

LEGISLATIVE REPORT

HOUSE BILL 4056



September 2024

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HB 4056 REPORT

Overview

In 2023 the United States Supreme Court issued a unanimous ruling in [Tyler vs. Hennepin County](#), a case related to property tax foreclosure sales and resulting surplus funds in excess of taxes owed to the county. The plaintiff in the case owed approximately \$15,000 in property taxes, interest, and penalties on a condominium they owned in Minneapolis. To collect the amounts owed, Hennepin County foreclosed on the condominium and sold it for \$40,000. This resulted in a surplus amount, after all taxes and other fees were paid, of approximately \$25,000. Under Minnesota law, Hennepin County retained these surplus funds and did not return them to the property owner. The property owner filed a case in district court asserting that this was a violation of their rights. After losing in district and Circuit courts, the case was eventually heard in the U.S. Supreme Court. The Supreme Court unanimously voted in favor of the plaintiff, finding that a government entity could not take more property than what is owed to satisfy the debt, and that this constituted a violation of the Takings Clause of the U.S. Constitution's 5th Amendment.

[House Bill 4056](#) was approved during Oregon's 2024 legislative session in response to Tyler vs. Hennepin. This bill required the Department of Revenue to coordinate with county tax officers and interested parties to create a process for determining surplus and distribution of proceeds of property lien foreclosures, and to report recommendations from the interested parties to the legislature by September 15, 2024.

In response to the bill, the department invited representatives from all counties (including tax assessors, collectors, treasurers, and counsel); select legislators and staff; and other interested parties and groups to participate in a workgroup to identify a process to address the issues defined in the bill. The list of invitees was developed based on the oral and written testimony submitted to the record on HB 4056, and included over 200 individuals. Six meetings were held between April and August 2024. This report provides an overview of the key discussion points and action items of each meeting.

This report includes written summaries of the discussions held during each of the workgroup meetings. We encourage listening to the recordings of each meeting for the full discussion. Resources related to HB 4056 and workgroup agendas, meeting materials, and video recordings of each meeting are posted on a department website at https://www.oregon.gov/dor/programs/property/Pages/property_tax-foreclosure_sales.aspx.

[Meeting materials](#) are also included as exhibits at the end of this report.

Summary of Workgroup Suggestions

The suggestions below encompass feedback from workgroup participants including counties, Oregon State Treasury, Department of Justice, AARP Oregon, Cascade Policy Institute, Oregon Law Center, Oregon Trial Lawyers Association, and the Pacific Legal Foundation. Due to the diversity of participants, there may be multiple differing suggestions related to one particular topic or process.

General

- Statutory changes should address any additional administrative burdens placed upon counties to avoid creating unfunded mandates.
- Expand statute to allow for reimbursement of property taxes that would have been assessed on the property during the period following foreclosure while the county holds the deed and all expenses related to administering the surplus process, in addition to the expenses already deductible under ORS 275.275.
- Expand statutory requirements to provide transparency and accountability for any reimbursable expenses, such as an itemized accounting of all charges and expenses subtracted from the surplus.
- Utilize the existing Unclaimed Property process at Oregon State Treasury for surplus proceed claims and establish statutory guidelines for treatment of surplus from counties. This may require policy, statutory, and fiscal changes to the current Unclaimed Policy program to accommodate the surplus proceed process.
- Codify in statute that the sale price of a property at auction is considered the market value of the property for the purposes of surplus proceeds.
- Utilize a tiered system to sell the property, starting with a requirement to list the property with a real estate agent for a set amount of time and if it cannot be listed or sold in that time, then the county can conduct a high-bid auction with a minimum bid of 2/3 of the fair market value of the property to be determined with a current, third-party appraisal or current assessment, whichever is greater.
- Do not impose a duty for counties to maximize the value of a surplus.
- There should be an obligation to maximize the value of the surplus and provide just compensation to former homeowners and heirs of deceased former homeowners.
- Statutory changes will need to address county-retained properties or properties transferred to a non-profit for public interest purposes.

Look-Forward and Look-Back Periods

- Two bills will be needed to address the tax foreclosure issue: one bill addressing adjustments to the process for future sales (the look-forward period); and one bill addressing policy for sales prior to implementation of any legislative changes to the process (the look-back period).
- A state funded account should be established to cover any surplus refunds required for sales during the look-back period.
- The definition of a claimant may differ between the look-back and look-forward periods.
- The definition of claimants should include former homeowners and heirs of deceased former homeowners for both periods.
- Previously extinguished liens cannot be resurrected for the look-back period.
- A six-year statute of limitations should be utilized for the look-back period.
- A ten year statute of limitations should be utilized for the look-back period.
- Legislation addressing the look-back period should be postponed pending a final decision in *Western States Land Reliance Trust vs. Linn County*.

Pre-Sale Notices

- All notices should include information about where to find legal assistance and about property tax deferral programs.
- For all notices, counties should use due diligence to find property owners, including heirs of deceased owners, through searching online resources and databases and notifying adjacent property owners of notices after foreclosure.
- Make tax foreclosure related notices available in the five most commonly used languages in the county, other than English, similar to the requirements of ORS 251.167.
- Do not require all notices be published in multiple languages in all instances, but add language, to all notices that the information can be made available in other languages or formats by contacting the County.
- Include notification of the potential for surplus in the one-year redemption notice already required under ORS 312.125.

Pre-Sale Publication Requirements

- Allow publications to be made on a public website, such as the main county or Assessor or Tax Collector website.
- Develop a centralized state website that counties can post information and publications to accordingly.
- Adjust print publication requirements to address increasing difficulty in finding print publications that meet statutory requirements.

Tax Sale Process

- Utilize the public auction process; do not require the use of an appraiser or real estate agent.
- Utilize an appraiser and real estate agent to provide just compensation to former homeowners and heirs of deceased former homeowners

County Retained Properties and Deed Transfers

- Acquire an appraisal for properties the County wishes to retain or transfer title to, and pay the market value of the property.
- Offer properties for sale with an agent or at auction; non-profits interested in these properties can purchase through these means. If the property sells for less than the taxes, penalties, and fees due, there would be no surplus to distribute.
- Do not change the process for county retained properties or deed transfers. These properties are used for public benefit.

Land Sale Agreements

- Allow counties to continue offering land sale contract agreements for tax foreclosed properties.
- Add statutory language to indemnify counties from responsibility for paying surplus funds for properties upon which the land sale agreement is not completed and full payment is never received.

Post Sale Process

- County holds sale funds in an internal interest-bearing account for a maximum of 60 days to allow time to complete all post-sale administrative processes.
- County deducts amounts appropriate to pay all taxes, fees, administrative, and other allowable costs within this timeframe.
- The county notifies the Department of Justice of excess proceeds available on individual properties.
- No later than 60 days post-sale, and after deducting all allowable costs, the county forwards remaining funds and all accounting, property, and owner and party of interest information to the Oregon State Treasury for handling through the existing Unclaimed Property process.
- The Department of Justice may assert claims and issue garnishments to the county or Oregon State Treasury for any relevant child support and restitution liens against individual property owners; the Oregon State Treasury will process these claims and garnishments upon receipt of funds and information if they are handling the surplus proceeds claims process.
- Claimants must file claims with Oregon State Treasury within the timelines set forth in statute:
 - o One year from the date the property is sold or conveyed to a third-party up to a maximum of two years from the date the property is deeded to the county under ORS 312.122 or 312.200;
 - o One year from the date the county makes a determination that the county will retain the property for public purposes up to a maximum of two years from the date the property is deeded to the county under ORS 312.122 or 312.200; or
 - o If no action is otherwise taken by the county, two years from date the property is deeded to the county under ORS 312.122 or 312.200.
- Surplus proceeds not claimed within the statutorily required timeline must be returned to the originating county to be disbursed to taxing districts.
- If utilizing the unclaimed property process, treat surplus proceeds as any other unclaimed property; do not impose a timeline for filing claims. Proceeds should remain with treasury in perpetuity until a valid claim is filed and can be paid.

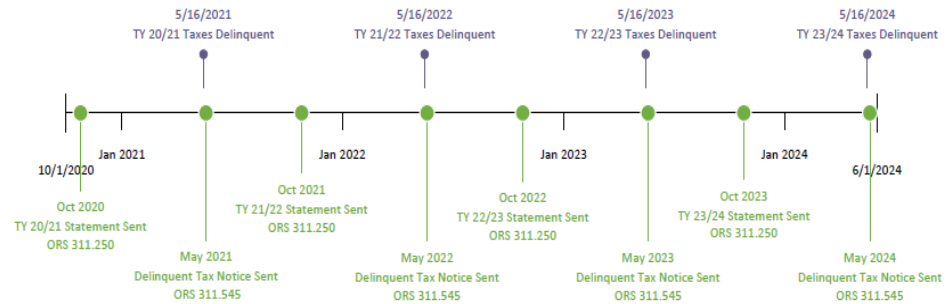
Post-Sale Noticing

- Publication of available surplus proceeds, property description, and owner names will be made available on appropriate county and/or state centralized website(s).
- If utilizing the Oregon State Treasury Unclaimed Property program, information regarding this program and how to access the claims process should be made available on county websites and in written communications.
- Require written notice be sent to the former owner at their last known address no less than 180 days before the filing deadline (notice to be sent by the Oregon State Treasury, if they are handling the claims process). Require written notice be sent to any heirs of a deceased former owner at their last known address no less than 180 days before the filing deadline (notice to be sent by the Oregon State Treasury, if they are handling the claims process).
- Annual publication of expiring surplus claims no later than 60 days before the filing deadline (to be published by the Oregon State Treasury, if they are handling the claims process).

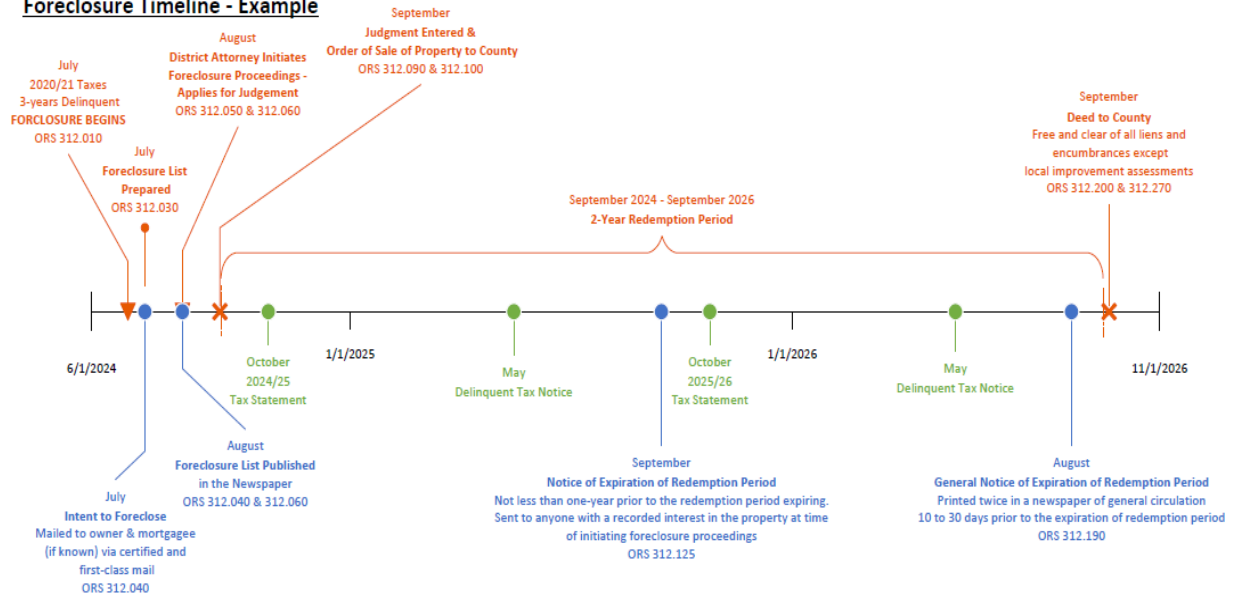
Overview of the Oregon Tax Foreclosure Process

Tax Statement and Notice Example – Pre Foreclosure

- The tax year runs July 1 – June 30
- Tax statements are mailed annually by October 25
- Taxes are payable in trimester installments due Nov. 15, Feb. 15, & May 15
- Taxes are delinquent when any balance remains unpaid on May 16 of the tax year
- Delinquent tax notices are mailed annually after May 16



Foreclosure Timeline - Example



April 17, 2024 Meeting

Recording: <https://vimeo.com/936319748>

The initial meeting of the Workgroup was held April 17, 2024 with 94 individuals in attendance, including representation from multiple counties, Department of Revenue (DOR), stakeholders, and interest groups. The group reviewed the key provisions of HB 4056: the task given to counties to establish a process to determine surplus proceeds after a property sale due to property tax lien foreclosure and notify interested parties of said surplus and their right to make a claim against the funds; and the task assigned to the department to assist the counties and interested parties in establishing these processes by facilitating the discussion and preparing and delivering a report documenting the discussion and outcomes to the Legislature by September 15, 2024.

The department reviewed HB 4056 testimony and identified several key topics for potential discussion by the workgroup: determining fair market value of a property; maximizing property value; determining costs that should be deducted from the proceeds post-sale; identifying and defining claimant in relation to a tax foreclosure property sale; how and when to notify potential claimants; outreach and assistance to homeowners and claimants; handling liens; handling errors; statute of limitations; special provisions for unusual properties; and oversight and audit of the tax foreclosure sale process.

Department staff presented an overview of the tax foreclosure statutory requirements and timelines, including activities required pre-foreclosure.

The Legislative Revenue Office presented information regarding the Supreme Court decision in *Tyler vs. Hennepin County*, and the current policy related to tax foreclosure sales in Oregon.

Representative Nathanson advised the group that Representative Conrad and Representative Emerson Levy would be facilitating the workgroup discussions, with the goal of the counties collaborating to develop policy recommendations to introduce in future legislative sessions. It was acknowledged that there were several potential avenues towards an ultimate outcome that would address the key issues raised by *Tyler vs. Hennepin*, including the potential for multiple bills addressing different areas of the process.

Representative Conrad requested data regarding the amount, type, and condition of properties sold at auction. The Department of Revenue agreed to develop a data request to be distributed to Counties to capture relevant information regarding tax foreclosure sales, including information regarding Senior Deferrals in relation to property tax foreclosure sales, and to report back with a summary of the data at the next workgroup meeting.

May 1, 2024 Meeting

Recording: <https://vimeo.com/943305528>

The second meeting of the workgroup was held May 1, 2024, with 54 individuals in attendance representing multiple counties, Department of Revenue, Department of Justice, stakeholders, and interest groups.

County Foreclosure Data Request

The department provided a high-level overview of the foreclosure sale data requested in the prior meeting. The data has also been posted to the website. Counties who had not yet submitted data were encouraged to do so. The [spreadsheet containing the data provided by the counties](#) is included in this report.

Chris Coughlin, Oregon Consumer Justice asked if there was any data regarding property value or the financial magnitude that we may be dealing with in the foreclosure process. While the data does include information regarding the number of sales resulting in excess proceeds, it does not include information regarding the average value of properties foreclosed on.

Sybill Hebb, Oregon Law Center expressed interest in knowing what the estimated value of the surplus resulting from sales was, and why properties that had prior contact with a deferral program may end up in the foreclosure process. Properties in active senior deferral would not be included on the foreclosure list; however, it is possible for properties to come off of deferral if the appropriate paperwork is not completed. Properties that have been in deferral at one point but have come off of deferral may be subject to foreclosure. Additionally, some counties have experienced cases in which a senior homeowner has passed away, the property has become ineligible for deferral, and the family has not been able to redeem the property.

Andrea Meyer, AARP Oregon asked for clarification on the definitions of vacant and abandoned properties. Representative Conrad advised that his interpretation would be that nobody was currently residing on the property, that the property is bare or dilapidated, and nobody is physically living or residing there. There was no consensus from counties regarding if there was a current standard definition for these terms. The group will need to work to develop a shared understanding of the foreclosure process and definitions going forward to ensure we are all discussing the same scenarios.

Foreclosure by Property Type

Representative Conrad asked if there should be different considerations for commercial vs. residential properties in the foreclosure process. Kimberly McCullough, Department of Justice advised that all real property should be included in the discussion because either property type can be encumbered by liens, and there should be no distinction. Tom Holt, Cascade Policy Institute indicated that *Tyler vs. Hennepin* applied to real property regardless of type. Real property would include a commercial building, a house, a farm, or any other property deemed as real property by definition. The suggestion was made to use the term “real property” moving forward, because personal property covers a broad array of items that are out of the scope of *Tyler vs. Hennepin*.

The question was raised regarding personal property such as furnishings, belongings, or other properties such as automobiles, airplanes, or mobile homes not affixed to real property and if these should be a part of this discussion. Jodi Gollehan, Yamhill County advised that there are separate processes for property such as mobile homes. Stacie Smith, Lane County advised that mobile homes situated on owned land would be considered real property and the county would foreclose on both the home and the land, while mobile homes situated on land owned by a different party would be treated as personal property. Personal property such as mobile homes or automobiles are not foreclosed on but could be seized by tax warrants through a separate process.

