLDER OF EVIDENCE OF DEBT" MEANS THE PERSON IN ACTUAL POSSESSION OF OR OTHERWISE ENTITLED TO ENFORCE AN EVIDENCE OF DEBT; EXCEPT THAT "HOLDER OF EVIDENCE OF DEBT" DOES NOT INCLUDE A PERSON ACTING AS A NOMINEE SOLELY FOR THE PURPOSE OF HOLDING THE EVIDENCE OF DEBT OR DEED OF TRUST AS AN ELECTRONIC REGISTRY WITHOUT ANY AUTHORITY TO ENFORCE THE EVIDENCE OF DEBT OR DEED OF TRUST. FOR THE PURPOSES OF ARTICLES 37 TO 40 OF THIS TITLE, THE FOLLOWING PERSONS ARE PRESUMED TO BE THE HOLDER OF EVIDENCE OF DEBT:

(a) THE PERSON WHO IS THE OBLIGEE OF AND WHO IS IN POSSESSION OF AN ORIGINAL EVIDENCE OF DEBT;

(b) THE PERSON IN POSSESSION OF AN ORIGINAL EVIDENCE OF DEBT TOGETHER WITH THE PROPER INDORSEMENT OR ASSIGNMENT THEREOF TO SUCH PERSON IN ACCORDANCE WITH SECTION 38-38-101 (6);

(c) THE PERSON IN POSSESSION OF A NEGOTIABLE INSTRUMENT EVIDENCING A DEBT, WHICH HAS BEEN DULY NEGOTIATED TO SUCH PERSON OR TO BEARER OR INDORSED IN BLANK; OR

(d) THE PERSON IN POSSESSION OF AN EVIDENCE OF DEBT WITH AUTHORITY, WHICH MAY BE GRANTED BY THE ORIGINAL EVIDENCE OF DEBT OR DEED OF TRUST, TO ENFORCE THE EVIDENCE OF DEBT AS AGENT, NOMINEE, OR TRUSTEE OR IN A SIMILAR CAPACITY FOR THE OBLIGEE OF THE EVIDENCE OF DEBT.

(11) "JUNIOR LIEN" MEANS A DEED OF TRUST OR OTHER LIEN OR ENCUMBRANCE UPON THE PROPERTY SUBORDINATE TO THE DEED OF TRUST OR OTHER LIEN BEING FORECLOSED.

(12) "JUNIOR LIENOR" MEANS A PERSON WHO IS A BENEFICIARY, HOLDER, OR GRANTEE OF A JUNIOR LIEN.

(13) "LIS PENDENS" MEANS A LIS PENDENS IN ACCORDANCE WITH SECTION 38-35-110 THAT IS RECORDED WITH THE CLERK AND RECORDER OF THE COUNTY WHERE THE PROPERTY OR ANY PORTION THEREOF IS LOCATED AND THAT REFERS TO A JUDICIAL ACTION IN WHICH ONE OF THE CLAIMS IS FOR FORECLOSURE AND SALE OF THE PROPERTY BY AN OFFICER OR IN WHICH A CLAIM OR INTEREST IN THE PROPERTY IS ASSERTED.

(14) "MAILING LIST" MEANS THE INITIAL MAILING LIST IN ACCORDANCE WITH SECTION 38-38-101 (1) (e), THE SUPPLEMENTAL MAILING LIST IN ACCORDANCE WITH SECTION 38-38-101 (1) (f), OR THE AMENDED MAILING LIST IN ACCORDANCE WITH SECTION 38-38-103 (2), PROVIDED TO THE OFFICER BY THE HOLDER OF THE EVIDENCE OF DEBT OR THE ATTORNEY FOR THE HOLDER.

(15) "MAINTAINING AND REPAIRING" MEANS THE ACT OF CARING FOR AND PRESERVING A PROPERTY IN ITS CURRENT CONDITION OR RESTORING A PROPERTY TO A SOUND OR WORKING CONDITION AFTER DAMAGE; EXCEPT THAT "MAINTAINING AND REPAIRING" SHALL NOT INCLUDE, UNLESS DONE PURSUANT TO AN ORDER ENTERED BY A COURT OF COMPETENT JURISDICTION, ANY ACT OF ADVANCING A PROPERTY TO A BETTER CONDITION OR ANY ACT THAT INCREASES THE QUALITY OF OR ADDS TO THE IMPROVEMENTS LOCATED ON A PROPERTY.

(16) "NOTICE OF ELECTION AND DEMAND" MEANS A NOTICE OF ELECTION AND DEMAND FOR SALE RELATED TO A PUBLIC TRUSTEE FORECLOSURE UNDER THIS ARTICLE.

(17) "OFFICER" MEANS THE PUBLIC TRUSTEE OR SHERIFF CONDUCTING A FORECLOSURE UNDER THIS ARTICLE.

(18) "PROPERTY" MEANS THE PORTION OF THE PROPERTY ENCUMBERED BY A DEED OF TRUST OR OTHER LIEN THAT IS BEING FORECLOSED UNDER THIS ARTICLE.

(19) "PUBLISH", "PUBLICATION", "REPUBLISH", OR "REPUBLICATION" MEANS THE PLACEMENT BY OR ON BEHALF OF AN OFFICER OF AN ADVERTISEMENT CONTAINING A COMBINED NOTICE THAT COMPLIES WITH THE REQUIREMENTS OF SECTION 24-70-109, C.R.S., IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY OR COUNTIES WHERE THE PROPERTY TO BE SOLD IS LOCATED.

(20) "QUALIFIED HOLDER" MEANS A HOLDER OF AN EVIDENCE OF DEBT, CERTIFICATE OF PURCHASE, CERTIFICATE OF REDEMPTION, OR CONFIRMATION DEED THAT IS ALSO ONE OF THE FOLLOWING:

(a) A BANK AS DEFINED IN SECTION 11-101-401 (5), C.R.S.;

(b) AN INDUSTRIAL BANK AS DEFINED IN SECTION 11-108-101 (1), C.R.S.;

(c) A FEDERALLY CHARTERED SAVINGS AND LOAN ASSOCIATION DOING BUSINESS IN COLORADO OR A SAVINGS AND LOAN ASSOCIATION CHARTERED UNDER THE "SAVINGS AND LOAN ASSOCIATION LAW," ARTICLES 40 TO 46 OF TITLE 11, C.R.S.;

(d) A SUPERVISED LENDER AS DEFINED IN SECTION 5-1-301 (46), C.R.S., THAT IS LICENSED TO MAKE SUPERVISED LOANS PURSUANT TO SECTION 5-2-302, C.R.S., AND THAT IS EITHER:

(I) A PUBLIC ENTITY, WHICH IS AN ENTITY THAT HAS ISSUED VOTING SECURITIES THAT ARE LISTED ON A NATIONAL SECURITY EXCHANGE REGISTERED UNDER THE FEDERAL "SECURITIES EXCHANGE ACT OF 1934", AS AMENDED; OR

(II) AN ENTITY IN WHICH ALL OF THE OUTSTANDING VOTING SECURITIES ARE HELD, DIRECTLY OR INDIRECTLY, BY A PUBLIC ENTITY;

(e) AN ENTITY IN WHICH ALL OF THE OUTSTANDING VOTING SECURITIES ARE HELD, DIRECTLY OR INDIRECTLY, BY A PUBLIC ENTITY THAT ALSO OWNS, DIRECTLY OR INDIRECTLY, ALL OF THE VOTING SECURITIES OF A SUPERVISED LENDER AS DEFINED IN SECTION 5-1-301 (46), C.R.S., THAT IS LICENSED TO MAKE SUPERVISED LOANS PURSUANT TO SECTION 5-2-302, C.R.S.;

(f) A FEDERAL HOUSING ADMINISTRATION APPROVED MORTGAGEE;

(g) A FEDERALLY CHARTERED CREDIT UNION DOING BUSINESS IN COLORADO OR A STATE-CHARTERED CREDIT UNION AS DESCRIBED IN SECTION 11-30-101, C.R.S.;

(h) AN AGENCY OR DEPARTMENT OF THE FEDERAL GOVERNMENT;

(i) AN ENTITY CREATED OR SPONSORED BY THE FEDERAL OR STATE GOVERNMENT THAT ORIGINATES, INSURES, GUARANTEES, OR PURCHASES LOANS OR A PERSON ACTING ON BEHALF OF SUCH AN ENTITY TO ENFORCE AN EVIDENCE OF DEBT OR THE DEED OF TRUST SECURING AN EVIDENCE OF DEBT; OR

(j) ANY ENTITY LISTED IN PARAGRAPHS (a) TO (i) OF THIS SUBSECTION (20) ACTING IN THE CAPACITY OF AGENT, NOMINEE EXCEPT AS OTHERWISE SPECIFIED IN SUBSECTION (10) OF THIS SECTION, OR TRUSTEE FOR ANOTHER PERSON.

(21) "RECORDS" MEANS THE RECORDS OF THE COUNTY CLERK AND RECORDER OF THE COUNTY WHERE THE PROPERTY IS LOCATED.

(22) "SALE" MEANS A FORECLOSURE SALE CONDUCTED BY AN OFFICER UNDER THIS ARTICLE.

(23) "SECURED INDEBTEDNESS" MEANS THE AMOUNT OWED PURSUANT TO THE EVIDENCE OF DEBT WITHOUT REGARD TO THE VALUE OF THE COLLATERAL.

(24) "STATEMENT OF REDEMPTION" MEANS THE SIGNED AND ACKNOWLEDGED STATEMENT OF THE HOLDER OF THE EVIDENCE OF DEBT OR THE SIGNED STATEMENT OF THE ATTORNEY FOR THE HOLDER AS REQUIRED BY SECTION 38-38-302 (3) OR THE SIGNED AND ACKNOWLEDGED STATEMENT

OF THE LIENOR OR THE SIGNED STATEMENT OF THE ATTORNEY FOR THE LIENOR AS REQUIRED BY SECTION 38-38-302 (1) (f).

SECTION 7. 38-38-101, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

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:

(a) A NOTICE OF ELECTION AND DEMAND SIGNED AND ACKNOWLEDGED BY THE HOLDER OF THE EVIDENCE OF DEBT OR SIGNED BY THE ATTORNEY FOR THE HOLDER;

(b) THE ORIGINAL EVIDENCE OF DEBT, TOGETHER WITH THE ORIGINAL INDORSEMENT OR ASSIGNMENT THEREOF, IF ANY, TO THE HOLDER OF THE EVIDENCE OF DEBT OR OTHER PROPER INDORSEMENT OR ASSIGNMENT IN ACCORDANCE WITH SUBSECTION (6) OF THIS SECTION OR, IN LIEU OF THE ORIGINAL EVIDENCE OF DEBT, ONE OF THE FOLLOWING:

(I) A CORPORATE SURETY BOND ISSUED BY A COMPANY AUTHORIZED TO ISSUE SUCH BONDS IN THE STATE OF COLORADO IN THE AMOUNT OF ONE AND ONE-HALF TIMES THE FACE AMOUNT OF THE ORIGINAL EVIDENCE OF DEBT; OR

(II) A COPY OF THE EVIDENCE OF DEBT AND A CERTIFICATION SIGNED AND PROPERLY ACKNOWLEDGED BY A HOLDER OF AN EVIDENCE OF DEBT ACTING FOR ITSELF, OR AS AGENT, NOMINEE, OR TRUSTEE UNDER SUBSECTION (2) OF THIS SECTION OR A STATEMENT SIGNED BY THE ATTORNEY FOR SUCH HOLDER, CITING THE PARAGRAPH OF SECTION 38-38-100.3 (20) UNDER WHICH THE HOLDER CLAIMS TO BE A QUALIFIED HOLDER AND CERTIFYING OR STATING THAT THE COPY OF THE EVIDENCE OF DEBT IS TRUE AND CORRECT AND THAT THE USE OF THE COPY IS SUBJECT TO THE CONDITIONS DESCRIBED IN PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION;

(c) THE ORIGINAL RECORDED DEED OF TRUST SECURING THE EVIDENCE OF DEBT, OR IN LIEU THEREOF, ONE OF THE FOLLOWING:

(I) A CERTIFIED COPY OF THE RECORDED DEED OF TRUST; OR

(II) A COPY OF THE RECORDED DEED OF TRUST AND A CERTIFICATION SIGNED AND PROPERLY ACKNOWLEDGED BY A HOLDER OF AN EVIDENCE OF DEBT ACTING FOR ITSELF OR AS AN AGENT, NOMINEE, OR TRUSTEE UNDER SUBSECTION (2) OF THIS SECTION OR A SIGNED STATEMENT BY THE ATTORNEY FOR SUCH HOLDER, CITING THE PARAGRAPH OF SECTION 38-38-100.3 (20) UNDER WHICH THE HOLDER CLAIMS TO BE A QUALIFIED HOLDER AND CERTIFYING OR STATING THAT THE COPY OF THE RECORDED DEED OF TRUST IS TRUE AND CORRECT AND THAT THE USE OF THE COPY IS SUBJECT TO THE CONDITIONS DESCRIBED IN PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION;

(d) A COMBINED NOTICE PURSUANT TO SECTION 38-38-103 ;

(e) AN INITIAL MAILING LIST CONTAINING THE NAMES AND ADDRESSES OF THE PERSONS LISTED IN SECTION 38-38-103 (1) (a) (I); AND

(f) NO LESS THAN SIXTY CALENDAR DAYS PRIOR TO THE FIRST SCHEDULED SALE DATE, A SUPPLEMENTAL MAILING LIST CONTAINING THE NAMES AND ADDRESSES OF THE PERSONS LISTED IN SECTION 38-38-103 (1) (a) (II).

(2) Foreclosure by qualified holder without original evidence of debt, original or certified copy of deed of trust, or proper indorsement.

(a) A QUALIFIED HOLDER, WHETHER ACTING FOR ITSELF OR AS AGENT, NOMINEE, OR TRUSTEE UNDER SECTION 38-38-100.3 (20) (j), THAT ELECTS TO FORECLOSE WITHOUT THE ORIGINAL EVIDENCE OF DEBT PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION, OR WITHOUT THE ORIGINAL RECORDED DEED OF TRUST OR A CERTIFIED COPY THEREOF PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION, OR WITHOUT THE PROPER INDORSEMENT OR ASSIGNMENT OF AN EVIDENCE OF DEBT UNDER PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION SHALL, BY OPERATION OF LAW, BE DEEMED TO HAVE AGREED TO INDEMNIFY AND DEFEND ANY PERSON LIABLE FOR REPAYMENT OF ANY PORTION OF THE ORIGINAL EVIDENCE OF DEBT IN THE EVENT THAT THE ORIGINAL EVIDENCE OF DEBT IS PRESENTED FOR PAYMENT

TO THE EXTENT OF ANY AMOUNT, OTHER THAN THE AMOUNT OF A DEFICIENCY REMAINING UNDER THE EVIDENCE OF DEBT AFTER DEDUCTING THE AMOUNT BID AT SALE, AND ANY PERSON WHO SUSTAINS A LOSS DUE TO ANY TITLE DEFECT THAT RESULTS FROM RELIANCE UPON A SALE AT WHICH THE ORIGINAL EVIDENCE OF DEBT WAS NOT PRESENTED. THE INDEMNITY GRANTED BY THIS SUBSECTION (2) SHALL BE LIMITED TO ACTUAL ECONOMIC LOSS SUFFERED TOGETHER WITH ANY COURT COSTS AND REASONABLE ATTORNEY FEES AND COSTS INCURRED IN DEFENDING A CLAIM BROUGHT AS A DIRECT AND PROXIMATE CAUSE OF THE FAILURE TO PRODUCE THE ORIGINAL EVIDENCE OF DEBT, BUT SUCH INDEMNITY SHALL NOT INCLUDE, AND NO CLAIMANT SHALL BE ENTITLED TO, ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, RELIANCE, EXPECTATION, OR PUNITIVE DAMAGES OF ANY KIND. A QUALIFIED HOLDER ACTING AS AGENT, NOMINEE, OR TRUSTEE SHALL BE LIABLE FOR THE INDEMNITY PURSUANT TO THIS SUBSECTION (2).

(b) IN THE EVENT THAT A QUALIFIED HOLDER OR THE ATTORNEY FOR THE HOLDER COMMENCES A FORECLOSURE WITHOUT PRODUCTION OF THE ORIGINAL EVIDENCE OF DEBT, PROPER INDORSEMENT OR ASSIGNMENT, OR THE ORIGINAL RECORDED DEED OF TRUST OR A CERTIFIED COPY THEREOF, THE QUALIFIED HOLDER OR THE ATTORNEY FOR THE HOLDER MAY SUBMIT THE ORIGINAL EVIDENCE OF DEBT, PROPER INDORSEMENT OR ASSIGNMENT, OR THE ORIGINAL RECORDED DEED OF TRUST OR A CERTIFIED COPY THEREOF TO THE OFFICER PRIOR TO THE SALE. IN SUCH EVENT, THE SALE SHALL BE CONDUCTED AND ADMINISTERED AS IF THE ORIGINAL EVIDENCE OF DEBT, PROPER INDORSEMENT OR ASSIGNMENT, OR THE ORIGINAL RECORDED DEED OF TRUST OR A CERTIFIED COPY THEREOF HAD BEEN SUBMITTED AT THE TIME OF COMMENCEMENT OF SUCH PROCEEDING, AND ANY INDEMNITIES DEEMED TO HAVE BEEN GIVEN BY THE QUALIFIED HOLDER UNDER PARAGRAPH (a) OF THIS SUBSECTION (2) SHALL BE NULL AND VOID AS TO THE INSTRUMENT PRODUCED UNDER THIS PARAGRAPH (b).

(c) IN THE EVENT THAT A FORECLOSURE IS CONDUCTED WHERE THE ORIGINAL EVIDENCE OF DEBT, PROPER INDORSEMENT OR ASSIGNMENT, OR ORIGINAL RECORDED DEED OF TRUST OR CERTIFIED COPY THEREOF HAS NOT BEEN PRODUCED, THE ONLY CLAIMS SHALL BE AGAINST THE INDEMNITOR AS PROVIDED IN PARAGRAPH (a) OF THIS SUBSECTION (2) AND NOT AGAINST THE FORECLOSED PROPERTY OR THE ATTORNEY FOR THE HOLDER OF THE EVIDENCE OF DEBT. NOTHING IN THIS SECTION SHALL PRECLUDE A PERSON LIABLE FOR REPAYMENT OF THE EVIDENCE OF DEBT FROM PURSUING REMEDIES ALLOWED BY LAW.

(3) **Foreclosure on a portion of property.** A HOLDER OF AN EVIDENCE OF DEBT MAY ELECT TO FORECLOSE A DEED OF TRUST UNDER THIS ARTICLE AGAINST A PORTION OF THE PROPERTY ENCUMBERED BY THE DEED OF TRUST ONLY IF SUCH PORTION IS ENCUMBERED AS A SEPARATE AND DISTINCT PARCEL OR LOT BY THE ORIGINAL OR AN AMENDED DEED OF TRUST. ANY FORECLOSURE CONDUCTED BY A PUBLIC TRUSTEE AGAINST LESS THAN ALL OF THE PROPERTY THEN ENCUMBERED BY THE DEED OF TRUST SHALL NOT AFFECT THE LIEN OR THE POWER OF SALE CONTAINED THEREIN AS TO THE REMAINING PROPERTY. THE AMOUNT BID AT A SALE OF LESS THAN ALL OF THE PROPERTY SHALL BE DEEMED TO HAVE SATISFIED THE SECURED INDEBTEDNESS TO THE EXTENT OF THE AMOUNT OF THE BID.

