



12-0299  
#2  
3/27/12

## RESOLUTION NO. 031-2012

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO

RESOLUTION AMENDING RESOLUTION 342-2003 REGARDING POLICY FOR PROOF NECESSARY TO ESTABLISH CLAIM FOR EXCESS PROCEEDS FROM TAX DEFAULTED PROPERTY SALE AND PROCESSING OF SUCH CLAIMS FOR EXCESS PROCEEDS.

**WHEREAS**, the Board of Supervisors is responsible for determining the distribution of excess proceeds from the sale of tax defaulted property pursuant to California Revenue and Taxation (R&T) Code §4675 and §4675.1.

**AND WHEREAS**, claims for excess proceeds from the tax defaulted property sale 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 from the sale of tax defaulted property pursuant to R&T Code 4675(d).

**NOW, THEREFORE, BE IT RESOLVED** that any person filing a claim for excess proceeds from the sale of tax defaulted property pursuant to California Revenue and Taxation (R&T) Code §4675 shall submit, at minimum, the following information for the claim to be considered valid:

1. An original claim (may be in the form provided by the El Dorado County Tax Collector):
  - a. Dated and signed with an original signature by the claimant(s), under penalty of perjury. A public notary must notarize the claimant's original signature. All claimants shall sign the claim.
  - b. Printed name and address (daytime phone number is optional, but recommended).
  - c. Dollar amount being claimed.
  - d. Assessor's Parcel Number. The claim may include a property description.
  - e. Date of the tax sale.
  - f. Statement that the claim is being filed within 1 year of the recordation of the tax collector's deed to the purchaser (U.S. Postal Service postmark serves as proof of the date filed).
  - g. Statement of the "category" of Party of Interest as defined by R&T Code §4675:
    - i. Lienholder of record prior to recording of tax deed to the purchaser.
    - ii. Assignee of a lienholder of record prior to recording of tax deed to the purchaser.
    - iii. Any person(s) with title of record to all or any portion of the property prior to the recordation of the tax deed to the purchaser. Include type of ownership (joint tenancy, tenancy in common, tenancy by the entirety, etc.) and percentage of ownership for each person.
    - iv. Assignee of 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. Include type of ownership (joint tenancy, tenancy in common, etc.) and percentage of ownership.
2. Documentary evidence of entitlement under the provisions of R&T Code §4675 in a form satisfactory to El Dorado County. Such evidence may include, but is not limited to:
  - a. Lienholder of record:
    - i. Copy of claimant's trust deed or other evidence of lien or security interest.

- ii. A statement, signed under penalty of perjury, setting forth the original amount of the lien or interest, the total amount of payments received reducing the original amount of the lien or interest, and the amount still due and payable as of the date of the sale of the tax-defaulted property by the Tax Collector (including a schedule of any calculations).
      - iii. A statement, signed under penalty of perjury, setting forth any attempts to foreclose or collect on the loan including documentation to support any attempts. If no attempts were made to foreclose or collect on the loan, a statement, signed under penalty of perjury, setting forth the reason why no attempt was made to do so.
    - b. Any person with title of record:
      - i. Deeds.
      - ii. Wills and/or death certificate(s).
      - iii. Court order(s).
      - iv. Escrow documents.
      - v. Property tax bills mailed to claimant.
      - vi. Cancelled checks showing payment of taxes.
3. If the claim is an assignment, as described in R&T Code §4675, the following additional items shall be included with the claim for excess proceeds:
  - a. The original assignment. The assignment shall be an original, dated, and written instrument that explicitly states that the right to claim the excess proceeds is being assigned.
  - b. The assignment shall be signed, under penalty of perjury, by the assignor and notarized.
  - c. The assignment shall include a statement signed, under penalty of perjury, by both parties indicating that each party to the assignment has disclosed to each other party all of the facts of which he/she is aware relating to the value of the right that is being assigned.
  - d. The assignment shall include a statement indicating that the amount and source of excess proceeds have been disclosed to the party of interest and that the party of interest has been advised of his/her right to file a claim for the excess proceeds on his/her own behalf directly with the county at no cost.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that El Dorado County may require additional information or documentation to establish the claimant's right to all or any portion of the excess proceeds pursuant to Revenue and Taxation Code §4675.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the Auditor-Controller will receive claims for excess proceeds during the claiming period. After the claiming deadline, the Auditor-Controller will return any claims not filed timely to the claimant via U.S. Postal Service certified mail. The Auditor-Controller will present to the Board of Supervisors only valid original claims for excess proceeds meeting the requirements of Revenue and Taxation Code §4675 or other applicable authority. The Auditor-Controller will present all valid claims with a recommendation for distribution at a duly noticed Board of Supervisor's public hearing. The Auditor-Controller will notify the claimant of any invalid claims via U.S. Postal Service certified mail.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the Auditor-Controller shall notify, via U.S. Postal Service certified mail, all claimants submitting valid claims of the scheduled public hearing of the Board of Supervisor's at least 20 calendar days (based on postmark) in advance of the public hearing. The notice will include the recommended distribution and copies of any other competing valid claims for excess proceeds. Parties with valid claims are not required to physically attend the public hearing; however, they may do so. Any interested person(s) may attend the public hearing.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that that following the determination of distribution for valid claims at the public hearing, the Auditor-Controller will notify valid claimants of the action taken by the Board of Supervisors via U.S. Postal Service certified mail. Pursuant to R&T Code §4675(b), any action or proceeding to review the decision of the Board of Supervisors shall be commenced within 90 calendar days after the date of the decision of the Board of Supervisors. County warrants will be issued no sooner than 90 days after the date of the decision of the Board of Supervisors.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held the 27 day of March, 2012 by the following vote of said Board:

Attest:  
Suzanne Allen de Sanchez  
Clerk of the Board of Supervisors

Ayes: Briggs, Santiago, Knight, Nutting, Sweeney  
Noes: None  
Absent: None

By: Marcie MacFarland  
Deputy Clerk

John R. Knight  
Chair, Board of Supervisors  
John R. Knight

I CERTIFY THAT:  
THE FOREGOING INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL ON FILE IN THIS OFFICE.

Attest: Suzanne Allen de Sanchez, Clerk of the Board of Supervisors of the County of El Dorado, State of California.

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Deputy Clerk