County Retained Property

In certain situations, a county may retain a foreclosed property for county use rather than selling the property. Typically, there are no surplus proceeds on a property that a county retains as the property was not actually sold.

Garnishments, Restitution, and Liens

Representative Conrad asked Department of Justice (DOJ) to speak about garnishments and restitution in relation to the foreclosure process. In instances in which there is a reason to attach a debtor's interest in real property, this would be accomplished via the judgement and/or lien process, and the lien would attach to all real properties in a county regardless of type. Any interception of rent or proceeds from a commercial building would be accomplished via a bank garnishment.

Representative Conrad asked if all liens are treated equal, or if some may take precedence over others. This information would be useful in the group's work to identify and define a claimant, develop a process, and determine statutes or rules to review in the process. Michael Grant, DOJ identified several types of liens that may attach to a property. Liens outside of judgement liens are typically attached in order of priority. Child support liens attach individually for each payment at the time a payment comes due and is not paid. There may be many child support liens related to the same child support order. This can create complications when identifying lien order because each individual lien will have a different lien date and may fall before or after other liens.

Sybill Hebb, Oregon Law Center suggested looking to the bank foreclosure process to further inform the group's work, particularly as it relates to liens. The department agreed to collect and disseminate information related to the bank foreclosure process to the group.

The workgroup decided that the word "lien" would be used as a blanket identifier for all lien types relevant to the discussion going forward. The group will need to determine if lienholders will be considered a claimant for the purposes of surplus proceeds, and if claimants and lienholders should be addressed in the same bill in relation to *Tyler vs. Hennepin*, since the case specifically calls out claimants. Additionally, if the response to *Tyler vs. Hennepin* will encompass both a look back and look forward period, the workgroup will need to identify a process related to liens extinguished during the lookback period. Further research into any precedent for previously extinguished liens being reinstated is needed.

Kimberly McCullough, DOJ addressed the idea of developing separate bills in response to *Tyler vs. Hennepin* and encouraged the group to address the matter holistically to reach a more fair and equitable solution that addresses not only returning funds to the property owner but also to lienholders and other financial parties of interest. These lienholders may be parties that have experienced significant harm that may be affected by decisions related to these liens, such as children, crime victims, environmental concerns, victims of discrimination, and others, and it is important to approach any solution with these parties in mind as well. In other processes such as Sheriff's Sales, lienholders can assert claims against the funds from the sale to recoup what is owed.

Representative Levy acknowledged the complexity of the issue and the goal of a holistic solution but reiterated that the group is responsible for developing a process to become compliant with *Tyler vs. Hennepin*, and the first goal is for the counties to have a clear process to do so moving forward. Once we have done that, we can begin to tackle the larger and more complex issues surrounding the foreclosure process.

County Outreach During the Foreclosure Process

Representative Conrad asked about additional information, activities, or outreach the counties may provide during the foreclosure process to assist property owners. Deschutes County advised that they proactively work any properties entering the foreclosure timeline by making site visits, calling property owners, and trying to locate the property owners or relatives to advise them of the impending foreclosure ahead of time. The county has experienced a positive response to their efforts and have had owners respond by paying off at least the oldest year of taxes to keep the property out of foreclosure and avoid additional fees. The county also offers outreach and information regarding the senior deferral program and a federal program called the Homeowner's Assistance Fund and has seen success in homeowners applying for the fund and receiving payment to redeem the property. The county uses a software program that allows them to dive deep into the property history and find connections to relatives and others connected to the property owner, which assists them in their outreach efforts.

Statute of Limitations

Representative Conrad asked the group to consider the look back period, and what that might look like for properties that have previously gone through the foreclosure process and on which there were surplus funds after sale. In addition to defining claimant in relation to foreclosure sales, we need to determine a statute of limitations, and when the clock is triggered for that statute of limitations. Two timelines have been discussed: six years, and ten years.

Sarah Foreman, Clackamas County advised that there are several lawsuits currently in process dealing specifically with the existing statute of limitations. Existing statute prescribes a two-year statute of limitations for bringing suit once the foreclosure process starts, and the lawsuits question whether that statute of limitations also holds for surplus claims. It is unlikely the court cases will be resolved before this workgroup concludes its work and so the group will need to move forward with drafting legislation but should monitor these cases moving forward for any necessary amendments.

The group needs to consider when the statute of limitations will be triggered: upon deeding to the county, or upon disposition of the property via sale or transfer. Timing and triggering mechanisms will be important considerations.

Linn County indicated that there is a Circuit Court opinion, *Western States Land Reliance Trust vs. Linn County*, that indicates that the statute of limitations begins from the date of judgement and runs concurrent with the redemption period. If the individual has not appeared in court and made a claim or redeemed the property within those two years, their interest is terminated.



Look Back Period and Previously Disbursed Funds

In relation to the look back period, it is important to acknowledge that counties have likely already distributed surplus funds from prior year sales to taxing districts under ORS 275.275. This means that the counties do not have the surplus funds anymore. This raises the question of how the county would fund any claims resulting from prior sales. In some cases, the same districts may no longer be in place as were at the time of distribution, and the likelihood of this increases with the length of the lookback period. Additionally, counties may have records of the aggregate amounts collected and disbursed but would not have detail levels by property as those were not required to be kept at the time. There is no precedent for pulling back previously distributed funds from taxing districts; while small amounts may occasionally be pulled back for refund credits or utilities, these are not related to prior years and there is no precedent for something of the magnitude this workgroup is considering. In *Tyler vs. Hennepin*, the state of Minnesota established a fund to pay to claimants for prior years partly in response to the issues related to pulling funds back from districts or counties. This is something that will need to be considered, and likely the least problematic option, for any look back process that Oregon establishes. Requiring counties or taxing districts to cover these funds is an untenable solution.

Surplus Proceeds from Prior Year Foreclosure Sales

The group expressed interest in data regarding surplus proceeds resulting from sales in prior years. This information exists, but there may be quite a bit of work involved for counties to research and compile the data. Some counties have already compiled the data for several years, although the detail level may vary as not all counties kept track of the same expenses and not all counties have historically handled surplus proceeds in the same manner. Some counties have also established a claims process to use going forward in response to *Tyler vs. Hennepin*.

Key Suggestions

- The group will use the word lien to describe all lien types.
- All real property types are treated the same in foreclosure proceedings, regardless of type (commercial vs. residential etc.).

Action Items for next meeting

- Representative Levy will compile information regarding how other states are handling the foreclosure process, and asked counties to forward any legal research, cases, or information that may be helpful.
- John Powell, John Powell & Associates, will provide information regarding the bank foreclosure process.
- Workgroup members should review HB 4056 and the -6 amendment, read the definition of claimant, and be prepared to discuss who would qualify.
- Workgroup members should think about the statute of limitations and what makes sense in relation to a look back period.
- Counties having data available regarding foreclosure sales, fees, and surplus proceeds from prior years were asked to provide this to the department.
- Counties which have established processes in response to *Tyler vs. Hennepin* were asked to provide this information to the department.
- The department will compile the above requested information and provide to the workgroup at the next meeting.

May 22, 2024 Meeting

Recording: <https://vimeo.com/949287273>

The third meeting of the workgroup was held May 22, 2024, with 71 individuals in attendance representing multiple counties, Department of Revenue, Department of Justice, stakeholders, and interest groups.

Tax Foreclosure Sales Process in Other States

Representative Levy presented information covering the tax sale foreclosure process in several other states. The [full PowerPoint presentation](#) is included in this report. Of particular note is Minnesota's response to *Tyler vs. Hennepin* in which the legislature established a \$109m fund to address surplus proceeds from foreclosure sales during a 7-year look back period. The legislature determined that counties should not be penalized as they were fulfilling state law at the time of sale. This alleviates the financial burden on counties and taxing districts when considering claims during the look back period. While *Tyler vs. Hennepin* does not specifically address a look back period, there were several class action lawsuits filed in both Michigan and Minnesota in relation to the tax foreclosure process and so the settlement fund and look back process was established proactively. There are currently several class action suits pending in Oregon which should be taken into consideration when considering a look back provision in our response to *Tyler vs. Hennepin*.

Non-Judicial Foreclosure Processes

John Powell, John Powell & Associates, presented an overview of the non-judicial foreclosure process. While this process and the tax sale foreclosure process are very different, there may be some themes that could be considered when looking at the tax foreclosure process. These include the notification process, defining interested parties, and the claims process for lienholders. The [full document](#) is included in this report.

Sarah Foreman, Clackamas County raised the issue of locating owners and parties of interest for notice. The last known address is generally the property being foreclosed on, which may no longer be a good address. The non-judicial foreclosure process requires a public notice in addition to notice sent to the last known address.

Representative Conrad asked if there was a difference in the non-judicial foreclosure process between commercial and residential properties. John Powell advised that the process is generally the same, with perhaps some additional notification requirements for residential properties.

Representative Conrad asked if there are ever foreclosures on commercial properties where there is an existing tenant. Deschutes County advised that it is rare to foreclose on a commercial property, but it is possible and is something counties will need to be prepared for. Sybill Hebb, Oregon Law Center advised that there are specific provisions in statute that address obligations to tenants after foreclosure.

Prioritization of Liens

Josh Polk, Pacific Legal Foundation, suggested a bifurcated claim period to assist in addressing the interest of third-party lien holders.

Scott Norris, Marion County, advised that there are existing statutes that may be in conflict with the concept of lien holders having a claim against surplus proceeds. The first, ORS 312.214, states that when a county has acquired or hereafter acquires real property by foreclosure for delinquent taxes, the county's title to the property shall have the utmost stability. The second, ORS 312.270, states when a county acquires real property by foreclosure for delinquent taxes, that conveyance vests in the county title to the property free from all liens and encumbrances, except assessments levied by municipal corporation for local improvements to the property. If it is determined that lienholders have a claim to surplus proceeds, these statutes may need to be addressed.

Current tax foreclosure sale processes call for most liens to be extinguished upon deeding of the property to the county. There is no legal precedent for resurrecting extinguished liens, and this is not something we will seek to do in our response to *Tyler vs. Hennepin*. Because of this, the definition of claimant will differ between the look back and look forward periods.

Fair Market Value

Josh Polk, Pacific Legal Foundation, asked about fair market value in the foreclosure sales process, and asked if there would be standards set in relation to minimum advertising and time spent advertising to assist in capturing an accurate fair market value of the property. His firm is currently working on legislation in other states to address this. He will provide information on the work his firm has done for the group to review.

Scott Norris, Marion County, advised that he does not believe that *Tyler vs. Hennepin* obligates counties to maximize the surplus on any given sale of tax foreclosed property. Josh Polk responded that *Tyler* only recognized a new form of taking, and did not address or alter the government's obligation to pay fair market value for property that it takes.

Carlos Rasch, Multnomah County, advised that he is not aware of any foreclosure process that requires maximization of fair market value. The sale dictates the price, which may or may not result in a surplus.

County Foreclosure Data

The department presented a high-level summary of the prior year foreclosure data provided by counties. Information was provided by several counties, but because a format was not prescribed for the data there was not consistency across the information from all counties. The department compared and compiled like data where available to determine averages for several key areas. The [summary document](#) is included in this report.

Some counties also provided information regarding their surplus and claims processes. These have been compiled and posted to the website, and are also [included in this report](#).

Statute of Limitations for the Look Back Period

Two potential statutes of limitations have been identified for the look back period: 6 years, which was based off of ORS 12.080 and which is supported by case law, and 10 years. Representative Conrad asked Sybill Hebb, Oregon Law Center, and Chris Coughlin, Oregon Consumer Justice, and other parties in support of a longer statute of limitations to draft a document identifying the rationale and intent behind the longer statute of limitations.

Issues supporting a longer statute of limitations include the question of whether ORS 12.080 is the ultimate guideline, or if the ultimate repose guideline of 10 years would be more appropriate. Additionally, there are concerns regarding the time it will take to notify claimants, and when the statute of limitations timeline will begin.

Key Suggestions

- Previously extinguished liens cannot be resurrected.
- The definition of claimant will differ between the look back and look forward period.
- Any additional administrative burden imposed on counties through this process will need to be addressed through statutory changes or other means to ensure counties can recoup costs and there is no unfunded mandate created.

Action Items for next meeting

- Sybill Hebb, Oregon Law Center will provide statutory information regarding obligations to tenants after a foreclosure.
- Pam Leavitt, Oregon Credit Unions will provide foreclosure information from a Credit Union perspective.
- Sybill Hebb, Oregon Law Center, and Chris Coughlin, Oregon Consumer Justice, will provide information regarding the proposed 10-year statute of limitations.
- Department of Justice will provide a summary of their garnishment and other related processes.
- Josh Polk will present information regarding the bifurcated claim period.



June 26, 2024 Meeting

Recording: <https://vimeo.com/969915941>

The fourth meeting of the workgroup was held June 26, 2024, with 72 individuals in attendance representing multiple counties, Department of Revenue, Department of Justice, stakeholders, and interest groups.

Western States Land Reliance Trust vs. Linn County

Representative Levy provided an overview of *Western States Land Reliance Trust vs. Linn County* and the resulting court opinion. The plaintiff in the case sued Linn County for surplus funds resulting from a tax foreclosure sale, asserting violation of the Takings Clause. The Court issued an opinion with several key findings: Oregon's statute is silent on the disposition of surplus funds after a tax foreclosure sale, the plaintiff had an opportunity to redeem the property prior to sale, and had an opportunity to file an answer asserting a claim to surplus at the time the County obtained the judgement. Because Oregon's statute is silent on disposition of surplus, and because the plaintiff did not redeem the property or file an answer to the judgement, the County's retention of the surplus funds was not a violation of the takings clause. The plaintiff has filed an appeal. Because this court opinion supports the practice of counties retaining surplus funds, and because the appeal process is likely to take time to move through the courts, the group should take a wait and see approach to move forward with any policy change recommendations regarding the look-back period pending the ultimate outcome of the case. The group will continue to focus on policy recommendations for the look forward period.

Recommendations From Interest Groups

AARP Oregon, AFT-Oregon, Columbia Cascade Housing Corp., DevNW, Fair Housing Council of Oregon, Oregon Consumer Justice, Oregon AFL-CIO, Oregon Law Center, Oregon Trial Lawyers Association, and the Urban League of Portland provided a written statement including several recommendations. Sybill Hebb, Oregon Law Center, Chris Coughlin, Oregon Consumer Justice, and Arthur Towers, Oregon Trial Lawyers presented the recommendations to the group. The [statement](#) is included in this report. The coalition's recommendations focus on more robust attempts at notification, outreach, education, and assistance on the part of the county. The coalition also maintains that any requirement that a homeowner must file an action or claim, or opt in or demand the surplus proceeds in any way, should be prohibited. Jim Manley, Pacific Legal Foundation, voiced support for this and indicated that his firm believes that requiring a homeowner opt in to receive surplus is unconstitutional.

Emily Vario, Lane County, asked if the coalition had considered how additional noticing and personal service requirements would be paid for, as these costs can be expensive. Sybill indicated that ideally these outreach efforts would cut down on future costs to the county as they would result in more properties being redeemed. Jim Manley advised that these costs could be included in the property price and recouped at the time of sale.

Jodi Gollehon, Yamhill County, asked about the coalition's recommendation that counties ensure that heirs also receive notice of the foreclosure. It is likely not possible for a county to know who heirs and potential heirs to a property would be. Sybill advised that if there are specific identified individuals that the county is aware of the recommendation would be individualized notices. For heirs and potential heirs the county is not aware of, this could be accomplished through means other than individualized notice, such as media publications.

Claudia Ciobanu, Oregon State Treasury, advised that the Treasury has authority over estates of individual who die without a will, and would have information regarding potential heirs in these cases. The Treasury would need to be notified so that they could take action on behalf of the estates they represent.

Trent Wilson, Clackamas County, asked about the recommended noticing procedures and media outreach from a public affairs perspective. Property specific information may be difficult to disseminate through social media avenues, and radio and newspaper may become expensive. Sybill advised that various forms of media could be used for more general messaging regarding the tax foreclosure and surplus claims processes, which may minimize the costs related to individual properties.

Chris Coughlin, Oregon Consumer Justice, advised that historically public notice was accomplished by purchasing advertising space in newspapers; however, printed media has changed over time and the group will need to be cognizant of best practices in the current media landscape. Representative Conrad acknowledged that media has changed, and that the group will need to address concerns such as electronic access to newspapers and notices being published behind a paywall to ensure that notices are accessible.

Robert Tintle, Deschutes County, expressed concerns regarding the costs associated with additional notice and publication requirements. Many counties are struggling to provide assessment and tax collection services under tight budgets. These processes are usually funded by the county general fund, and many counties are experiencing reductions in the general fund and in staffing levels. The preference for any expanded notice or publication requirements would be to allow these to be published on the County website to minimize the associated costs. Reimbursement of costs through the sale process may not occur within the same year, or may not occur at all depending on what happens with the property, so reliance on reimbursement through the sale process is not a viable option.