(4) **Notice of election and demand.** A NOTICE OF ELECTION AND DEMAND FILED WITH THE PUBLIC TRUSTEE PURSUANT TO THIS SECTION SHALL CONTAIN THE FOLLOWING:

(a) THE NAMES OF THE ORIGINAL GRANTORS OF THE DEED OF TRUST BEING FORECLOSED AND THE ORIGINAL BENEFICIARIES OR GRANTEEES THEREOF;

(b) THE NAME OF THE HOLDER OF THE EVIDENCE OF DEBT;

(c) THE DATE OF THE DEED OF TRUST BEING FORECLOSED;

(d) THE RECORDING DATE, COUNTY, BOOK, AND PAGE OR RECEPTION NUMBER OF THE RECORDING OF THE DEED OF TRUST BEING FORECLOSED;

(e) THE AMOUNT OF THE ORIGINAL PRINCIPAL BALANCE OF THE SECURED INDEBTEDNESS;

(f) THE AMOUNT OF THE OUTSTANDING PRINCIPAL BALANCE OF THE SECURED INDEBTEDNESS AS OF THE DATE OF THE NOTICE OF ELECTION AND DEMAND;

(g) A DESCRIPTION OF THE PROPERTY;

(h) A STATEMENT OF WHETHER THE PROPERTY DESCRIBED IN THE NOTICE OF ELECTION AND DEMAND IS ALL OR ONLY A PORTION OF THE PROPERTY THEN ENCUMBERED BY THE DEED OF TRUST BEING FORECLOSED;

(i) A STATEMENT OF THE VIOLATION OF THE COVENANT OF THE EVIDENCE OF DEBT OR DEED OF TRUST BEING FORECLOSED UPON WHICH THE FORECLOSURE IS BASED, WHICH STATEMENT SHALL NOT CONSTITUTE A WAIVER OF ANY RIGHT ACCRUING ON ACCOUNT OF ANY VIOLATION OF ANY COVENANT OF THE EVIDENCE OF DEBT OR DEED OF TRUST OTHER THAN THE VIOLATION SPECIFIED IN THE NOTICE OF ELECTION AND DEMAND; AND

(j) THE NAME, ADDRESS, AND BAR REGISTRATION NUMBER OF THE ATTORNEY FOR THE HOLDER OF THE EVIDENCE OF DEBT, WHICH MAY BE INDICATED IN THE SIGNATURE BLOCK OF THE NOTICE OF ELECTION AND DEMAND.

(5) **Error in notice.** IN THE EVENT THAT THE AMOUNT OF THE OUTSTANDING PRINCIPAL BALANCE DUE AND OWING UPON THE SECURED INDEBTEDNESS IS ERRONEOUSLY SET FORTH IN THE NOTICE OF ELECTION AND DEMAND OR THE COMBINED NOTICE, THE ERROR SHALL NOT AFFECT THE VALIDITY OF THE NOTICE OF ELECTION AND DEMAND, THE COMBINED NOTICE, THE PUBLICATION, THE SALE, THE CERTIFICATE OF PURCHASE DESCRIBED IN SECTION 38-38-401, THE CERTIFICATE OF REDEMPTION DESCRIBED IN SECTION 38-38-402, THE CONFIRMATION DEED AS DEFINED IN SECTION 38-38-100.3 (5), OR ANY OTHER DOCUMENT EXECUTED IN CONNECTION THEREWITH.

(6) **Indorsement or assignment.** THE ORIGINAL EVIDENCE OF DEBT OR A COPY THEREOF WITHOUT PROPER INDORSEMENT OR ASSIGNMENT SHALL BE DEEMED TO BE PROPERLY INDORSED OR ASSIGNED IF A QUALIFIED HOLDER PRESENTS THE ORIGINAL EVIDENCE OF DEBT OR A COPY THEREOF TO THE OFFICER TOGETHER WITH A STATEMENT IN THE CERTIFICATION OF THE QUALIFIED HOLDER OR IN THE STATEMENT OF THE ATTORNEY FOR THE QUALIFIED HOLDER PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION THAT THE PARTY ON WHOSE BEHALF THE FORECLOSURE WAS COMMENCED IS THE HOLDER OF THE EVIDENCE OF DEBT. PROPER INDORSEMENT OR ASSIGNMENT OF AN EVIDENCE OF DEBT SHALL ALSO INCLUDE, IN ADDITION TO THE ORIGINAL INDORSEMENT OR ASSIGNMENT, A CERTIFIED COPY OF AN INDORSEMENT OR ASSIGNMENT RECORDED IN THE COUNTY WHERE THE PROPERTY BEING FORECLOSED IS LOCATED.

(7) **Multiple instruments.** IF THE EVIDENCE OF DEBT CONSISTS OF MULTIPLE INSTRUMENTS, SUCH AS NOTES OR BONDS, THE HOLDER OF THE

EVIDENCE OF DEBT MAY ELECT TO FORECLOSE WITH RESPECT TO FEWER THAN ALL OF SUCH INSTRUMENTS OR DOCUMENTS BY IDENTIFYING IN THE NOTICE OF ELECTION AND DEMAND AND THE COMBINED NOTICE ONLY THOSE TO BE SATISFIED IN WHOLE OR IN PART, IN WHICH CASE THE REQUIREMENTS OF THIS SECTION SHALL APPLY ONLY AS TO THOSE INSTRUMENTS OR DOCUMENTS.

(8) Assignment or transfer of debt during foreclosure. (a) THE HOLDER OF THE EVIDENCE OF DEBT MAY ASSIGN OR TRANSFER THE SECURED INDEBTEDNESS AT ANY TIME DURING THE PENDENCY OF A FORECLOSURE ACTION WITHOUT AFFECTING THE VALIDITY OF THE SECURED INDEBTEDNESS. UPON RECEIPT OF WRITTEN NOTICE SIGNED BY THE HOLDER WHO COMMENCED THE FORECLOSURE ACTION OR THE ATTORNEY FOR THE HOLDER STATING THAT THE EVIDENCE OF DEBT HAS BEEN ASSIGNED AND TRANSFERRED AND IDENTIFYING THE ASSIGNEE OR TRANSFEREE, THE PUBLIC TRUSTEE SHALL COMPLETE THE FORECLOSURE AS DIRECTED BY THE ASSIGNEE OR TRANSFEREE OR THE ATTORNEY FOR THE ASSIGNEE OR TRANSFEREE. NO HOLDER OF AN EVIDENCE OF DEBT, CERTIFICATE OF PURCHASE, OR CERTIFICATE OF REDEMPTION SHALL BE LIABLE TO ANY THIRD PARTY FOR THE ACTS OR OMISSIONS OF ANY ASSIGNEE OR TRANSFEREE THAT OCCUR AFTER THE DATE OF THE ASSIGNMENT OR TRANSFER.

(b) THE ASSIGNMENT OR TRANSFER OF THE SECURED INDEBTEDNESS DURING THE PENDENCY OF A FORECLOSURE SHALL BE DEEMED MADE WITHOUT RECOURSE UNLESS OTHERWISE AGREED IN A WRITTEN STATEMENT SIGNED BY THE ASSIGNOR OR TRANSFEROR. THE HOLDER OF THE EVIDENCE OF DEBT, CERTIFICATE OF PURCHASE, OR CERTIFICATE OF REDEMPTION MAKING THE ASSIGNMENT OR TRANSFER AND THE ATTORNEY FOR THE HOLDER SHALL HAVE NO DUTY, OBLIGATION, OR LIABILITY TO THE ASSIGNEE OR TRANSFEREE OR TO ANY THIRD PARTY FOR ANY ACT OR OMISSION WITH RESPECT TO THE FORECLOSURE OR THE LOAN SERVICING OF THE SECURED INDEBTEDNESS AFTER THE ASSIGNMENT OR TRANSFER. IF AN ASSIGNMENT OR TRANSFER IS MADE BY A QUALIFIED HOLDER THAT COMMENCED THE FORECLOSURE PURSUANT TO SUBSECTION (2) OF THIS SECTION, THE QUALIFIED HOLDER'S INDEMNITY UNDER SAID SUBSECTION (2) SHALL REMAIN IN EFFECT WITH RESPECT TO ALL PARTIES EXCEPT TO THE ASSIGNEE OR TRANSFEREE, UNLESS OTHERWISE AGREED IN A WRITING SIGNED BY THE ASSIGNEE OR TRANSFEREE IF THE ASSIGNEE OR TRANSFEREE IS A QUALIFIED HOLDER.

(9) **Partial release from deed of trust.** AT ANY TIME 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, 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. THE PUBLIC TRUSTEE SHALL RECORD THE AMENDED NOTICE OF ELECTION AND DEMAND UPON RECEIPT. UPON RECEIPT OF THE AMENDED COMBINED NOTICE, THE PUBLIC TRUSTEE SHALL REPUBLISH AND MAIL THE AMENDED COMBINED NOTICE IN THE MANNER SET FORTH IN SECTION 38-38-109 (1) (b).

(10) **Deposit.** THE PUBLIC TRUSTEE MAY REQUIRE A DEPOSIT OF UP TO FIVE HUNDRED DOLLARS AT THE TIME THE NOTICE OF ELECTION AND DEMAND IS FILED, TO BE APPLIED AGAINST THE FEES AND COSTS OF THE PUBLIC TRUSTEE. THE PUBLIC TRUSTEE MAY ALLOW THE ATTORNEY FOR THE HOLDER OF THE EVIDENCE OF DEBT TO ESTABLISH ONE OR MORE ACCOUNTS WITH THE PUBLIC TRUSTEE, WHICH THE PUBLIC TRUSTEE MAY USE TO PAY THE FEES AND COSTS OF THE PUBLIC TRUSTEE IN ANY FORECLOSURE FILED BY THE HOLDER OR THE ATTORNEY FOR THE HOLDER, OR THROUGH WHICH THE PUBLIC TRUSTEE MAY TRANSMIT REFUNDS OR CURES, EXCESS PROCEEDS, OR REDEMPTION PROCEEDS.

SECTION 8. 38-38-102, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

38-38-102. Recording notice of election and demand - record of sale. (1) NO LATER THAN TEN BUSINESS DAYS FOLLOWING THE RECEIPT OF THE NOTICE OF ELECTION AND DEMAND, THE PUBLIC TRUSTEE SHALL CAUSE THE NOTICE TO BE RECORDED IN THE OFFICE OF THE COUNTY CLERK AND RECORDER OF THE COUNTY WHERE THE PROPERTY DESCRIBED IN THE NOTICE IS LOCATED.

(2) THE PUBLIC TRUSTEE SHALL RETAIN IN THE PUBLIC TRUSTEE'S RECORDS A PRINTED OR ELECTRONIC COPY OF THE NOTICE OF ELECTION AND

DEMAND AND THE COMBINED NOTICE, AS PUBLISHED PURSUANT TO SECTION 38-38-103. SUCH RECORDS SHALL BE AVAILABLE FOR INSPECTION BY THE PUBLIC AT THE PUBLIC TRUSTEE'S OFFICES DURING THE PUBLIC TRUSTEE'S NORMAL BUSINESS HOURS.

SECTION 9. 38-38-103, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

38-38-103. Combined notice - publication - providing information. (1)(a) THE PUBLIC TRUSTEE SHALL MAIL A COMBINED NOTICE AS DESCRIBED IN SUBSECTION (4) OF THIS SECTION TO THE FOLLOWING PERSONS AS SET FORTH IN THE INITIAL MAILING LIST AS FOLLOWS:

(I) NO MORE THAN TWENTY CALENDAR DAYS AFTER THE RECORDING OF THE NOTICE OF ELECTION AND DEMAND, TO:

(A) THE ORIGINAL GRANTOR OF THE DEED OF TRUST OR OBLIGOR UNDER ANY OTHER LIEN BEING FORECLOSED AT THE ADDRESS SHOWN IN THE RECORDED DEED OF TRUST OR OTHER LIEN BEING FORECLOSED AND, IF DIFFERENT, THE LAST ADDRESS, IF ANY, SHOWN IN THE RECORDS OF THE HOLDER OF THE EVIDENCE OF DEBT;

(B) ANY PERSON KNOWN OR BELIEVED BY THE HOLDER OF THE EVIDENCE OF DEBT TO BE PERSONALLY LIABLE UNDER THE EVIDENCE OF DEBT SECURED BY THE DEED OF TRUST OR OTHER LIEN BEING FORECLOSED AT THE LAST ADDRESS, IF ANY, SHOWN IN THE RECORDS OF THE HOLDER; AND

(C) THE OCCUPANT OF THE PROPERTY, ADDRESSED TO "OCCUPANT" AT THE ADDRESS OF THE PROPERTY;

(II) NO MORE THAN SIXTY CALENDAR DAYS NOR LESS THAN FORTY-FIVE CALENDAR DAYS PRIOR TO THE FIRST SCHEDULED DATE OF SALE, TO THE FOLLOWING PERSONS AS SET FORTH IN THE SUPPLEMENTAL MAILING LIST:

(A) THE ORIGINAL GRANTOR OF THE DEED OF TRUST OR OBLIGOR UNDER ANY OTHER LIEN BEING FORECLOSED AT THE ADDRESS SHOWN IN THE RECORDED DEED OF TRUST OR OTHER LIEN BEING FORECLOSED AND, IF DIFFERENT, THE LAST ADDRESS, IF ANY, SHOWN IN THE RECORDS OF THE HOLDER OF THE EVIDENCE OF DEBT;

(B) THE OWNER OF THE PROPERTY AS OF THE DATE AND TIME OF THE RECORDING OF THE NOTICE OF ELECTION AND DEMAND OR LIS PENDENS AS SHOWN IN THE RECORDS AT THE ADDRESS INDICATED IN SUCH RECORDED INSTRUMENT;

(C) ANY PERSON KNOWN OR BELIEVED BY THE HOLDER OF THE EVIDENCE OF DEBT TO BE PERSONALLY LIABLE UNDER THE EVIDENCE OF DEBT SECURED BY THE DEED OF TRUST OR OTHER LIEN BEING FORECLOSED, AT THE LAST ADDRESS, IF ANY, SHOWN IN THE RECORDS OF THE HOLDER;

(D) THE OCCUPANT OF THE PROPERTY, ADDRESSED TO "OCCUPANT" AT THE ADDRESS OF THE PROPERTY; AND

(E) EACH PERSON WHO APPEARS TO HAVE AN INTEREST IN THE PROPERTY DESCRIBED IN THE COMBINED NOTICE BY AN INSTRUMENT RECORDED PRIOR TO THE DATE AND TIME OF THE RECORDING OF THE NOTICE OF ELECTION AND DEMAND OR LIS PENDENS WITH THE CLERK AND RECORDER OF THE COUNTY WHERE THE PROPERTY OR ANY PORTION THEREOF IS LOCATED AT THE ADDRESS OF THE PERSON INDICATED ON SUCH INSTRUMENT, IF THE PERSON'S INTEREST IN THE PROPERTY MAY BE EXTINGUISHED BY THE FORECLOSURE.

(b) WITH RESPECT TO A PUBLIC TRUSTEE SALE, IF A DEED OF TRUST BEING FORECLOSED HAS PRIORITY OVER A LESSEE WHO HAS AN UNRECORDED POSSESSORY INTEREST IN THE PROPERTY AND THE HOLDER OF THE EVIDENCE OF DEBT DESIRES TO TERMINATE THE POSSESSORY INTEREST WITH THE FORECLOSURE, THE HOLDER SHALL INCLUDE ON THE MAILING LIST THE LESSEE TOGETHER WITH THE ADDRESS OF THE PREMISES OF THE LESSEE AND, IF DIFFERENT, THE ADDRESS OF THE PROPERTY.

(c) IF A RECORDED INSTRUMENT DOES NOT SPECIFY THE ADDRESS OF THE PARTY PURPORTING TO HAVE AN INTEREST IN THE PROPERTY UNDER SUCH RECORDED INSTRUMENT, THE PARTY SHALL NOT BE ENTITLED TO NOTICE AND ANY INTEREST IN THE PROPERTY UNDER SUCH INSTRUMENT SHALL BE EXTINGUISHED UPON THE EXECUTION AND DELIVERY OF A DEED PURSUANT TO SECTION 38-38-501.

(2) (a) THE HOLDER OF THE EVIDENCE OF DEBT OR THE ATTORNEY FOR THE HOLDER MAY DELIVER AN AMENDED MAILING LIST TO THE OFFICER FROM TIME TO TIME, BUT NO LESS THAN SIXTY-FIVE CALENDAR DAYS PRIOR

TO THE DATE OF SALE. THE OFFICER SHALL SEND THE NOTICE PURSUANT TO SUBSECTION (4) OF THIS SECTION TO THE PERSONS ON THE AMENDED MAILING LIST NO LESS THAN SIXTY CALENDAR DAYS PRIOR TO THE DATE OF SALE.

(b) AT ANY TIME AFTER THE FIRST PUBLICATION OF THE COMBINED NOTICE UNDER PARAGRAPH (a) OF SUBSECTION (5) OF THIS SECTION AND PRIOR TO THE DATE OF SALE, THE HOLDER OF THE EVIDENCE OF DEBT OR THE ATTORNEY FOR THE HOLDER MAY DELIVER AN AMENDED MAILING LIST TO THE OFFICER, AND THE OFFICER SHALL MAIL THE AMENDED COMBINED NOTICE, REPUBLISH, AND CONTINUE THE SALE PURSUANT TO SECTION 38-38-109 (1) (b).

(3) THE SHERIFF SHALL MAIL A COMBINED NOTICE AS DESCRIBED IN SUBSECTION (4) OF THIS SECTION TO THE PERSONS NAMED AT THE ADDRESSES INDICATED IN A MAILING LIST CONTAINING THE NAMES AND ADDRESSES OF THE PERSONS LISTED IN SUBPARAGRAPH (II) OF PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION NO LESS THAN SIXTEEN NOR MORE THAN THIRTY CALENDAR DAYS AFTER THE HOLDER OF THE EVIDENCE OF DEBT OR THE ATTORNEY FOR THE HOLDER DELIVERS TO THE SHERIFF THE MAILING LIST AND THE ORIGINAL OR A COPY OF A DECREE OF FORECLOSURE OR A WRIT OF EXECUTION DIRECTING THE SHERIFF TO SELL PROPERTY.

(4) (a) THE COMBINED NOTICES REQUIRED TO BE MAILED PURSUANT TO SUBSECTIONS (1), (2), AND (3) OF THIS SECTION SHALL CONTAIN THE FOLLOWING:

(I) THE INFORMATION REQUIRED BY SECTION 38-38-101 (4);

(II) THE STATEMENT: A NOTICE OF INTENT TO CURE FILED PURSUANT TO SECTION 38-38-104 SHALL BE FILED WITH THE OFFICER AT LEAST FIFTEEN CALENDAR DAYS PRIOR TO THE FIRST SCHEDULED SALE DATE OR ANY DATE TO WHICH THE SALE IS CONTINUED;

(III) THE STATEMENT: A NOTICE OF INTENT TO REDEEM FILED PURSUANT TO SECTION 38-38-302 SHALL BE FILED WITH THE OFFICER NO LATER THAN TEN BUSINESS DAYS AFTER THE SALE;

(IV) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF EACH ATTORNEY, IF ANY, REPRESENTING THE HOLDER OF THE EVIDENCE OF DEBT;

(V) THE DATE OF SALE DETERMINED PURSUANT TO SECTION 38-38-108;

(VI) THE PLACE OF SALE DETERMINED PURSUANT TO SECTION 38-38-110; AND

(VII) THE STATEMENT AS REQUIRED BY SECTION 24-70-109, C.R.S.: THE LIEN BEING FORECLOSED MAY NOT BE A FIRST LIEN.

