

HOUSE BILL NO. HB0083

Foreclosure sale proceeds.

Sponsored by: Representative(s) Illoway and Nicholas and
Senator(s) Hanes

A BILL

for

1 AN ACT relating to real property; providing for the
2 distribution of monies upon mortgage foreclosure sales;
3 making conforming amendment for state farm loans;
4 specifying applicability of the act; and providing for an
5 effective date.

6

7 *Be It Enacted by the Legislature of the State of Wyoming:*

8

9 **Section 1.** W.S. 1-18-113 is created to read:

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11 **1-18-113. Payment of proceeds.**

12

13 After any sale of real estate as provided in this chapter,
14 proceeds from the sale shall be paid over by the officer or
15 other person making the sale in accordance with W.S.
16 34-4-113.

1

2 **Section 2.** W.S. 11-34-123(a) and 34-4-113 are amended
3 to read:

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5 **11-34-123. Foreclosure proceedings; duty of attorney**
6 **general; deed in lieu of foreclosure.**

7

8 (a) Any foreclosure of any mortgage provided for by
9 this act shall be made in the usual manner, either by civil
10 action or by advertisement as the board may direct. In
11 cases of foreclosure the attorney general shall render all
12 services needed in connection with the foreclosure
13 proceedings, and the costs, fees and expenses may be taxed
14 in like manner and to the same effect as if the state of
15 Wyoming were a natural person. Payment of proceeds upon
16 foreclosure shall be made in accordance with W.S. 34-4-113.
17 All money received by the state from sale of the land
18 acquired by foreclosure or by redemption of land sold on
19 foreclosure, in excess of the amount owing to the
20 appropriate permanent fund account and the interest due
21 thereon, shall be credited to the loss reserve account as
22 provided by W.S. 11-34-202(e). The board may extend the
23 time of payment of any interest or installment payment due
24 on any farm loan for as long as the board deems proper, and

1 distribute the defaulted payments including interest, over
2 undue payments in such manner and under such terms as to
3 the board seems just, each loan to be judged on its own
4 merits without regard to any general rule. It is the
5 intention of this section to authorize the board to
6 consider and determine whether any mortgages executed by
7 virtue of this act shall be foreclosed or renewed, with or
8 without penalty, but no renewal shall extend beyond the due
9 date of the original loan or any extension of the term by
10 reamortization authorized by W.S. 11-34-113(d).

11

12 **34-4-113. Payment of proceeds.**

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14 (a) ~~If~~ After any sale of real estate made as herein
15 prescribed, ~~there shall remain in the hands of the officer~~
16 ~~or other person making the sale any surplus money after~~
17 ~~satisfying the mortgage on which such real estate was sold~~
18 ~~and payment of the costs and expenses of such foreclosure~~
19 ~~and sale, the surplus~~ proceeds from the sale shall be paid
20 over by ~~such~~ the officer or other person ~~on demand to the~~
21 ~~mortgagor, his legal representatives or assigns.~~ making the
22 sale in the following order:

23

1 (i) Payment of the reasonable expenses of
2 collection and enforcement and, to the extent provided by
3 law, reasonable attorney's fees and legal expenses incurred
4 by the foreclosing mortgagee;

5
6 (ii) The satisfaction of obligations secured by
7 the mortgage being foreclosed;

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9 (iii) The satisfaction of obligations secured by
10 any subordinate or junior mortgage or other lien on such
11 real estate sold at the foreclosure sale as provided in
12 subsection (b) of this section in order of priority; and

13
14 (iv) Surplus proceeds on demand to the
15 mortgagor, his legal representatives or assigns.

16
17 (b) If the foreclosing mortgagee receives a demand
18 for proceeds signed by the holder of a subordinate or
19 junior mortgage or other lien before distribution of
20 proceeds is completed, proceeds remaining after
21 distribution under paragraphs (a)(i) and (ii) of this
22 section shall be paid over by the officer or other person
23 making the sale as directed by the foreclosing mortgagee to
24 the subordinate mortgagee or lienholder. If requested by a

1 foreclosing mortgagee, a holder of a subordinate mortgage
2 or other lien shall furnish a certified copy of the
3 recorded mortgage or lien or other reasonable proof of the
4 lien within twenty (20) days after receiving a request for
5 such proof. Unless the holder complies, the foreclosing
6 mortgagee need not comply with the holder's demand under
7 paragraph (a)(iii) of this section.

8
9 (c) Subject to the other provisions of this section,
10 a mortgagee shall account to and pay a mortgagor for any
11 surplus, and the mortgagor is liable for any deficiency.

12
13 **Section 3.** This act shall be applicable to real
14 estate mortgage foreclosures which are commenced on or
15 after the effective date of this act.

16
17 **Section 4.** This act is effective July 1, 2004.

18
19 (END)