Chris Coughlin, Oregon Consumer Justice, advised that in addition to individual notices, the coalition is advocating for community wide outreach and assistance to property owners to help them understand and overcome any potential barriers that may prevent them from taking necessary action regarding their property. The goal is to help consumers and property owners navigate these systems effectively. There should be consistent standards for community outreach and assistance included in the statute. Additionally, the County should be maximizing the sale proceeds as part of the foreclosure process in order to return the maximum net proceeds back to the property owner. This would be accomplished by obtaining an independent appraisal of the property, and attempting to sell the property with a real estate agent first before conducting a high bid public auction in which a minimum bid amount is set based on a percentage of the appraised or assessed value, whichever is higher. The coalition is also recommending that the statute should specify that the only costs the county may retain are the expenses of the sale, the taxes owed, and expenses related to property cleanup for nuisance properties. The coalition is also recommending that if an heir has resided in the property as their primary residence for more than a year at the time of sale, that that heir has the authority to receive excess proceeds on behalf of all heirs in the absence of a written agreement between heirs or objection from a non-resident heir.

Tom Holt, Cascade Policy Institute, asked what the rationale was for inserting a real estate agent into the sale process, particularly when this would add additional costs in the form of commissions. He also advised that the presumption that the surplus should go to an individual living in the house as their primary residence is risky. Chris Coughlin advised that there is some question as to whether an auction results in the highest possible price for a property, and they believe a real estate agent may be a good way to maximize the sale price. In the case of presumptive heirs, the surplus would only be awarded to the heir if there were no objections. This would avoid a complicated process such as forced probate in the case where there is family agreement regarding the distribution of the funds.

Sarah Foreman, Clackamas County, expressed concerns regarding using a real estate agent and independent appraiser in the foreclosure sale process. Both of these will have significant costs involved, and there is no budget for this if counties are not able to recoup this from the surplus. Utilizing these services will also significantly slow down the process of getting properties to market. Additionally, some of the properties that go to foreclosure are not necessarily marketable properties so it may be difficult to list them with a real estate agent and ultimately sell them.

Tom Holt advised that there should be an option available to counties to purchase a property for the appraised value if the property may be useful for public purpose. Representative Conrad asked how a county purchase would look from a budgeting and accounting perspective. Would the county be effectively purchasing the property from themselves since they have taken deed to the property? Chris Coughlin advised that in these cases there must be due diligence to ensure that the property is purchased at an appropriate appraised value and that the resulting surplus is returned to the property owner.

Oregon State Treasury Unclaimed Property Process

The Oregon State Treasury has an established unclaimed property process. Their processes include notification to owners, a searchable database, and other tools. Claudia Ciobanu offered to assist and support counties in the work to develop a surplus proceeds process.

LLCs and Assignment of Surplus Rights

Sarah Foreman, Clackamas County, advised that the county is seeing claims from LLCs that have surplus rights assigned to them. An [example of a pleading by Washington County involving an LLC](#) is included in this report. In this case, an LLC sued the county for surplus funds resulting from a tax foreclosure auction. The former homeowner subsequently made a claim for the surplus funds through the county. The county interpleaded the funds with the court and brought the former homeowner in to the proceedings as a third party, and filed a counterclaim against the LLC saying that the assignment was not valid. The LLC provided a copy of an agreement with the homeowner in which they would take 50% of any awarded proceeds plus attorney fees and court costs. These LLCs are researching property auctions, obtaining property owner information through public records requests, and approaching property owners and having them assign their rights to the LLC. The LLC then makes the requests for the surplus funds, pays themselves the fees and costs as outlined in the assignment agreement, and returns the remainder of the surplus to the homeowner.

Other counties indicated that they are seeing claims from LLCs as well. Jason Bush, Washington County, advised it can be difficult to verify the legitimacy of the assignment. There are concerns surrounding a county's liability if a claim is paid to an LLC based on an assignment that is later determined to be invalid. It may make sense to establish some model of protections for counties in these cases. Some states have made assignment of surplus and claims by LLCs illegal in statute. Oregon may wish to consider this as well.

Claudia Ciobanu, Oregon State Treasury, indicated that the treasury sees claims from LLCs regularly in the unclaimed property process. Treasury requires the LLC to submit the original agreement or contract with the property owner before they will pay out a claim. It is a lot of work to research and determine if the correct individual did sign the contract and make the assignment. Claudia offered assistance to counties in the form of best practices or information on how their process has evolved and how they currently handle these claims. Representative Conrad, Representative Levy, and DOR will meet with Treasury to discuss the unclaimed property process and how Treasury might assist with the work of this group.

Kimberly McCullough, Department of Justice, advised that DOJ has attempted to address the issue of LLCs and assignment of rights in the past. This has been happening in other contexts outside of surplus proceeds, and the DOJ views this as an important consumer protection issue. ORS 18.924 was adopted to help with this issue, and requires cautionary language regarding these LLCs be added to notices served to debtors in judicial foreclosures or executions or sale of property. The DOJ remains concerned about this issue and would support limitations on this practice in any bill put forward by this group.

DOJ Garnishment Process

Kimberly McCullough, Department of Justice, gave a presentation of the Department's garnishment process for Child Support and Restitution. The [presentation](#) is included in this report. DOJ collects more than \$366 million annually in child support that is returned to support Oregon families, and collects funds for restitution which is compensation ordered to be paid to the victims of crimes and their families in order to make them whole. In some cases, DOJ collects restitution funds on behalf of other state agencies and in some circumstances may pay money to the crime victim proactively before the funds are collected. In these cases, the restitution is actually owed directly to DOJ and it becomes crucial to recoup those funds so that they may be returned back to the pot of money available to be paid out to crime victims.

While DOJ case managers do work with parents and other responsible parties to attempt to obtain voluntary compliance, in the case of non-compliance they are federally mandated to collect funds by an income withholding process similar to garnishment, which is the interception of funds from a third-party owing money to a debtor. Child support and restitution orders automatically by operation of law create a lien against real property owned by the debtor. While the DOJ may not always record a judicial lien, in the case of a standard real property sale the title company will identify these liens against the property and pay the balance from the proceeds of the sale prior to finalizing the sale and releasing funds to the property owner.

The DOJ historically not had any viable option to assert lienholder rights in a property tax foreclosure auction. In order to assist them in recouping these funds as a part of the tax foreclosure sale process, they propose that counties provide information to them regarding relevant liens, and the date sale proceeds will be returned to the taxpayer. The DOJ should then be allowed to issue a garnishment to the county to intercept funds owed for child support and/or restitution. There was legislation introduced in a prior session which specifically prohibited the DOJ from issuing garnishments to counties, so the language allowing them to do so should be added to the statute to preserve this right.

Other options identified by DOJ would be providing notice of surplus proceeds after a tax sale to all lienholders, and allowing all lienholders to assert claims directly with the county during the claim process, or allowing all lienholders an opportunity to issue a garnishment before funds are distributed. There is also an interpleader process through the courts, which would allow for court oversight and the opportunity for counties to recover legal fees and costs from the surplus proceeds.

Representative Levy acknowledged that there is an existing process for secured liens such as mechanics liens, and any solution we pursue should not disrupt that process. Using an escrow service to handle funds in the initial 30 days after sale may be one way to preserve the secured lien process while also allowing the DOJ an opportunity to pursue a garnishment for child support or restitution.

Key Suggestions

- Policy decisions regarding a potential look back period will be put on hold pending the outcome of *Western States Land Reliance Trust vs. Linn County*.

Action Items for next meeting

- Because the meeting ran long, the county time that was allotted for the end of this meeting will be the first item on the agenda for July's meeting.
- Representative Conrad, Representative Levy, and DOR will meet with Treasury to discuss the unclaimed property process and how Treasury might assist with the work of this group.
- Representative Conrad asked counties to review the interest group memo and draft responses to the points made.
- Representative Conrad asked the Oregon State Treasury to provide information on the process and costs associated with their unclaimed property process, and any information related to the Department of Justice garnishment process from a Treasury perspective.



July 17, 2024 Meeting

Recording: <https://vimeo.com/986012469>

The fifth meeting of the workgroup was held July 17, 2024, with 71 individuals in attendance representing multiple counties, Department of Revenue, Department of Justice, stakeholders, and interest groups.

Oregon State Treasury Unclaimed Property Program

Claudia Ciobanu gave a presentation covering the Oregon State Treasury's (OST) Unclaimed Property program. A [copy of the presentation](#) is included in this report. This program is utilized by many agencies to assist in returning funds that have been escheated to the state to rightful parties of interest. OST has access to databases and tracking tools that can help in locating heirs, has experience working with assigned claims and third party claimants, and has a fully developed and robust automatic claims process. Additionally, OST has established processes in place to deal with fraud and other issues. Utilizing the unclaimed property process would indemnify the counties in the event of fraud or other issues. Claudia advised that OST is open to assisting and supporting counties in working with tax foreclosure sale surplus funds. While OST does not currently have the staff or resources available to fully absorb and sustain the tax foreclosure surplus process, they are open to performing a fiscal analysis to identify necessary resources.

Identifying When Surplus Funds Arise

Sarah Foreman, Clackamas County, indicated that they have received claims for surplus funds on properties that have not yet been auctioned. The claims assert that the county owes the claimant the difference between the assessed value of the property and the taxes owed at the time of the claim, prior to the sale. It will be important to include language in any legislation identifying when the surplus arises. This should be after the sale of the property and receipt of the funds by the county over and above the amounts owed.

Emily Vario, Lane County, advised that legislation should also address claims related to properties retained by the county of sold to non-profit organizations. There may be cases where a property was leased to an entity which made improvements to the property. Specifics of the disposition of property will also need to be addressed.

Jason Bush, Washington County, advised that legislation should also address private sales, properties that can't be sold, and properties that may need to be held for longer lengths of time.

County Responses to Interest Group Recommendations

Several counties provided written responses to the interest group recommendations discussed in the June 26 meeting. These [documents](#) are included in this report. Counties were in agreement that a public auction is the best option for tax foreclosure sales, advocated for the ability to publish foreclosure and other notices on county websites to satisfy the publication requirements, and identified the necessity to deduct the additional administrative costs related to the claims process from sale proceeds. Counties are not in favor of the suggestion to utilize a real estate agent to attempt to sell properties. Many of the properties that go to foreclosure are not suitable for a traditional sale. Several counties voiced concerns regarding the additional administrative burden the surplus claims process will create, and are supportive of utilizing the OST Unclaimed Property process to handle the process.

Action Items for next meeting

Representative Conrad asked the group to be prepared to focus on recommendations for the look forward period at our final meeting on August 14.

- DOR will create a summary of key points and timelines for the look forward period and disseminate to the group in advance of the next meeting.
- Review materials and be prepared to discuss any gaps, concerns, or discussion items related to the look forward period that have been missed.

August 14, 2024 Meeting

Recording: <https://vimeo.com/998830697>

The sixth meeting of the workgroup was held August 14, 2024, with 78 individuals in attendance representing multiple counties, Department of Revenue, Department of Justice, stakeholders, and interest groups.

Discussion and Finalization of Suggestions

The group reviewed the summary of key points and timelines disseminated after the last meeting. Several counties provided feedback prior to the meeting, which was incorporated into the document. Additional information discussed during the meeting has also been incorporated. The [final document](#) is included in this report. Key points from this document and discussion are also included in the Summary of Workgroup Suggestions at the beginning of this report.

Association of Oregon Counties Response

Mallorie Roberts, Association of Oregon Counties, gave a high-level summary feedback the association submitted on behalf of Grant, Lane, Josephine, Clackamas, Multnomah, Yamhill, Marion, and Washington Counties. This group strongly supports all counties partnering with the Oregon State Treasury to handle claims through the Unclaimed Property process. Counties do not have the tools to handle the surplus process, particularly tasks like lien priority determination. This group also recommends that the Oregon State Treasury return unclaimed surplus funds to originating counties to be disbursed to taxing districts after the claim period has expired. Currently, funds held by the Oregon State Treasury for the Unclaimed Property program go to the Common School Fund if they are not claimed.

Utilizing the Unclaimed Property Process

Andrea Meyer, AARP Oregon, asked for information regarding the Oregon State Treasury's process for contacting claimants and voiced concerns regarding funds being returned to counties after a period of time.

Jim Manley, Pacific Legal Foundation, advised that it is important that once funds are transferred to the Oregon State Treasury it is treated as unclaimed property and does not have special handling or rules that require it revert back to the county. The county does not have a claim to the surplus funds, it belongs to the owner of the property. Transferring funds back to the county may create constitutional problems.

Robert Tintle, Deschutes County, advised that they are also supportive of utilizing the unclaimed property process; however, their understanding throughout these discussions was that there would be a limited period in which parties of interest could submit a claim, after which the funds would be returned to the originating county.

Carlos Rasch, Multnomah County, advised that returning funds to the counties after a claim period is in compliance with the findings in *Tyler vs. Hennepin County*. Jim Manley, Pacific Legal Foundation, disagreed with this and advised that *Tyler vs. Hennepin County* does not address the question of how funds should be handled after the surplus is created other than to say that it is a property of interest to the owner.

Claudia Ciobanu, Oregon State Treasury, advised that they do work proactively to locate owners of unclaimed property, although they do not perform this due diligence on every type of property they handle. Staff spends approximately 25% of their time attempting to locate property owners. The priority is always to focus on active claims waiting to be processed, but as this workload fluctuates more time will be spent on location efforts. There are also certain property types that will always require proactive location attempts. Safe deposit boxes and stocks are examples of this. If legislation required the Oregon State Treasury to perform due diligence on every surplus property resulting from a tax foreclosure sale, they can do that. This would require additional staffing and budget, and there would be a fiscal impact.

Claudia advised that they were not aware of the counties desire to have surplus funds returned after a period of time. Unclaimed property belongs to the owner forever, and the Treasurer feels strongly that surplus proceeds should be considered unclaimed property and should remain with the Oregon State Treasury. In addition, based on program experience, two years may not be long enough as it can take some time for individuals to initiate the claim process. The department does not currently have a process or precedent for sending money back to an originating entity. This would increase Treasury's liability and change the conversation around utilizing the unclaimed property process.

Administrative Timeline for Counties Post-Sale and Garnishment/DOJ Claims

Representative Conrad asked if the 30-day holding period post-sale was long enough for counties to accomplish the administrative tasks related to a property sale prior to forwarding funds on to the Oregon State Treasury for handling. The consensus was that this was too short, and a 60-day period is preferred. Several counties also voiced concerns regarding holding sale funds in an account referred to as an "escrow" account, as this has very specific implications. The group agreed that the funds would not be held by an escrow company, but would be deposited to an internal, interest-bearing County account during this period.

Representative Conrad asked if counties would process garnishments or Department of Justice liens during this time, or document them and forward the information to the Oregon State Treasury for processing prior to making the surplus available as unclaimed property. Counties support the Oregon State Treasury processing and paying these garnishments and liens. Claudia Ciobanu advised that this is not something that the Oregon State Treasury has been in a position to do before, but she is sure there is a way to accomplish it.

Look-Back Period

The group discussed the look-back period and handling for surplus funds from prior sales. There is overwhelming support for a state-funded solution for paying out any claims in a lookback period. Counties support a six-year statute of limitations from the date of legislation on any look-back period process.

Determining Value and Sale Process

Jim Manley, Pacific Legal Foundation, advised that it is important to his group and many of the interest groups that counties make an attempt to maximize the value of the properties being sold. It is important to leave owners with resources to continue their lives after they've lost what is likely the largest asset that they own. Pacific Legal Foundation supports counties utilizing a Real Estate agent to assist in selling properties for the maximum potential value. Recognizing that some properties may not be suitable for listing with an agent, this can be a tiered process in which certain suitable properties are listed with an agent. If these properties are not sold in a certain period of time, they can then go through a robust auction process.

Representative Conrad advised that it would be practical to put a time limit on the period of time between a county taking deed to a property and the property being sold. Contracting with a real estate agent to sell a property can take a long time. There are also concerns about opening the county up to liability if the agent is not doing due diligence or putting full effort in to selling the property. Utilization of a real estate agent also incurs costs, which would need to be paid from the proceeds and would decrease the amount of surplus available to the owner. Jim Manley, Pacific Legal Foundation, advised that other states that utilize a real estate agent have implemented a 12-month timeline to market the property with an agent, after which the property can be sold at auction. Both Jim Manley and Andrea Meyer, AARP Oregon, agree that the costs of retaining a real estate agent would be paid from the surplus funds after sale. Oregon State Treasury has experience working with real estate agents as part of the unclaimed property process and may be able to offer guidance to counties.

Sarah Foreman, Clackamas County, voiced concerns that counties marketing properties with a real estate agent absolves delinquent owners from some responsibility and advised that ORS 275.180 allows an owner to purchase their property back from the county for the taxes, penalties, and fees owed prior to sale. In some cases this amount may be minimal. This offers an owner to regain ownership of the property and market it themselves if they wish to do so.

Stephanie Nuttall, Josephine County, raised concerns regarding the concept of counties being required to maximize the value of a property. In many cases counties must hold properties for a length of time it can be sold. Often this is due to illegal activity, unsafe conditions, or other issues with the property and there may be added liability to the counties in these circumstances if there is a requirement to maximize value.