(b) A LEGIBLE COPY OF THIS SECTION AND SECTIONS 38-37-108, 38-38-104, 38-38-301, 38-38-304, 38-38-305, AND 38-38-306 SHALL BE SENT WITH ALL NOTICES PURSUANT TO THIS SECTION.

(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 DEEMED TO REQUIRE THE OFFICER TO PUBLISH THE COMBINED NOTICE, OMITTING THE COPIES OF THE STATUTES UNDER PARAGRAPH (b) OF SUBSECTION (4) OF THIS SECTION, FOR FOUR WEEKS, WHICH MEANS PUBLICATION ONCE EACH WEEK FOR FIVE CONSECUTIVE WEEKS.

(b) THE OFFICER SHALL REVIEW ALL SUCH PUBLICATIONS OF THE COMBINED NOTICE FOR ACCURACY.

(c) THE FEES AND COSTS TO BE ALLOWED FOR PUBLICATION OF THE COMBINED NOTICE SHALL BE AS PROVIDED BY LAW FOR THE PUBLICATION OF LEGAL NOTICES OR ADVERTISING.

SECTION 10. 38-38-104, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

38-38-104. Right to cure when default is nonpayment - right to cure for certain technical defaults. (1) WHENEVER THE ONLY ALLEGED DEFAULT IN THE TERMS OF THE EVIDENCE OF DEBT, DEED OF TRUST, OR OTHER LIEN BEING FORECLOSED IS NONPAYMENT OF SUMS DUE THEREUNDER, ANY OF THE FOLLOWING PERSONS IS ENTITLED TO CURE THE DEFAULT IF THE PERSON FILES WITH THE OFFICER, NO LATER THAN FIFTEEN CALENDAR DAYS PRIOR TO THE DATE OF SALE, A WRITTEN NOTICE OF INTENT TO CURE

TOGETHER WITH EVIDENCE OF THE PERSON'S RIGHT TO CURE TO THE SATISFACTION OF THE OFFICER:

(a) (I) THE OWNER OF THE PROPERTY AS OF THE DATE AND TIME OF THE RECORDING OF THE NOTICE OF ELECTION AND DEMAND OR LIS PENDENS AS EVIDENCED IN THE RECORDS;

(II) IF THE OWNER OF THE PROPERTY IS DEAD OR INCAPACITATED ON OR AFTER THE DATE AND TIME OF THE RECORDING OF THE NOTICE OF ELECTION AND DEMAND OR LIS PENDENS, THE OWNER'S HEIRS, PERSONAL REPRESENTATIVE, LEGAL GUARDIAN, OR CONSERVATOR AS OF THE TIME OF FILING OF THE NOTICE OF INTENT TO CURE, WHETHER OR NOT SUCH PERSON'S INTEREST IS SHOWN IN THE RECORDS, OR ANY CO-OWNER OF THE PROPERTY IF THE CO-OWNER'S OWNERSHIP INTEREST IS EVIDENCED IN THE RECORDS AS OF THE DATE AND TIME OF THE RECORDING OF THE NOTICE OF ELECTION AND DEMAND OR LIS PENDENS;

(III) A TRANSFEREE OF THE PROPERTY AS EVIDENCED IN THE RECORDS AS OF THE TIME OF FILING OF THE NOTICE OF INTENT TO CURE IF THE TRANSFEREE WAS THE PROPERTY OWNER'S SPOUSE AS OF THE DATE AND TIME OF THE RECORDING OF THE NOTICE OF ELECTION AND DEMAND OR LIS PENDENS OR IF THE TRANSFEREE IS WHOLLY OWNED OR CONTROLLED BY THE PROPERTY OWNER, IS WHOLLY OWNED OR CONTROLLED BY THE CONTROLLING OWNER OF THE PROPERTY OWNER, OR IS THE CONTROLLING OWNER OF THE PROPERTY OWNER;

(IV) A TRANSFEREE OR OWNER OF THE PROPERTY BY VIRTUE OF MERGER OR OTHER SIMILAR EVENT OR BY OPERATION OF LAW OCCURRING AFTER THE DATE AND TIME OF THE RECORDING OF THE NOTICE OF ELECTION AND DEMAND OR LIS PENDENS; OR

(V) THE HOLDER OF AN ORDER OR JUDGMENT ENTERED BY A COURT OF COMPETENT JURISDICTION AS EVIDENCED IN THE RECORDS AFTER THE DATE AND TIME OF THE RECORDING OF THE NOTICE OF ELECTION AND DEMAND OR LIS PENDENS ORDERING TITLE TO THE PROPERTY TO BE VESTED IN A PERSON OTHER THAN THE OWNER IN CONNECTION WITH A DIVORCE, PROPERTY SETTLEMENT, QUIET TITLE ACTION, OR SIMILAR PROCEEDING;

(b) A PERSON LIABLE UNDER THE EVIDENCE OF DEBT;

(c) A SURETY OR GUARANTOR OF THE EVIDENCE OF DEBT; OR

(d) A HOLDER OF AN INTEREST JUNIOR TO THE LIEN BEING FORECLOSED BY VIRTUE OF BEING A LIENOR OR LESSEE OF, OR A HOLDER OF AN EASEMENT OR LICENSE ON, THE PROPERTY OR A CONTRACT VENDEE OF THE PROPERTY, IF THE INSTRUMENT EVIDENCING THE INTEREST WAS RECORDED IN THE RECORDS PRIOR TO THE DATE AND TIME OF THE RECORDING OF THE NOTICE OF ELECTION AND DEMAND OR LIS PENDENS.

(2)(a) PROMPTLY UPON RECEIPT OF A NOTICE OF INTENT TO CURE BY THE OFFICER, BUT NO LESS THAN TWELVE CALENDAR DAYS PRIOR TO THE DATE OF SALE, THE OFFICER SHALL TRANSMIT BY MAIL, FACSIMILE, OR ELECTRONIC MEANS TO THE PERSON EXECUTING THE NOTICE OF ELECTION AND DEMAND A REQUEST FOR A STATEMENT OF ALL SUMS NECESSARY TO CURE THE DEFAULT. THE STATEMENT SHALL BE FILED WITH THE OFFICER BY THE ATTORNEY FOR THE HOLDER OR, IF NONE, BY THE HOLDER OF THE EVIDENCE OF DEBT, AND SHALL SET FORTH THE AMOUNTS NECESSARY TO CURE AS IDENTIFIED IN PARAGRAPH (b) OF THIS SUBSECTION (2), WITH THE SAME DETAIL AS REQUIRED FOR A BID PURSUANT TO SECTION 38-38-106.

(b) NO LATER THAN 12 NOON ON THE DAY BEFORE THE SALE, THE PERSON DESIRING TO CURE THE DEFAULT SHALL PAY TO THE OFFICER ALL SUMS THAT ARE DUE AND OWING UNDER THE EVIDENCE OF DEBT AND DEED OF TRUST OR OTHER LIEN BEING FORECLOSED AND ALL FEES AND COSTS OF THE HOLDER OF THE EVIDENCE OF DEBT, INCLUDING BUT NOT LIMITED TO ALL FEES AND COSTS OF THE ATTORNEY FOR THE HOLDER ALLOWABLE UNDER THE EVIDENCE OF DEBT, DEED OF TRUST, OR OTHER LIEN BEING FORECLOSED THROUGH THE EFFECTIVE DATE SET FORTH IN THE CURE STATEMENT; EXCEPT THAT ANY PRINCIPAL THAT WOULD NOT HAVE BEEN DUE IN THE ABSENCE OF ACCELERATION SHALL NOT BE INCLUDED IN SUCH SUMS DUE.

(c) IF A CURE IS MADE, INTEREST FOR THE PERIOD OF ANY CONTINUANCE PURSUANT TO SECTION 38-38-109 (1) (c) SHALL BE ALLOWED ONLY AT THE REGULAR RATE AND NOT AT THE DEFAULT RATE AS MAY BE SPECIFIED IN THE EVIDENCE OF DEBT, DEED OF TRUST, OR OTHER LIEN BEING FORECLOSED. IF A CURE IS NOT MADE, INTEREST AT THE DEFAULT RATE, IF SPECIFIED IN THE EVIDENCE OF DEBT, DEED OF TRUST, OR OTHER LIEN BEING FORECLOSED, FOR THE PERIOD OF THE CONTINUANCE SHALL BE ALLOWED.

(d) UPON RECEIPT OF THE CURE AMOUNT AND A WITHDRAWAL OR

DISMISSAL OF THE FORECLOSURE FROM THE HOLDER OF THE EVIDENCE OF DEBT OR THE ATTORNEY FOR THE HOLDER, THE OFFICER SHALL DELIVER THE CURE AMOUNT, LESS THE FEES AND COSTS OF THE OFFICER, TO THE ATTORNEY FOR THE HOLDER OR, IF NONE, TO THE HOLDER, THE FORECLOSURE SHALL BE WITHDRAWN OR DISMISSED AS PROVIDED BY LAW, AND THE EVIDENCE OF DEBT SHALL BE RETURNED UNCANCELLED TO THE ATTORNEY FOR THE HOLDER OF THE EVIDENCE OF DEBT OR, IF NONE, TO THE HOLDER BY THE PUBLIC TRUSTEE OR TO THE COURT BY THE SHERIFF.

(3) WHERE THE DEFAULT IN THE TERMS OF THE EVIDENCE OF DEBT, DEED OF TRUST, OR OTHER LIEN ON WHICH THE HOLDER OF THE EVIDENCE OF DEBT CLAIMS THE RIGHT TO FORECLOSE IS THE FAILURE OF A PARTY TO FURNISH BALANCE SHEETS OR TAX RETURNS, ANY PERSON ENTITLED TO CURE PURSUANT TO PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION MAY CURE SUCH DEFAULT IN THE MANNER PRESCRIBED IN THIS SECTION BY PROVIDING TO THE HOLDER OR THE ATTORNEY FOR THE HOLDER THE REQUIRED BALANCE SHEETS, TAX RETURNS, OR OTHER ADEQUATE EVIDENCE OF THE PARTY'S FINANCIAL CONDITION SO LONG AS ALL SUMS CURRENTLY DUE UNDER THE EVIDENCE OF DEBT HAVE BEEN PAID AND ALL AMOUNTS DUE UNDER PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION, WHERE APPLICABLE, HAVE BEEN PAID.

(4) ANY PERSON LIABLE ON THE DEBT AND THE GRANTOR OF THE DEED OF TRUST OR OTHER LIEN BEING FORECLOSED SHALL BE DEEMED TO HAVE GIVEN THE NECESSARY CONSENT TO ALLOW THE HOLDER OF THE EVIDENCE OF DEBT OR THE ATTORNEY FOR THE HOLDER TO PROVIDE THE INFORMATION SPECIFIED IN PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION TO THE OFFICER AND ALL OTHER PERSONS WHO MAY ASSERT A RIGHT TO CURE PURSUANT TO THIS SECTION.

(5) A CURE STATEMENT PURSUANT TO PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION SHALL STATE THE PERIOD FOR WHICH IT IS EFFECTIVE. THE CURE STATEMENT SHALL BE EFFECTIVE FOR AT LEAST TEN CALENDAR DAYS AFTER THE DATE OF THE CURE STATEMENT OR UNTIL THE LAST DAY TO CURE UNDER PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION, WHICHEVER OCCURS FIRST. THE CURE STATEMENT SHALL BE EFFECTIVE FOR NO MORE THAN THIRTY CALENDAR DAYS AFTER THE DATE OF THE CURE STATEMENT OR UNTIL THE LAST DAY TO CURE UNDER PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION, WHICHEVER OCCURS FIRST. THE USE OF GOOD FAITH ESTIMATES IN THE CURE STATEMENT WITH RESPECT TO

INTEREST AND FEES AND COSTS IS SPECIFICALLY AUTHORIZED BY THIS ARTICLE, SO LONG AS THE CURE STATEMENT STATES THAT IT IS A GOOD FAITH ESTIMATE EFFECTIVE THROUGH THE LAST DAY TO CURE AS INDICATED IN THE CURE STATEMENT.

SECTION 11. 38-38-105, Colorado Revised Statutes, is amended to read:

38-38-105. Court order authorizing sale mandatory. ~~In all cases of foreclosure of property by the public trustee pursuant to a power of sale contained in a deed of trust, the owner of an evidence of debt secured thereby~~ WHENEVER A PUBLIC TRUSTEE FORECLOSES UPON A DEED OF TRUST UNDER THIS ARTICLE, THE HOLDER OF THE EVIDENCE OF DEBT OR THE ATTORNEY FOR THE HOLDER shall obtain an order authorizing sale from a court ~~properly having~~ OF COMPETENT jurisdiction to issue the same ~~Such~~ PURSUANT TO RULE 120 OF THE COLORADO RULES OF CIVIL PROCEDURE. THE order shall ~~be dated, or~~ recite that the DATE THE HEARING WAS SCHEDULED IF NO RESPONSE WAS FILED, OR THE DATE THE hearing was completed ~~on or before~~ IF A RESPONSE WAS FILED, WHICH DATE IN EITHER CASE MUST BE NO LATER THAN the day prior to the last day on which an effective notice of ~~intention~~ INTENT to cure may be filed with the public trustee under ~~section 38-38-104. In no event shall the public trustee sell the subject property prior to the issuance of such an order authorizing the sale~~ SECTION 38-38-104. THE HOLDER OR THE ATTORNEY FOR THE HOLDER SHALL CAUSE A COPY OF THE ORDER TO BE PROVIDED TO THE PUBLIC TRUSTEE NO LATER THAN 12 NOON ON THE SECOND BUSINESS DAY PRIOR TO THE DATE OF SALE. A SALE HELD IN VIOLATION OF THIS SECTION SHALL BE INVALID.

SECTION 12. 38-38-106, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

38-38-106. Bid required - form of bid. (1) THE HOLDER OF THE EVIDENCE OF DEBT OR THE ATTORNEY FOR THE HOLDER SHALL SUBMIT A BID TO THE OFFICER NO LATER THAN 12 NOON ON THE SECOND BUSINESS DAY PRIOR TO THE DATE OF SALE AS PROVIDED IN THIS SECTION. THE HOLDER OR THE ATTORNEY FOR THE HOLDER NEED NOT PERSONALLY ATTEND THE SALE. IF THE BID IS NOT TIMELY SUBMITTED, THE OFFICER SHALL CONTINUE THE SALE FOR ONE WEEK AND SHALL ANNOUNCE OR POST A NOTICE OF THE CONTINUANCE AT THE TIME AND PLACE DESIGNATED FOR THE SALE.

(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 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.

(INAPPLICABLE ITEMS MAY BE OMITTED):

PRINCIPAL	\$ _____
INTEREST	_____
LATE CHARGES	_____
ALLOWABLE PREPAYMENT PENALTIES OR PREMIUMS	_____
OTHER AMOUNTS DUE UNDER THE EVIDENCE OF DEBT (SPECIFY)	_____
LESS IMPOUND/ESCROW ACCOUNT CREDIT	_____
PLUS IMPOUND/ESCROW ACCOUNT DEFICIENCY	_____
OTHER (DESCRIBE)	_____
CATEGORY SUBTOTAL:	\$ _____
PLUS FEES AND COSTS FOR THE FOLLOWING:	
TITLE COMMITMENTS AND INSURANCES OR ABTRACTOR CHARGES	_____
PROPERTY, GENERAL LIABILITY, AND CASUALTY INSURANCE	_____
COURT DOCKETING	_____
APPRAISALS	_____
PROPERTY INSPECTIONS	_____
STATUTORY NOTICE	_____
POSTAGE	_____
ELECTRONIC TRANSMISSIONS	_____

PHOTOCOPIES	_____
ATTORNEY FEES	_____
TELEPHONE	_____
CATEGORY SUBTOTAL:	\$ _____
PLUS FEES AND COSTS FOR THE FOLLOWING:	
OFFICER	_____
PUBLICATION	_____
OTHER (DESCRIBE)	_____
CATEGORY SUBTOTAL:	\$ _____
PLUS THE FOLLOWING:	
PERMITTED AMOUNTS PAID ON PRIOR LIENS	_____
TAXES AND ASSESSMENTS	_____
UTILITY CHARGES OWED OR INCURRED	_____
HOMEOWNERS' ASSOCIATION ASSESSMENTS PAID	_____
PERMITTED LEASE PAYMENTS	_____
CATEGORY SUBTOTAL:	\$ _____
TOTAL DUE HOLDER OF THE EVIDENCE OF DEBT	_____
BID	\$ _____
DEFICIENCY	\$ _____

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. CERTIFICATE OF PURCHASE
2. CONFIRMATION DEED
3. PROMISSORY NOTE WITH DEFICIENCY NOTED THEREON
4. REFUND FOR OVERPAYMENT OF OFFICER'S FEES AND COSTS, IF ANY
5. OTHER: _____ .

NAME OF THE HOLDER OF THE EVIDENCE OF DEBT
OR THE ATTORNEY FOR THE HOLDER
BY: _____
ADDRESS: _____
TELEPHONE: _____

(3) UPON RECEIPT OF THE INITIAL BID FROM THE HOLDER OF THE EVIDENCE OF DEBT OR THE ATTORNEY FOR THE HOLDER, THE OFFICER SHALL MAKE SUCH INFORMATION AVAILABLE TO THE GENERAL PUBLIC.

(4) THE OFFICER SHALL ENTER THE BID BY READING THE BID AMOUNT SET FORTH ON THE BID AND THE NAME OF THE PERSON THAT SUBMITTED THE BID OR BY POSTING OR PROVIDING SUCH BID INFORMATION AT THE TIME AND PLACE DESIGNATED FOR SALE.

(5) BIDS SUBMITTED PURSUANT TO THIS SECTION MAY BE AMENDED BY THE HOLDER OF THE EVIDENCE OF DEBT OR THE ATTORNEY FOR THE HOLDER IN WRITING OR ELECTRONICALLY, AS DETERMINED BY THE OFFICER PURSUANT TO SECTION 38-38-112, NO LATER THAN 12 NOON THE DAY PRIOR TO THE SALE OR ORALLY AT THE TIME OF SALE. IF A BID IS MODIFIED ORALLY AT THE TIME OF SALE, THE PERSON MAKING THE BID SHALL IMMEDIATELY NOTE THE MODIFICATION ON THE ITEMIZATION AND REEXECUTE THE BID.

