

MEMORANDUM

TO: Tax Lien Investors

FROM: Mark L. Manoil
TIFFANY & BOSCO, P.A.

DATE: July 7, 1999

RE: 30-Day Notice of Intent to Foreclose

There is a change scheduled to take effect August 6, 1999 to the statute governing notification of intent to foreclose an Arizona property tax lien. We believe it may significantly increase the amount of non-recoverable fees and costs necessary to complete this requirement, should a redemption take place prior to the law suit being filed and the appropriate defendants being served.

Currently, Arizona Revised Statutes, Section 42-18202(A) reads in part: *"At least thirty days before filing an action to foreclose the right to redeem under this article, the purchaser shall send notice of intent to file the foreclosure action by certified mail to: 1. The property owner of record on the current tax roll"*. This requirement clearly identified who the notice was to be addressed to, where it was to be sent, and where such information was to be obtained, which in turn made the estimation of the cost of the requirement easy to pre-determine.

Unfortunately, the new version is ambiguous, and will likely increase the effort required to comply with the statutory mandate. The new version of the statute reads as follows: *"At least thirty days before filing an action to foreclose the right to redeem under this article, the purchaser shall send notice of intent to file the foreclosure action by certified mail to: 1. The property owner of record ACCORDING TO THE RECORDS OF THE COUNTY RECORDER IN THE COUNTY IN WHICH THE PROPERTY IS LOCATED "*.

Early discussions with knowledgeable people suggest that the change will require some title work - probably obtaining the current vesting deed - prior to preparing the notice. In addition, the County Recorder's records may only identify the appropriate party(ies) , but not their present location. Research may have to be undertaken to find their whereabouts. The cost of such due diligence and the time required to complete it may be open ended, and certainly open to challenges for sufficiency later, once suit has already been filed.

We therefore strongly recommend that any contemplated purchases of mature tax liens be completed and the Notices sent prior to August 6, 1999,

the effective date of the new law. After that date, we anticipate the charge for the 30-day notice will necessarily increase. Please feel free to contact me or Eric Wyman at 602/255-6000 if you have additional questions regarding this process.

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