There is also a concern with holding the properties for longer periods in an attempt to maximize value, as this means the property remains off of the tax roll for longer. One primary reason properties are offered at auction is to get the taxes paid and return the property to the tax roll so that the county can begin collecting the annual taxes again to help support county functions.

Robert Tintle, Deschutes County, agreed with the points raised by Clackamas and Josephine counties. He reiterated that owners have at least five or six years prior to a property going to auction, and advised that Deschutes encourages increased outreach by the special interest groups to assist owners in selling their property or reaching a resolution prior to sale.

County Retained Properties

Amanda Rapinchuk, Clatsop County, asked how value and surplus would be determined in the cases where a county decides to retain or transfer deed to a property. Current statute allows for this in certain cases, often when there is a public benefit to doing so such as transferring the property to a non-profit for affordable housing. In these instances the property is not actually being sold, so there are no funds available. If counties will be held responsible for determining and paying surplus funds out of pocket in these cases in the future, that is a concern. Jim Manley, Pacific Legal Foundation, advocates that county retained properties be appraised by an independent appraiser and counties pay the market value of the property and return any surplus to the owner. Another option would be to sell the property and allow the market value minus the tax debt would be the surplus.

Emily Vario, Lane County, advised that if counties will be expected to pay market value for properties in these instances, there will need to be a funding source set up to do so. The properties are not actually being sold, so no funds exist. Counties are not able to absorb this in the general fund. Without a funding source, this creates an unfunded mandate.

Jim Manley advised that these properties can still be offered for sale or at auction, and non-profit agencies can choose to buy them through those means. In these cases, if the property sells for less than the amounts due, there would be no surplus available.

Jodi Gollehan, Yamhill County, pointed out that many counties routinely transfer properties to non-profit agencies for affordable housing or other public interest projects, and requiring counties to maximize value in these cases will end this practice. This is a public interest concern and there may be advocacy around this issue.

Properties Sold by Land Sale Contract

Stephanie Nuttal, Josephine County, asked if counties would still be allowed to sell properties by land sale contract per ORS 275.190, and how that would work. In these instances counties enter in to a pay over time agreement for the property purchase and receive monthly payments, rather than one lump sum. The sale is not considered final until the end of the repayment period when all amounts due are paid. How would surplus be handled in these instances if the Oregon State Treasury is handling the surplus proceeds process? Would funds be sent to Treasury monthly, or at the end of the contract period? In many cases, the contract is not fulfilled, title is never transferred, and the total amount is never collected.

Caludia Ciobanu advised that they could work with either method. From an administrative perspective it may make sense to transfer funds when the sale is final and the surplus is available.

Emily Vario, Lane County, requested that if the ultimate requirement is to forward funds from land-sale contracts to Treasury monthly, indemnification language be included in statute to not require counties to pay out any funds received during the sale process to a claimant, or make up any difference between amounts received and the value of the property.



MEETING DOCUMENTS

APRIL 17, 2024:

MEETING DOCUMENTS

AGENDA – April 17, 2024 – [9:00am-11:00am - Teams](#)

- Welcome and Introductions
- Review provisions of HB 4056 and role of DOR
 - Meetings will be recorded, posted online, and be made part of the report to legislature
 - Current participant list – Who is missing?
 - Topics as outlined in testimony – What is missing?
 - Structure of conversation (topic by topic over next several months)
 - Meeting dates and materials (send to DOR to post on website)
 - Writing report, review by everyone, and submit to legislature
- Current foreclosure process and distribution of proceeds in Oregon
- Overview of *Tyler v. Hennepin County, Minnesota*
- Goal of HB 4056 discussion
- Wrap-up

Future Meeting Dates – 9:00am-11:00am - Teams

- Wednesday, May 1
- Wednesday, May 22
- Wednesday, June 26
- Wednesday, July 17
- Wednesday, August 14

DOR Website for Meeting Materials and Information

https://www.oregon.gov/dor/programs/property/Pages/property_tax-foreclosure_sales.aspx

Agency Contact

Marjorie Taylor, Legislative Director, marjorie.taylor@dor.oregon.gov (503)476-7644

Meeting Attendance – April 17, 2024

| Name in Teams | Organization Type | Organization |
|-------------------------------|--------------------------|--------------------------|
| Andrea Meyer | Consumers | AARP Oregon |
| Tom Holt | Consumers | Cascade Policy Institute |
| Karen Saxe | Consumers | DevNW |
| Hal Scoggins | Consumers | Financial |
| John C Powell (Guest) | Consumers | Financial |
| Kevin Christiansen | Consumers | Financial |
| Michelle Hawkins | Consumers | One Mission |
| Chris Coughlin | Consumers | OR Consumer Justice |
| Arthur Towers | Consumers | OR Trial Lawyers Assoc |
| Jim M. Manley | Consumers | Pacific Legal |
| Mallorie | County | AOC |
| Baker County | County | Baker |
| Jennifer Button, Tax Deputy | County | Baker |
| Kim Mosier | County | Baker |
| BAUER Debbie | County | Benton |
| SESSIONS Debbie | County | Benton |
| Coy, Melissa | County | Clackamas |
| Foreman, Sarah | County | Clackamas |
| Rueda, Bronson | County | Clackamas |
| Wilson, Trent | County | Clackamas |
| Chris Leader - Clatsop | County | Clatsop |
| Suzanne Johnson | County | Clatsop |
| Sarah Hanson | County | Columbia |
| Megan Simms, Coos County | County | Coos |
| Wendy Stevens | County | Curry |
| Doug Riggs | County | Deschutes |
| Robert Tintle | County | Deschutes |
| Jameson P. Baird | County | Douglas |
| Tracy L. Perry | County | Douglas |
| Kelly Smith | County | Gilliam |
| Brett Baumann | County | Jackson |
| Michelle Wickham - Jackson Co | County | Jackson |
| Chris Parton | County | Josephine |
| Stephanie Nuttall | County | Josephine |
| Kayla Wessel | County | Klamath |
| Rick Vaughn | County | Klamath |
| Terry Wells | County | Klamath |
| Vickie Noel | County | Klamath |
| HANCOCK Kellie J | County | Lane |

| | | |
|-------------------------------|--------------|---------------|
| SMITH Stacie E | County | Lane |
| VARIO Emily D | County | Lane |
| Jayne Welch | County | Lincoln |
| Gene K | County | Linn |
| Linn County Tax | County | Linn |
| Malheur | County | Malheur |
| Alvin M. Klausen | County | Marion |
| Austin Dhillon | County | Marion |
| Jessica L. Paler | County | Marion |
| Scott Norris | County | Marion |
| Mike Gorman | County | Morrow |
| Allison Wellman | County | Multnomah |
| Carlos Rasch | County | Multnomah |
| Jeff Brown - Multnomah County | County | Multnomah |
| Jeston Black | County | Multnomah |
| Tim (Multco) | County | Multnomah |
| Polk County | County | Polk |
| Sherman County- Office clerk | County | Sherman |
| Shawn Blanchard | County | Tillamook |
| Doug Olsen (Guest) | County | Umatilla |
| Wyatt Baum | County | Union |
| Randy G. Wortman | County | Wallowa |
| Joanna Lyons-Antley | County | Wallowa/Wasco |
| Jill Amery Wasco Co (Guest) | County | Wasco |
| Carly Sylva-Gabrielson | County | Washington |
| Gregg Weiman | County | Washington |
| Jason Bush | County | Washington |
| Derrick Wharff | County | Yamhill |
| Eileen Slater | County | Yamhill |
| Jay Moskal | County | Yamhill |
| Jeffrey Ivie | County | Yamhill |
| Jodi Gollehon | County | Yamhill |
| Patricia Landsiedel | County | Yamhill |
| A. Micheli | Guest | Unknown |
| Allison | Guest | Unknown |
| Holly | Guest | Unknown |
| Laura Runnion | Guest | Unknown |
| Michael | Guest | Unknown |
| Mike Sublett | Guest | Unknown |
| Phil Dollison | Guest | Unknown |
| Rachael (Guest) | Guest | Unknown |
| Hasina Wittenberg-SDAO | Special Dist | SDAO |
| McCullough Kimberly | State | DOJ |
| BROCKIE Jason D * DOR | State | DOR |

| | | |
|--------------------------|-------|-------|
| EKSTRAND Bram N * DOR | State | DOR |
| ELLIOTT Robin * DOR | State | DOR |
| KRAMER Gregory A * DOR | State | DOR |
| MCCLELLAN Philip L * DOR | State | DOR |
| TAYLOR Marjorie * DOR | State | DOR |
| Mannon Olivia | State | Legis |
| Olen Beau | State | Legis |
| Rep Nathanson | State | Legis |
| Rep. Charlie Conrad | State | Legis |

Summary of comments from written and oral [testimony](#) on [HB 4056\(2024\)](#)

The following illustrates major topics to be discussed with regard a process for distribution of surplus proceeds on the sale of tax foreclosed properties.

This list is not exhaustive, nor should it imply support or opposition for any part of this brief summary.

DOR Role in conversation

- Coordinate, convene, and facilitate stakeholder input on complex legal and policy issues to develop recommendations for a uniform statutory process to determine the surplus, what counties can subtract, and notice requirements
- Report by September 15 and suggest legislation

Goal

Uniform process

- Need a statewide template on how to process tax foreclosure claims - who can submit claim, process, and length of time available to make a claim
- Consistent process across the state for surplus calculation and distribution of proceeds of surplus equity after property taxes, fees, and interest are paid

Considerations

- Process that benefits counties, property owners, and lien holders
- Promotes fairness, efficiency, and transparency in the process

What

How to determine fair market value and surplus

- Need fair and impartial process for determining the fair market value of a property and surplus amount

Maximizing value

- Role of the counties in maximizing the value of the property (Should they have one?)

Costs that can be deducted from sale

- Need reasonable and clear method to compensate counties for narrowly defined expenses

Who

Claimant

- Definition of a claimant - former property owners of tax foreclosed properties

Liens

- Payment of liens – surplus payment to go to recorded liens on the property; child support enforcement and victim restitution; and private entities like unpaid contractors and lenders
- Lienholder rights – liens are extinguished when a property is subject to tax foreclosures. Lienholders can seek payment of debt from surplus and creditors can use existing law to pursue claims

Lien topics

- Require county to give 30-day notice to lienholders – give deadline that funds go to owner unless garnishment is received

- Example in ORS 86.794 for a process to return surplus – example is bank foreclosure – proceeds to creditor to pay expense of the sale, then to the obligation secured by the deed, then recorded liens, then homeowner/successors. No expenses allowed
- Interplead funds into the court – that provides even playing field for everyone with a claim and allows county to recover attorney fees

Heirs

- Heirs should have access to excess surplus
- Heirs of small estates – Existing estate law addresses identification of heirs already

How

General interest in notice and outreach

- Essential requirement of outreach and communication to impacted property owners and communities – develop guidelines around sequence of notices and outreach

Language

- Offer clear and regular information about homeowner rights and claims process (plain language, foreign language, and large font)

Notice to former owners, family members, and heirs

- Place responsibility on county for outreach process that is consumer-centered and addresses multi-generational ownership

Disproportionate impact on older people and communities of color

- Engage older Oregonians and communities of color to develop a fair and equitable process

When

Length of statute of limitations

- Create a look-back, longer than six years, for owners who did not receive surplus
- Statute of limitations – Six-year statute of limitations is typical across constitutional claims

Other Topics

Auditing/oversight

- Ensure process management oversight and accountability

Unusual properties

- Exception process when a county attempts to sell property at public sale (nuisance property) – no buyers – county can't sell at private sale

Homeowner assistance

- Counties helping homeowners determine the current value of amounts inappropriately taken

Suggestion to change the foreclosure process

- Consider making the foreclosure process shorter than six years

DOR Website for Meeting Materials and Information

https://www.oregon.gov/dor/programs/property/Pages/property_tax-foreclosure_sales.aspx

Agency Contact

Marjorie Taylor, Legislative Director, marjorie.taylor@dor.oregon.gov (503)476-7644



House Bill 4056

Surplus Proceeds of Property Tax Foreclosure

April 17, 2024

Agenda

- 01** Welcome
- 02** Provisions of HB 4056 and role of DOR
- 03** Current foreclosure process - DOR
- 04** Overview of *Tyler v. Hennepin Co.* - LRO
- 05** Goal(s) of HB 4056 discussion - Guests
- 06** Other issues - Guests
- 07** Wrap-up

HB 4056(2024)



Counties to establish a process:

- Determine surplus of proceeds after property sale due to property tax lien foreclosure;
- Notice of surplus to interested parties;
- Determine right to surplus; and
- Deposit surplus into account until amount and distribution have been determined



DOR to coordinate with county tax officers and interested parties:

- Determine a uniform process; and
- Report to the legislature by September 15 on recommendations

HB 4056 Meetings and Report



Will be recorded; posted on DOR website; part of report



Interested parties and meeting topics – drawn from testimony



Approach each topic separately – unless directed otherwise



Meeting dates and materials on DOR website – send us information to distribute



Report – draft available in late-August for review by anyone; Submit final by September 13

HB 4056 Possible Meeting Topics



What – How to determine fair market value and surplus; Maximizing value; Costs that can be deducted from sale



Who – Definition of claimant; Liens; Heirs



How – General interest in notice and outreach; Language; Notices to former owners, family members, and heirs; Disproportionate impact on older people and communities of color



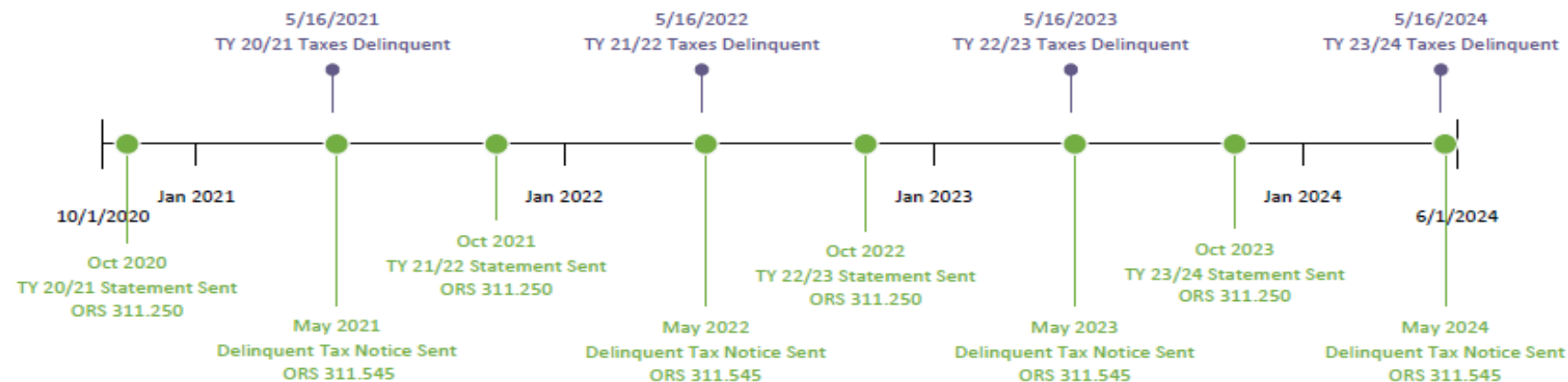
When – Length of statute of limitations



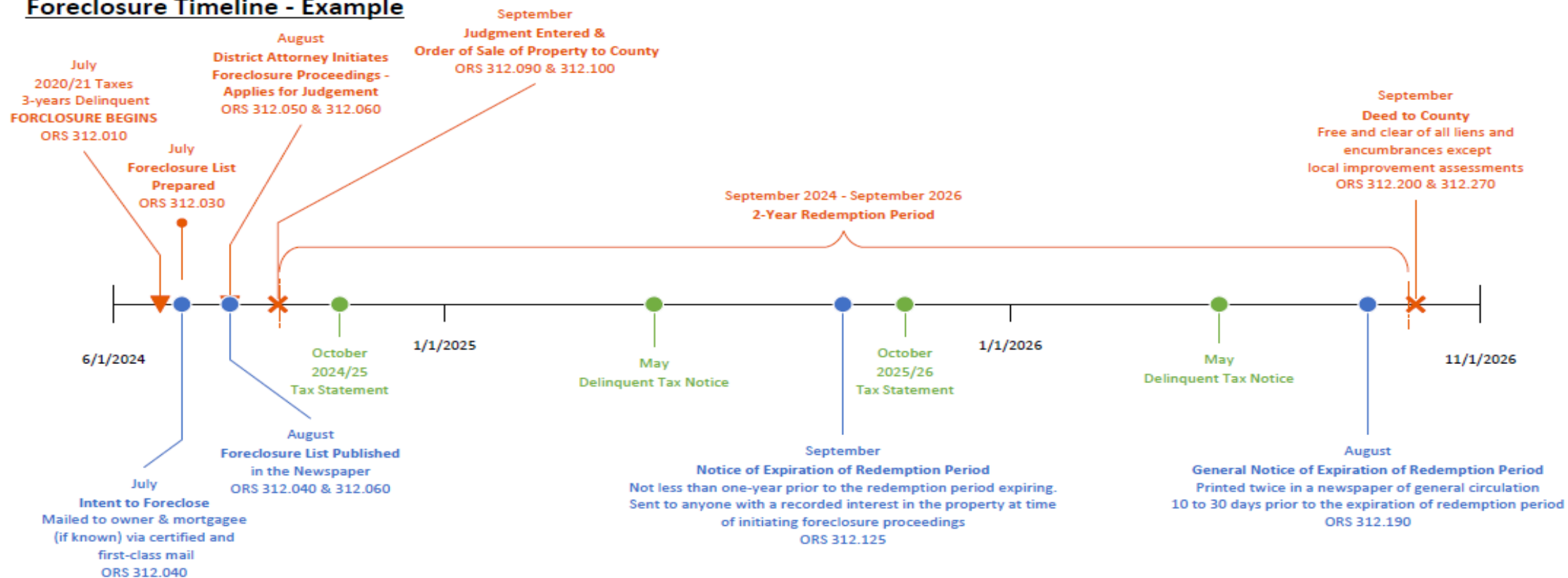
Other Topics – Oversight; Unusual properties; Homeowner assistance; Changing foreclosure process

Tax Statement and Notice Example – Pre Foreclosure

- The tax year runs July 1 – June 30
- Tax statements are mailed annually by October 25
- Taxes are payable in trimester installments due Nov. 15, Feb. 15, & May 15
- Taxes are delinquent when any balance remains unpaid on May 16 of the tax year
- Delinquent tax notices are mailed annually after May 16



Foreclosure Timeline - Example



Overview of *Tyler v. Hennepin County, MN*

Beau Olen, Economist

Legislative Revenue Office

Goal of HB 4056 discussion



Response to *Tyler v. Hennepin*
– distribution of surplus after a
sale



Entire foreclosure process
including surplus after a sale

Next meetings

- Wednesday, May 1
- Wednesday, May 22
- Wednesday, June 26
- Wednesday, June 17
- Wednesday, August 14
- Others – as needed
- Report due by Friday, September 13



Questions?