(6) THE HOLDER OF THE EVIDENCE OF DEBT OR THE ATTORNEY FOR THE HOLDER SHALL BID AT LEAST THE HOLDER'S GOOD FAITH ESTIMATE OF THE FAIR MARKET VALUE OF THE PROPERTY BEING SOLD, LESS THE AMOUNT OF UNPAID REAL PROPERTY TAXES AND ALL AMOUNTS SECURED BY LIENS AGAINST THE PROPERTY BEING SOLD THAT ARE SENIOR TO THE DEED OF TRUST OR OTHER LIEN BEING FORECLOSED AND LESS THE ESTIMATED REASONABLE COSTS AND EXPENSES OF HOLDING, MARKETING, AND SELLING THE PROPERTY, NET OF INCOME RECEIVED; EXCEPT THAT THE HOLDER OR THE ATTORNEY FOR THE HOLDER NEED NOT BID MORE THAN THE TOTAL AMOUNT DUE TO THE HOLDER AS SPECIFIED IN THE BID PURSUANT TO SUBSECTION (2) OF THIS SECTION. THE FAILURE OF THE HOLDER TO BID THE AMOUNT REQUIRED BY THIS SUBSECTION (6) SHALL NOT AFFECT THE VALIDITY OF THE SALE BUT MAY BE RAISED AS A DEFENSE BY ANY PERSON SUED ON A DEFICIENCY.

(7) 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 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 DEEMED THE SUCCESSFUL BIDDER AT THE SALE.

SECTION 13. 38-38-107, Colorado Revised Statutes, is amended to read:

38-38-107. Fees and costs - definitions. (1) All fees ~~charges~~, and costs of every kind and nature incurred under the provisions of articles 37 to 39 of this title shall be ~~an expense~~ FEES AND COSTS of the ~~foreclosure~~ sale chargeable as additional amounts owing under the deed of trust ~~mortgage~~, or other lien being foreclosed. ~~Such~~ THE amounts shall be deducted from the proceeds of any ~~foreclosure~~ sale, or, if there are not cash proceeds at ~~such~~ FROM A sale adequate to pay such amounts, to the extent of ~~such~~ THE inadequacy, ~~such~~ THE amounts shall be paid by the ~~owner of the evidence of debt secured by the deed of trust, mortgage, or other lien being foreclosed~~ HOLDER OF THE EVIDENCE OF DEBT. THE OFFICER MAY DECLINE TO ISSUE THE CONFIRMATION DEED PURSUANT TO SECTION 38-38-501 UNTIL ALL SUMS DUE TO THE OFFICER HAVE BEEN PAID.

(2) ~~The public trustee or sheriff may require that the owner of the evidence of debt secured by the deed of trust, mortgage, or other lien to be foreclosed deposit with the public trustee or sheriff at the time the notice of election and demand for sale is filed with the public trustee or the time the order of foreclosure is delivered to the sheriff a deposit of up to five hundred dollars, which shall be applied against the fee and expenses of the public trustee or sheriff described in this section. The public trustee or sheriff may allow the owner of the evidence of debt secured by the deed of trust, mortgage, or other lien to be foreclosed or the attorney for such owner to establish an account with the public trustee or sheriff that the public trustee or sheriff shall use to pay the fees and expenses of the public trustee or sheriff in any or all foreclosures filed by the owner or attorney.~~

(3) FEES AND COSTS INCLUDE BUT ARE NOT LIMITED TO THE FOLLOWING AMOUNTS THAT HAVE BEEN PAID OR INCURRED:

(a) COSTS AND EXPENSES ALLOWABLE UNDER THE EVIDENCE OF DEBT, DEED OF TRUST, OR OTHER LIEN BEING FORECLOSED; AND

(b) REASONABLE ATTORNEY FEES AND THE COSTS INCURRED BY THE HOLDER OR THE ATTORNEY FOR THE HOLDER IN ENFORCING THE EVIDENCE OF DEBT, THE DEED OF TRUST, OR OTHER LIEN BEING FORECLOSED OR IN DEFENDING, PROTECTING, AND INSURING THE HOLDER'S INTEREST IN THE FORECLOSED PROPERTY OR ANY IMPROVEMENTS ON THE PROPERTY,

INCLUDING BUT NOT LIMITED TO:

(I) ALL EXPENSES ACTUALLY INCURRED BY THE OFFICER CONDUCTING THE SALE, PUBLICATION COSTS, STATUTORY NOTICE COSTS AND POSTAGE, AND APPRAISAL FEES;

(II) ANY GENERAL OR SPECIAL TAXES OR DITCH OR WATER ASSESSMENTS LEVIED OR ACCRUING AGAINST THE PROPERTY AND ANY GOVERNMENTAL OR QUASI-GOVERNMENTAL LIEN, FINE, PENALTY, OR ASSESSMENT AGAINST THE PROPERTY;

(III) THE PREMIUMS ON ANY PROPERTY, CASUALTY, GENERAL LIABILITY, OR TITLE INSURANCE ACQUIRED TO PROTECT THE HOLDER'S INTEREST IN THE PROPERTY OR IMPROVEMENTS ON THE PROPERTY;

(IV) SUMS DUE ON ANY PRIOR LIEN OR ENCUMBRANCE ON THE PROPERTY, INCLUDING THE PORTION OF AN ASSESSMENT BY A HOMEOWNERS' ASSOCIATION THAT CONSTITUTES A LIEN PRIOR TO THE LIEN BEING FORECLOSED; EXCEPT THAT ANY PRINCIPAL THAT WOULD NOT HAVE BEEN DUE IN THE ABSENCE OF ACCELERATION SHALL NOT BE INCLUDED IN THE SUM DUE UNLESS PAID AFTER THE EXPIRATION OF THE TIME TO CURE THE INDEBTEDNESS PURSUANT TO THIS ARTICLE;

(V) IF THE PROPERTY IS SUBJECT TO A LEASE, ALL SUMS DUE UNDER THE LEASE;

(VI) THE REASONABLE COSTS AND EXPENSES OF DEFENDING, PROTECTING, SECURING, AND MAINTAINING AND REPAIRING THE PROPERTY AND THE HOLDER'S INTEREST IN THE PROPERTY OR THE IMPROVEMENTS ON THE PROPERTY, RECEIVER'S FEES AND EXPENSES, INSPECTION FEES, COURT COSTS, ATTORNEY FEES, AND FEES AND COSTS OF THE ATTORNEY IN THE EMPLOYMENT OF THE OWNER OF THE EVIDENCE OF DEBT;

(VII) COSTS AND EXPENSES MADE PURSUANT TO A VALID ORDER FROM A COURT OF COMPETENT JURISDICTION TO BRING THE PROPERTY AND THE IMPROVEMENTS ON THE PROPERTY INTO COMPLIANCE WITH THE FEDERAL, STATE, COUNTY, AND LOCAL LAWS, ORDINANCES, AND REGULATIONS AFFECTING THE PROPERTY, THE IMPROVEMENTS ON THE PROPERTY, OR THE USE OF THE PROPERTY; AND

(VIII) OTHER COSTS AND EXPENSES THAT MAY BE PERMITTED BY THE DEED OF TRUST, MORTGAGE, OR OTHER LIEN SECURING THE DEBT OR THAT MAY BE AUTHORIZED BY A COURT OF COMPETENT JURISDICTION.

(c) AS USED IN THIS SUBSECTION (3), "HOLDER" MEANS THE HOLDER OF THE CERTIFICATE OF PURCHASE, THE HOLDER OF THE CERTIFICATE OF REDEMPTION, OR THE HOLDER OF THE EVIDENCE OF DEBT.

(4) IN THE CASE OF A REDEMPTION, THE FEES AND COSTS LISTED IN SUBSECTION (3) OF THIS SECTION THAT THE HOLDER OF THE CERTIFICATE OF PURCHASE OR CERTIFICATE OF REDEMPTION HAS PAID OR INCURRED AS OF THE TIME OF FILING OF THE STATEMENT FOR REDEMPTION ARE ALLOWABLE AND SHALL BE INCLUDED IN THE STATEMENT OF REDEMPTION IF SUCH AMOUNTS HAVE NOT BEEN INCLUDED IN A PRIOR BID OR STATEMENT OF REDEMPTION.

(5) NOTWITHSTANDING THE PROVISIONS OF SUBSECTIONS (1), (3), AND (4) OF THIS SECTION, A HOLDER OF AN EVIDENCE OF DEBT, CERTIFICATE OF PURCHASE, OR CERTIFICATE OF REDEMPTION SHALL NOT ACCEPT FROM A PROVIDER OF SERVICES OR PRODUCTS RELATED TO PROPERTY INSPECTION, BROKER'S PRICE OPINION, TITLE REPORT, APPRAISAL, INSURANCE, REPAIR, OR MAINTENANCE OR FROM AN AGENT OR AFFILIATE OF THE PROVIDER ANY PAYMENT, BENEFIT, OR REMUNERATION OF ANY KIND, WHETHER IN THE FORM OF CASH, EMPLOYEE, ADVERTISING, COMPUTER PROGRAM OR SERVICE, BANK DEPOSIT, OR OTHER GOOD OR SERVICE IN CONNECTION WITH A FORECLOSURE IN WHICH A PROPERTY INSPECTION, BROKER'S PRICE OPINION, TITLE REPORT, APPRAISAL, INSURANCE, REPAIR, OR MAINTENANCE SERVICE OR PRODUCT OF THE PROVIDER OR AN AGENT OR AFFILIATE OF THE PROVIDER WAS USED, UNLESS THE TOTAL VALUE OF ALL PAYMENT, BENEFIT, OR REMUNERATION RECEIVED BY THE HOLDER FROM THE PROVIDER OF THE SERVICE OR PRODUCT IS SHOWN AND CREDITED AGAINST AMOUNTS OWED TO THE HOLDER IN EACH BID, CURE STATEMENT, OR REDEMPTION STATEMENT.

SECTION 14. 38-38-108, Colorado Revised Statutes, is amended to read:

38-38-108. Date of sale. (1) Whenever property is to be sold by ~~virtue of~~ FOLLOWING the foreclosure of any ~~mortgage~~, deed of trust or other lien ~~whether through the public trustee or through court~~ BY THE OFFICER, the INITIAL date ~~fixed for such~~ OF sale shall be:

(a) In the case of a sale OF PROPERTY by the public trustee ~~not~~ THAT IS NOT AGRICULTURAL PROPERTY, NO less than ~~forty-five~~ ONE HUNDRED TEN CALENDAR days nor more than ~~sixty~~ ONE HUNDRED TWENTY-FIVE CALENDAR days ~~or such longer period as provided in the deed of trust~~, after the date of recording of the notice of election and demand; ~~and~~

(b) In the case of a ~~foreclosure through the court~~, ~~not~~ SALE OF PROPERTY BY THE SHERIFF THAT IS NOT AGRICULTURAL PROPERTY, NO less than ~~forty-five~~ ONE HUNDRED TEN CALENDAR days after the date of ~~commencement of the action to foreclose~~. THE RECORDING OF THE LIS PENDENS;

(c) IN THE CASE OF A SALE OF PROPERTY BY THE PUBLIC TRUSTEE, ALL OF WHICH IS AGRICULTURAL PROPERTY, NO LESS THAN TWO HUNDRED FIFTEEN CALENDAR DAYS NOR MORE THAN TWO HUNDRED THIRTY CALENDAR DAYS AFTER THE DATE OF RECORDING OF THE NOTICE OF ELECTION AND DEMAND; OR

(d) IN THE CASE OF A SALE OF PROPERTY BY THE SHERIFF, ALL OF WHICH IS AGRICULTURAL PROPERTY, NO LESS THAN TWO HUNDRED FIFTEEN CALENDAR DAYS AFTER THE DATE OF THE RECORDING OF THE LIS PENDENS.

(2) (a) (I) ~~In case of a publication of an erroneous notice of sale in connection with a public trustee foreclosure, the sale may be postponed to a date subsequent to the expiration of the sixty-day period prescribed in subsection (1) of this section but in no event to a date later than thirty days after the fifth correct publication of the corrected notice of sale.~~ IF IT IS NOT EVIDENT FROM THE LEGAL DESCRIPTION CONTAINED IN THE DEED OF TRUST OR OTHER LIEN BEING FORECLOSED WHETHER THE PROPERTY DESCRIBED THEREIN IS AGRICULTURAL PROPERTY, THE OFFICER SHALL MAKE THAT DETERMINATION NO LESS THAN TEN CALENDAR DAYS NOR MORE THAN TWENTY CALENDAR DAYS AFTER THE RECORDING OF THE NOTICE OF ELECTION AND DEMAND AND SHALL ACCEPT THE FOLLOWING AS EVIDENCE THAT THE PROPERTY IS NOT AGRICULTURAL PROPERTY:

(A) A CERTIFIED COPY OF THE SUBDIVISION PLAT CONTAINING THE PROPERTY OR ANY PORTION THEREOF RECORDED IN THE OFFICE OF THE CLERK AND RECORDER OF THE COUNTY WHERE THE PROPERTY OR ANY PORTION THEREOF IS LOCATED;

(B) A WRITTEN STATEMENT BY THE CLERK OF THE CITY, TOWN, OR CITY AND COUNTY, DATED NO MORE THAN SIX MONTHS PRIOR TO THE DATE OF FILING OF THE NOTICE OF ELECTION AND DEMAND OR LIS PENDENS WITH THE OFFICER, THAT ALL OR A PORTION OF THE PROPERTY WAS LOCATED WITHIN THE INCORPORATED LIMITS OF THE CITY, TOWN, OR CITY AND COUNTY AS OF THE DATE OF RECORDING OF THE DEED OF TRUST OR OTHER LIEN OR AS OF THE DATE OF THE STATEMENT; OR

(C) A WRITTEN STATEMENT BY THE ASSESSOR OF THE COUNTY WHERE THE PROPERTY IS LOCATED, DATED NO MORE THAN SIX MONTHS PRIOR TO THE DATE OF FILING OF THE NOTICE OF ELECTION AND DEMAND OR LIS PENDENS WITH THE OFFICER, THAT NEITHER THE PROPERTY NOR ANY PORTION THEREOF WAS VALUED AND ASSESSED AS AGRICULTURAL PROPERTY AFTER THE DATE OF THE RECORDING OF THE DEED OF TRUST OR AS OF THE DATE OF THE STATEMENT.

(II) THE OFFICER'S DETERMINATION OF WHETHER THE PROPERTY IS AGRICULTURAL OR NONAGRICULTURAL PROPERTY SHALL BE BINDING AND MAY BE RELIED UPON BY ALL PARTIES.

(b) THE STATEMENTS DESCRIBED IN SUB-SUBPARAGRAPHS (B) AND (C) OF SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (2) MAY BE OBTAINED AND FURNISHED AT THE EXPENSE OF THE PERSON SEEKING THE DETERMINATION OF WHETHER THE PROPERTY IS AGRICULTURAL OR NONAGRICULTURAL PROPERTY, WHICH EXPENSE MAY BE INCLUDED AS A PORTION OF THE FEES AND COSTS OF THE FORECLOSURE.

(3) The provisions of this section shall not apply to sales by virtue of FOLLOWING an execution and levy.

SECTION 15. 38-38-109, Colorado Revised Statutes, is amended to read:

38-38-109. Continuance of sale - effect of bankruptcy - withdrawal of sale. (1) **Continuance.** (a) ~~Whenever property is advertised to be sold by a public trustee or under any statutory or judicial foreclosure or upon execution and levy made pursuant to any court order or decree, the public trustee or sheriff conducting the sale,~~ For any reason deemed by ~~said official~~ ~~for~~ THE OFFICER TO BE good cause or upon written request by the ~~person~~ HOLDER OF THE EVIDENCE OF DEBT or ~~his or her~~ BY

~~THE attorney on whose behalf the sale is being conducted~~ FOR THE HOLDER, at any time before commencement of the sale, THE OFFICER may continue it THE SALE to a later date by making, at the time and place designated for the sale, an oral announcement of the time and place of such continuance, or by posting or providing a notice of the continuance at the time and place designated for the sale, which shall include the time and place of the continuance. ~~In a similar manner, the sale may be further continued from time to time, but no sale held pursuant to any such advertisement shall be held later than six months from the date originally designated in the notice of sale,~~ TO WHICH THE SALE IS CONTINUED. Except as provided in ~~subsection (5) of this section and in section 38-38-104 (2)~~ SUBPARAGRAPH (II) OF PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION, A SALE THAT IS NOT HELD ON THE THEN-SCHEDULED DATE OF SALE AND IS NOT CONTINUED FROM THE THEN-SCHEDULED DATE OF SALE PURSUANT TO THIS PARAGRAPH (a) SHALL BE DEEMED TO HAVE BEEN CONTINUED FOR A PERIOD OF ONE WEEK, AND FROM WEEK TO WEEK THEREAFTER IN LIKE MANNER, UNTIL THE SALE IS HELD OR OTHERWISE CONTINUED PURSUANT TO THIS PARAGRAPH (a). NO SALE SHALL BE CONTINUED TO A DATE LATER THAN NINE MONTHS FROM THE ORIGINALLY DESIGNATED DATE IN THE COMBINED NOTICE, EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION.

(b) AT THE REQUEST OF THE HOLDER OF THE EVIDENCE OF DEBT OR THE ATTORNEY FOR THE HOLDER, THE OFFICER SHALL CORRECT ANY ERRORS IN THE PUBLISHED COMBINED NOTICE OR ACCEPT AN AMENDED MAILING LIST PURSUANT TO SECTION 38-38-103 (2) AND SHALL CONTINUE THE INITIAL DATE OF SALE TO A FUTURE DATE WITHIN THE PERIOD OF CONTINUANCE ALLOWED BY PARAGRAPH (a) OF THIS SUBSECTION (1) TO PERMIT A CORRECTED COMBINED NOTICE TO BE PUBLISHED OR THE ORIGINAL COMBINED NOTICE TO BE REPUBLISHED PURSUANT TO SECTION 38-38-103 (5). THE FUTURE DATE OF SALE SHALL BE NO LATER THAN THIRTY CALENDAR DAYS AFTER THE FIFTH PUBLICATION OF THE CORRECTED COMBINED NOTICE OR REPUBLISHED COMBINED NOTICE. THE OFFICER SHALL MAIL A COPY OF THE COMBINED NOTICE, OR CORRECTED COMBINED NOTICE IF THE ORIGINAL COMBINED NOTICE WAS ERRONEOUS, TO THE PERSONS AND ADDRESSES ON THE AMENDED MAILING LIST NO LATER THAN TEN CALENDAR DAYS AFTER THE FIRST CORRECT PUBLICATION OR REPUBLICATION IN THE SAME MANNER AS SET FORTH IN SECTION 38-38-103.

(c) (I) (A) IF THE HOLDER OF THE EVIDENCE OF DEBT OR THE ATTORNEY FOR THE HOLDER RECEIVES A REQUEST FOR A CURE STATEMENT

UNDER SECTION 38-38-104 (2) (a) THIRTY CALENDAR DAYS OR LESS BEFORE THE DATE OF SALE AND DOES NOT FILE A CURE STATEMENT WITH THE PUBLIC TRUSTEE BY 12 NOON ON THE SEVENTH CALENDAR DAY BEFORE THE DATE OF SALE, THE OFFICER SHALL CONTINUE THE SALE WEEK TO WEEK UNTIL THE STATEMENT IS FILED BUT NOT BEYOND THE PERIOD OF CONTINUANCE ALLOWED BY PARAGRAPH (a) OF THIS SUBSECTION (1).

