



## REVENUE AND TAXATION CODE § 4675. CLAIM FOR EXCESS PROCEEDS

- (a) Any party of interest in the property may file with the county a claim for the excess proceeds, in proportion to his or her interest held with others of equal priority in the property at the time of sale, **at any time prior to the expiration of one year following the recordation of the tax collector's deed to the purchaser.**
- (b) After the property has been sold, a party of interest in the property at the time of the sale may assign his or her right to claim the excess proceeds only by a dated, written instrument that explicitly states that the right to claim the excess proceeds is being assigned, and only after each party to the proposed assignment has disclosed to each other party to the proposed assignment all facts of which he or she is aware relating to the value of the right that is being assigned. Any attempted assignment that does not comply with these requirements shall have no effect. This paragraph shall apply only with respect to assignments on or after the effective date of this paragraph.
- (c) Any person or entity who in any way acts on behalf of, or in place of, any party of interest with respect to filing a claim for any excess proceeds shall submit proof with the claim that the amount of excess proceeds has been disclosed to the party of interest and that the party of interest has been advised of his or her right to file a claim for the excess proceeds on his or her own behalf.
- (d) The claims shall contain any information and proof deemed necessary by the board of supervisors to establish the claimant's rights to all or any portion of the excess proceeds.
- (e) No sooner than one year following the recordation of the tax collector's deed to the purchaser, and if the excess proceeds have been claimed by any party of interest as provided herein, the excess proceeds shall be distributed on order of the board of supervisors to the parties of interest who have claimed the excess proceeds in the order of priority set forth in subdivisions (a) and (b). For the purposes of this article, parties of interest and their order of priority are:
- (1) First, lien holders of record prior to the recordation of the tax deed to the purchaser in the order of their priority.
  - (2) Second, any person with title of record to all or any portion of the property prior to the recordation of the tax deed to the purchaser.
- (f) In the event that a person with title of record is deceased at the time of the distribution of the excess proceeds, the heirs may submit an affidavit pursuant to Chapter 3 (commencing with Section 13100) of Part 1 of Division 8 of the Probate Code, to support their claim for excess proceeds.
- (g) Any action or proceeding to review the decision of the board of supervisors shall be commenced within 90 days after the date of that decision of the board of supervisors.

### **Instructions for filing an Excess Proceeds Claim**

If you believe that you qualify as a party of interest in the sale of tax-defaulted property described on the claim form, please complete the form. Stating how you have determined your status as a party of interest and attach original supporting documents to verify your claim.

1. Person with Title of Record: In general, any person with title of record to the property prior to the recordation of the tax deed must submit:
  - Original recorded documents (deed, death certificate, court order, etc.) supporting the claim (Certified original recorded documents can be purchased at the County Clerk Recorder's Office)
  - Notarized verification that the claimant is the person named in the document where he or she acquired title
  - Photographic proof of identity (current driver's license, valid passport, etc.)
- A. Heirs: in addition to the documentation required of persons with title of record, an heir to a deceased person with title of record must submit a properly completed Affidavit that fulfills the requirements of Probate Code §13100 *et seq.*
2. Lienholders of Record: In general, must submit:
  - Original, recorded lien.
  - A statement setting forth the original amount of the lien, the total amount of payments received reducing the original amount of the lien, and the amount that was still due and payable as of the date of the sale of the tax-defaulted property
  - Photographic proof of identity (current driver's license, valid passport, etc.)

- A. Trust Deed Beneficiaries, in addition to the documentation required of lienholders, must submit the original promissory note, trust deed, and any assignments proving the lien or security interest.
  - B. Judgment Creditors, in addition to the documentation required of lienholders, must submit a certified copy of the judgment (s) and any statement or orders modifying the judgment.
  - C. Verifiable proof that the judgment debtor is the person(s) who possessed record ownership of the tax-defaulted property.
3. Assignment Requirement  
A party of interest may assign his or her right to claim the excess proceeds. In addition to the proof required of lienholders or persons with title of record, a party who has been assigned a party of interest's right to claim excess proceeds must submit a verified, notarized affidavit executed by all parties to the assignment that explicitly states the right to claim excess proceeds is being assigned and contains the following information: 1) proof that the amount and source of excess proceeds was disclosed to the interested party; 2) that the interested party was advised of his or her right to file a claim for excess proceeds on his or her own behalf directly with the County at no cost; 3) contact information of the interested party.
4. Business Claim Requirements  
In addition to the proof required of lienholders or persons with title of record, a party who is filing a claim on behalf of a business must submit the following additional documentation, which depends on the type of business.
1. Corporation, Limited Liability Company, Limited Partnership, or General Partnership
    - Proof the claimant is an officer of the business who has authority to make a claim on behalf of the business (Articles of Incorporation or Organization, a Statement of Information filed with the Secretary of State, a Company Resolution, etc.)
    - Proof of the legal standing of the business.
  - 2) Sole Proprietorship - most current business license or facility permit and a fictitious Business Name filing (filed with county), if applicable.
  - 3) Merged Business - a copy of the merger or purchase agreement, along with the above required information
  - 4) Suspended Business- proof that the business is no longer suspended, along with the information required above.

**NOTE:** The Alameda County Board of Supervisors delegated their authority to administer the foregoing statute to the Assessment Hearing Officer (Ordinance 94-15).

#### **ALAMEDA COUNTY ADMINISTRATIVE ORDINANCE CODE (Chapter 2.116.140)**

The Hearing Officer shall prepare his or her decision along with a written statement setting forth the reasons for the decision. The decision shall be forwarded to the parties to the hearing and the County Administrator. The decision of the Hearing Officer in assessment appeals matters is binding upon the parties and final when mailed to the parties by the Clerk of the Board and as set forth in Section 2.116.060A.

Decisions of the Hearing Officer on claims for refund may be appealed by either party to the County Administrator for final review. The County Administrator may, without further testimony, affirm, modify or reject the decision of the Hearing Officer based upon the record of the proceedings and any additional written argument presented by the parties. **The decision of the Hearing Officer on claims for refund are final within thirty (30) days after being mailed by the Clerk of the Board, if not appealed to the County Administrator.** If the Hearing Officer's decision on the claim is appealed to the County Administrator, the decision of the County Administrator is final and binding after the County Administrator's affirmation, modification or rejection of the Hearing Officer's decision and it is mailed by the Clerk to the parties.