Marjorie Taylor, Legislative Director

(503)476-7644

marjorie.taylor@dor.oregon.gov

Tyler v. Hennepin County

Surplus Proceeds of Property Tax Foreclosure Sales

Discussions per HB 4056 (2024)

LRO | April 17, 2024

State of Oregon

LEGISLATIVE REVENUE OFFICE





Presentation Outline

- Background
- Recent SCOTUS Decision: *Tyler v. Hennepin County*
- Current Policy in Oregon





Background

- Geraldine Tyler owed \$15,000 in property taxes, interest and penalties on a condominium she owned in Minneapolis.
- To collect the debt, Hennepin County placed her home in foreclosure, sold it for \$40,000 and, under Minnesota Law, did not pay her the \$25,000 surplus.
- After Tyler lost in district court and the 8th Circuit Court, Tyler's case made it to the U.S. Supreme Court.





Tyler v. Hennepin County

- *Tyler v. Hennepin County* (598 U.S. 631) was a unanimous, 9-0, U.S. Supreme Court decision in favor of Tyler.
- Ruled the government **can't take more property than what is owed** (Takings Clause of U.S. Constitution's 5th amendment).
- Little guidance, if any, on the **process for making surplus payments** such as the structure, mechanics and timing.





Current Policy in Oregon

- Counties are not required to return to the former property owner any surplus of a property tax foreclosure sale. No process exists.
- After a county reimburses itself for amounts owed and additional costs, the county may elect to distribute any surplus to taxing districts, including the county (ORS 275.275(1)(d)).
 - That distribution of surplus to taxing districts is mandatory in Multnomah County.
- Additional costs under ORS 275.275 (1)(b)-(c) include:
 - Redemption penalty and fee
 - Property maintenance and supervision
 - Legal costs



For More Information

- Legislative Revenue Office
- ~~900 Court St. NE, Room 160~~
- 255 Capitol St NE, 5th Floor
 - Public Services Building
- Salem, OR 97301
- 503-986-1266
- <https://www.oregonlegislature.gov/lro>

State of Oregon

LEGISLATIVE REVENUE OFFICE



MAY 1, 2024:

MEETING
DOCUMENTS

AGENDA – May 1, 2024 – 9:00am-11:00am – [Teams meeting link](#)

- Welcome and Introductions – Rep. Conrad and Rep. E. Levy
- Review county foreclosure data request
 - Initial request to counties (See blank spreadsheet used to request data)
 - County responses as of 4/29/24 will be available on website 4/30/24
With an ambitious response time (one week turn around), we appreciate data that are available now. More information may be added later.

Participants may want to be prepared to engage in discussion of several questions:

 - Are there types of properties (residential/commercial/agricultural) that may be excluded from much of this discussion?
 - Are there examples of unique properties that may be excluded?
 - Are there special considerations for frontier counties or large farm properties?
 - Other questions?
- Possible data/process questions for future meetings
 - What additional information or activities to counties provide to property owners?
 - How many liens are extinguished due to foreclosure? Commercial vs. Residential
 - How many liens are on properties in the foreclosure process but get resolved prior to the deed transfer? Commercial vs. Residential
 - What do lienholders do if an outstanding lien is extinguished due to foreclosure? Write it off as loss vs. pursue through other legal remedies.
 - Are there analogous situations where liens and garnishments are vying for the same funds? How is the competing interest in those funds resolved?
 - Any other data points or process info that would be helpful in the discussion
- Next Topics – Claimants. Liens. Lookback/statute of limitations. Look forward period.
- Wrap-up

Future Meeting Dates – 9:00am-11:00am - virtual

- Wednesday, May 22
- Wednesday, June 26
- Wednesday, July 17
- Wednesday, August 14

DOR Website for Meeting Materials and Information

https://www.oregon.gov/dor/programs/property/Pages/property_tax-foreclosure_sales.aspx

Agency Contact

Marjorie Taylor, Legislative Director, marjorie.taylor@dor.oregon.gov (503)476-7644

Meeting Attendance – May 1, 2024

| Name in Teams | Organization Type | Organization |
|-------------------------------|--------------------------|--------------------------|
| Andrea Meyer | Consumers | AARP Oregon |
| Tom Holt | Consumers | Cascade Policy Institute |
| Karen Saxe | Consumers | DevNW |
| John C Powell (Guest) | Consumers | Financial |
| Chris Coughlin | Consumers | OR Consumer Justice |
| Arthur Towers | Consumers | OR Trial Lawyers Assoc |
| Sybil Hebb | Consumers | Oregon Law Center |
| Mallorie | County | AOC |
| Kim Mosier | County | Baker |
| Coy, Melissa | County | Clackamas |
| Foreman, Sarah | County | Clackamas |
| Rueda, Bronson | County | Clackamas |
| Sosna, Leslie | County | Clackamas |
| Wilson, Trent | County | Clackamas |
| Suzanne Johnson | County | Clatsop |
| Megan Simms, Coos County | County | Coos |
| Doug Riggs (Guest) | County | Deschutes |
| Robert Tintle | County | Deschutes |
| Brett Baumann | County | Jackson |
| Michelle Wickham - Jackson Co | County | Jackson |
| SMITH Stacie E | County | Lane |
| VARIO Emily D | County | Lane |
| Cheryl W Linn County | County | Linn |
| Matt Pitcher - Linn | County | Linn |
| Natasha McVey | County | Marion |
| Scott Norris | County | Marion |
| Carlos Rasch | County | Multnomah |
| Tom Powers - MultCo (he/him) | County | Multnomah |
| Drew Messenger | County | Sherman |
| Karl Ihrke | County | Sherman |
| Carly Sylva-Gabrielson | County | Washington |
| Cortney Duke-Driessen | County | Washington |
| Jodi Gollehon | County | Yamhill |
| Gene | Guest | Unknown |
| Laura Runnion | Guest | Unknown |
| Rachel | Guest | Unknown |
| Hasina Wittenberg | Special Dist | SDAO |
| McCullough Kimberly | State | DOJ |
| Michael Grant | State | DOJ |

| | | |
|-------------------------------|-------|-------|
| Ritchey Michael L | State | DOJ |
| BENJAMIN Danette M * DOR | State | DOR |
| BROCKIE Jason D * DOR | State | DOR |
| EKSTRAND Bram N * DOR | State | DOR |
| ELLIOTT Robin * DOR | State | DOR |
| KRAMER Gregory A * DOR | State | DOR |
| MCCLELLAN Philip L * DOR | State | DOR |
| TAYLOR Marjorie * DOR | State | DOR |
| Kennedy McEntee-Rep. Levy COS | State | Legis |
| McEntee Kennedy | State | Legis |
| Olen Beau | State | Legis |
| Rep Conrad | State | Legis |
| Rep Levy B | State | Legis |
| Rep Levy E | State | Legis |
| Rep Nathanson | State | Legis |

| Foreclosure Data Questionnaire | | | | | | | | |
|--|--|-------------------------------------|------|------|------|------|-------------------------------------|-----------------------------------|
| COUNTY - Contact Person - | | Year (Define - Calendar or Fiscal?) | | | | | Alternative method to enter data | |
| | | | | | | | If annual data is not available.... | |
| | | 2023 | 2022 | 2021 | 2020 | 2019 | 2018 | Enter the Average for All 6 years |
| Please provide as data are available: | | Provide totals per year | | | | | Enter totals below | |
| 1. Number of foreclosures started and published on the foreclosure list? | | | | | | | | |
| 2. Number of properties the county took deed to after expiration of the redemption period? | | | | | | | | |
| 3. Number of properties deeded to the county and subsequently: Transferred by public sale Transferred by other arrangement Retained by county | | | | | | | | |
| 4. Disposition of deeded properties - See options below | | | | | | | | |
| Auction | | | | | | | | |
| How many sold at auction? | | | | | | | | |
| How many had multiple sale attempts at auction? | | | | | | | | |
| How many had a minimum bid threshold? | | | | | | | | |
| How many sales were in excess of tax and foreclosure costs? | | | | | | | | |
| Sale back to owner | | | | | | | | |
| How many were sold back to owner? | | | | | | | | |
| How many sales were in excess of tax and foreclosure costs? | | | | | | | | |
| Sale to non-profit | | | | | | | | |
| How many were sold to non-profit? | | | | | | | | |
| How many sales were in excess of tax and foreclosure costs? | | | | | | | | |
| Other options | | | | | | | | |
| How many were transferred in some other way? | | | | | | | | |
| 5. Number of residential properties deeded to county? (total for the year) | | | | | | | | |
| Did they have liens? (total for the year) | | | | | | | | |
| Were properties vacant/abandoned? (total for the year) | | | | | | | | |
| Was there a habitable residence? (total for the year) | | | | | | | | |
| 6. Number of commercial, non-residential properties deeded to county? (total for year) | | | | | | | | |
| Did they have liens? (total for the year) | | | | | | | | |
| Were properties vacant/abandoned? (total for the year) | | | | | | | | |
| Was a building fit for occupants? (total for the year) | | | | | | | | |
| 7. Number of the properties in the tax foreclosure process that had taxes deferred under senior or disabled property tax deferral program? | | | | | | | | |
| Of the properties the county took deed to, how many had previous property tax deferral? | | | | | | | | |

MAY 22, 2024:

MEETING
DOCUMENTS

AGENDA – May 22, 2024 – 9:00am-11:00am [TEAMS LINK](#)

- Welcome and Introductions – Rep. Conrad and Rep. E. Levy
- Presentation – Response to *Tyler v. Hennepin* in other states – Rep. E. Levy
- Overview of bank, or other, foreclosure processes including claimants and liens
- Summary of response to recent county data request
 - Property value and surplus proceeds from prior foreclosure sales
 - County costs and fees associated properties
 - County processes responsive to *Tyler v. Hennepin*
- Discussion about factors related to a statute of limitations
- Possible data/process questions for future meetings
- Wrap-up

Future Meeting Dates – 9:00am-11:00am - virtual

- Wednesday, June 26
- Wednesday, July 17
- Wednesday, August 14

DOR Website for Meeting Materials and Information

https://www.oregon.gov/dor/programs/property/Pages/property_tax-foreclosure_sales.aspx

Agency Contact

Marjorie Taylor, Legislative Director, marjorie.taylor@dor.oregon.gov (503)476-7644

Meeting Attendance – May 22, 2024

| Name in Teams | Organization Type | Organization |
|---|-------------------|--------------------------|
| Francoise Cleveland | Consumers | AARP |
| Andrea Meyer | Consumers | AARP Oregon |
| Tom Holt (Unverified) | Consumers | Cascade Policy Institute |
| Karen Saxe (External) | Consumers | DevNW |
| John C Powell (Guest) (Unverified) | Consumers | Financial |
| Pam Leavitt (OR Credit Unions) (Unverified) | Consumers | Financial |
| Chris Coughlin (External) | Consumers | OR Consumer Justice |
| Arthur Towers (External) | Consumers | OR Trial Lawyers Assoc |
| Sybil Hebb (External) | Consumers | Oregon Law Center |
| Joshua Polk (External) | Consumers | Pacific Legal |
| Mallorie (Unverified) | County | AOC |
| Kerry Savage (External) | County | Baker |
| Kim Mosier (External) | County | Baker |
| Cooper, Todd (External) | County | Clackamas |
| Foreman, Sarah (External) | County | Clackamas |
| Rueda, Bronson (External) | County | Clackamas |
| Sosna, Leslie (External) | County | Clackamas |
| Wilson, Trent (External) | County | Clackamas |
| Amanda R (she/her) - Clatsop/Policy Analyst | County | Clatsop |
| Chris Leader (Unverified) | County | Clatsop |
| Suzanne Johnson (Unverified) | County | Clatsop |
| Tara Gramson - Clatsop County (Unverified) | County | Clatsop |
| Wendy Stevens - Curry Co (Unverified) | County | Curry |
| Judi Hasse (External) | County | Deschutes |
| Kim Riley (External) | County | Deschutes |
| Christina - Grant County (Unverified) | County | Grant |
| David Thunell (Unverified) | County | Grant |
| Corey Hill- Harney (Unverified) | County | Harney |
| Karen Z (Unverified) | County | Harney |
| Brett Baumann (Unverified) | County | Jackson |
| Michelle W - Jackson Co (Unverified) | County | Jackson |
| paige sully (Unverified) | County | Lake |
| HANCOCK Kellie J | County | Lane |
| SMITH Stacie E | County | Lane |
| VARIO Emily D | County | Lane |
| Ashley M. Lande (External) | County | Lincoln |
| Jayne Welch (External) | County | Lincoln |
| Joe Davidson (External) | County | Lincoln |
| Cheryl W Linn County (Unverified) | County | Linn |

| | | |
|--|--------------|------------|
| Alvin M. Klausen (External) | County | Marion |
| Austin Dhillon (External) | County | Marion |
| Natasha McVey (External) | County | Marion |
| Scott Norris (External) | County | Marion |
| Carlos Rasch (Unverified) | County | Multnomah |
| Jeff Brown - Multnomah County (Unverified) | County | Multnomah |
| Tom Powers - MultCo (he/him) (Unverified) | County | Multnomah |
| Joel Stevens (External) | County | Tillamook |
| Ashley Immoos (External) | County | Wallowa |
| Jill Amery Wasco Co (Guest) (Unverified) | County | Wasco |
| Cortney Duke-Driessen (External) | County | Washington |
| Jason Bush (External) | County | Washington |
| Jodi Gollehon (External) | County | Yamhill |
| Gene (Unverified) | Guest | Unknown |
| Laura Runnion (Unverified) | Guest | Unknown |
| Mike Sublett (Unverified) | Guest | Unknown |
| Hasina Wittenberg (Unverified) | Special Dist | SDAO |
| Grant Michael W (Guest) | State | DOJ |
| McCullough Kimberly (Guest) | State | DOJ |
| Ritchey Michael L (External) | State | DOJ |
| BENJAMIN Danette M * DOR | State | DOR |
| BROCKIE Jason D * DOR | State | DOR |
| EKSTRAND Bram N * DOR | State | DOR |
| ELLIOTT Robin * DOR | State | DOR |
| KRAMER Gregory A * DOR | State | DOR |
| MOYES Howard * DOR | State | DOR |
| TAYLOR Marjorie * DOR | State | DOR |
| Fleener Marilyn | State | Legis |
| Olen Beau | State | Legis |
| Rep Conrad (Guest) | State | Legis |
| Rep Levy E | State | Legis |



TAX-FORFEITED PROPERTY PROCEEDS

Minnesota, Maryland , & California



TYLER V. HENNEPIN COUNTY

- Geraldine Tyler owed \$15,000 in unpaid real estate taxes, interest, and penalties
- Hennepin County seized Tyler's property
- The property was sold for \$40,000
- Hennepin County kept the excess proceeds
- Tyler sued Hennepin County
- US Supreme Court held that Hennepin's retention of proceeds was
unlawful

MINNESOTA LEGISLATURE

HF 4822

Response to Tyler

The Minnesota Legislature moved to come into compliance with the US Supreme Court's ruling, working with stakeholders to come to a solution.

