

# Texas State Law - Excess Funds Recovery Guide

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For MaxSam V4 - Automated Excess Funds Recovery System

## OVERVIEW

When a foreclosed property sells at auction for more than the outstanding debt, the difference constitutes "excess proceeds" or "surplus funds." Under Texas law, these funds belong to the former property owner or lienholders, not the taxing entities. Texas Tax Code Section 34.04 governs the claims process for these funds.

## KEY LEGAL AUTHORITY

Texas Tax Code Section 34.04 - Claims for Excess Proceeds

## DEADLINE TO FILE CLAIM

| Foreclosure Type | Deadline |

| ----- | ----- |

| Tax Foreclosure | 2 years from sale date |

| Mortgage Foreclosure | Generally 3 years from sale date |

WARNING: Missing the deadline = funds are forfeited to taxing units as a windfall.

## WHO CAN CLAIM EXCESS FUNDS

1. Former property owners who lost property in the tax sale
2. Lienholders with a recorded financial interest in the property
3. Heirs of the former owner (with proof of relationship)

IMPORTANT RESTRICTION: A former owner who acquired interest AFTER the date of the judgment CANNOT claim the proceeds.

## MINIMUM CLAIM THRESHOLD

Claims are valid for amounts exceeding \$25.

## STEP-BY-STEP CLAIM PROCESS

### Step 1: Identify Excess Funds

- Contact the county district clerk where the property was sold
- Request a listing of excess proceeds held in the court registry
- Verify the amount available and sale date

### Step 2: Gather Required Documentation

- Proof of ownership (deed recorded before judgment date)
- Government-issued identification
- Proof of relationship (if claiming as heir)
- Lien documentation (if claiming as lienholder)

### Step 3: File a Petition

- Submit petition to the district court in the county where property was sold
- Can be filed under the original cause number of the underlying suit
- Must be filed BEFORE the 2nd anniversary of the sale date

### Step 4: Serve Notice

- Serve copy of petition on all parties to the underlying action
- Must be served at least 20 days before hearing date
- Follow Rule 21a, Texas Rules of Civil Procedure

### Step 5: Attend Court Hearing

- Court will determine distribution priority
- May be in person, via Zoom, or by phone (varies by county)
- Bring all original documentation

### Step 6: Receive Funds

- Court issues order directing payment
- District clerk releases funds per court order

## REQUIRED DOCUMENTS

- [ ] Proof of ownership (deed from time of ownership)
- [ ] Current deed (if available)
- [ ] Government-issued photo ID
- [ ] Proof of heirship/relationship (if applicable)
- [ ] Lien release or documentation (if lienholder)
- [ ] Transfer/assignment document (if assigned)