

Q Why do I have to pay a fee? I pay property taxes.

A: The Public Trustee’s office is funded by user fees. No tax money is used by this office.

Q: Why can’t I get my recording information immediately?

A: The Public Trustee’s office has a process whereby Releases of Deeds of Trust are reviewed, executed and signed by a deputy. These releases are sent to the Clerk and Recorder for recording as batches are completed.

Q: Can you tell me if my mortgage company has sent in the documents to release my Deed of Trust?

A: No, we receive many Releases of Deeds of Trust every day. Your release will be processed quickly in the order that it was received. You may check with the Clerk and Recorder to see if the release has been recorded.

Q: I have received the recorded release but not the Note and Deed of Trust. Why would you return these documents to the mortgage company?

A: We return the documents to the party designated by the entity that submitted them, unless otherwise instructed.

Q: Why don’t you stamp the Note and Deed of Trust as cancelled and released?

A: The recorded release form is the legal basis for showing that the lien has been released. The note, if provided, may or may not be marked as paid in full by the lender. Stamping a copy of a Deed of Trust, or even the original, as released serves no purpose because another (unstamped) copy of recorded Deed could be obtained for any purpose

This guide has been established as an informational tool for citizens. It is not intended to serve as legal advice

The Importance of a Release of Deed of Trust

A Release of Deed of Trust is a written request by the mortgage company, lender, their agent, attorney or a title insurance company to the Public Trustee. The purpose of the release is to remove all or a portion of the property from the lien created by the Deed of Trust. If the lien is not removed, you are likely to have difficulty selling the property or borrowing money against it.

Need Release Forms?

Release forms can be found on our website, www.elpasopublictrustee.com. Those forms include the basic forms for release with and without production of the original evidence of debt, as well as various affidavits that explain discrepancies in dates or names or the presence of multiple deeds or notes.



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**EL PASO COUNTY
PUBLIC TRUSTEE**

Mark Lowderman

Releasing a Deed of Trust

**Requirements and
Frequently Asked Questions**



Want to learn more about the Public Trustee’s office?

Begin your research with our brochures or visit our Web site at:

www.elpasopublictrustee.com

HOW TO RELEASE A DEED OF TRUST

Required Documentation

The following documentation is required to release a Deed of Trust in Colorado:

1. **A completed, signed, and notarized Request for a Release of Deed of Trust, available on our website.** The request must be signed by all of the legal holders of the Promissory Note (the lender). Select the correct release form based on whether or not you are providing the original evidence of debt (promissory note). Please make sure a return address is written on the Release of Deed of Trust so the Clerk can send you the recorded document.
2. **Copy of the recorded Deed of Trust** (need not be original and need not be a certified copy) with the Clerk's stamp on it. Copies of documents recorded since 1996 may be obtained from the branch Office of the El Paso County Clerk and Recorder, 200 South Cascade. Older documents can only be obtained from the Clerk's main Office at 1675 West Garden of the Gods.
3. **Original Promissory Note** corresponding to the Deed of Trust. Under Colorado law, we cannot accept a copy of the note.

Required Fee

The cost for a one-page Release of Deed of Trust is \$28. \$15 of that is the Public Trustee's fee, and the other \$13 is the Clerk and Recorder's fee for recording it. If the release is more than one page, or if there are additional attached pages, then the Clerk's fee increases by \$5 per page. Please make checks payable to the El Paso County Public Trustee.

Frequently Asked Questions

Q: What if the holder of the note does not have the original note?

A: If the holder is a "qualified holder," such as a banking institution or a public agency, then the holder may sign a release without production of the original note, marking box 3A to indemnify this Office. A title company may also indemnify this Office, using box 3C. Finally, the holder of the note may present a corporate security bond issued by a company authorized to issue such bonds in Colorado as a substitute for the note, using box 3B on that form.

Q: If the holder is using a bond, what must the bond contain?

A: The bond must list the holder of the note – the party that will be signing the release – as the "principal" on the bond. The bond must reference in detail the parties, dates, and recording information on the Deed of Trust. The bond must have a value of at least one and a half times the original principal amount on the Deed of Trust. The bond must be valid for at least six years. If signed by an agent for another insurance company, the bond must be accompanied by a Power of Attorney authorizing the agent to sign the bond.

Q: What do you do with the bond?

A: We will retain the original bond with a copy of the release and power of attorney in our permanent records. We will record a copy of the bond and power of attorney with the release. This will cost an additional \$5 per page.

Q: A holder of the note is deceased. Who can sign the release?

A: If there were multiple lenders and at least one remains alive, then the surviving lender may sign the release and provide a copy of the Death Certificate(s) for the other lender(s). If no holders remain alive, then we will need a Letter of Testamentary or Letter of Administration appointing the Personal Representative of the Estate. That Personal Representative would sign the release on behalf of the Estate of the actual holders.

Q: The holder of the note refuses to do the paperwork or buy a bond. What do I do?

A: Your mortgage company or lender has a legal obligation to provide the Public Trustee with the proper documents to release the lien from your property within ninety days of the debt being satisfied. If your lender fails to comply with Colorado law in this regard, please contact your legal advisor. This office does not have the authority to enforce this law.

Q: I can't find the holder. What do I do?

A: Unfortunately, your options are limited. The lien against your property will automatically go away 15 years after the date the final payment was due. You may be able to convince a title company to sign a release as described in the answer to the first FAQ. You also could go to court to remove the lien via a Quiet Title Action.

Q: Why can't I buy my own bond in my own name and sign my own release?

A: There is no provision in the law for a borrower to declare his or her own loan released.

Q: I already bought my own bond, and my insurance agent said it would be fine. Now what am I supposed to do?

A: Your insurance agent is not a sworn officer of the state of Colorado. You may wish to seek a refund on the bond.

Q: Why do you need to see the original note? Can't I give you a copy or have the lender sign a statement?

A: According to the Colorado Revised Statutes **38-39-102 (11)**, in order to process a Request for Release of Deed of Trust, the Public Trustee must be presented with either the original note or the substitute indemnification and/or bond as described in the answer to the first FAQ.