Public Auction

- A public auction is required by the proposed legislation
- Parcels can be repurchased before an auction
- Otherwise, the county auditor will put the property up a minimum bid.

Notification

- If the public auction results in a surplus, the county auditor must notify interested parties
- Interested parties can then submit a claim on the surplus
- Claim disputes are resolved by county auditor or courts

MINNESOTA LEGISLATURE

HF 4822

Interested Party

Including but not limited to:

- Property owner
- Lienholder
- Other party who has filed

Mineral Interest

Any interest in minerals including but not limited to:

- Iron
- Gas
- Coal
- Copper
- Gold or other valuable minerals

Minimum Bid

The sum of delinquent taxes, special assessments, penalties, interests, and cost assessed on parcel

MINNESOTA LEGISLATURE

HF 4822

Opposition

- Initial opposition was against the burden placed on property owners
- Amended to required notification as a result

Support

- Bipartisan authorship and support
- Minnesota Realtors
- Pacific Legal Foundation
 - Both initially in opposition until amendment

Current status

Waiting on final engrossment from Ways and Means

MN LEGISLATURE'S "TYLER SETTLEMENT"

Purpose:

Paying back
foreclosed
property owners

Amount:

\$109 million

Time frame:

7 years

Reasoning:

State responsibility
for state statute

MARYLAND TAX LAW



MD. R. PROP.
SALES 14-216

Distribution of Surplus

- Interested parties may file a claim on the excess proceeds of the sale before finalization
- Distributed equally among claimants

Deficiency Judgement

- Within 3 years of final ratification of auditor's report
- Parties may file a motion if proceeds are insufficient to debts and accrued interest

No Required Notification Provision

CALIFORNIA TAX LAW

SECTION 4675

Distribution of Surplus

- Interested parties may file a claim on the excess proceeds of the sale within 1 year of recordation
- Claim in proportion to interest held with others of equal priority
- Any attempted claim that does not comply with requirements will have no effect

Priority Order

1. Lien holders
2. Title of record holders prior to recordation of tax deed

No Required Notification Provision

An aerial photograph of a city, likely Pittsburgh, taken at dusk or dawn. The image is heavily overlaid with a semi-transparent blue filter. In the center, the words "THANK YOU!" are written in a large, bold, yellow, sans-serif font. The background shows a dense urban landscape with various buildings, including a prominent tall skyscraper on the right. A river or lake is visible on the left side, and a bridge spans across it. The sky is filled with dark, dramatic clouds.

THANK
YOU!

TRUST DEED FORECLOSURE ADVERTISEMENT AND SALE CHECKLIST

APPLICABLE TO FORECLOSURES COMMENCED ON AND AFTER JANUARY 1, 2023

INTRODUCTION:

There were no changes to the applicable statutes relating to the trustee sale procedure during the 2023 Regular Legislative Session. However, changes that were enacted during the Covid-19 pandemic under HB 2009 that changed the process and threshold for lender exemptions from Oregon's mandatory foreclosure mediation process did not apply in 2023. Under HB 2009 for 2021 and 2022, the exemption certificate was to be based on 2019 figures. See HB 2009 (2021 Or laws c. 106). Beginning in 2023, eligible lenders file an exemption certificate each year based on the number of foreclosures completed during the prior year. ORS 86.726(b(A))

The threshold for exemption eligibility from the mediation process is 30 foreclosures during the prior year.

A WORD ON TIMELINES:

The principal time constraint for non-judicial foreclosures is service of not less than 120 days before the sale date. This checklist suggests some timelines for compliance. A practitioner should consider setting internal deadlines for completion of specific tasks that will allow for some unexpected delays in meeting that primary objective.

A WORD ON FORMS:

Some sample forms are included with this checklist. Some forms are available from independent publishers (for example, Stevens Ness, <https://stevensness.com/>). Practitioners should use care to use forms which comply with current statutory language. The author has not reviewed commercially available forms. Some other forms are included Chapter 23 of the Oregon Real Estate Deskbook publication in BarBooks. You can find this on the homepage after you login to the bar website (www.osbar.org).

Beyond following statutory language, the practitioner should consider augmenting the language required in the statutes to provide an evidentiary record demonstrating compliance with the foreclosure process. Recent years have seen a number of cases in which courts have held that a given non-judicial foreclosure procedure failed for one reason or another. For example, a number of eviction cases have resulted in the defendant retaining possession where the trustee conducting the sale was not appointed by the true beneficiary, or at least, where the evidence did not show that fact. Thus, it is prudent to put a recital in the Trustee's Deed regarding the appointment of the successor trustee. The passage of SB 381 suggests that it will be beneficial to recite facts concerning which addresses were "on file" at the time a relevant notice was given and to show mailing to all such addresses.

Step 1: Client Interview and Intake

- A. Run a conflicts check.
- B. Run a PACER search to determine if a bankruptcy stay applies.
- C. Conduct DMDC Military Verification Website search to determine if grantor(s) are on active military duty or were on active duty within one year before commencing foreclosure.

TRUST DEED FORECLOSURE ADVERTISEMENT AND SALE CHECKLIST

[(<https://scra-e.dmdc.osd.mil/scra/#/home>); Servicemembers Civil Relief Act; 50 USC sections 3901 et seq.].

- D. Conduct a search to determine whether the grantor has died (i.e. google search for obituary, OJIN search for probate case, TLO and/or credit report search)..
- E. Resolution Conference Compliance:
 - 1. A trustee foreclosing a residential trust deed must determine whether the beneficiary is exempt from the resolution conference requirement. (ORS 86.726(1)(b))√ **Note lenders completing more than 30 foreclosures in the prior year are not eligible for exemption from the mandatory resolution conference.** (ORS 86.726(b)(A).
 - 2. If exempt: confirm that beneficiary has filed a sworn affidavit with the Oregon Attorney General (DOJ), by January 31 for the year in which you commence a foreclosure. If beneficiary has not filed the affidavit, a sworn affidavit must be filed with the DOJ at the time the Notice of Default (NOD) is recorded. (ORS 86.726(1)(b)(A)(ii); OAR 137-110-0300).√
 - 3. If not exempt: Obtain the original Certificate of Compliance which beneficiary received from the Service Provider for the Oregon Foreclosure Avoidance Program ("OFAP"). Note that certificates expire; review the applicable expiration date for a certificate before proceeding. (See OAR 137-110-0010 to 0670)√
- F. DUAL TRACK: Determine whether or not beneficiary has made a determination regarding eligibility for foreclosure avoidance measures, and if so, whether notice was given within 10 days of that decision. If no decision made, advise client on statutory requirements and timing of same. ORS 86.748(1). This issue should be monitored so that an appropriate compliance affidavit can be recorded at least five days before the sale.
- G. Request from client in writing copies of all the following:
 - 1. Notice of any state agency lien against property or other lien not of record.
 - 2. Note, trust deed, any amendments, and all assignments of either one.
 - 3. Loan payment record and amount of default to date including any prepayment penalty triggered by acceleration. Check client's calculations for errors.
 - 4. Copy of lender's title insurance policy and legal description.
 - 5. A list of non-monetary defaults and cross-defaults to other loans with client.
 - 6. Any lease, subordination, and attornment agreements.
 - 7. A list of other debts owed by grantor to beneficiary.
 - 8. A list of known defenses to loan.

TRUST DEED FORECLOSURE ADVERTISEMENT AND SALE CHECKLIST

- 9. Verification that the loan servicer has complied with all steps required by the servicing rules for “federally-related” mortgages. Review 12 CFR 1024.41(f) effective January 1, 2014, and modified effective October 19, 2017 (81 FR 72373).√
- H. Open file:
 - 1. Open file with sample checklists.
 - 2. Letter to client acknowledging receipt of file (sample 1).
 - 3. Confirm with client in writing amount to be covered by foreclosure guarantee (e.g., principal balance only).
 - 4. Order Trustee's Sale Guarantee / Litigation Guaranty from title company by telephone, e-mail, or letter (sample 2). The correspondences should instruct the title company to include the successor trustee as an “assured” in the guarantee since the successor trustee will be relying on the TSG in serving the TNOS and in disbursing any surplus under ORS 86.794. **[SET 10 DAY TICKLE FOR RECEIPT OF TSG]**

Step 2: Review Deed of Trust Notice Requirements

- A. Required Notices: Review Trust Deed and Promissory Note for requirements for notices to debtor. Confirm that the amount of required notice is not affected by the manner of giving notice. If trust deed requires beneficiary's notice prior to acceleration or default, confirm that notice has been sent in accordance with delivery requirements of loan documents. If notice not sent, send notice letter (sample 3). If beneficiary sent letter, review letter for defects in substance, manner of delivery, and timing. **[SET TICKLE TO RESUME WORK ON FILE AFTER 31 DAYS IF NO RESPONSE TO DEMAND]**
- B. FDCPA: Usually, but not always, a trust deed encumbering residential property will secure consumer debt. Also, it is possible that a non-residential trust deed secures consumer debt. If trust deed secures consumer debt (see 15 USC §1692a(5)), include applicable Fair Debt Collection Practices Act and Regulation F (12 CFR Subpart B (§1006.6 -1006.42), which implements the Fair Debt Collection Practices Act) disclosure language in 31-day demand letter and subsequent notices to debtor. See link to Regulation F Debt Validation Notice Requirements: <https://www.ecfr.gov/current/title-12/chapter-X/part-1006/subpart-B/section-1006.34>

Step 3: Appointment of Successor Trustee (ORS 86.713√) and Exemption Affidavit (ORS 86.726(1)(b)√)

- A. Prepare Appointment of Successor Trustee if attorney not already named trustee in recorded trust deed.
 - 1. Consider whether the firm or an individual lawyer should be the trustee. ORS 86.713(1)(b)(A).
 - 2. Review chain of ownership of the [Note: See, Brandrup and Niday cases!] beneficial interest in the trust deed to confirm that the proper party is appointing

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the successor trustee. Confirm all written assignments of the beneficial interest have been recorded.

- 2. Prepare the appointment document. Recite in the appointment document the ultimate facts that establish a valid appointment and send to client (with cover letter to client requesting signature and notarization) **[SET 5 DAY TICKLE FOR RETURN OF SIGNED APPOINTMENT]**.

Step 4: Trustee's Sale Guarantee and Notice of Default

- A. Review Trustee's Sale Guarantee:
 - 1. Check whether names, dates, addresses, and legal descriptions on Guarantee match the trust deed, and whether the amount of coverage is accurate. Compare with the beneficiary's title policy and original vesting deed to grantor.
 - 2. If the title search or your own PACER search discloses a pending bankruptcy of the grantor or of any other person with an interest in the property prior to the commencement of foreclosure by the trustee, permission of the bankruptcy court must be obtained in order for the trustee to foreclose. (11 USC §362(d)) **[SET 45 DAY TICKLE TO CHECK ON STATUS OF RELIEF FROM STAY]**
 - 3. Check for tax liens or other unusual entries on Guarantee, e.g., ingress/egress issues, changes to property boundaries, etc. Obtain copies of relevant documents from title company.
 - 4. Run a conflicts check on parties who hold an interest in the property to be foreclosed.
 - 5. If foreclosing a "federally related" mortgage, check in with the client to verify sale is still a "go." If a loss mitigation application has been submitted during the foreclosure process, the foreclosure may not proceed to sale under some circumstances until specified steps are taken. See Step 1G, part 9, *supra*.
 - 6. Fix date, time, and place of sale (at least 120 + 14 days for service) **[BE SURE THIS DATE IS ON THE CALENDAR AND COMPLIES WITH ORS 86.771 AND 86.782(1)(a)]**:
 - a. DATE:
 - b. TIME:
 - c. PLACE:
 - 7. Determine last day to cure. **[SET TICKLE 5 DAYS BEFORE SALE TO REVIEW FOR PAYOFF OR CURE]**
 - 8. Letter to client asking if client has actual notice of liens or interests not of record (e.g., possession by a stranger to title).

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- B. Prepare Trustee's Notice of Default and Election to Sell (ORS 86.752(3); ORS 86.771) (Do not date until ready to record, keep notice in file until then.) (sample 4)
 - 1. Confirm that the names of parties listed in Schedule "B" of your TSG match those in the trust deed and assignment documents.
 - 2. Describe the missing payment(s) and describe other defaults if any:
 - a. Consider the need to get updated information from the beneficiary.
 - 3. Note that the NOD must include the tenant language specified in ORS 86.771(10).
- C. Record Documents and Request First Supplemental Guarantee (Date Down endorsement).

Send letter to title company for recording of the following documents and request first supplemental guarantee through date of recording of Notice of Default (sample 5). **[SET 5 DAY TICKLE FOR RECEIPT OF SUPPLEMENTAL REPORT]:**

Record in the following order:

- 1. Appointment of successor trustee.
- 2. Copy of Exemption Affidavit attached to affidavit of trustee (sample 6) (if exempt from resolution conference requirement), **OR** original Certificate of Compliance from OFAP (if not exempt). (ORS 86.752(4))
- 3. Notice of default and election to sell.
- D. Send copies to client.

Step 5: Trustee's Notice of Sale

(Note: The Notice of Sale must be served on all parties no less than 120 days prior to the date of sale. Service is made personally on all occupants of the property in accordance with ORCP 7(D)(2) and 7(D)(3) (unless the posting procedure in ORS 86.774(1)(b)✓ is used) and by mail to all other interested parties. ORS 86.774 could be read to require service only on one occupant. The safer practice is to serve one occupant and follow up with substituted service on all the other occupants.)

- A. Prepare Trustee's Notice of Sale based on information in notice of default and election to sell. Prepare the Notice to Grantor required by ORS 86.756✓ if the trust deed is a residential trust deed (see form in statute) (the "Danger Notice").
 - 1. Attach an appropriate Fair Debt Collection Practices Act and Regulation F (12 CFR Subpart B (§1006.6 -1006.42), which implements the Fair Debt Collection Practices Act) Notice if the trust deed secures consumer debt: either the long form or short form depending on whether the NOS is the first or a subsequent communication to the debtor. (sample 7). See link to Regulation F

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Debt Validation. Notice Requirements: <https://www.ecfr.gov/current/title-12/chapter-X/part-1006/subpart-B/section-1006.34>.

- 2. Follow the statutory language in these notices. See contents specified in ORS 86.771(1) through (10), including the Notice to Residential Tenants.
- B. Compare parties named in Schedule "B" of your TSG against parties named on First Supplemental Trustee's Sale Guarantee. If additional parties are named in the supplemental, check conflicts, add parties to Notice of Sale list and serve or mail copies of Notice of Sale to parties.
- C. If foreclosing a "federally related" mortgage, check in with the client to verify sale is still a "go." If a loss mitigation application has been submitted during the foreclosure process, the foreclosure may not proceed to sale under some circumstances until specified steps are taken. See Step 1G, part 9, *supra*.
- D. Serve Trustee's Notice of Sale and Notice of Default and, if a residential trust deed, the "Danger Notice" per ORS 86.756. Target service to be completed **130 DAYS BEFORE SALE INCLUDING SUBSTITUTE SERVICE**.
 - 1. Prepare a file sheet listing the persons and agencies to be served:
 - a. Grantor;
 - b. All grantor's successors in interest, if any (Note: This includes successor of record and those of whose interest trustee or beneficiary has actual notice);
 - c. Parties listed as junior lien holders;
 - d. Person(s) requesting notice in writing;
 - e. Department of Revenue, if lien holder of record;
 - f. State agency holding lien of record, if any;
 - g. State agency or other person holding lien of which beneficiary has actual notice;
 - h. Any lessees.
 - 2. Confirm addresses (and spellings of street names and individuals) by contacting the following.

SPECIAL NOTE: 2017 Or. Laws c. 251 (SB 381) requires most notices to be sent to "all addresses on file."

- a. Individual: Division of Motor Vehicles (note charge).
- b. Corporation, Partnership or Other Business: Corporation Division for registered agent and date of incorporation (check if corporation dissolved

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and if dissolution was voluntary). Check assumed names. Online at <https://sos.oregon.gov/business/Pages/default.aspx>.

