



OFFICE OF THE PUBLIC TRUSTEE
WELD COUNTY, COLORADO



**POLICY ON
INTENTS TO REDEEM AND REDEMPTIONS**

Pursuant to C.R.S. § 38-38-106(7)(b), the Public Trustee may establish written policies relating to all aspects of the foreclosure sale process that are consistent with the provisions of Title 38 of the Colorado Revised Statutes. In addition, pursuant to C.R.S. § 38-38-302(1), a lienor or assignee of a lien is entitled to redeem only if the statutory redemption requirements are met to the satisfaction of the Public Trustee. Accordingly, the Weld County Public Trustee has established this policy regarding the redemption process.*

Intents to Redeem

An Intent to Redeem (form available on the Public Trustee website) may be filed by a junior lienholder, pursuant to C.R.S. § 38-38-302(1)(f). A junior lienholder may claim the value of the lien, plus additional interest accruing through the 19th business day after sale (and continuing to accrue if there are multiple redemption periods) and any additional costs or advances paid by the junior lienor.

Redemptions

Pursuant to C.R.S. §§ 38-38-301 and 38-38-302, a Certificate of Purchase (COP) holder may claim certain fees and costs that are reasonable and actually incurred.

A qualified holder is not required to submit documentation in support of expenses claimed in the redemption statement. If the holder¹ of the COP is NOT a qualified holder, they must submit the following documentation in support of the expenses claimed in their redemption statement: 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 the statement, along with the per diem amounts that accrue after the date of sale. **If a fee or cost was actually incurred, it naturally follows that there should be a receipt for payment of such cost or fee, or proof that the holder has become liable for the expense.**

¹ C.R.S. § 38-38-107(3)(c) defines “holder” as the holder of the certificate of purchase, holder of certificate of redemption or holder of evidence of debt.

Except for taxes for which a receipt is provided, any expense claimed for an entire year will not be accepted. The claimed expense must be only for the applicable time period, and any claimed expense beyond the redemption period will not be allowed.

For example, if there is a claimed expense for insurance under C.R.S. § 38-38-107(3)(b)(VI)², the public trustee will confirm that proof of an actual insurance policy is received. The Public Trustee will not accept an insurance policy *application*. Because fees and costs must actually be incurred, the Public Trustee will confirm that the holder has provided proof of payment of the insurance policy for the applicable period. If no proof of payment is submitted, the holder will be required to provide confirmation from the insurance company that the insurance policy has issued and that the premium amount has been incurred and is due. If the redemption statement includes insurance for an entire year, the claimed expense will be stricken. A COP holder may only claim expenses for the number of days from the date of sale until the date of redemption.

The Public Trustee has the discretion to strike and/or question expenses that are not expressly authorized by C.R.S. § 38-38-107(3). All expenses claimed must be specific, detailed, and sufficiently broken down so the Public Trustee can determine if the expense is reasonable and permissible under C.R.S. § 38-38-107(3). For example, property management expenses may be allowed if the expense is itemized into specific allowable costs, such as costs for maintenance, new locks or other specific and verifiable costs under C.R.S. § 38-38-107(3)(b)(VI), accompanied by proof of the actual expense incurred during the redemption period.

Expenses not allowed:

- 1) Appraisals, BPOs (Broker Price Opinion) property valuation, costs for research on property value, research on lien position, cost of obtaining purchase funds, costs of acquiring a junior lien, or costs of improving a property *beyond* restoring it to sound/working condition³.
- 2) Occupant Notice or the equivalent –This expense does not fall under § 38-38-107(3)(b)(VI).
- 3) Clerk and Recorder fees, Public Trustee fees, Notice of Intent to Redeem (NOIR) fees and recording costs, as they are not incurred during the lienor’s redemption period. See C.R.S. § 38-38-302(7).

² C.R.S. § 38-38-107(3)(b)(VI) provides for 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.

³ C.R.S. § 38-38-100.3(15) provides that “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 a court order, 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.

- 4) Other expenses not authorized under § 38-38-107(3)(b)(VI) or that are not sufficiently specific and itemized with receipts or detailed invoices.

If the redemption statement does not meet the statutory requirements, the Public Trustee will request an amended redemption statement from the COP holder or their attorney. If the holder does not timely comply with the request, the Public Trustee may amend the redemption statement to reflect the fees and costs authorized by statute. See C.R.S. § 30-38-302(3)(a).

Pursuant to C.R.S. § 38-38-302(3)(b), if the redemption statement is not submitted within thirteen (13) business days after the sale, the Public Trustee may calculate the amount necessary to redeem by adding to the successful bid the accrued interest from the date of sale through the redemption date.⁴

* AN AGGRIEVED PERSON MAY CONTEST THE AMOUNT SET FORTH IN THE REDEMPTION STATEMENT FILED BY A REDEEMING LIENOR PURSUANT TO C.R.S. § 38-38-302(1)(f) OR BY A HOLDER OF A CERTIFICATE OF PURCHASE PURSUANT TO C.R.S. § 38-38-302(3)(a). IF A COURT DETERMINES THAT THE REDEEMING LIENOR OR HOLDER OF THE CERTIFICATE OF PURCHASE HAS MADE A MATERIAL MISSTATEMENT ON THE STATEMENT WITH RESPECT TO THE AMOUNT DUE AND OWING TO THE REDEEMING LIENOR OR HOLDER OF THE CERTIFICATE OF PURCHASE, 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. C.R.S. § 38-38-302(8).

⁴ 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 365 and then multiplied by the number of days from the date of sale through the redemption date.