(B) IF THE HOLDER OF THE EVIDENCE OF DEBT OR THE ATTORNEY FOR THE HOLDER RECEIVES A REQUEST FOR A CURE STATEMENT UNDER SECTION 38-38-104 (2) (a) MORE THAN THIRTY CALENDAR DAYS BEFORE THE DATE OF SALE AND DOES NOT FILE A CURE STATEMENT WITH THE PUBLIC TRUSTEE WITHIN TEN CALENDAR DAYS AFTER RECEIPT OF THE REQUEST, THE PUBLIC TRUSTEE SHALL ASSESS A FINE OF ONE HUNDRED FIFTY DOLLARS OR ONE THIRTY-SECOND OF ONE PERCENT OF THE OUTSTANDING PRINCIPAL BALANCE OF THE SECURED INDEBTEDNESS, WHICHEVER IS GREATER, AGAINST THE HOLDER, WHICH SHALL BE CREDITED TO THE COUNTY GENERAL FUND; EXCEPT THAT THE FINE SHALL BE ASSESSED ONLY IF THE CURE IS MADE. IF THE CURE STATEMENT IS NOT FILED WITH THE PUBLIC TRUSTEE BY 12 NOON ON THE SEVENTH CALENDAR DAY BEFORE THE DATE OF SALE, THE OFFICER SHALL CONTINUE THE SALE WEEK TO WEEK UNTIL THE STATEMENT IS FILED AS REQUIRED BY THIS PARAGRAPH (c) BUT NOT BEYOND THE PERIOD OF CONTINUANCE ALLOWED BY PARAGRAPH (a) OF THIS SUBSECTION (1).

(II) IF THE CURE STATEMENT IS NOT FILED WITH THE PUBLIC TRUSTEE BY 12 NOON ON THE SEVENTH CALENDAR DAY BEFORE THE LAST DATE OF SALE PERMITTED UNDER PARAGRAPH (a) OF THIS SUBSECTION (1), THE FORECLOSURE SHALL BE DEEMED WITHDRAWN, AND THE HOLDER OF THE EVIDENCE OF DEBT OR THE ATTORNEY FOR THE HOLDER SHALL FILE A WRITTEN WITHDRAWAL OF THE NOTICE OF ELECTION AND DEMAND WITH THE PUBLIC TRUSTEE. THE PUBLIC TRUSTEE SHALL RECORD THE WITHDRAWAL AND COLLECT ALL FEES AND COSTS ACTUALLY INCURRED BY THE PUBLIC TRUSTEE TOGETHER WITH A WITHDRAWAL FEE IN THE AMOUNT AUTHORIZED UNDER SECTION 38-37-104 (1) (b) (V).

(III) WHEN THE PROPERTY IS TO BE SOLD BY THE SHERIFF, IF THE CURE STATEMENT IS NOT FILED WITH THE SHERIFF BY 12 NOON ON THE SEVENTH CALENDAR DAY BEFORE THE LAST DATE OF SALE PERMITTED UNDER PARAGRAPH (a) OF THIS SUBSECTION (1), THE FORECLOSURE ACTION SHALL BE DEEMED DISMISSED, AND THE HOLDER OF THE EVIDENCE OF DEBT OR THE ATTORNEY FOR THE HOLDER SHALL FILE A MOTION TO DISMISS WITH

THE COURT. UPON GOOD CAUSE SHOWN, THE HOLDER OR THE ATTORNEY FOR THE HOLDER MAY FILE A MOTION WITH THE COURT REQUESTING FURTHER RELIEF AS THE COURT MAY DEEM NECESSARY OR APPROPRIATE IN THE CIRCUMSTANCES. THE SHERIFF SHALL RECORD THE ORDER OF DISMISSAL OR OTHER ORDER OF THE COURT AND COLLECT ALL FEES AND COSTS ACTUALLY INCURRED BY THE SHERIFF.

(2) Effect of bankruptcy proceedings. (a) (I) If all publications of the COMBINED notice of sale prescribed by ~~section 38-38-101 (6)~~ SECTION 38-38-103 (5) or ~~by section 13-56-201 (1), C.R.S.,~~ have been completed before a court having jurisdiction over the public trustee or sheriff enjoins or stays such official from conducting a sale or before a bankruptcy petition has been filed that automatically stays ~~such official~~ THE OFFICER from conducting the foreclosure sale, ~~such official~~ THE OFFICER shall continue the sale for one week, or such longer period, not to exceed one month, as may be requested by the person, or such person's attorney, on whose behalf the sale is being conducted, in the manner established in subsection (1) of this section. Thereafter, so long as such injunction or automatic stay is in effect, such sale shall be further continued as provided in the preceding sentence ANNOUNCE, POST, OR PROVIDE NOTICE OF THAT FACT ON THE THEN-SCHEDULED DATE OF SALE, TAKE NO ACTION AT THE THEN-SCHEDULED SALE, AND ALLOW THE SALE TO BE AUTOMATICALLY CONTINUED FROM WEEK TO WEEK IN ACCORDANCE WITH PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION UNLESS OTHERWISE REQUESTED IN WRITING PRIOR TO ANY SUCH DATE OF SALE BY THE HOLDER OF THE EVIDENCE OF DEBT OR THE ATTORNEY FOR THE HOLDER.

~~(3) (a)~~ (II) If all publications of the COMBINED notice of sale prescribed by ~~section 38-38-101 (6)~~ SECTION 38-38-103 (5) or ~~by section 13-56-201 (1), C.R.S.,~~ have not been completed before a court having jurisdiction over the public trustee or sheriff enjoins such official from conducting a sale or before a bankruptcy petition has been filed that automatically stays ~~such official~~ THE OFFICER from conducting the foreclosure sale, the ~~public trustee or sheriff~~ OFFICER shall immediately cancel any remaining publications of the COMBINED notice of sale and, on the date fixed SET for the foreclosure sale, shall announce, or post, or provide a notice of the continuance at the time and place designated for the sale that the sale has been enjoined or has been stayed by the automatic stay provisions of the federal bankruptcy code of 1978, title 11 of the United States Code, as amended. THE SALE SHALL NOT BE CONTINUED UNDER

PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION.

(b) (I) When the property is to be sold by the public trustee, 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, the public trustee shall forthwith rerecord the notice of election and demand ~~for sale~~ and proceed with all additional foreclosure procedures provided by this article as though the foreclosure had just been commenced.

~~(e)~~ (II) When the property is to be sold by the sheriff under any statutory or judicial foreclosure or upon execution and levy made pursuant to any court order or decree, 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, the sheriff shall forthwith establish a new ~~sale~~ date OF SALE and republish a new COMBINED notice ~~of sale in accordance with the provisions of~~ PURSUANT TO section 13-56-201 (1), C.R.S.

~~(4)(a)~~ (c) In the event that a ~~foreclosure~~ 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 ~~the owner of the evidence of debt and deed of trust, mortgage, or other lien securing the evidence of debt~~ relief from the automatic stay provided by the federal bankruptcy code, ~~of 1978, title 11 of the United States Code, as amended~~; then the EVIDENCE OF debt, ~~and the deed of trust, mortgage 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. Such reinstatement shall be confirmed by ~~endorsement of the public trustee or sheriff~~ THE OFFICER'S INDORSEMENT on the original evidence of debt AND DEED OF TRUST OR OTHER LIEN, if deposited with ~~such~~ THE officer, or on a THE copy thereof if one has been submitted pursuant to ~~section 38-38-101(1)(b)(II)~~ SECTION 38-38-101 (1),

although the failure to so ~~endorse~~ 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 ~~endorsement~~ INDORSEMENT shall be in substantially the following form:

The undersigned, as _____ (~~Public Trustee~~) (~~Sheriff~~) _____ for the _____, county of _____, state of Colorado, by this ~~endorsement~~ INDORSEMENT, hereby confirms the reinstatement of this _____ (~~evidence of debt~~) (~~deed of trust~~) (~~mortgage~~) (~~lien~~) _____ in accordance with the requirements of ~~section 38-38-109 (4) (a)~~ SECTION 38-38-109 (2) (c), Colorado Revised Statutes.

Date: _____

Signature

(~~Public Trustee~~) (~~Sheriff~~)

For the _____,

County of _____,

State of Colorado.

~~(b)~~ (d) (I) If the ~~owner~~ HOLDER of the EVIDENCE OF debt, ~~and~~ deed of trust, ~~mortgage~~ or other lien reinstated pursuant to ~~paragraph (a)~~ PARAGRAPH (c) of this ~~subsection (4)~~ SUBSECTION (2) OR THE ATTORNEY FOR THE HOLDER notifies the ~~public trustee or sheriff~~ OFFICER in writing of the entry of an order dismissing the bankruptcy case, ABANDONING THE PROPERTY BEING FORECLOSED, CLOSING THE BANKRUPTCY CASE, or granting ~~said owner~~ 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 ~~such~~ THE automatic stay, the ~~public trustee or sheriff~~ OFFICER shall set a new ~~foreclosure sale~~ date OF SALE at least twenty-four CALENDAR days but not more than ~~thirty-nine~~ FORTY-NINE CALENDAR days after the date on which the official receives such notice. ~~Within~~ NO LATER THAN ten BUSINESS days ~~of~~ AFTER receiving such notice,

~~(A)~~ the ~~public trustee or sheriff~~ OFFICER shall mail a AN AMENDED COMBINED notice CONTAINING THE DATE of the rescheduled ~~foreclosure~~ sale

to each person ~~who was entitled to notice of the original foreclosure sale and~~ APPEARING ON THE MOST RECENT MAILING LIST.

~~(B) The public trustee or sheriff~~ 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 ~~advertise such sale~~ PUBLISH THE AMENDED COMBINED NOTICE, OMITTING THE COPIES OF THE STATUTES UNDER PARAGRAPH (b) OF SUBSECTION (4) OF THIS SECTION, one time only in a newspaper of general circulation in the county ~~in which~~ WHERE the property is located.

(II) All ~~expenses~~ FEES AND COSTS of ~~such~~ PROVIDING AND PUBLISHING THE AMENDED COMBINED notice and ~~advertising~~ PUBLICATION shall be part of the foreclosure costs.

(e) IF A SALE IS ENJOINED BY COURT ORDER, THE SAME PROCEDURES AS SET FORTH IN PARAGRAPHS (a) AND (b) OF THIS SUBSECTION (2) SHALL APPLY UNLESS THE COURT ORDER SPECIFIES OTHERWISE.

~~(5) (f)~~ The periods for which a sale may be continued under ~~subsections (2), (3), and (4) of this section~~ THIS SUBSECTION (2) shall be in addition to the ~~six-month~~ NINE-MONTH period of continuance provided by subsection (1) of this section.

(3) **Withdrawal.** (a) IF THE HOLDER OF THE EVIDENCE OF DEBT OR THE ATTORNEY FOR THE HOLDER FILES WITH THE PUBLIC TRUSTEE, PRIOR TO SALE, A WRITTEN WITHDRAWAL OF THE NOTICE OF ELECTION AND DEMAND, THE FORECLOSURE PROCEEDINGS SHALL TERMINATE. THE PUBLIC TRUSTEE SHALL RECORD THE WITHDRAWAL AND COLLECT ALL FEES AND COSTS OWED AND INCURRED, INCLUDING A WITHDRAWAL FEE IN THE AMOUNT AUTHORIZED BY SECTION 38-37-104 (1) (b) (V).

(b) IF THERE IS NO SALE AND IF A WITHDRAWAL IS NOT FILED WITHIN FORTY-FIVE CALENDAR DAYS AFTER THE LAST DATE OF SALE PERMITTED BY LAW, THE PUBLIC TRUSTEE MAY TRANSMIT BY MAIL OR ELECTRONIC TRANSMISSION TO THE ATTORNEY FOR THE HOLDER OF THE EVIDENCE OF DEBT, OR IF NO ATTORNEY THEN TO THE HOLDER, A NOTICE THAT A WITHDRAWAL OF THE NOTICE OF ELECTION AND DEMAND MAY BE RECORDED BY THE PUBLIC TRUSTEE UNLESS A RESPONSE REQUESTING THAT SUCH WITHDRAWAL NOT BE RECORDED IS RECEIVED BY THE PUBLIC TRUSTEE

WITHIN THIRTY CALENDAR DAYS AFTER THE DATE THE PUBLIC TRUSTEE'S NOTICE IS TRANSMITTED. IF NO SUCH RESPONSE IS RECEIVED BY THE PUBLIC TRUSTEE WITHIN THIRTY CALENDAR DAYS AFTER THE NOTICE IS TRANSMITTED, THE PUBLIC TRUSTEE MAY RECORD A WITHDRAWAL OF THE NOTICE OF ELECTION AND DEMAND AT ANY TIME AFTER THE EXPIRATION OF SUCH THIRTY-DAY NOTICE PERIOD. IF A WITHDRAWAL IS RECORDED DURING THE PENDENCY OF AN AUTOMATIC STAY IMPOSED ON THE SALE BASED ON ANY PROCEEDING FILED UNDER THE FEDERAL BANKRUPTCY CODE OF 1978, TITLE 11 OF THE UNITED STATES CODE, AS AMENDED, THE WITHDRAWAL SHALL BE VOID AND OF NO FORCE AND EFFECT, AND THE PUBLIC TRUSTEE SHALL MAIL TO ALL PERSONS ON THE MAILING LIST A NOTICE THAT THE WITHDRAWAL OF THE NOTICE OF ELECTION AND DEMAND OCCURRED DURING THE PENDENCY OF AN INJUNCTION OR BANKRUPTCY STAY AND IS VOID AND OF NO FORCE AND EFFECT. THE PUBLIC TRUSTEE SHALL CAUSE THE NOTICE TO BE RECORDED IN THE OFFICE OF THE COUNTY CLERK AND RECORDER OF THE COUNTY WHERE THE PROPERTY DESCRIBED IN THE NOTICE IS LOCATED. ALL UNPAID FEES AND COSTS OWED AND INCURRED BY THE PUBLIC TRUSTEE, AS WELL AS A WITHDRAWAL FEE IN THE AMOUNT AUTHORIZED BY SECTION 38-37-104 (1) (b) (VI), SHALL BE PAID BY THE HOLDER. THE AMOUNT DUE SHALL ACCRUE INTEREST AT THE RATE PROVIDED BY LAW. UNTIL ALL AMOUNTS DUE AND OWING ARE PAID, THE PUBLIC TRUSTEE SHALL BE ENTITLED TO HOLD ALL DOCUMENTATION IN THE PUBLIC TRUSTEE'S POSSESSION AND TO WITHHOLD ALL OTHER SERVICES REQUESTED BY THE HOLDER OR THE ATTORNEY FOR THE HOLDER WITH RESPECT TO THE DEED OF TRUST OR OTHER LIEN BEING FORECLOSED.

SECTION 16. 38-38-110, Colorado Revised Statutes, is amended to read:

38-38-110. Sales by officer - location - announcement - records.

(1) Notwithstanding the provisions of any deed of trust OR OTHER LIEN BEING FORECLOSED, the ~~public trustee~~ OFFICER shall conduct the sale at any door or entrance to, or in any room in any building temporarily or permanently used as a courthouse, or at or within any building ~~in which is located~~ WHERE the office of the county clerk and recorder or the office of the ~~public trustee~~ OFFICER IS LOCATED, WHICH PLACE SHALL BE SPECIFICALLY DESIGNATED IN THE COMBINED NOTICE. The COMBINED notice ~~of sale~~ shall designate the actual place of sale.

(2) AT A PUBLIC TRUSTEE SALE, THE PUBLIC TRUSTEE SHALL READ

ONLY THE PUBLIC TRUSTEE'S SALE NUMBER, THE NAME OF THE ORIGINAL GRANTOR, THE STREET ADDRESS OR, IF NONE, THE LEGAL DESCRIPTION OF THE PROPERTY, THE NAME OF THE HOLDER OF THE EVIDENCE OF DEBT, THE DATE OF SALE, THE FIRST AND LAST PUBLICATION DATES OF THE COMBINED NOTICE, AND, IN ACCORDANCE WITH SECTION 38-38-106 (4), THE AMOUNT OF THE BID AND THE NAME OF THE PERSON THAT SUBMITTED THE BID. IN LIEU OF READING THE INFORMATION LISTED ABOVE, THE PUBLIC TRUSTEE MAY POST THE INFORMATION OR PROVIDE A WRITTEN COPY OF THE INFORMATION TO ALL PERSONS PRESENT AT THE SALE.

(3) WHENEVER A PUBLIC TRUSTEE SELLS PROPERTY DESCRIBED IN A DEED OF TRUST, THE PUBLIC TRUSTEE SHALL ENTER IN THE RECORDS OF THE OFFICE OF THE PUBLIC TRUSTEE THE NAME OF THE PERSON EXECUTING THE DEED OF TRUST, THE BOOK AND PAGE OR RECEPTION NUMBER OF THE RECORDED DEED OF TRUST, A BRIEF DESCRIPTION OF THE PROPERTY THEREIN DESCRIBED, THE DATE OF SALE, THE PUBLISHER OF THE COMBINED NOTICE, A LIST OF THE NAMES AND ADDRESSES OF THE PERSONS TO WHOM THE COMBINED NOTICE WAS MAILED, THE NAME AND LAST MAILING ADDRESS OF THE PURCHASER AT THE SALE, AND THE AMOUNT AT WHICH THE PROPERTY WAS SOLD IN SEPARATE PARCELS, IF SO SOLD, OR EN MASSE.

SECTION 17. 38-38-111, Colorado Revised Statutes, is amended to read:

38-38-111. Treatment of excess proceeds. (1) If, at a foreclosure sale, the property is ~~struck and~~ sold for an amount in excess of ~~expenses~~ THE SUM OF THE FEES AND COSTS PURSUANT TO SECTION 38-37-104, THE FEES AND COSTS of sale, and moneys due the ~~owner of the evidence of debt secured by the deed of trust, mortgage, or other lien foreclosed~~ the HOLDER OF THE EVIDENCE OF DEBT SECURED BY THE DEED OF TRUST OR OTHER LIEN BEING FORECLOSED, SUCH excess ~~moneys~~ PROCEEDS shall be paid ~~into the hands of~~ TO the ~~public trustee~~ OFFICER to be held in escrow until the end of all redemption periods as provided in ~~sections 38-38-302 and 38-38-303~~ SECTION 38-38-302.

(2) Upon the expiration of all redemption periods provided in ~~sections 38-38-302 and 38-38-303~~ SECTION 38-38-302, the excess ~~moneys~~ PROCEEDS shall be paid ~~first to the last redeeming lienor up to the amount due on such last redeeming lienor's lien, and the balance, if any, shall be paid,~~ in order of RECORDING priority, FIRST TO THE HOLDER OF THE

EVIDENCE OF DEBT TO THE EXTENT OF ANY DEFICIENCY AS INDICATED IN THE HOLDER'S BID, AND SECOND to junior lienors, DETERMINED AS OF THE RECORDING DATE OF THE NOTICE OF ELECTION AND DEMAND OR LIS PENDENS ACCORDING TO THE RECORDS, who have duly filed A notice of intent to redeem as provided in section 38-38-303(2) and who have failed to redeem AND WHOSE LIENS HAVE NOT BEEN REDEEMED IN FULL PURSUANT TO SECTION 38-38-302, in each case up to the UNPAID amount of each such lienor's lien and finally to the owner of record as of the day of the foreclosure sale PLUS FEES AND COSTS. A lienor holding a consensual lien pursuant to section 38-38-303(2)(d) LIEN that is not entitled to redeem BY VIRTUE OF BEING RECORDED AFTER THE NOTICE OF ELECTION AND DEMAND OR A LIENOR THAT HAS NOT TIMELY FILED A NOTICE OF INTENT TO REDEEM pursuant to section 38-38-303(2)(e) SECTION 38-38-302 shall not HAVE ANY claim TO any portion of the excess moneys PROCEEDS. AFTER PAYMENT TO ALL LIENORS AND THE HOLDER ENTITLED TO RECEIVE EXCESS PROCEEDS PURSUANT TO THIS SECTION, ANY REMAINING EXCESS PROCEEDS SHALL BE PAID TO THE OWNER OF THE PROPERTY AS OF THE DATE AND TIME OF THE RECORDING OF THE NOTICE OF ELECTION AND DEMAND OR LIS PENDENS.

