

**Eagle County Public Trustee
Policy on the Redemption of HOA Liens**

Under Colorado State Statute (C.R.S.) 38-33.3-316 and 38-38-302, a Homeowner's Association (HOA), or its assignee, has the right to redeem a foreclosure if all of the following conditions are met:

1. The Deed of Trust being foreclosed was recorded after the Declaration of Covenants for the HOA.
2. The Deed of Trust being foreclosed was recorded after June 30, 1992.
3. The amount owed to the HOA is more than an amount equal to the dues assessed during the six months immediately prior to the recording of the Notice of Election and Demand.
 - a. If the amount owed is less than this, under Colorado State law this amount has a "super-priority" and is senior to the first Deed of Trust. If this is the case, the HOA does not have the right to redeem.
 - b. The remaining amount owed (if any) is junior to the first Deed of Trust but senior to all other liens and encumbrances. This remaining amount owed (if any) gives the HOA the right to redeem the foreclosure as a junior lien holder.

If the conditions listed above apply, Eagle County requires the following documents in order to accept an HOA Intent to Redeem:

1. Notice of Intent to Redeem and Affidavit of Amount Owed:
 - a. A completed Notice of Intent to Redeem and Affidavit of Amount Owed, properly signed and notarized. The Affidavit of Amount Owed must state the "amount required to redeem the lienor's lien, including per diem interest, through the end of the nineteenth business day after the sale with the same specificity and itemization as required in section 38-38-106" ("Bid Required") C.R.S. 38-38-302(1)(f).
 - b. Either the original or a certified copy of an assignment of the HOA lien to another party (if applicable).
 - c. An itemization of the amounts owed to the HOA (either on the Affidavit of Amount Owed or in a separate statement) showing the monthly dues and indicating the amount that constitutes the "super-priority" portion of the HOA's lien. **An HOA can ONLY claim the junior lien portion of their lien. An HOA assignee cannot claim any amounts paid in excess of the amount owed to the HOA in order to purchase the lien.**
 - d. Either the original or an original certified copy of the assessment lien recorded prior to the recording of the Notice of Election and Demand.
 - e. If there is no assessment lien recorded or it was recorded after the recording of the Notice of Election and Demand, we require either the original or an original certified copy of the recorded HOA Declaration of Covenants.
 - f. \$50.00 filing fee.

Please note that as stated above, an HOA that qualifies as a junior lien holder is junior to the Deed of Trust being foreclosed, but senior to all other liens and encumbrances. As the most senior junior lien holder, an HOA will always receive the first redemption period in a foreclosure (a redemption period will not be assigned to the HOA based on the recording date of an assessment lien).