



# COUNTY OF EL DORADO

## CLAIM FOR EXCESS PROCEEDS FROM THE SALE OF TAX DEFAULTED PROPERTY California Revenue and Taxation Code Section 4675

### CLAIM FROM LIENHOLDER OF RECORD

The undersigned Lienholder of Record claims Excess Proceeds pursuant to California Revenue and Taxation Code §4675. Claims must be filed within one year following the recordation of the Tax Collector's Tax Deed to the purchaser. See attached instructions for important detailed instructions and information.

<b>Assessor's Parcel Number:</b> - - -		<b>Default #:</b>	<b>Date of Tax Sale:</b> / /	<b>Date Tax Deed to Purchaser Was Recorded:</b> / /
<b>Type of Lien:</b> <input type="checkbox"/> Tax Lien by a Governmental Entity <input type="checkbox"/> Abatement Lien by a Governmental Entity <input type="checkbox"/> Mortgage <input type="checkbox"/> Owner/Seller Financing <input type="checkbox"/> Mechanics Lien <input type="checkbox"/> Homeowners Association Lien <input type="checkbox"/> Judgment Lien <input type="checkbox"/> Attorney's Lien <input type="checkbox"/> Other: _____		<b>Initial Amount of Lien:</b> \$	<b>Amount Previously Paid on Lien:</b> \$	<b>Amount Claimed:</b> \$
		<b>Is Lien Outstanding:</b> ( <i>Lienholder must immediately notify Auditor-Controller of any payments received following submission of the Claim</i> ) <input type="checkbox"/> Yes <input type="checkbox"/> No		<b>Amount Outstanding as of the Date of the Tax Sale</b> ( <i>Also provide accounting of outstanding balance, payments, etc.:</i> ) \$
<b>Is Lien Recorded in El Dorado County:</b> <input type="checkbox"/> Yes <input type="checkbox"/> No	<b>Date Lien was Recorded:</b> / /	<b>Is Lien Recorded Prior to the Date the Tax Deed to the Purchaser is Recorded:</b> <input type="checkbox"/> Yes <input type="checkbox"/> No	<b>Is Lien:</b> <input type="checkbox"/> Perfected <input type="checkbox"/> Unperfected	
<b>Lienholder's Name as Shown on Recordation:</b>				

Attach documentation to support the Claim. Documentation may include a copy of lien, judgments, etc. See instructions.

I affirm under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. I submit an originally signed and notarized Claim. *See instructions for how to sign the Claim.*

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_  
 (day) (month) (year) (city and state)

Authorized Signature (see instructions): \_\_\_\_\_

Print Name & Title: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

**Notary:** (A notary public verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.)

State of \_\_\_\_\_, County of \_\_\_\_\_

Subscribed and sworn to (or affirmed) before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_),  
 by, \_\_\_\_\_, proved to me on the basis of satisfactory evidence to be the person who appeared before me.

Signature \_\_\_\_\_ (Seal)

# CLAIM FROM LIENHOLDER OF RECORD

## DETAILED INSTRUCTIONS AND INFORMATION

### Which Form to Use

There are essentially four different types of Claimants. A separate form is available for each type of Claimant which addresses the specific information the Claimant needs to provide.

Form	Used For
Claim from Owner of Record	The most common scenario. Use this form if you are the person/entity that, at the time of the tax sale, owned all or a portion of the property sold at tax sale.
Claim from Lienholder of Record	Property, at the time of the tax sale, may be encumbered by recorded liens. Examples would be a mortgage, seller-financing, secured loan, IRS lien, California State Franchise Tax Board lien, mechanics lien, court-ordered judgment, etc. The person/entity to whom money is owed (e.g. the bank) is the lienholder. Use this form if you are the Lienholder of Record.
Claim from Assignee of the Owner of Record	The Owner of Record may choose to assign (give/sell) his claiming rights to a third party (such as an asset finder service, an attorney, a family member, etc.). When this Assignment occurs, the Owner of Record (Assignor) no longer has a unilateral right to make the Claim for Excess Proceeds. Instead, the person/entity to which the rights were assigned makes the Claim for Excess Proceeds as an Assignee.
Claim from Assignee of the Lienholder of Record	The Lienholder of Record may choose to assign (give/sell) his claiming rights to a third party (such as an asset finder service, an attorney, or a family member). When this Assignment occurs, the Lienholder of Record (Assignor) no longer has a unilateral right to make the Claim for Excess Proceeds. Instead, the person/entity to which the rights were assigned makes the Claim for Excess Proceeds as an Assignee.