(3) Any UNCLAIMED excess moneys not claimed by the person entitled thereto PROCEEDS shall be transferred by the public trustee OFFICER to the county treasurer within forty-five NINETY CALENDAR days after the expiration of all redemption periods as provided in sections 38-38-302 and 38-38-303 SECTION 38-38-302 and held in escrow for five years from the date of sale. The county shall be answerable for such THE funds without interest at any time within said THE five-year period to such persons as shall be legally entitled thereto TO THE FUNDS. Any interest earned on such THE escrowed funds shall be paid to the county at least annually. Any funds not claimed within five years from the date of sale shall be paid by the county treasurer to the general fund of said THE county. After the lapse of five years from the date of sale, no claim therefor having been made and established by any person entitled thereto, said moneys shall become the property of the county, and the county treasurer and public trustee OFFICER shall be discharged from any further liability or responsibility for such THE moneys; except that, if said THE moneys exceed five hundred dollars and have not been claimed by any person entitled thereto within sixty CALENDAR days from the expiration of the property ALL redemption period PERIODS AS PROVIDED BY SECTION 38-38-302, the county treasurer, within ninety CALENDAR days from the expiration of the proper ALL redemption period

PERIODS, shall commence publication of a notice for four weeks, which means publication once each week for five successive weeks in some newspaper of general circulation in the county in which WHERE the subject real-estate PROPERTY is located. Said THE notice shall contain the name of the RECORD owner of record as of the day of the foreclosure sale, his or her RECORDING OF THE NOTICE OF ELECTION AND DEMAND OR LIS PENDENS, THE OWNER'S address as given in the recorded instrument evidencing his or her THE OWNER'S interest, and the legal description and street address, if any, of the property sold at foreclosure THE sale and shall state that excess moneys PROCEEDS were realized from said THE sale and that, unless said THE funds are claimed by the RECORD owner of record as of the day of the foreclosure sale RECORDING OF THE NOTICE OF ELECTION AND DEMAND OR LIS PENDENS or other person entitled thereto within five years from the date of sale, said THE funds shall become the property of the county in the manner provided in this subsection-(2) SUBSECTION (3). The county treasurer shall also mail a copy of such THE notice to such THE record owner AS OF THE RECORDING OF THE NOTICE OF ELECTION AND DEMAND OR LIS PENDENS at the address provided in the recorded instrument evidencing his or her interest and at the property address. The FEES AND costs of publication and mailing shall be paid from such THE moneys escrowed by the county treasurer.

SECTION 18. 38-38-112, Colorado Revised Statutes, is amended to read:

38-38-112. Use of electronic documents authorized - repeal.

(1) (a) Consistent with the provisions of the "Uniform Electronic Transactions Act", article 71.3 of title 24, C.R.S., any document OR RECORD related to a foreclosure may be accepted by the public trustee or sheriff in an electronic format or may be made available to the public by the public trustee or sheriff in an electronic format. THE PUBLIC TRUSTEE OR SHERIFF SHALL ESTABLISH AND UNIFORMLY APPLY POLICIES DETERMINING WHETHER AND THE EXTENT TO WHICH THE PUBLIC TRUSTEE OR SHERIFF SHALL ACCEPT DOCUMENTS OR RECORDS IN ELECTRONIC FORM; EXCEPT THAT THE PUBLIC TRUSTEE OR SHERIFF SHALL NOT REQUIRE THE USE OF AN ELECTRONIC FORMAT FOR ANY PURPOSE UNDER THIS ARTICLE.

(b) THIS SUBSECTION (1) IS REPEALED, EFFECTIVE JULY 1, 2007.

(2) (a) CONSISTENT WITH THE PROVISIONS OF THE "UNIFORM ELECTRONIC TRANSACTIONS ACT", ARTICLE 71.3 OF TITLE 24, C.R.S., ANY

DOCUMENT OR RECORD RELATED TO A FORECLOSURE MAY BE ACCEPTED BY THE OFFICER IN AN ELECTRONIC FORMAT OR MAY BE MADE AVAILABLE TO THE PUBLIC BY THE OFFICER IN AN ELECTRONIC FORMAT. THE OFFICER SHALL ESTABLISH AND UNIFORMLY APPLY POLICIES DETERMINING WHETHER AND THE EXTENT TO WHICH THE OFFICER SHALL ACCEPT DOCUMENTS OR RECORDS IN ELECTRONIC FORM; EXCEPT THAT THE OFFICER SHALL NOT REQUIRE THE USE OF AN ELECTRONIC FORMAT FOR ANY PURPOSE UNDER THIS ARTICLE.

(b) THIS SUBSECTION (2) SHALL TAKE EFFECT JULY 1, 2007.

SECTION 19. 38-38-201, Colorado Revised Statutes, is amended to read:

38-38-201. Foreclosure of installments without acceleration.

(1) Any mortgage or deed of trust securing an evidence of debt payable by installments giving the right to declare the whole indebtedness due and payable on default of the payment of any part thereof may, at the election of the ~~owner~~ ~~HOLDER~~ of ~~said~~ THE evidence of debt, be foreclosed as to any one or more past due installments of principal or interest as if ~~such~~ THE mortgage or deed of trust separately secured each of ~~such~~ THE past due installments, and, in the event of such election, the ~~public trustee or sheriff~~ OFFICER conducting the foreclosure shall apply the following provisions:

(a) Attorney fees allowed ~~to~~ FOR the ~~foreclosing creditor~~ ATTORNEY FOR THE HOLDER OF THE EVIDENCE OF DEBT shall not exceed ten percent of the amount of principal, interest, and late charges included in the bid prepared in accordance with section 38-38-106.

(b) FEES AND costs ~~and expenses~~ allowable under ~~section 38-38-106~~ (2) SECTION 38-38-107 may be included in ~~such~~ THE bid.

(c) The amount for which the property is foreclosed shall include ~~such~~ past due installments and all sums advanced for FEES AND costs ~~and expenses~~ by the ~~owner~~ ~~HOLDER~~ of ~~said~~ THE evidence of debt pursuant to the terms of the mortgage or deed of trust securing ~~said~~ THE debt.

(d) Not more than one ~~of such~~ foreclosure ~~proceedings~~ PROCEEDING may be commenced PURSUANT TO THIS SECTION in a period of twelve months.

(e) The notice of election and demand ~~for sale~~ or complaint filed to commence ~~such~~ THE foreclosure shall contain the following statement: "This is a foreclosure on one or more installments, without acceleration, as authorized by section 38-38-201, Colorado Revised Statutes."

(f) No deficiency bid shall be made by the ~~foreclosing creditor~~ HOLDER OF THE EVIDENCE OF DEBT or accepted by the ~~public trustee or sheriff~~ OFFICER conducting the foreclosure sale. ~~and~~, Upon ~~such~~ THE sale and the expiration of all redemption periods, the maker of the secured ~~evidence of debt~~ INDEBTEDNESS and all parties who may be personally liable thereon shall be released from personal liability on ~~such~~ THE indebtedness, unless the property is redeemed under section 38-38-302. ~~or 38-38-303.~~

(g) ~~Such~~ THE foreclosure shall not affect the continuance of the lien of the mortgage or deed of trust as to any remaining obligation secured by it but not covered by ~~such~~ THE foreclosure, whether ~~such~~ THE remaining obligation is due before or after ~~such~~ THE foreclosure, and the title acquired as a result of the foreclosure shall be subject to the lien securing ~~such~~ THE remaining obligation.

(2) Nothing in this section shall be construed to prevent the ~~owner~~ HOLDER of an evidence of debt secured by any mortgage or deed of trust from exercising any option contained therein to declare the whole ~~of such~~ indebtedness due and payable, nor shall any of the provisions of this section be applicable to a foreclosure ~~wherein~~ IN WHICH the whole ~~of such~~ indebtedness has been declared due and payable.

SECTION 20. 38-38-301, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

38-38-301. Holder of certificate of purchase paying charges - redemption. THE HOLDER OF A CERTIFICATE OF PURCHASE MAY PAY AT ANY TIME AFTER THE SALE AND DURING THE REDEMPTION PERIOD DESCRIBED IN SECTION 38-38-302 THE FEES AND COSTS THAT THE HOLDER MAY PAY PURSUANT TO SECTION 38-38-107 AND MAY INCLUDE ANY SUCH AMOUNTS AS PART OF THE AMOUNT TO BE PAID UPON REDEMPTION.

SECTION 21. 38-38-302, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

38-38-302. Redemption by lienor - procedure.

(1) Requirements for redemption. A LIENOR OR ASSIGNEE OF A LIEN IS ENTITLED TO REDEEM IF:

(a) THE LIENOR'S LIEN IS A DEED OF TRUST OR OTHER LIEN THAT IS CREATED OR RECOGNIZED BY STATE OR FEDERAL STATUTE OR BY JUDGMENT OF A COURT OF COMPETENT JURISDICTION;

(b) THE LIEN IS A JUNIOR LIEN AS DEFINED IN SECTION 38-38-100.3 (11);

(c) THE LIENOR'S LIEN APPEARS BY INSTRUMENTS THAT WERE DULY RECORDED IN THE OFFICE OF THE CLERK AND RECORDER OF THE COUNTY WHERE ALL OR A PORTION OF THE PROPERTY IS LOCATED PRIOR TO THE RECORDING OF THE NOTICE OF ELECTION AND DEMAND OR LIS PENDENS AND THE LIENOR WOULD BE ENTITLED TO CURE PURSUANT TO SECTION 38-38-104 (1);

(d) THE LIENOR HAS, WITHIN TEN BUSINESS DAYS AFTER THE SALE, FILED A NOTICE WITH THE OFFICER OF THE LIENOR'S INTENT TO REDEEM. A LIENOR MAY FILE A NOTICE OF INTENT TO REDEEM MORE THAN TEN BUSINESS DAYS AFTER SALE IF:

(I) NO LIENOR JUNIOR TO THE LIENOR SEEKING TO FILE THE LATE INTENT TO REDEEM HAS REDEEMED;

(II) THE REDEMPTION PERIOD FOR THE LIENOR SEEKING TO FILE THE LATE INTENT TO REDEEM HAS NOT EXPIRED;

(III) ALL REDEMPTION PERIODS HAVE NOT EXPIRED; AND

(IV) THE NOTICE OF INTENT TO REDEEM IS ACCOMPANIED BY A WRITTEN AUTHORIZATION FROM THE ATTORNEY FOR THE HOLDER OF THE CERTIFICATE OF PURCHASE ACCORDING TO THE RECORDS OF THE OFFICER CONDUCTING THE SALE, OR, IF NO ATTORNEY IS SHOWN, THEN THE HOLDER OF THE CERTIFICATE OF PURCHASE AUTHORIZING THE OFFICER TO ACCEPT SUCH NOTICE OF INTENT TO REDEEM;

(e) THE LIENOR HAS ATTACHED TO THE NOTICE OF INTENT TO REDEEM THE ORIGINAL OR COPIES OF THE RECORDED INSTRUMENTS

EVIDENCING THE LIEN AND ANY ASSIGNMENT OF THE LIEN. IF ORIGINAL INSTRUMENTS ARE DELIVERED TO THE OFFICER, THEY SHALL BE RETURNED TO THE LIENOR AND A COPY SHALL BE RETAINED BY THE OFFICER.

(f) THE LIENOR HAS ATTACHED TO THE NOTICE OF INTENT TO REDEEM A SIGNED AND PROPERLY ACKNOWLEDGED STATEMENT OF THE LIENOR, OR A SIGNED STATEMENT BY THE LIENOR'S ATTORNEY, SETTING FORTH THE AMOUNT REQUIRED TO REDEEM THE LIENOR'S LIEN, INCLUDING PER DIEM INTEREST, THROUGH THE END OF THE LIENOR'S REDEMPTION PERIOD.

(2) **Request for redemption amount.** UPON RECEIPT BY THE OFFICER OF THE NOTICE OF INTENT TO REDEEM FILED BY A PERSON ENTITLED TO REDEEM UNDER THIS SECTION, THE OFFICER SHALL WITHIN ONE BUSINESS DAY TRANSMIT BY MAIL, FACSIMILE, OR OTHER ELECTRONIC MEANS TO THE ATTORNEY FOR THE HOLDER OF THE CERTIFICATE OF PURCHASE, OR IF NO ATTORNEY, THEN TO THE HOLDER, A WRITTEN REQUEST FOR A WRITTEN OR ELECTRONIC STATEMENT OF ALL SUMS NECESSARY TO REDEEM THE SALE. THE STATEMENT SHALL INCLUDE THE AMOUNTS REQUIRED TO REDEEM IN ACCORDANCE WITH THIS SECTION.

(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 FOURTEEN 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. 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) OF THIS SECTION OR EACH SUBSEQUENT REDEMPTION PERIOD PURSUANT TO PARAGRAPH (b) OF SUBSECTION (4) OF THIS SECTION.

(b) IF THE HOLDER OF THE CERTIFICATE OF PURCHASE OR THE ATTORNEY FOR THE HOLDER FAILS TO SUBMIT THE INITIAL WRITTEN STATEMENT TO THE OFFICER WITHIN FIFTEEN BUSINESS DAYS AFTER THE SALE, THE OFFICER MAY CALCULATE THE AMOUNT NECESSARY TO REDEEM

BY ADDING TO THE SUCCESSFUL BID THE ACCRUED INTEREST FROM THE SALE THROUGH THE REDEMPTION DATE. THE ACCRUED INTEREST SHALL BE CALCULATED BY MULTIPLYING THE AMOUNT OF THE BID BY THE REGULAR RATE OF ANNUAL INTEREST SPECIFIED IN THE EVIDENCE OF DEBT, DEED OF TRUST, OR OTHER LIEN BEING FORECLOSED, DIVIDED BY THREE HUNDRED SIXTY-FIVE AND THEN MULTIPLIED BY THE NUMBER OF DAYS FROM THE DATE OF SALE THROUGH THE REDEMPTION DATE. THE OFFICER SHALL TRANSMIT BY MAIL, FACSIMILE, OR OTHER ELECTRONIC MEANS TO THE PARTY FILING THE NOTICE OF INTENT TO REDEEM, PROMPTLY UPON RECEIPT, THE STATEMENT FILED BY THE HOLDER, OR IF NO SUCH STATEMENT IS FILED, THE OFFICER'S ESTIMATE OF THE REDEMPTION FIGURE, WHICH SHALL BE TRANSMITTED NO LATER THAN THE COMMENCEMENT OF THE REDEMPTION PERIOD PURSUANT TO PARAGRAPH (a) OF SUBSECTION (4) OF THIS SECTION OR EACH SUBSEQUENT REDEMPTION PERIOD PURSUANT TO PARAGRAPH (b) OF SUBSECTION (4) OF THIS SECTION.

(4) **Redemption period.** (a) NO SOONER THAN FIFTEEN BUSINESS DAYS NOR LATER THAN TWENTY BUSINESS DAYS AFTER A SALE UNDER THIS ARTICLE, THE JUNIOR LIENOR HAVING THE MOST SENIOR RECORDED LIEN ON THE SOLD PROPERTY OR ANY PORTION THEREOF, ACCORDING TO THE RECORDS, HAVING FIRST COMPLIED WITH THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION, MAY REDEEM THE PROPERTY SOLD BY PAYING TO THE OFFICER, NO LATER THAN 12 NOON ON THE LAST DAY OF THE LIENOR'S REDEMPTION PERIOD, IN THE FORM SPECIFIED IN SECTION 38-37-108, THE AMOUNT FOR WHICH THE PROPERTY WAS SOLD WITH INTEREST FROM THE DATE OF SALE, TOGETHER WITH ALL SUMS ALLOWED UNDER SECTION 38-38-301. INTEREST ON THE AMOUNT FOR WHICH THE PROPERTY WAS SOLD SHALL 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.

(b) (I) EACH SUBSEQUENT LIENOR ENTITLED TO REDEEM SHALL, IN SUCCESSION, HAVE AN ADDITIONAL PERIOD OF FIVE BUSINESS DAYS TO REDEEM. THE RIGHT TO REDEEM SHALL BE IN PRIORITY OF SUCH LIENS ACCORDING TO THE RECORDS. THE REDEEMING LIENOR SHALL REDEEM BY PAYING TO THE OFFICER, ON OR BEFORE 12 NOON OF THE LAST DAY OF THE LIENOR'S REDEMPTION PERIOD:

(A) THE REDEMPTION AMOUNT PAID BY THE PRIOR REDEEMING

LIENOR, WITH INTEREST AT THE RATE SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (4), PLUS THE AMOUNT CLAIMED IN THE STATEMENT DELIVERED BY THE IMMEDIATELY PRIOR REDEEMING LIENOR PURSUANT TO SUBSECTION (6) OF THIS SECTION, INCLUDING THE PER DIEM AMOUNTS THROUGH THE DATE ON WHICH THE PAYMENT IS MADE; OR

(B) IF NO PRIOR LIENOR HAS REDEEMED, THE REDEMPTION AMOUNT DETERMINED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (4).

(II) IF THE REDEEMING LIENOR IS THE SAME PERSON AS THE HOLDER OF THE CERTIFICATE OF PURCHASE OR THE PRIOR REDEEMING LIENOR AS EVIDENCED BY THE INSTRUMENTS REFERRED TO IN SUBSECTION (1) OF THIS SECTION, REGARDLESS OF THE NUMBER OF CONSECUTIVE LIENS HELD BY THE REDEEMING LIENOR, THE REDEEMING LIENOR SHALL NOT PAY TO THE OFFICER THE REDEMPTION AMOUNT INDICATED IN THE CERTIFICATE OF PURCHASE OR CERTIFICATE OF REDEMPTION HELD BY SUCH PERSON, BUT SHALL ONLY PAY TO THE OFFICER THE UNPAID FEES AND COSTS REQUIRED BY THE REDEMPTION AND PROVIDE THE STATEMENT DESCRIBED IN PARAGRAPH (f) OF SUBSECTION (1) OF THIS SECTION.

(c) IF THE STATEMENT DESCRIBED IN PARAGRAPH (f) OF SUBSECTION (1) OF THIS SECTION SO STATES, OR UPON OTHER WRITTEN AUTHORIZATION FROM THE HOLDER OF THE CERTIFICATE OF PURCHASE OR THE THEN-CURRENT HOLDER OF THE CERTIFICATE OF REDEMPTION OR THE ATTORNEY FOR EITHER SUCH HOLDER, THE OFFICER MAY ACCEPT AS A FULL REDEMPTION ANY LESSER AMOUNT THAN THE AMOUNT SPECIFIED IN PARAGRAPH (a) OF SUBSECTION (3) OF THIS SECTION. NOTWITHSTANDING THE FIRST SENTENCE OF THIS PARAGRAPH (c), THE AMOUNT BID AT SALE SHALL DETERMINE THE AMOUNT AND EXTENT OF ANY DEFICIENCY REMAINING ON THE DEBT REPRESENTED BY THE EVIDENCE OF DEBT THAT IS THE SUBJECT OF THE FORECLOSURE AS STATED IN THE BID PURSUANT TO SECTION 38-38-106 (2). ANY REDEMPTION UNDER THIS SECTION SHALL CONSTITUTE A FULL REDEMPTION AND SHALL BE DEEMED TO BE PAYMENT OF ALL SUMS TO WHICH THE HOLDER OF THE CERTIFICATE OF PURCHASE IS ENTITLED.