- c.: Bank or Credit Union: **Oregon** – Division of Finance & Corporate Securities, 1-866-814-9710 or see the DCBS website; **National** – Comptroller of the Currency 1-800-613-6743 or www.occ.treas.gov; also <https://www.ffiec.gov/NPW>.
- e. Government Agency: A practical approach is to contact agency for the person to serve. Review statute to confirm correct person to serve. See OSB CLE Creditors' Rights and Remedies ("CRR"), Chapter 13, § 13.5-5(c)(2) for mention of some statutes relating to service on government entities. See below regarding federal tax liens.
- f. Personal Representative or Conservatorship: Consult court records for name of personal representative or conservator and status of proceeding. For decedent with no personal representative appointed, see ORS 86.764(4). If you cannot identify all heirs of the grantor, you should be considering a judicial foreclosure coupled with an order authorizing service by publication.
- 3. Serve Trustee's Notice of Sale and Notice to Grantor.
 - a. Mail true copies of Trustee's Notice of Sale and Notice to Grantor by certified mail, return receipt requested, and by first class mail to all parties listed (staple receipts to list in file). Note that notices must be mailed to "all addresses" on file with the trustee for each person specified in ORS 86.764(2). The notice served by mail is effective when mailed. ORS 86.764(3)✓ **[SET 21 DAY TICKLE TO CHECK FOR RETURNED MAIL AND TO CORRECT MAILING ADDRESSES IF NECESSARY]**
 - b. Prepare and execute Affidavit of Mailing showing service of the NOS on grantor, successor, junior lienholders, and persons requesting notice, including Department of Revenue or other state agency. Recite in the affidavit that the addresses are all the addresses on file with the trustee.
 - c. If there are Federal tax liens, check the current procedure for notifying the IRS. See OSB CLE Oregon Real Property Desk Book, Chapter 23, § 23.4-2.
 - d. Also prepare an Affidavit showing compliance with the "Danger Notice" provisions of ORS 86.756✓ regarding notice to the Grantor and compliance with the service on occupants requirements of ORS 86.774. Again, recite facts about "all addresses" on file.
 - e. Both affidavits must be signed by a person with personal knowledge, which may be the trustee or a staff person.
 - f. Personal or Posting service of Trustee's Notice of Sale on Occupant. ORS 86.774.

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Special Note: If the Trustee has actual knowledge that the grantor is not the occupant of the residential real property, the Trustee shall also give the Danger Notice to the occupant of the property by both first class and certified mail with return receipt requested. See ORS 86.756(5).

Additional Note: If the grantor is the occupant, the grantor still must be served with the notice of sale in the manner set out in ORS 86.774 in addition to service by certified mail under ORS 86.764.

- 1) Instruction letter and proof of service:
 - a) Prepare Proof of Service of Trustee's Notice of Sale Upon Occupant.
 - b) Send letter to sheriff or letter to process server with Proof of Service of Trustee's Notice of Sale Upon Occupant (sample 8) (enclose 5 true copies and highlight last date of service on the instructions, allowing time for completion of notices of substitute service). **[SET TICKLER 3 DAYS TO CONFIRM SERVER'S RECEIPT OF DOCUMENTS]**
- 2) Note date of service. If server used posting procedure in ORS 86.774(1)(b), verify compliance with the statutory timelines.
- 3) If service is by substituted service:
 - a) Prepare Notice of Substituted Service and send with true copy of Notice of Sale by certified and regular mail.
- 4) If property is vacant, have server prepare affidavit of non-occupancy.
- 5) Be sure substituted service to occupant is mailed at least 120 days before sale date.
- E. Send status report to client and mail Trustee's Notice of Sale to client.
- F. **120 DAYS PRIOR TO SALE**, check to be sure all parties are served and that file contains Affidavits of Service and substituted service. If not all parties have been served, plan on a postponement (discussed below).

Step 6: Publication of Trustee's Notice of Sale ORS 86.774(2)

- A. 80 DAYS BEFORE SALE, send letter to newspaper for publication of Trustee's Notice of Sale once each week for four consecutive weeks (sample 9). Request tear sheets.
 - 1. Enclose true copy of Notice of Sale, but note that you may omit the tenant notice from the published version. (ORS 86.774(2)(b))

TRUST DEED FORECLOSURE ADVERTISEMENT AND SALE CHECKLIST

- 2. Note: Publication must be in newspapers of general circulation in county in which land is situated. (ORS 193.010 et seq.) Check for newspaper of general circulation in county where land is situated. <http://www.orenews.com/member-directory>.
- 3. Proofread the first published Notice of Sale against the notice sent to the newspaper. **[SET 40 DAY TICKLE for receipt of Affidavit of Publication]**
- 4. Note: The last publication must be completed at least 20 days prior to sale.
- B. Report to the client that mail and personal service are complete and that publication has commenced (enclose copy of letter to newspaper). Forward billing for publication to client or cost advance.
- C. If sale is to be held outside of the local area, arrange for agent to conduct sale (sample 10).

Step 7: Second Supplemental Guarantee and Federal Tax Lien Notice; Notice of Determination

- A. **40 DAYS BEFORE SALE**, send letter to title company requesting Second Supplemental Trustee's Sale Guarantee (sample 11). **[SET TICKLE 20 DAYS FOR RECEIPT OF REPORT]**
- B. **30 DAYS BEFORE SALE**, check Second Supplemental and call title company for federal tax lien filings between date of First Supplemental Guarantee and 30 days before sale.
 - 1. If federal tax lien has been filed, advise client and send Notice of Nonjudicial Sale and letter to IRS (see above).
 - 2. Notice of Nonjudicial Sale must be mailed to IRS **AT LEAST 25 DAYS BEFORE DATE OF SALE** by certified mail, return receipt requested. Execute affidavit of mailing and record.
 - 3. If the foreclosure involves a residential trust deed, and if the beneficiary has determined that grantor is not eligible for a foreclosure avoidance agreement or has not complied with a prior agreement, then beneficiary or its agent must mail a notice of that determination (the "dual track" notice") to the grantor not more than 10 days after making the determination. ORS 86.748. Prepare Foreclosure Avoidance Measure Notice (Form 20) and the Affidavit of Compliance (see Form 4a, which is not mandatory, as a sample) Forms found at:
<https://www.doj.state.or.us/consumer-protection/homes-mortgages/foreclosure-avoidance-program/>
- a. If the beneficiary did not make such a determination, it may still be wise to prepare and record an affidavit stating that.

Step 8: Notify Tenants to Vacate 30 DAYS BEFORE SALE ORS 86.782(6)(b)✓

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(Note: Check with beneficiary re: eviction of tenants before proceeding with this step; confirm instructions in writing)

- A. Prepare 30-day Notice to Vacate notifying tenants to vacate the property 10 days after the date of the sale. (sample 12). **NOTE: If the property purchased at the trustee's sale is a dwelling unit subject to ORS chapter 90, a tenant's interest may not be terminated until 30 or 60 days after notice (depending on the term of the tenancy) under state law (ORS 86.782(6)(c) and (d)) [NOTE ALSO: The Federal Protecting Tenants at Foreclosure Act was revived on May 24, 2018, and became effective on June 23, 2018, under which bona fide tenants are entitled to a 90-day notice or to remain in possession for the unexpired term of their lease.].**
- B. Mail Notice by first class mail no earlier than 30 days before the date first set for the sale. **[SET TICKLER FOR 14 DAYS FOR RETURNED MAIL]**
- C. Prepare and execute affidavit of mailing if desired for evidentiary purposes.
- D. Send letter notifying client Notice to Vacate has been served and requesting client to inspect premises 10 days after the date of sale if the client is the purchaser at the sale.

Step 9: Record All Documents Prior to Sale ORS 86.774(3) and (4)

- A. At least **15 DAYS PRIOR TO SALE**, send letter to title company (sample 13) enclosing the following documents, as applicable, for recording directing title company to record the documents immediately:
 - 1. Affidavit of Mailing of notice of sale (attach original of notice).
 - 2. Proof of Service of Notice of Sale on Occupant (may include Notice of Substituted Service and Proof of Mailing) or Affidavit of Service Attempts and Posting.
 - 4. Affidavit of Non-Occupancy, if unoccupied.
 - 5. Proof of Service of Notice of Sale on parties other than occupants, and Notice of Substituted Service and Proof of Mailing.
 - 6. Affidavit of Publication.
 - 7. Notice to government of nonjudicial sale (tax lien) and proof of mailing.
 - 8. Affidavit of Compliance (Form 4a) stating beneficiary has complied with requirements for beneficiary's notice of determination ("dual track" notice).
 - 9. Affidavit of non-military status.
- B. **[SET 7 DAY TICKLE to make sure title company acknowledges recording.]** Check to make sure sale date is calendared. Conform file copy with date documents are recorded.
- C. **[SET 5 DAY TICKLE for receipt of recorded documents.]**

TRUST DEED FORECLOSURE ADVERTISEMENT AND SALE CHECKLIST

Step 10: Prepare for Sale

- A. If there is eligible covenant holder involved (see ORS 86.782(1)(b) and (c)), coordinate the sale process with the holder if it intends to bid for the property.
- B. **15 DAYS PRIOR TO SALE**, make all preparations for sale.
 - 1. Prepare script, leaving amount blank (sample 14). Include both street address and legal description of property.
 - 2. Prepare Trustee's Deed leaving grantee and amount blank (check each item, especially grantor and legal description).
 - 3. Copy and assemble original recorded documents; send copies to beneficiary (recording dates must show on copies).
 - 4. Check recording dates:
 - a. Notice of Default recorded 120 days before date of sale?
 - b. Was service completed 120 days before sale?
 - c. Is recording complete?
 - d. Federal tax lien check complete?
 - e. Sale date on attorney calendar?
 - 5. Compute fees and expenses and prepare Bid Statement (samples 15, 16). Get current costs from bookkeeper and pre-bills. Show beneficiary and attorney expenses separately. Include copying telephone and postage costs (do not overlook costs incurred after sale). Include recording costs for Trustee's Deed if paid by attorney.
 - 6. Confirm copy of Affidavit of Compliance mailed to DOJ.
 - 7. If foreclosing a "federally related" mortgage, check in with the client to verify sale is still a "go." If a loss mitigation application has been submitted during the foreclosure process, the foreclosure may not proceed to sale under some circumstances until specified steps are taken. See Step 1F, part 9.
- C. **At least 7 days prior to sale**, confirm that responses were sent for all written requests for statements of information under ORS 86.786.
- D. Contact client regarding sale.
 - 1. Confirm that default has not been cured.
 - 2. Request bid instructions in writing (if not already received). Must be received prior to sale. (Call 10 days before sale to confirm bid instructions. Make certain

TRUST DEED FORECLOSURE ADVERTISEMENT AND SALE CHECKLIST

that costs of Sale Guarantee and publication have been included and note date and person you spoke with on computation sheet.)

- 3. Include the amount due on sale.
- 4. Include a copy of script for beneficiary's bid.
- E. If Sale is out of the local area, send script, bid statement and Trustee's Notice of Sale to agent who will conduct sale (sample 17). If bid instruction incomplete, send documents with blanks and inform the agent by telephone when instructions are received. **[TICKLE 10 DAYS]**
- F. Last day to cure is 5 days before sale. **[SET TICKLE TO REVIEW FOR CURE]**
- G. Call client **TWO DAYS BEFORE SALE** to confirm bid amount and that someone will be in attendance at sale if necessary to deal with competitive bidding.
- H. Check PACER the morning of the sale to see if bankruptcy of any party served with NOS has been filed during pendency of foreclosure. If so, advise client and determine how to proceed in bankruptcy action.
- I. Conduct another DMDC Military Verification Website search to verify that grantor(s) are not on active military duty. Include screenshot of the status report for the name submitted. (see sample 18)

Step 11: Conduct or Postpone Sale

- A. Conduct sale.
 - 1. Read script and accept highest bid for cash. ORS 86.782(1).
 - 2. Notify client by telephone or email that sale was conducted and outcome of sale.
- B. Postpone sale (other than due to stay).
 - 1. A postponement must be announced at the time, date and place of the sale and, if the postponement is for more than two calendar days, written notice of the postponement, along with an affidavit of mailing, must also be given to all parties who received the notice of sale and anyone attending the sale, by first class and certified mail. Written notice must be given at least 15 days before the new sale date. No written notice is required for a single postponement for not more than two calendar days made by announcement. (see samples 19, 22, 22A, 22B, 23).
 - 2. Calendar new sale date:
 - 3. **SET TICKLE FOR 30, 10, AND 2 DAYS BEFORE NEW SALE DATE.**
 - 4. **SET TICKLE FOR 150 DAYS AFTER ORIGINALLY SCHEDULED SALE DATE** to be sure sale is conducted within 180 day period.

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- 5. Request Third Supplemental Trustee's Sale Guarantee if sale is postponed to determine whether new federal tax liens have been filed between last supplemental report and 30 days before new sale date. (Follow Step 7)
- 6. Reinstatement. If loan is to be reinstated send Reinstatement and Payoff letters (samples 20, 21). If sale did not take place because the loan was reinstated, prepare and record a rescission of notice of default.
- C. Postpone Sale (due to bankruptcy or other stay) (samples 19, 22, 22A, 23)
 - 1. In the event of a bankruptcy filing or other stay, the sale must be postponed or rescinded, again by personal appearance at the time and place set for sale. The announcement should be to the effect that the sale has been stayed and will be rescheduled after termination of the stay.
 - 2. The person making the announcement must obtain the names and addresses of those in attendance so that they can receive notice of the new sale date.
 - 3. Unless the beneficiary has participated in obtaining a stay, after release from stay the foreclosure proceedings may continue as if uninterrupted if within 30 days after release the trustee sends amended notice of sale by registered or certified mail to the last known address of persons listed in ORS 86.764 and 86.774, and to the address provided by each person who was present at the time and place set for the sale that was stayed, and to the address provided by each member of the Bar who requests it and meets the requirements of ORS 86.782. Alternatively, if the trustee maintains an Internet website, the trustee may post a true copy or a link to a true copy of the amended notice of sale in lieu of the mailings to the other persons in attendance and members of the Bar.

Step 12: Post-Sale

- A. **NOT MORE THAN 10 DAYS AFTER SALE**, consider the need to rescind sale.

See ORS 86.86.782(4) for the conditions under which a trustee may rescind a sale and the procedures to be followed.
- B. **10 DAYS POST-SALE**, Trustee must execute and deliver Trustee's Deed to purchaser within 10 days following sale. ORS 86.782(3).
 - 1. Prepare Trustee's Deed. If client is the purchaser, coordinate recording of the deed. Otherwise, tender the deed to the purchaser. **[SET 10 DAY TICKLE FOR EXECUTION OF DEED]**
 - a. Use care in drafting the Trustee's Deed. See ORS 86.800 and 86.803. It may be best to include more recitation of facts than less, and to avoid conclusions in favor of direct statements of fact which demonstrate compliance with each necessary step in the foreclosure process.
 - 2. If your client is the purchaser who desires it, request an owner's policy of title insurance. **[SET 7 DAY TICKLE FOR RECEIPT OF RECORDED DEED AND POLICY]**

TRUST DEED FORECLOSURE ADVERTISEMENT AND SALE CHECKLIST

- 3. If your client is the purchaser and the property is vacant, determine if the Property Maintenance Notice required by ORS 18.995(2) should be sent to an official designated by local government and posted on the property. • C. If another bid exceeded client's bid:
 - 1. See ORS 86.794. Disposition of proceeds.
 - 2. Pay amount due to beneficiary, if required;
 - 3. Pay subordinate lien holders by priority if all are in agreement. Otherwise, file interpleader and let the court decide.
 - 4. Pay surplus, if any, to grantor.
- D. Eviction of occupants (if your engagement includes steps to obtain possession).
 - 1. For residential properties occupied by tenants governed by ORS Chapter 90, see ORS 86.782(6)(c) through (h).
 - a. Provide written notice of change of ownership within 30 days. See ORS 86.782(5)✓ for contents and manner of service.
 - b. Provide written notice of termination of tenancy. See ORS 86.782(6)(c).
 - 2. For other types of properties:
 - a. Grantor occupied property: Call client to determine if grantor has moved. If grantor moved, note in file. If grantor has not moved as of 10th day after sale date and the client wants the grantor out, proceed with eviction proceedings. See ORS 86.782(6)(a).
 - b. Non-ORS Ch 90 tenant occupied property: Verify whether or not 30-day notice was given before sale; if not, provide notice. See ORS 86.782(6)(b)✓. If occupant not out after expiration of notice period (or after 10th day after sale if later), proceed with eviction.

Step 13: Closing File

- A. Letter to client (sample 24)
 - 1. Enclose copies of all recorded documents and original trustee's deed.
 - 2. Enclose statement for services and costs.
- B. Cancel Note. Cancel original note or complete affidavit and indemnification if beneficiary has not submitted the original trust deed and note (prevent resale of documents)
- C. Close file

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SAMPLE 1 - LETTER TO CLIENT ACKNOWLEDGING RECEIPT OF FILE TRUST DEED FORECLOSURE CHECKLIST

[Date]

[Client]

Re: [Matter]

[Client Name]

This will acknowledge that we have received from you your file in the above-captioned matter for non-judicial foreclosure.

I have ordered the appropriate foreclosure report from the title company and will proceed as soon as we review that report. I understand that you wish the policy limits to be in the amount of the outstanding principal since you will order an owner's policy, if necessary, after sale in the amount of the property's fair market value. Please advise if my understanding is incorrect.

Very truly yours,

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**SAMPLE 2 – LETTER (OR EMAIL) TO TITLE COMPANY
TRUST DEED FORECLOSURE CHECKLIST**

[Date]

[Title Company]

Re: [Matter]

Please refer to the trust deed recorded on _____ as [instrument no. / Book & Page no., etc.] in the records of _____ County in which [name of beneficiary] is Beneficiary and [name of grantor] is Grantor.

I have been retained to complete a non-judicial foreclosure of this trust deed. The unpaid principal balance is \$[amount]. Please forward me your Trustee's Sale Guarantee indicating [beneficiary] as insured party.

