



## **2023 Legislative Issue Form**

*To propose a CCI legislative issue, please complete this form.*

*Feel free to use more than one page and include any supplemental materials.*

1.) **Contact Information** (of person bringing forth issue):

- a. **Name:** Andrew Lewis
- b. **Title:** Assistant County Attorney II
- c. **County:** Larimer
- d. **Phone Number:** 970-498-7440
- e. **E-Mail Address:** lewisaj@co.larimer.co.us

2.) **Issue/Problem to be addressed** (What is the problem this legislation is seeking to solve?)

The Sheriff (or Public Trustee) is directed to conduct foreclosure sales pursuant to CRS 38-38-100.3 et seq. The issue is whether they can use an auctioneering service (often web-based) to conduct the sales. The statute does not appear to allow the Sheriff to discharge his duties and allow an auctioneering service to conduct the sale by charging a fee for the service. See CRS 30-10-521. The fees which are allowed to be deducted from a sale are enumerated under 38-38-107(3), but these do not include mention of auctioneering costs or authorization to use an auctioneering company.

Compare this to 39-10-111(6)(b) which specifically authorizes a treasurer to enter into a contract with an auctioneer service and to collect the fees for the auctioneer service from the proceeds of the sale.

If the legislature would add language similar to 39-10-111(6)(b) to 38-38-107, I believe it would allow the Sheriff to use auctioneering services for such sales. This would greatly expand the area and advertising of these auctions, increase the number of individuals involved in the bidding, and benefit the person under foreclosure by potentially getting better value for their property. It would also help relieve the burden of local sheriff departments by allowing them to use companies that do this on a regular basis and advertise to a larger audience.

3.) **Background on this Issue/Problem** (How did this come to be? Why are you seeking a legislative remedy?)

Request by Larimer County Sheriff through Lt. Brooks concerning the legality of using a professional auctioneering service similar to what some other states allow, and, if it was not a viable option, how to address the issue.

4.) **Proposed Solution/Legislative Remedy to this issue.**

See the third paragraph of #2 above.

5.) **Have you explored a non-legislative solution to this problem?**

We have researched the issue and believe a legislative amendment is needed so as to not violate CRS 30-10-521 and the case law that has interpreted that particular statute.

6.) **Statutory Citation to be modified AND proposed/revised language (The Colorado Revised Statute is available for free at [this link](#), by selecting “Colorado Revised Statutes”).**

Note: This is basically taking 39-10-111(6)(b) and replacing the word treasurer with officer. An officer is defined in 38-38-100.3 as the public trustee or sheriff conducting a foreclosure under this article.)

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CRS 38-38-107(3)(d) The officer may enter into a contract to employ the services of any professional auctioneer or auction company to conduct such sale, collect the proceeds thereof, and pay the same over to the treasurer, when the officer deems such services to be appropriate and to be in the best interests of the public. Such contract shall be awarded by competitive bid, but the officer may reject any or all bids or parts of bids. The

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**By Friday, July 8.**



auctioneer or auction company conducting such sale shall provide the officer with an itemized list of all property sold, the amount paid for such property sold, and each purchaser's name and address. The fees of the auctioneer or auction company shall be paid by the officer from the proceeds of the sale.

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Or, for more continuity, make the above proposed language be CRS 38-38-107(3)(c) and move the current 3(c) to 3(d).

7.) **Relationship of this issue to County Commissioner's roles and/or authorities.**

The County Commissioner's work with the Sheriff as part of the County functions.

8.) **Has this proposal been approved by the Board of County Commissioners? yes**

9.) **List any potential Proponents/Opponents & their perspective; indicate any groups/individuals with whom you have already discussed this issue.**

10.) **Have you visited with your legislator(s) about this proposal? What was their reaction? Are members of your delegation likely to sponsor, support, or oppose this proposal?**

11.) **Anticipated Fiscal Impact (to counties, state, other stakeholders, etc.).**

12.) **Please list the local subject matter experts CCI staff can follow-up with for more information on this proposal.**

13.) **If your county is submitting multiple issue forms, please rank each issue. 3/4**

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