(d) ON THE ELEVENTH BUSINESS DAY AFTER THE DATE OF SALE, THE OFFICER SHALL SET THE DATES OF THE REDEMPTION PERIOD OF EACH LIENOR IN ACCORDANCE WITH THIS SUBSECTION (4). THE REDEMPTION PERIOD OF A LIENOR SHALL NOT BE SHORTENED OR ALTERED BY THE FACT THAT A PRIOR

LIENOR REDEEMED BEFORE THE EXPIRATION OF HIS OR HER REDEMPTION PERIOD.

(5) **Certificate of redemption.** UPON RECEIPT OF THE REDEMPTION PAYMENT PURSUANT TO SUBSECTION (4) OF THIS SECTION, THE OFFICER SHALL EXECUTE AND RECORD A CERTIFICATE OF REDEMPTION PURSUANT TO SECTION 38-38-402. UPON THE EXPIRATION OF EACH REDEMPTION PERIOD UNDER THIS SECTION, THE OFFICER SHALL DISBURSE ALL REDEMPTION PROCEEDS TO THE PERSONS ENTITLED TO RECEIVE THEM.

(6) **Certificate of lienor.** A REDEEMING LIENOR SHALL PAY TO THE OFFICER THE AMOUNT REQUIRED TO REDEEM AND SHALL DELIVER TO THE OFFICER A SIGNED AND PROPERLY ACKNOWLEDGED STATEMENT BY THE LIENOR OR A SIGNED STATEMENT BY THE LIENOR'S ATTORNEY SHOWING THE AMOUNT OWING ON SUCH LIEN, INCLUDING PER DIEM INTEREST AND FEES AND COSTS ACTUALLY INCURRED THAT ARE PERMITTED BY SUBSECTION (7) OF THIS SECTION AND FOR WHICH THE LIENOR HAS SUBMITTED 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 SALE WITH THE PER DIEM AMOUNTS THAT ACCRUE AFTER THE DATE OF SALE. AT ANY TIME BEFORE THE EXPIRATION OF A REDEEMING LIENOR'S REDEMPTION PERIOD, THE REDEEMING LIENOR MAY SUBMIT A REVISED OR CORRECTED CERTIFICATE, OR THE ATTORNEY FOR THE LIENOR MAY SUBMIT A REVISED OR CORRECTED STATEMENT.

(7) **Payment of fees and costs.** A REDEEMING LIENOR MAY, DURING SUCH LIENOR'S REDEMPTION PERIOD DESCRIBED IN SUBSECTION (4) OF THIS SECTION, PAY THE FEES AND COSTS THAT THE HOLDER OF THE EVIDENCE OF DEBT MAY PAY PURSUANT TO SECTION 38-38-107.

(8) **Misstatement of redemption amount.** IF AN AGGRIEVED PERSON CONTESTS THE AMOUNT SET FORTH IN THE STATEMENT FILED PURSUANT TO PARAGRAPH (f) OF SUBSECTION (1) OF THIS SECTION AND A COURT DETERMINES THAT THE REDEEMING LIENOR MADE A MATERIAL MISSTATEMENT OF THE AMOUNT DUE AND OWING WITH RESPECT TO THE REDEEMING LIENOR'S LIEN, THE COURT SHALL, IN ADDITION TO OTHER RELIEF, AWARD TO THE AGGRIEVED PERSON THE AGGRIEVED PERSON'S COURT COSTS AND REASONABLE ATTORNEY FEES AND COSTS.

(9) **No partial redemption.** A LIENOR HOLDING A LIEN ON LESS THAN ALL OF, OR A PARTIAL INTEREST IN, THE PROPERTY SOLD AT SALE SHALL REDEEM THE ENTIRE PROPERTY. NO PARTIAL REDEMPTION SHALL BE PERMITTED UNDER THIS PART 3. THE PRIORITY OF LIENS FOR PURPOSES OF THIS SECTION SHALL BE DETERMINED WITHOUT CONSIDERATION OF THE FACT THAT THE LIEN RELATES TO ONLY A PORTION OF THE PROPERTY OR TO A PARTIAL INTEREST THEREIN.

(10) **Federal redemption rights.** ANY REDEMPTION RIGHTS GRANTED UNDER FEDERAL LAW ARE SEPARATE AND DISTINCT FROM THE REDEMPTION RIGHTS GRANTED UNDER THIS PART 3. ALL LIENS THAT ARE JUNIOR TO THE DEED OF TRUST OR OTHER LIEN BEING FORECLOSED PURSUANT TO THIS ARTICLE SHALL BE DIVESTED BY THE SALE UNDER THIS ARTICLE, SUBJECT TO THE REDEMPTION RIGHTS PROVIDED IN THIS PART 3. THE OFFICER CONDUCTING A FORECLOSURE UNDER THIS ARTICLE IS NOT DESIGNATED TO RECEIVE REDEMPTIONS UNDER FEDERAL LAW.

SECTION 22. 38-38-304, Colorado Revised Statutes, is amended to read:

38-38-304. Effect of redemption. ~~(1) If redemption is made by the owner of the property, it shall annul the sale and leave the property subject to all liens which would have existed if no sale had been made, except the lien foreclosed which shall be discharged by the sale.~~

~~(2) If the owner fails to redeem and redemption is made by any other person liable after the foreclosure sale for a deficiency, it shall annul the sale, the property shall remain subject to all liens which would have existed if no sale had been made, and the certificate of redemption issued to the person so redeeming shall, when recorded, operate as an assignment to him of the lien so redeemed from, to the full extent thereof, including all extra costs and expenses paid by such redemptioner, who shall nevertheless still be liable for such deficiency.~~

(3) If redemption is made by a lienor, ~~his~~ THE certificate of redemption, duly recorded, operates as an assignment to ~~him~~ THE LIENOR of the estate and interest acquired by the purchaser at the sale, subject ~~however,~~ to the rights of OMITTED PARTIES AS DEFINED IN SECTION 38-38-506 (1) AND persons who may be entitled subsequently to redeem.

SECTION 23. 38-38-306 (2), Colorado Revised Statutes, is amended to read:

38-38-306. Rights of other lienors to redeem. (2) A mechanic's lien claimant or any other person claiming the right to a statutory lien on real property shall have the right to redeem as a lienor despite the fact that ~~such~~ THE claim has not been reduced to judgment, if ~~such~~ THE lien or lien claim has been recorded as required or permitted by statute and the holder thereof has complied with the other conditions required of a lienor by this article. If another lienor redeems after such lien claimant, that portion of the redemption amount attributable to the claim of such lien claimant, as evidenced by such claimant's recorded lien, shall be held in escrow by the ~~public trustee or sheriff~~ OFFICER until a final judgment has been entered in favor of such claimant confirming ~~his~~ THE CLAIMANT'S right to a lien and all periods for appeal have expired, whereupon there shall be paid to such claimant from the escrow the amount of ~~his~~ THE lien claim as established by ~~such~~ THE judgment, with any interest earned thereon, and the balance, if any, shall be refunded to the ~~last redeeming lienor~~ OWNER OF THE PROPERTY AS OF THE DATE OF THE SALE, SO LONG AS THE LAST REDEEMING LIENOR HAS OTHERWISE BEEN SATISFIED. If ~~such~~ THE claimant releases ~~his~~ THE lien or fails to establish ~~his~~ A right to ~~such~~ THE lien, the entire escrow shall be paid to the ~~last redeeming lienor~~ OWNER OF THE PROPERTY AS OF THE DATE OF THE SALE, SO LONG AS THE LAST REDEEMING LIENOR HAS OTHERWISE BEEN SATISFIED. Lien claimants of equal priority, for the purposes of this subsection (2), may act in concert and be deemed to represent one claim in which they share pro rata. THE RIGHT OF THE OWNER OF THE PROPERTY AS OF THE DATE OF THE SALE TO EXCESS SALE PROCEEDS PURSUANT TO A HOMESTEAD EXEMPTION UNDER SECTION 38-41-201 IS SUBORDINATE TO THE RIGHT OF A SUBSEQUENT DEED OF TRUST BENEFICIARY FOR WHOSE BENEFIT THE OWNER WAIVED THE HOMESTEAD EXEMPTION.

SECTION 24. 38-38-401, Colorado Revised Statutes, is amended to read:

38-38-401. Certificate of purchase - issuance. (1) ~~When~~ NO LATER THAN FIVE BUSINESS DAYS AFTER the sale, ~~is held,~~ the ~~public trustee or sheriff conducting the sale~~ OFFICER shall execute and ~~deliver to the purchaser a written~~ RECORD IN EACH COUNTY WHERE THE PROPERTY OR A PORTION THEREOF IS LOCATED A certificate of purchase ~~describing the property and the sum paid therefor and~~ containing:

- (a) THE DESCRIPTION OF THE PROPERTY;
- (b) THE SUM PAID FOR THE PROPERTY;
- (c) THE NAME AND ADDRESS OF THE PURCHASER;

(d) A statement that the purchaser or ~~other holder~~ ASSIGNEE of the certificate of purchase shall be entitled to a CONFIRMATION deed ~~for such property~~ at the expiration of ~~the~~ ALL redemption periods provided by law UNDER PART 3 OF THIS ARTICLE unless a redemption is made; ~~and in the event of continuance, a recital that the sale was duly continued. The public trustee or sheriff officer shall, within ten days from the date of sale, record, in the county clerk and recorder's office of the county where said property is situated, a duplicate certificate of purchase signed and acknowledged by him, and such certificate of purchase or a certified copy thereof shall be deemed prima facie evidence of the statements or recitals contained therein. The late recording of such duplicate certificate of purchase shall not, however, invalidate the title acquired as provided in section 38-38-501.~~

(e) THE DEFICIENCY UNDER THE EVIDENCE OF DEBT, IF ANY, AS A RESULT OF THE SUCCESSFUL BID AT SALE;

(f) THE PUBLIC TRUSTEE'S SALE NUMBER OR, IN THE CASE OF A SALE BY THE SHERIFF, THE DISTRICT COURT CIVIL ACTION NUMBER; AND

(g) THE DATE OF SALE.

(2) THE OFFICER SHALL RETAIN THE RECORDED CERTIFICATE OF PURCHASE IN THE OFFICER'S RECORDS.

(3) THE FAILURE OF THE OFFICER TO COMPLY WITH THE PROVISIONS OF THIS SECTION SHALL NOT AFFECT THE VALIDITY OF THE SALE OR THE VESTING OF TITLE IN THE NAME OF THE HOLDER OF THE CERTIFICATE OF PURCHASE OR CERTIFICATE OF REDEMPTION.

SECTION 25. 38-38-402, Colorado Revised Statutes, is amended to read:

38-38-402. Certificate of redemption - issuance. (1) ~~The public trustee or sheriff to whom the~~ NO SOONER THAN FIFTEEN BUSINESS DAYS

FOLLOWING A SALE BUT NO LATER THAN FIVE BUSINESS DAYS FOLLOWING AN OFFICER'S RECEIPT OF redemption money is paid under section 38-38-302, ~~or 38-38-303~~ THE OFFICER shall execute and ~~deliver an original~~ RECORD IN EACH COUNTY WHERE THE PROPERTY OR A PORTION THEREOF IS LOCATED A certificate of redemption ~~to the person redeeming and record a duplicate certificate of redemption~~ containing:

(a) The name and address of the person redeeming; ~~and the amount paid by him;~~

(b) ~~The time and place of the sale and the description of the property redeemed~~ REDEMPTION AMOUNT PAID;

(c) ~~A statement of the claim or interest which is the basis for such redemption and, in the case of a lien, the amount claimed to be owing thereon at the date of redemption; and~~ THE DATE OF SALE;

(d) ~~An acknowledgment of the signature of the public trustee or sheriff to whom the redemption money is paid~~ THE DESCRIPTION OF THE PROPERTY REDEEMED; AND

(e) THE PUBLIC TRUSTEE'S SALE NUMBER OR, IN THE CASE OF A SALE BY THE SHERIFF, THE DISTRICT COURT CIVIL ACTION NUMBER.

(2) ~~The certificate of redemption or a certified copy thereof shall be deemed to be prima facie evidence of all statements or recitals contained therein~~ OFFICER SHALL RETAIN THE RECORDED CERTIFICATE OF REDEMPTION IN THE OFFICER'S RECORDS.

(3) THE FAILURE OF THE OFFICER TO COMPLY WITH THE PROVISIONS OF THIS SECTION SHALL NOT AFFECT THE VALIDITY OF THE SALE OR THE RIGHTS OF THE GRANTEE OF THE CONFIRMATION DEED.

SECTION 26. 38-38-403, Colorado Revised Statutes, is amended to read:

38-38-403. Certificates assignable. Every certificate of purchase or certificate of redemption that is issued to any person under ~~the provisions of this article, except for a certificate of redemption issued pursuant to section 38-38-302 (2);~~ THIS PART 4 shall be assignable by endorsement

INDORSEMENT thereon or by separate assignment, and ~~such~~ THE assignee shall be treated for all purposes as the original holder of ~~such~~ THE certificate OF PURCHASE OR CERTIFICATE OF REDEMPTION. A SEPARATE ASSIGNMENT OF A CERTIFICATE OF REDEMPTION OR A CERTIFICATE OF PURCHASE SHALL CONTAIN AT LEAST THE INFORMATION REQUIRED IN THE CERTIFICATE ASSIGNED AND THE NAME AND ADDRESS OF THE ASSIGNOR AND THE ASSIGNEE.

SECTION 27. Part 4 of article 38 of title 38, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

38-38-405. Certificate as prima facie evidence. A CERTIFICATE OF PURCHASE, CERTIFICATE OF REDEMPTION, CONFIRMATION DEED, OR A CERTIFIED COPY THEREOF, SHALL BE DEEMED TO BE PRIMA FACIE EVIDENCE OF ALL STATEMENTS OR RECITALS CONTAINED THEREIN.

SECTION 28. 38-38-501, Colorado Revised Statutes, is amended to read:

38-38-501. Title vests upon expiration of redemption periods - confirmation deed. Upon the expiration of ~~the period of~~ ALL redemption PERIODS allowed to ~~the owner and to all subsequent~~ lienors entitled to redeem UNDER PART 3 OF THIS ARTICLE OR, IF THERE ARE NO REDEMPTION PERIODS, UPON THE CLOSE OF THE OFFICER'S BUSINESS DAY TEN BUSINESS DAYS AFTER THE SALE, title to the property sold shall vest in the holder of the certificate of purchase or IN the holder of the LAST certificate of redemption issued to the lienor last redeeming in case a redemption has been made by a lienor IN THE CASE OF REDEMPTION. Subject to the provisions of sections 38-38-506 and 38-41-212 (2), such title shall be free and clear of all liens and encumbrances junior to the lien foreclosed. ~~Within ten working~~ NO LESS THAN FIFTEEN BUSINESS days after the ~~latest to occur of~~ DATE OF SALE OR, IF LATER, the expiration of all REDEMPTION periods of redemption, ~~the delivery of the certificate of purchase or certificate of redemption by the holder to the public trustee or sheriff, and the receipt of all statutory fees AND COSTS, the public trustee or sheriff~~ OFFICER shall execute and deliver RECORD a CONFIRMATION deed PURSUANT TO SECTION 38-38-502 OR 38-38-503 to the holder of the certificate of purchase or, in the case of redemption, ~~by a junior lienor,~~ to the holder of the LAST certificate of redemption confirming the transfer of title to the property. Failure of the ~~trustee or sheriff~~ OFFICER to execute and deliver

RECORD such deed or to ~~deliver~~ RECORD the deed within the time specified shall not affect the validity of ~~such~~ THE deed or the vesting of title.

SECTION 29. 38-38-502, Colorado Revised Statutes, is amended to read:

38-38-502. Form of confirmation deed for public trustee's sale.

The CONFIRMATION deed executed by the public trustee in a foreclosure sale may be in substantially the following form:

THIS DEED is made _____, 20____, between _____ as the public trustee of the _____ County of _____, Colorado, and _____, grantee, (the holder of the certificate of purchase) (the holder of the certificate of redemption issued to the lienor last redeeming), whose legal address is _____.

WHEREAS, _____ did, by deed of trust dated _____, 20____, and recorded in the office of the clerk and recorder of the _____ County of _____, Colorado, on _____, 20____, in Book ____, Page ____, (Film no. ____, Reception no. ____) convey to the public trustee, in trust, the property hereinafter described to secure the payment of the indebtedness provided in said deed of trust; and

WHEREAS, a violation was made in certain of the terms and covenants of said deed of trust as shown by the notice of election and demand for sale filed with the public trustee (a duplicate of which was recorded in the office of said county clerk and recorder); the said property was advertised for public sale at the place and in the manner provided by law and by said deed of trust; ~~COMBINED notice of SALE AND right to cure and redeem and notice of sale were~~ WAS given as required by law; said property was sold according to said ~~COMBINED notice; of sale;~~ and a certificate of purchase thereof was made and recorded in the office of said county clerk and recorder; and

WHEREAS, all periods of redemption have expired.

NOW, THEREFORE, the public trustee, pursuant to the power and authority vested by law and by the said deed of trust, confirms the foreclosure sale and sells and conveys to grantee the following described property located in the

_____ County of _____, State of Colorado, to-wit:
(describe property)
also known by street and number as _____ to have and to
hold the same, with all appurtenances, forever.

SECTION 30. 38-38-503, Colorado Revised Statutes, is amended
to read:

38-38-503. Form of confirmation deed for sheriff's sale. The
CONFIRMATION deed executed by the sheriff in case of a sale by virtue of an
execution and levy or judgment and decree shall state the judgment under
which the property described was sold and the execution or decree date and
may be in substantially the following form:

THIS DEED is made _____, 20__, between _____ as
sheriff of the _____ County of _____, Colorado, and
_____, grantee, (the holder of the certificate of purchase)
(the holder of the certificate of redemption issued to the
lienor last redeeming), whose legal address is _____.
WHEREAS, _____ did, in the ___ court for ___ and
County of _____, Colorado, (recover a judgment against
_____ for the sum of ___ dollars and costs of suit and
upon which judgment an execution was issued) (obtain a
judgment and decree against _____) dated ____, 20__,
directed to the sheriff of the _____ County of _____,
Colorado; and
WHEREAS, by virtue of said (execution) (judgment and
decree), the sheriff levied upon the property hereinafter
described and, after public notice had been given of the time
and place of sale as required by law, said property was
offered for sale and sold according to said notice, and a
certificate of purchase was made and recorded in the office
of the county clerk and recorder; and
WHEREAS, all periods of redemption have expired.
NOW, THEREFORE, I, _____, sheriff of the _____
County of _____, Colorado, in consideration of the
premises, confirm the sale and sell and convey to grantee the
following described property, located in the _____
County of _____, Colorado:
(describe property)

also known by street and number as _____.