Please note: State law does not require a particular format to a Claim. The Claim form templates provided by the County are designed to assist the Claimant in compiling the particular information needed by the Auditor-Controller to successfully process a Claim. If the Claimant chooses to use a freeform Claim format, please ensure that all necessary information is provided.

### Assistance

Contact the El Dorado County Auditor-Controller, Property Tax Division at (530)621-5470.

### Mailing the Claim

Mail or deliver the original signed and notarized Claim to the address shown below. Multiple Claims may be mailed in the same envelope.

El Dorado County  
Auditor Controller, Property Tax Division  
360 Fair Lane  
Placerville, CA 95667

### Claiming and Filing Fees

There is no claiming or filing fee. Do not send any money.

## **Filing Deadline**

Claims must be filed prior to the expiration of one year following the recordation of the Tax Collector's deed to the purchaser at tax sale. The Claimant bears the responsibility to ensure delivery. Early receipt is suggested as there is no grace period. The Claimant may contact the Auditor-Controller, Property Tax Division to confirm the Claim has been received.

## **Assessor's Parcel Number (APN)**

Where the APN may be located:

- On the Notice of Excess Proceeds mailed to Parties of Interest (where the Excess Proceeds exceeded \$150).
- Online at the Treasurer-Tax Collector's Public Auction Tax Sale section.  
[http://www.edcgov.us/Government/TaxCollector/After\\_Tax\\_Sale\\_Results.aspx](http://www.edcgov.us/Government/TaxCollector/After_Tax_Sale_Results.aspx)
- By contacting the County's Assessor, Treasurer-Tax Collector, or Auditor-Controller.

## **Default #**

The Default number is not required, but assists to ensure Excess Proceeds identification accuracy, particularly when Excess Proceeds are available for APNs with similar numbers. The Default number may be located:

- Online at the Treasurer-Tax Collector's Public Auction Tax Sale section.  
[http://www.edcgov.us/Government/TaxCollector/After\\_Tax\\_Sale\\_Results.aspx](http://www.edcgov.us/Government/TaxCollector/After_Tax_Sale_Results.aspx)
- By contacting the County's Treasurer-Tax Collector or Auditor-Controller.

## **Date of Tax Sale**

This is the date the property was sold/auctioned by the Tax Collector.

Where the Date of Tax Sale may be located:

- On the Notice of Excess Proceeds mailed to Parties of Interest (where the excess proceeds exceeded \$150).
- Online at the Treasurer-Tax Collector's Public Auction Tax Sale section.  
[http://www.edcgov.us/Government/TaxCollector/After\\_Tax\\_Sale\\_Results.aspx](http://www.edcgov.us/Government/TaxCollector/After_Tax_Sale_Results.aspx)
- By contacting the County's Treasurer-Tax Collector or Auditor-Controller.

## **Date Tax Deed to Purchaser Recorded**

This is the date the Tax Collector recorded the deed transferring the ownership to the person who purchased the property at the tax sale. This date is typically within 60 days following the tax sale date.

This date is not required, but assists to demonstrate the Claim was made in a timely manner.

Where the Date Tax Deed to Purchaser Recorded may be located:

- On the Notice of Excess Proceeds mailed to Parties of Interest (where the excess proceeds exceeded \$150).
- Online at the Treasurer-Tax Collector's Public Auction Tax Sale section.  
[http://www.edcgov.us/Government/TaxCollector/After\\_Tax\\_Sale\\_Results.aspx](http://www.edcgov.us/Government/TaxCollector/After_Tax_Sale_Results.aspx)
- By contacting the County's Treasurer-Tax Collector or Auditor-Controller.

