

## **Instructions to Claim Surplus Monies Action (In Rem Foreclosures)**

1. To claim surplus funds, you can hire an attorney or use the following information to obtain the court order yourself. The Ulster County Court Clerk, the Ulster County Commissioner of Finance and the Ulster County Clerk's Office cannot provide any legal advice or guidance on the claims process.
2. The papers required to file a claim for surplus funds are in bold below. Any papers that have an asterisk (for example: **Notice of Claim to Surplus Monies\***) are available in the packet of sample forms provided to you with these instructions.
3. You must obtain a **Certificate of Amount of Surplus Funds on Deposit** from the Ulster County Commissioner of Finance (with whom the money is deposited) showing the amount of money (including interest) being held. Please send your request for this certificate via email to [deptoffin@co.ulster.ny.us](mailto:deptoffin@co.ulster.ny.us). Once you receive the certificate, it must be filed with the Notice of Motion (see below).
4. Request a **Certificate as to Notice of Claims to Surplus Monies** from the Ulster County Clerk pursuant to RPAPL §1355. The fee for this Certificate is \$5.00. The Certificate as to Notice of Claims to Surplus Monies will list any other parties who have filed a Notice of Claim to Surplus Monies or Notice of Appearance in the In Rem Action, against the specific parcel (identified by SBL Number). You must serve a copy of the Notice of Motion and all attachments (see paragraph 6 below) on the Ulster County Commissioner of Finance as well as on all parties who have filed a Notice of Claim to Surplus Monies or Notice of Appearance.
5. A **Notice of Claim to Surplus Monies\*** must be filed in the In Rem Action with the Ulster County Clerk. This is filed with the Notice of Motion (see below). The Notice of Claim to Surplus Monies must contain the same caption and index number as the In Rem Action. The Notice of Claim to Surplus Monies must also include the SBL Number.
6. A **Notice of Motion\*** must be filed with the Ulster County Clerk together with the required filing fee of \$45.00. Use the same caption and index number as in the In Rem Action – The papers **MUST** include the SBL Number of the Parcel. Attached to your Notice of Motion should be the following:
  - a. An **Affidavit in Support of Motion\***.
  - b. *OPTIONAL*: A limited title search (also known as a tax foreclosure search) of the property commencing at the date that the Claimant/Former Owner took title through the date the County foreclosure deed was recorded to identify lien holders (other judgment creditors). The search must be issued by a licensed title search company. (While this is optional, submitting the same may expedite the distribution of surplus proceeds.)
  - c. The Certificate as to Notice of Claims to Surplus Monies from the Ulster County Clerk referred to above.
  - d. The Certificate of Amount of Surplus Funds on Deposit from the Ulster County Commissioner of Finance referred to above.

- e. A copy of the Judgment of Foreclosure and Sale (available on the Ulster County Clerk's website).
- f. **Affidavit(s) of Service\*** of your Notice of Claim to Surplus Monies, Notice of Motion, and Affidavit in Support of Motion upon the Ulster County Commissioner of Finance and all lien holders, if any exist. A copy of the Affidavit(s) of Service must be submitted with the Notice of Motion. The original Affidavit(s) of Service must be filed in the Ulster County Clerk's Office.
- g. You must prepare and submit to the Court a proposed **Order to Distribute Surplus Monies\*** directing how the surplus monies are to be paid.
- h. You must prepare and submit to the Court a proposed **Order of Reference Appointing Referee in Surplus Money Proceeding\***.
- i. If a referee is appointed by the Court, the Referee will file a **Referee's Report of Surplus Monies** with the Court, certifying the appearances in the In Rem Foreclosure Action and determining the priority of creditors.

**Be sure to retain a copy of all papers for your own records. County and court staff are not permitted to make copies for you.**

- 7. Once the Order to Distribute Surplus Monies is signed and entered by the County Clerk, you must obtain a certified copy of the Order from the County Clerk's Office and file it with the Ulster County Commissioner of Finance (with whom the money is deposited). A certified copy will cost \$5.00 to prepare plus \$1.25 per page over 4 pages. The Ulster County Department of Finance will mail the checks as set forth in the Order less the administrative fee (currently 2% per §8010 of the NYS Civil Practice Laws and Rules) and less the Referee's fee of \$350.00 (if applicable).
- 8. **Please be aware that nothing contained herein should be construed as legal advice. You should seek the advice of an attorney to better understand your rights, responsibilities, and legal options.**
- 9. Sample forms are available online by visiting:

Ulster County Department of Finance:  
[ulstercountyny.gov/finance](http://ulstercountyny.gov/finance)

- 10. Hard copies of the sample forms are available by visiting:

Ulster County Department of Finance  
244 Fair Street, Kingston, NY 12401

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