TO HAVE AND TO HOLD the same, with all appurtenances thereunto, forever.

SECTION 31. 38-38-506, Colorado Revised Statutes, is amended to read:

38-38-506. Omitted parties - definitions. (1) ~~For the purposes of~~ AS USED IN this section, "omitted party" means any person who:

(a) ~~Subsequent to the recording of a mortgage, deed of trust, or other lien instrument~~ PRIOR TO THE RECORDING OF THE NOTICE OF ELECTION AND DEMAND OR LIS PENDENS, has either acquired a record interest in the property ~~subject to sale~~ or has obtained a valid possessory interest and is in actual possession of ~~such~~ THE property, WHICH INTEREST IS JUNIOR TO THE DEED OF TRUST OR OTHER LIEN BEING FORECLOSED AND WOULD OTHERWISE BE EXTINGUISHED BY THE FORECLOSURE; and

(b) Is not included as a party defendant in a judicial foreclosure action or, if included, is not served with process, or is not served with notice of levy or seizure pursuant to section 13-55-102, C.R.S., or is not notified pursuant to ~~section 38-38-101 (7) (a)~~ SECTION 38-38-103 of a ~~public trustee's foreclosure sale, or is not notified pursuant to section 38-38-103 of his right to cure and redeem,~~ or is not notified in connection with the legal proceedings contemplated by section 38-38-105.

(2) (a) The interest of an omitted party in the property ~~which~~ THAT is the subject of a ~~sheriff's or public trustee's sale~~ may be terminated if ~~such~~ THE omitted party, in a civil action commenced AT ANY TIME by any interested person AS DEFINED IN PARAGRAPH (c) OF THIS SUBSECTION (2), is afforded rights of cure ~~and redemption~~ IF THE OMITTED PARTY WOULD HAVE BEEN ENTITLED TO CURE PURSUANT TO SECTION 38-38-104, OR IS AFFORDED REDEMPTION RIGHTS IF THE OMITTED PARTY WOULD HAVE BEEN ENTITLED TO REDEEM PURSUANT TO SECTION 38-38-302, upon such terms as the court may deem ~~just~~ EQUITABLE under the circumstances, which terms shall not, however, be more favorable than ~~such~~ THE person's statutory rights. THE COURT SHALL GIVE FULL CONSIDERATION TO WHETHER THE OMITTED PARTY WAS GIVEN OR HAD ACTUAL NOTICE OR KNOWLEDGE OF THE FORECLOSURE AND WAS GIVEN AN OPPORTUNITY TO EXERCISE STATUTORY RIGHTS TO CURE OR REDEEM.

(b) For the purposes of this section, the lien ~~which~~ THAT is the subject of the sale shall not be extinguished by merger with the title to the property acquired ~~upon issuance and delivery of the sheriff's deed or upon compliance with the provisions of~~ PURSUANT TO section 38-38-501 until the interest of any omitted party has been affirmed pursuant to ~~the provisions of subsection (3) or (4) of this section or~~ has been terminated as provided in paragraph (a) of this subsection (2), or by operation of law.

(c) ~~For the purposes of~~ AS USED IN this section, "interested person" means ~~any~~ THE holder OF THE EVIDENCE OF DEBT BEING FORECLOSED, A HOLDER of a certificate of purchase or certificate of redemption issued pursuant to ~~section 38-38-402 or 38-38-403~~ SECTION 38-38-401 OR 38-38-402, or ~~any~~ AN owner of the property by virtue of a ~~sheriff's or public trustee's deed~~ PURSUANT TO SECTION 38-38-501 or A person claiming BY, through, OR UNDER such HOLDER OR owner.

(3) ~~If the omitted party is a lessee, and the foreclosing lienor, the holder of the certificate of purchase, or the holder of the certificate of redemption, at any time prior to the transfer of title pursuant to section 38-38-501, AN INTERESTED PERSON files with the public trustee or sheriff OFFICER AT ANY TIME a document affirming the lessee's AN OMITTED PARTY'S interest in the property, subject to the terms, conditions, and provisions of the lease, oral or written, RECORDED INSTRUMENT from which the lessee's SUCH OMITTED PARTY'S interest is derived, OR IN THE CASE OF AN OMITTED PARTY THAT IS A LESSEE, SUBJECT TO THE TERMS AND CONDITIONS OF THE LEASE, WHETHER WRITTEN OR ORAL, the interest of such omitted party in the property shall not be affected by the foreclosure, and such omitted party shall have no rights of cure or redemption RIGHT TO CURE OR REDEEM.~~

(4) ~~If the omitted party is the holder of an easement encumbering the property, and the foreclosing lienor, the holder of the certificate of purchase, or the holder of the certificate of redemption, at any time prior to the transfer of title pursuant to section 38-38-501, files with the public trustee or sheriff a document affirming the easement holder's interest in the property, subject to the terms, conditions, and provisions of the easement agreement, if any, which defines the easement holder's interest, the interest of such omitted party in the property shall not be affected by the foreclosure, and such omitted party shall have no rights of cure or redemption.~~

SECTION 32. Part 7 of article 38 of title 38, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

38-38-702. Limitation of officer's liability. (1) AN OFFICER SHALL NOT HAVE RESPONSIBILITY OR LIABILITY FOR DETERMINING:

(a) THE AMOUNT OR REASONABLENESS OF A BID AT A SALE UNDER SECTION 38-38-106, THE AMOUNT REQUIRED TO CURE UNDER SECTION 38-38-104, OR THE AMOUNT REQUIRED TO REDEEM UNDER SECTION 38-38-302;

(b) THE ACCURACY OF THE LEGAL DESCRIPTION OF PROPERTY IN A FULL OR PARTIAL RELEASE OF A DEED OF TRUST;

(c) THE ACCURACY OR COMPLETENESS OF A MAILING LIST SUBMITTED TO THE OFFICER; OR

(d) THE LEGAL SUFFICIENCY OF THE DESCRIPTION OF THE PROPERTY CONTAINED IN THE NOTICE OF ELECTION AND DEMAND.

(2) NOTHING IN THIS ARTICLE SHALL LESSEN OR OTHERWISE MODIFY THE IMMUNITIES AND PROTECTIONS EXTENDED BY LAW TO AN OFFICER OR TO A GOVERNMENTAL ENTITY WITH WHICH AN OFFICER IS ASSOCIATED.

38-38-703. No waiver of or agreement to shorten right to cure. A WAIVER OF OR AGREEMENT TO SHORTEN THE TIME PERIOD TO EXERCISE THE RIGHT TO CURE A DEFAULT GRANTED BY THE PROVISIONS OF THIS ARTICLE THAT IS MADE BEFORE THE DATE OF A DEFAULT UNDER A DEED OF TRUST, MORTGAGE, OR OTHER INSTRUMENT EVIDENCING A LIEN OR AN EVIDENCE OF DEBT SECURED THEREBY SHALL BE VOID AS AGAINST PUBLIC POLICY.

SECTION 33. Part 7 of article 38 of title 38, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

38-38-704. Providing information to homeowner and public - repeal. (1) (a) NOTWITHSTANDING ANY PROVISION OF THE DEED OF TRUST OR OTHER LIEN BEING FORECLOSED OR ANY PROVISION OF LAW TO THE CONTRARY, A PUBLIC TRUSTEE MAY, AT HIS OR HER DISCRETION, PROVIDE TO

AN OWNER OF THE PROPERTY OR TO ANY PERSON LIABLE ON THE SECURED INDEBTEDNESS OR OTHER LIEN BEING FORECLOSED, OR OTHERWISE MAKE AVAILABLE TO THE GENERAL PUBLIC, ANY EDUCATIONAL OR OTHER INFORMATION OR MATERIAL CONCERNING FORECLOSURES UNDER THIS ARTICLE, INCLUDING AVAILABLE COMMUNITY RESOURCES AND FORECLOSURE PREVENTION INFORMATION, THAT HAS BEEN APPROVED BY THE OFFICE OF THE ATTORNEY GENERAL, BY AN AGENCY OF THE STATE OF COLORADO OR THE FEDERAL GOVERNMENT, OR BY AN ATTORNEY CURRENTLY LICENSED TO PRACTICE AND IN GOOD STANDING IN THE STATE OF COLORADO AND RETAINED BY A PUBLIC TRUSTEE FOR SUCH PURPOSE. THE PUBLIC TRUSTEE MAY CHARGE THE FEES AND COSTS OF PROVIDING SUCH INFORMATION OR MATERIALS TO THE PROPERTY OWNER OR PERSON LIABLE ON THE DEBT AS FORECLOSURE FEES AND COSTS; EXCEPT THAT THE AMOUNT OF SUCH FEES AND COSTS CHARGED SHALL NOT EXCEED TWENTY-FIVE DOLLARS.

(b) THIS SUBSECTION (1) IS REPEALED, EFFECTIVE JULY 1, 2007.

(2)(a) NOTWITHSTANDING ANY PROVISION OF THE DEED OF TRUST OR OTHER LIEN BEING FORECLOSED OR ANY PROVISION OF LAW TO THE CONTRARY, AN OFFICER MAY, AT HIS OR HER DISCRETION, PROVIDE TO AN OWNER OF THE PROPERTY OR TO ANY PERSON LIABLE ON THE SECURED INDEBTEDNESS OR OTHER LIEN BEING FORECLOSED, OR OTHERWISE MAKE AVAILABLE TO THE GENERAL PUBLIC, ANY EDUCATIONAL OR OTHER INFORMATION OR MATERIAL CONCERNING FORECLOSURES UNDER THIS ARTICLE, INCLUDING AVAILABLE COMMUNITY RESOURCES AND FORECLOSURE PREVENTION INFORMATION, THAT HAS BEEN APPROVED BY THE OFFICE OF THE ATTORNEY GENERAL, BY AN AGENCY OF THE STATE OF COLORADO OR THE FEDERAL GOVERNMENT, OR BY AN ATTORNEY CURRENTLY LICENSED TO PRACTICE AND IN GOOD STANDING IN THE STATE OF COLORADO AND RETAINED BY A PUBLIC TRUSTEE FOR SUCH PURPOSE. THE OFFICER MAY CHARGE THE FEES AND COSTS OF PROVIDING SUCH INFORMATION OR MATERIALS TO THE PROPERTY OWNER OR PERSON LIABLE ON THE DEBT AS FORECLOSURE FEES AND COSTS; EXCEPT THAT THE AMOUNT OF SUCH FEES AND COSTS CHARGED SHALL NOT EXCEED TWENTY-FIVE DOLLARS.

(b) THIS SUBSECTION (2) SHALL TAKE EFFECT JULY 1, 2007.

SECTION 34. 39-20-103, Colorado Revised Statutes, is amended

to read:

39-20-103. When holder of prior lien may file action. (1) ~~Any~~ A person having a lien upon or any interest in any real estate referred to in section 39-20-102 under or by virtue of any instrument ~~which~~ THAT has been duly filed of record, in the office of the county clerk and recorder of the county ~~in which such~~ WHERE THE real estate is located, prior to the filing of the statement or notice ~~which~~ THAT created a lien upon such real property for ~~such~~ taxes or any person purchasing such real estate at a sale to satisfy such prior lien or interest may make written request to the executive director of the department of revenue to file a civil action as provided in section 39-20-102. If no ~~such~~ civil action has been commenced as provided in section 39-20-102 within two months after receipt by the executive director of ~~such~~ THE written request, ~~such~~ THE person or purchaser may file a civil action in the district court of any county where any such real property is situated asking for a final determination of all claims of the state of Colorado to and all liens of the state of Colorado upon the real estate in question. Service of the process in such action upon the state of Colorado shall be made upon the executive director of the department of revenue or upon one of his OR HER deputies. Permission is given for the state of Colorado to be so sued. The court shall in such civil action adjudicate the matters involved therein in the same manner as in the case of civil actions filed under section 39-20-102.

(2) EXCEPT FOR LIENS WITH PRIORITY PURSUANT TO SECTION 39-22-604, A LIEN FOR TAXES DUE THE STATE OF COLORADO MAY BE DIVESTED BY A FORECLOSURE PURSUANT TO ARTICLE 38 OF TITLE 38, C.R.S., IN THE SAME MANNER AS OTHER LIENORS WITH LIENS UPON THE PROPERTY BEING FORECLOSED. THE STATE OF COLORADO SHALL HAVE THE SAME REDEMPTION RIGHTS AS OTHER LIENORS IN SUCH A FORECLOSURE. A PERSON FORECLOSING A DEED OF TRUST OR OTHER LIEN WITH PRIORITY OVER A LIEN FOR TAXES DUE THE STATE OF COLORADO IN A FORECLOSURE UNDER ARTICLE 38 OF TITLE 38, C.R.S., SHALL NOT BE REQUIRED TO MAKE A WRITTEN REQUEST OR TO COMMENCE A CIVIL ACTION PURSUANT TO SUBSECTION (1) OF THIS SECTION.

SECTION 35. 13-40-111, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

13-40-111. Issuance and return of summons. (3) FOR ACTIONS

COMMENCED PURSUANT TO SECTION 13-40-104 (1) (f) AND (1) (g) ONLY, IF NO ANSWER TO THE COMPLAINT IS FILED AS PROVIDED IN SUBSECTION (1) OF THIS SECTION, THE COURT SHALL EXAMINE THE COMPLAINT AND IF SATISFIED THAT VENUE IS PROPER AND THE PLAINTIFF IS ENTITLED TO POSSESSION OF THE PREMISES, THE COURT SHALL DISPENSE WITH FURTHER APPEARANCES BY THE PLAINTIFF OR FURTHER HEARING AND SHALL FORTHWITH ENTER A JUDGMENT FOR POSSESSION, PRESENT OR FUTURE DAMAGES, AND COSTS.

SECTION 36. 38-35-126 (1) (a), Colorado Revised Statutes, is amended to read:

38-35-126. Contract for deed - escrow of tax moneys - written notice. (1) (a) Parties entering into a contract for deed to real property shall designate the public trustee of the county ~~wherein such~~ WHERE THE real property is located to act as escrow agent for moneys paid or to be paid by the purchaser to meet the property tax obligations on ~~such~~ THE real property, including the seller's credit at closing for the current year's property taxes and periodic property tax payments, which the contract shall provide will be made monthly by the purchaser to the public trustee. The purchaser shall be responsible for payment to the public trustee of the escrow fee pursuant to ~~the provisions of section 38-37-104 (1) (j)~~ SECTION 38-37-104 (1) (d). Once each year during the month of April, upon notice from the county treasurer, the public trustee shall, to the extent funds are on deposit in the escrow account, transfer sufficient funds from the escrow account to the county treasurer for payment of property taxes on the real property for the prior taxable year. The public trustee shall continue as escrow agent for tax moneys collected on the real property until the deed to ~~such~~ THE real property is delivered to the purchaser and recorded. At the time of ~~such deliverance~~ DELIVERY, the public trustee shall release to the purchaser any moneys remaining in the escrow account and the receipts for all property taxes paid on the property by the public trustee. If the public trustee determines that the escrow is no longer necessary, the public trustee may terminate the escrow account. The public trustee shall notify the county treasurer of ~~such~~ THE termination and shall transfer any moneys held in escrow to the county treasurer for payment of property taxes in accordance with section 39-10-104.5, C.R.S. Any amount so transferred by the public trustee shall be subtracted from the amount of property tax payable on the real property at the time annual property taxes for the current or subsequent taxable years are due. Upon termination of the escrow account, any amount not accepted by the county treasurer upon transfer

shall be returned by the public trustee to the person holding title to the real property ~~which~~ THAT is the subject of the contract for deed to real property.

SECTION 37. 38-37-110, Colorado Revised Statutes, is amended to read:

38-37-110. Public trustee forfeits fees for failure to meet statutory time requirements - validity of foreclosure unaffected. If the public trustee fails to meet the time requirements set forth in ~~section 38-38-101 (3) or (7)~~ SECTION 38-38-102 (1), 38-38-103 (1), or 38-38-501, the foreclosure sale and CONFIRMATION deed shall be valid notwithstanding such failure, and the public trustee shall forfeit five percent of the public trustee's fees provided for in ~~section 38-37-104 (1) (b) and (1) (f)~~ SECTION 38-37-104 (1) (b) (I) AND (1) (b) (V) for each day the public trustee fails to meet ~~such~~ THE time requirements, and if ~~such~~ THE fees have already been paid, the forfeited portion thereof shall be returned immediately to the person who paid them.

SECTION 38. 38-38-701 (1) and (2) (a), Colorado Revised Statutes, are amended, and the said 38-38-701 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

38-38-701. Application - use of term "foreclosure". (1) Except as otherwise provided for in subsection (2) of this section, the provisions of this article shall apply:

(a) To proceedings for the foreclosure of deeds of trust through the public trustee commenced on or after ~~October 1, 1990~~ JULY 1, 2007; and

(b) In the case of proceedings and actions for enforcement or foreclosure of any other types of liens upon real property and in the case of sales by virtue of execution and levy, where the particular proceeding or action under which the sale is performed is commenced on or after ~~October 1, 1990~~ JULY 1, 2007.

(2) On and after October 1, 1990, in all proceedings for the foreclosure of deeds of trust and mortgages executed before July 1, 1965:

(a) The provisions of sections 118-9-2 and 118-9-3, Colorado Revised Statutes 1963, as said sections existed prior to July 1, 1965, shall

apply in lieu of ~~sections 38-38-302~~ SECTION 38-38-302 and ~~38-38-303 (1) to (3)~~ SECTION 38-38-303 (1) TO (3) AS IT EXISTED PRIOR TO JANUARY 1, 2008; and

(4) IF A DEED OF TRUST GRANTS A POWER OF SALE TO THE PUBLIC TRUSTEE BUT CONTAINS NO PROVISION ON THE MANNER IN WHICH THE POWER OF SALE IS TO BE EXERCISED, THE DEED OF TRUST SHALL NOT BE VOID OR VOIDABLE, AND THE HOLDER OF THE EVIDENCE OF DEBT MAY FORECLOSE THE DEED OF TRUST IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE ON THE FORECLOSURE OF DEEDS OF TRUST THROUGH THE OFFICE OF THE PUBLIC TRUSTEE OR IN THE MANNER OF A MORTGAGE THROUGH THE COURTS.

SECTION 39. Repeal. 38-38-102.5, Colorado Revised Statutes, is repealed.

SECTION 40. Repeal. 38-38-303 and 38-38-404, Colorado Revised Statutes, are repealed.

SECTION 41. Effective date - applicability. (1) Sections 2, 3, 4, 11, 18, 26, 33, 34, 35, 39, 41, and 42 of this act shall take effect July 1, 2006, and the remainder of this act shall take effect July 1, 2007, except as otherwise provided in subsection (2) of this section.

(2) (a) Section 4 of this act shall take effect only if House Bill 06-1287, enacted at the Second Regular Session of the Sixty-fifth General Assembly, does not become law.

(b) Section 5 of this act shall take effect only if House Bill 06-1287, enacted at the Second Regular Session of the Sixty-fifth General Assembly, becomes law.

(3) The provisions of this act shall apply to the foreclosure of any deed of trust or other lien with respect to which a notice of election and demand or lis pendens is recorded in the office of the clerk and recorder of the county where the property or a portion of the property is located on or after the applicable effective date of this act.

SECTION 42. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Andrew Romanoff
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Joan Fitz-Gerald
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

APPROVED _____

Bill Owens
GOVERNOR OF THE STATE OF COLORADO