## **Type of Lien**

Several different types of liens can occur. Identify the nature of the recorded lien.

## **Initial Amount of Lien**

Identify the amount of the initial lien. The initial lien amount may be different from the current balance.

## **Amount Previously Paid on Lien**

Identify the total amount of any payments made regarding the lien at the time the Claim for Excess Proceeds is filed. Provide an accounting of any payments.

If the lienholder receives any payments after filing the Claim for Excess Proceeds, and prior to the distribution of the Excess Proceeds, the lienholder must notify the Auditor-Controller immediately.

## **Amount Claimed**

Indicate the amount of available excess proceeds being claimed. Provide a full accounting of the amount claimed including the outstanding balance, payments, interest authority and calculations, etc.

Typically, the amount outstanding on the lien at the time of the tax sale will determine the maximum amount of Excess Proceeds that may be claimed. Interest/costs/fees/etc. accruing after the date of the tax sale aren't eligible to be claimed. The amount claimed may not exceed the amount of available Excess Proceeds.

If the lienholder receives any payments after filing the Claim for Excess Proceeds, and prior to the distribution of the Excess Proceeds, the lienholder must notify the Auditor-Controller immediately.

## **Is Lien Outstanding**

Identify whether the lien remains outstanding at the time the tax sale's change of ownership was recorded and at the time of the Claim for Excess Proceeds is submitted. Typically, the tax sale's change in ownership isn't recorded the day of the tax sale. Usually it is recorded a few weeks later. The recording date may be located on the Notice of Excess Proceeds mailed to Parties of Interest (when the Excess Proceeds exceeded \$150).

Lienholder must immediately notify Auditor-Controller of any payments received following submission of the Claim.

If the lien is extinguished after filing the Claim for Excess Proceeds, and prior to the distribution of the Excess Proceeds, the lienholder must notify the Auditor-Controller immediately.

## **Amount Outstanding as of the Date of the Tax Sale**

Identify the amount outstanding on the lien at the time the tax sale. Interest/costs/fees/etc. accruing after the date of the tax sale aren't eligible to be claimed.

If the lienholder receives any payments after filing the Claim for Excess Proceeds, and prior to the distribution of the Excess Proceeds, the lienholder must notify the Auditor-Controller immediately.

## **Is Lien Recorded in El Dorado County**

Indicate whether the lien is recorded with the El Dorado County Recorder. Pursuant to State law, liens must be recorded in El Dorado County to be eligible for Excess Proceeds.

## **Date Lien Recorded**

Identify the date the lien was recorded with the El Dorado County Recorder. If there is more than one lien, complete a separate Claim for each lien.

## **Is Lien Recorded Prior to the Date the Tax Deed to the Purchaser is Recorded**

Indicate whether the lien was recorded with the El Dorado County Recorder prior to the time the tax sale's change of ownership was recorded. Typically, the tax sale's change in ownership isn't recorded the day of the tax sale. Usually it is recorded a few weeks later. The recording date should be shown on the Notice of Excess Proceeds mailed to Parties of Interest (when the Excess Proceeds exceeded \$150).

## **Is Lien Perfected/Unperfected**

Indicate whether the recorded lien has been perfected or not (that it is enforceable without further action by the lienholder). For example, for a Mechanics Lien to be enforceable in the State of California, it must successfully traverse the requirements found in Civil Code §8460 et seq. Liens must be perfected to be eligible for Excess Proceeds. The Claimant may be asked to provide documented evidence of the lien's perfection.

## **Lienholder's Name as Shown on Recordation**

Pursuant to R&T§4675(e)(1)(A), the lienholder's Name is that "of record prior to the recordation of the tax deed to the purchaser".

Input the lienholder's name as shown on the recorded lien. If the lienholder is a Business, don't use an abbreviated format, DBA alias, parent company, or subsidiary company.

## **Documentation**

Attach documentation to support the Claim. Documentation should include a copy of the recorded lien. It may also include any notices mailed to Claimant from the Tax Collector, etc. Claims may be denied if the County is unable to establish a nexus between the Claimant and the Excess Proceeds.

Documents that establish a nexus that the Claimant is the only possible lienholder are the strongest documents. For instance, if Mary Smith has an enforceable Mechanics Lien, there may be a thousand Mary Smiths throughout the United States, but only one specific Mary Smith could have placed the Mechanic's Lien.

## **Signing the Claim**

Generally, the Authorized Signatory is the same as the lienholder (e.g. Mary Smith has an enforceable Mechanics Lien and is now filing a Claim for the Excess Proceeds). In this situation, Mary Smith will simply sign the Claim as *Mary Smith*.

If the lienholder is a Business, an individual with corporate authority for the business such as an officer, general partner, manager, or sole proprietor signs the Claim (e.g. *John Smith, President of Global Mortgage Unlimited, Incorporated*). Additionally, submit proof that the Authorized Signatory is an officer, general partner, etc. which may be documented in the current business license, company resolution, operating agreement, articles of incorporation, the most recent Statement of Information filed with the State Secretary, partnership agreement, certificate of dissolution, etc.

*Note that if the corporation is a subsidiary corporation, the parent corporation is merely a shareholder of its subsidiary corporation and does not own the corporate property of its subsidiary. Therefore a parent corporation, regardless of the percentage of share owned, would not be the Lienholder of Record if recorded in the subsidiary corporation's name.*

## **Notarization**

Claims must be notarized. Notary Publics are available nationwide at many banks, mail service businesses, secretarial service businesses, tax service businesses, legal service businesses, and bail bond businesses.

If a Claimant is submitting multiple Claims in one envelope (e.g. the Claimant had liens on three properties sold at the tax sale each resulting in Excess Proceeds), the Claimant may have their signature notarized on the first Claim and notate on the subsequent Claims to refer back to the first Claim for the notary.

Please contact the El Dorado County Auditor-Controller if the Claimant is located outside the United States, and a notary service is unavailable.

## **Processing**

State law allows for a claiming period of a full year. The Claimant bears the responsibility to ensure delivery. Early receipt is suggested as there is no grace period. The Claimant may call to see if the Claim has been received.

In order to receive consideration by the County Board of Supervisors (BOS), valid Claims must be received by the claiming expiration date, which is one year following the date of the recording of the deed to the purchaser at tax sale. The claiming expiration date may be located on the Notice of Excess Proceeds mailed to Parties of Interest and at the Treasurer-Tax Collector's website.

Claims will be reviewed typically within 60 days following receipt. The Auditor-Controller will deny (in writing) any patently invalid Claims without further consideration. The Auditor-Controller will deny (in writing) incomplete Claims without further consideration; however, presuming time remains within the claiming period, the Claimant may resubmit the Claim with the missing information.

Claims will not be heard by the BOS until after the claiming period has expired. The Auditor-Controller will schedule a hearing of the Claim for Excess Proceeds with the BOS and will notify the Claimant of the hearing date at least 20 days in advance. The BOS will take action to distribute the Excess Proceeds based upon State law. The Auditor-Controller will notify all valid Claimants of the action taken by the BOS. Should the Claim be approved (in whole or part), the Auditor-Controller shall issue a warrant (check) 90 days after the BOS action.

*Continued on Next Page*

## **State Law**

**4675.** (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 and source of excess proceeds have 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 directly with the county at no cost.

(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) (1) Except as provided in paragraph (2), 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:

(A) First, lienholders of record prior to the recordation of the tax deed to the purchaser in the order of their priority.

(B) 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.

(2) (A) Notwithstanding paragraph (1), if the board of supervisors has been petitioned to rescind the tax sale pursuant to Section 3731, any excess proceeds shall not be distributed to the parties of interest as provided by paragraph (1) sooner than one year following the date the board of supervisors determines the tax sale should not be rescinded, and only if the person who petitioned the board of supervisors pursuant to Section 3731 has not commenced a proceeding in court pursuant to Section 3725.

(B) If a proceeding has been commenced in a court pursuant to Section 3725, any excess proceeds shall not be distributed to the parties of interest as provided by paragraph (1) until a final court order is issued.

(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.

*(Amended by Stats. 2014, Ch. 501, Sec. 2. Effective January 1, 2015.)*