Please search for all liens (including city liens, if appropriate) and provide me with copies of all encumbrances.

Very truly yours,

NOTE TO PRACTITIONERS: *City lien searches may involve additional charges.*

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SAMPLE 3 - 30-DAY DEMAND LETTER TRUST DEED FORECLOSURE CHECKLIST

[Date]

CERTIFIED MAIL RETURN RECEIPT REQUESTED

[Name and Address]

Re: [Insert appropriate information, including the account number associated with the debt, or a truncated version of that number]

Dear [Name]:

This firm represents [insert client name(s)] ("creditor"). [Creditor] has requested this firm's assistance in enforcing the terms of your loan agreement. [Creditor's] records indicate that you are in default under the terms of the loan agreement. To bring your loan balance current, you must pay to [creditor], **on or before 31 days after the date you first receive an original or copy of this letter,**¹ the sum of \$[amount], as itemized below:

Payments: \$ [amount]

Late Charges: \$ [amount]

Taxes & Insurance: \$ [amount]

Foreclosure Guarantee: \$ [amount]

Attorney Fees: \$ [amount]

Total: \$ [amount]

If the default described above is not cured on or before the time specified above, then [creditor] will accelerate the balance due without further notice to you and may invoke its power of sale.

If you fail to cure the current default by [date next installment becomes due], the balance due will be \$[amount] because an additional installment will become due, and if paid after [date next late charge incurred], you will also need to pay an additional late charge of \$ ____.

[IF LOAN DOCUMENTS REQUIRE IT, INCLUDE THIS PARAGRAPH: You have the right to reinstate your loan with the [creditor] after acceleration and you have the right to bring a court action to assert the non-existence of a default or any other defense you may have to acceleration and sale.]

[FOR CONSUMER CASES ONLY WHERE THIS IS YOUR FIRST COMMUNICATION]

We are attempting to collect a debt on behalf of the client named above (also referred to as the "creditor") and any information obtained will be used for that purpose. This debt is owed to the

¹ NOTE: THE 31-DAY LANGUAGE IS APPLICABLE TO CONSUMER DEBT WHICH IS SUBJECT TO THE FDCPA and Regulation F(12 CFR Subpart B (§1006.6 -1006.42), Special attention should be given to validation notice requirements under Regulation F. See Model Validation Form at following Link:https://files.consumerfinance.gov/f/documents/cfpb_debt-collection_model-validation-notice_english.pdf

SAMPLE 3 - 30-DAY DEMAND LETTER TRUST DEED FORECLOSURE CHECKLIST

creditor in the amount described above. Under some circumstances, you may receive more than one copy of this notice. Unless you dispute the validity of this debt, or any portion thereof, within 30 days after your first receipt of the original or a copy of this notice, we will assume the debt to be valid. If you notify us in writing within 30 days after your first receipt of the original or a copy of this notice that the debt, or any portion thereof, is disputed, we will obtain verification of the debt or (if applicable) a copy of a judgment against you and a copy of the verification or (if applicable) the judgment will be mailed to you. We will provide you with the name and address of the original creditor, if different from the creditor named above, if you notify us in writing within 30 days after your first receipt of the original or a copy of this notice that you request such information.

Please give this matter your immediate attention.

Very truly yours,

[Lawyer's Name]

cc: [client name(s), etc.]

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SAMPLE 4 – DEFAULT LANGUAGE TRUST DEED FORECLOSURE CHECKLIST

I.

Monthly principal and interest installments of \$[*amount*] each beginning [date], until paid, plus monthly escrow installments of \$[*amount*] each beginning [date], until paid; accrued late charges in the amount of \$[*accrued late charges*] as of [date], plus monthly late charges of \$[*monthly late charges*] each beginning [date], until paid; delinquent property taxes, if any; cost of foreclosure report; attorney's fees; together with any other sums due or that may become due under the Note or by reason of this foreclosure and any further advances made by Beneficiary as allowed by the Note and Deed of Trust.

II.

The principal sum of \$[*principal sum*] with interest on the principal balance at the rate of [percent] percent per annum, from [date], until paid; accrued late charges in the amount of \$[*accrued late charges*] as of [date], plus monthly late charges of \$[*monthly late charges*] each beginning [date], until paid; escrow advances in the amount of \$[*escrow advances*]; prepayment premium, if applicable; cost of foreclosure report; attorney's fees, trustee's fees, together with any other sums due or that may become due under the Note or by reason of this foreclosure and any further advances made by Beneficiary as allowed by the Note and Deed of Trust.

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SAMPLE 5 - LETTER TO TITLE COMPANY REQUESTING RECORDING TRUST DEED FORECLOSURE CHECKLIST

[Date]

[Title Company]

Re: [Matter]

Enclosed are the following documents:

1. Appointment of Successor Trustee
2. [Affidavit of filing exemption affidavit] or [certificate of compliance]
3. Notice of Default and Election to Sell

Please record these documents as soon as possible in the order listed and forward to me a supplemental foreclosure report which includes the recording of these documents.

After recording, please call my office and let us know the date of recording and the recording numbers. Please have the recorder return the recorded documents directly to me.

Very truly yours,

Encs.

cc: [Client] (include copies)

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**SAMPLE 6 – AFFIDAVIT OF FILING BENEFICIARY EXEMPTION AFFIDAVIT WITH
ATTORNEY GENERAL’S OFFICE
TRUST DEED FORECLOSURE CHECKLIST
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**SAMPLE 7 – NOTICE REQUIRED BY THE FAIR DEBT COLLECTION PRACTICES
ACT (FDCPA) 15 USC SECTION 1692
TRUST DEED FORECLOSURE CHECKLIST**

Long form (used if the NOS is the initial communication with the borrower if the borrower is a “consumer,” i.e., a natural person):

New rules from the Consumer Financial Protection Bureau (“CFPB”), effective November 30, 2021, include an initial disclosure, which allows debt collectors a “safe harbor.”

See 15 USC 1692g and 12 CFR §1006.24.

Short form (used if the NOS is after the trustee has given an initial notice):

This communication is from a debt collector.

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SAMPLE 7 – NOTICE REQUIRED BY THE FAIR DEBT COLLECTION PRACTICES ACT (FDCPA) 15 USC SECTION 1692

TRUST DEED FORECLOSURE CHECKLIST

CFPB Model Form:

North South Group
P.O. Box 123456
Pasadena, CA 91111-2222
(800) 123-4567 from 8am to 8pm EST, Monday to Saturday
www.example.com

To: Person A
2323 Park Street
Apartment 342
Bethesda, MD 20815

Reference: 584-345

North South Group is a debt collector. We are trying to collect a debt that you owe to Bank of Rockville. We will use any information you give us to help collect the debt.

Our information shows:

You had a Main Street Department Store credit card from Bank of Rockville with account number 123-456-789.

| | | |
|--|------|--------------------|
| As of January 2, 2017, you owed: | | \$ 2,234.56 |
| Between January 2, 2017 and today: | | |
| You were charged this amount in interest: | + \$ | 75.00 |
| You were charged this amount in fees: | + \$ | 25.00 |
| You paid or were credited this amount toward the debt: | – \$ | 50.00 |
| Total amount of the debt now: | | \$ 2,284.56 |

How can you dispute the debt?

- **Call or write to us by August 28, 2020, to dispute all or part of the debt.** If you do not, we will assume that our information is correct.
- **If you write to us by August 28, 2020,** we must stop collection on any amount you dispute until we send you information that shows you owe the debt. You may use the form below or write to us without the form. You may also include supporting documents. We accept disputes electronically at www.example.com/dispute.

What else can you do?

- **Write to ask for the name and address of the original creditor, if different from the current creditor.** If you write by August 28, 2020, we must stop collection until we send you that information. You may use the form below or write to us without the form. We accept such requests electronically at www.example.com/request.
- **Go to www.cfpb.gov/debt-collection to learn more about your rights under federal law.** For instance, you have the right to stop or limit how we contact you.
- Contact us about your payment options.
- Póngase en contacto con nosotros para solicitar una copia de este formulario en español.

Notice: See reverse side for important information.



Mail this form to:
North South Group
P.O. Box 123456
Pasadena, CA 91111-2222

Person A
2323 Park Street
Apartment 342
Bethesda, MD 20815

How do you want to respond?

Check all that apply:

- ☐ **I want to dispute the debt because I think:**
 - ☐ This is not my debt.
 - ☐ The amount is wrong.
 - ☐ Other (please describe on reverse or attach additional information).
- ☐ **I want you to send me the name and address of the original creditor.**
- ☐ **I enclosed this amount:** \$

Make your check payable to *North South Group*. Include the reference number 584-345.

- ☐ **Quiero este formulario en español.**

**SAMPLE 8 - LETTER TO SHERIFF
TRUST DEED FORECLOSURE CHECKLIST**

[Date]

[Sheriff or Process Server]

Re: [Matter]

LAST DAY TO EFFECT SERVICE: [Date]

Dear [Name]:

Enclosed are one original and four true copies of the Trustee's Notice of Sale in the above matter, along with an envelope addressed to "occupant" with postage prepaid.

Please serve the occupant(s) of the following address:

[Property Address] (the "Property")

If you cannot effect personal service on the occupant(s) of the Property on the first attempt, you shall post a copy of the Trustee's Notice of Sale in a conspicuous place on the Property on the date of the first attempt and follow the procedures specified in ORS 86.774. You shall not make a second attempt to effect service until a day that is at least two days after the first attempt.

If personal service cannot be effected on an occupant of the Property on the second attempt, you shall post a copy of the Trustee's Notice of Sale in a conspicuous place on the Property on the date of the second attempt, and then shall make a third attempt. You shall not make a third attempt to effect service until a day that is at least two days after the second attempt.

If personal service cannot be effected on the occupant(s) on the third attempt, you should mail a copy of the Trustee's Notice of Sale, bearing the word "occupant" as the addressee, to the Property address by first class mail with postage prepaid. An envelope with postage prepaid is provided.

Please confirm that the Property address is a single address and has no other addresses such as an apartment complex or a multi-tenant shopping center. If the Property has multiple addresses, please note all addresses you find.

Please make your Return of Service to my office and identify the occupant(s) served by name. Indicate any substituted service by calling our office and giving us the date and time of service and the person served. Please confirm that the person you serve is an occupant of the Property and not only at the address temporarily. If you are unable to effect personal service and effected service by posting on the Property, please provide us with an Affidavit of Service Attempts and Posting.

Please call us if you encounter any difficulties. Our check payable to your order in the appropriate amount is enclosed.

Thank you.
Very truly yours,

Encs.

SAMPLE 8 - LETTER TO SHERIFF TRUST DEED FORECLOSURE CHECKLIST

Note to Practitioners: Although ORS 86.774 uses the word "occupant," the statute also refers to ORCP 7 D(2) and ORCP 7 D(3). ORCP 7 D(2)(b) requires service on a person over 14 years of age who resides at the dwelling house. See also *Option One Mortgage Corp. v. Wall*, 159 Or App 354 (1999).

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SAMPLE 9 - LETTER TO NEWSPAPER TRUST DEED FORECLOSURE CHECKLIST

[Date]

[Newspaper]

Re: [Matter]

We enclose a true copy of the Trustee's Notice of Sale in the above matter. Please publish this notice once a week for four consecutive weeks in your newspaper. Please email me a proof of publication/ad for my review **prior to** the first publication date. Please thereafter begin publication on or before [insert date] and complete publication before [insert date] (no less than 20 days prior to the sale date). Please also send me the tear sheet from the first publication for review.

When publication is complete, please forward your bill and affidavit of publication to me.

Very truly yours,

Enc.

Practitioner Note: Many newspapers publish only once a week. This may affect the ability to have the last publication date no less than 20 days prior to the sale date. Scheduling is critical, along with confirmation that the newspaper actually is a newspaper of general circulation in the county in which the land is situated. (See Step 6.)

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**SAMPLE 10 - LETTER TO ATTORNEY CONDUCTING SALE
TRUST DEED FORECLOSURE CHECKLIST**

[Date]

[Attorney or other Agent to conduct sale]

Re: Trust Deed Foreclosure

[Beneficiary/Grantor]

Date of Sale:

Time of Sale:

Place of Sale:

Dear [Name]:

Thank you for agreeing to conduct the trustee's sale in this foreclosure for me for a fee of \$[amount]. This amount includes your fee to conduct the sale, telephone me immediately afterward with the results, and to mail me a confirming letter.

Please note the above time, date, and place on your calendar. Shortly before the sale, I will mail a script for you to read in conducting the sale, a bid statement showing how we computed the bid you will enter on behalf of the beneficiary, and a copy of the Trustee's Notice of Sale.

If anyone else bids at the sale, it must be for cash or certified funds in an amount greater than our bid statement. You must send me those funds in time for me to send the purchaser my Trustee's Deed within ten (10) days of the sale. This is covered in the material I will send you before the sale.

Very truly yours,

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**SAMPLE 11 - LETTER TO TITLE COMPANY REQUESTING SUPPLEMENTAL TITLE
REPORT
TRUST DEED FORECLOSURE CHECKLIST**

[Date]

[Title Company]

Re: [Matter]

[Insert Name]:

Please send me a supplemental title report setting forth any change in the status of the title (including any Federal tax liens filed). The report should be as of *[30 days before date of sale]*.

[Insert if applicable] In addition, please name *[name]* as an additional insured.

If there are Federal tax liens filed, please call my office immediately and leave this information.

Very truly yours,

cc: [Beneficiary]

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**SAMPLE 12 - LETTER TO NON-GRANTOR OCCUPANT
TRUST DEED FORECLOSURE CHECKLIST**

[Date]

FIRST CLASS MAIL ONLY

Occupants

[Property address] (the "Property")

Re: Notice of Intent to Remove Occupants Following Foreclosure

Our File No. [File No.]

Dear Occupant:

[Name of person or entity initiating foreclosure] has initiated a non-judicial foreclosure of a trust deed against the Property which you now occupy.

This letter is notice to you pursuant to ORS 86.782 that if [name of client] purchases the Property at the trustee's sale (that is, the foreclosure sale), now set to occur on [date], [name of client] intends to remove you from possession of the Property under the procedures set in ORS 105.105 to 105.165. The purchaser of the Property at the trustee's sale generally is entitled to possession of the Property on the 10th day after the trustee's sale. If you hold possession of the Property as the grantor or a successor of the grantor created voluntarily, you are required to surrender or deliver possession of the Property within 10 days after the trustee's sale. (Note that the trustee's sale periodically may be postponed.)

If you occupy the Property under a bona fide tenancy, you may have additional rights under applicable State or Federal law. If you believe that you are a tenant with rights under State or Federal law to additional notice, please communicate that information in writing to the undersigned. If any member of this household is an active or reserve member of any branch of the military or is a dependent of any active or reserve member of any branch of the military, please contact our office immediately.

This communication is an attempt to collect a debt, and any information obtained will be used for that purpose.

If you have any questions regarding this notice, you should consult with legal counsel.

Very truly yours,

cc: [client]

Special Note: Special state and federal eviction laws now exist regarding termination of valid residential tenancies (occupants, exclusive of borrowers) post-foreclosure sale. See ORS 86.782 and ORS 90.427 for timing requirements. See also Step 5 regarding the Notice to Residential Tenants.

**SAMPLE 12 - LETTER TO NON-GRANTOR OCCUPANT
TRUST DEED FORECLOSURE CHECKLIST**

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**SAMPLE 13 - LETTER TO TITLE COMPANY ENCLOSING
DOCUMENTS FOR RECORDING
TRUST DEED FORECLOSURE CHECKLIST**

[Date]

[Title Company]

Re: [Matter]

[Name]:

Enclosed are the following documents for recording: Affidavit of Mailing Notice of Sale with Trustee's Notice of Sale attached; Proof of Service *[or Affidavit of Service Attempts and Posting]*; Affidavit of Publication; Affidavit of Compliance; *[list any other documents i.e., Affidavit of Non-Occupancy]*. *[Optional: Please record these documents immediately if no change appears in the status of the record as previously disclosed in your foreclosure guarantee. If any change appears of record, do not record, but call me immediately instead.]* **[Note: This paragraph is fine to include, if desired, but I do not know why it would be included at this point in the foreclosure since service has been done, and presumably a datedown endorsement to the TSG was obtained after recording the NOD, since the recording of the NOD charges those following (with the exception of the IRS) with constructive notice. Even if an interest appeared, the trustee should still want to record to keep the foreclosure timeline on track.]**

After recording, please have all documents returned to my office with your final billing. Please call my office and let us know the date you record and the costs for recording.

Very truly yours,

Encs.

cc: [client]

(NOTE: In the event that the trustee elects to e-record the pre-sale affidavits, rather than sending them to the title company for recording, copies of the recorded documents should be emailed to the title company that issued the trustee sale guarantee upon recording, making reference to the trustee sale guarantee.)

**SAMPLE 13 - LETTER TO TITLE COMPANY ENCLOSING
DOCUMENTS FOR RECORDING
TRUST DEED FORECLOSURE CHECKLIST**

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**SAMPLE 14 - BID SCRIPT
TRUST DEED FORECLOSURE CHECKLIST**

BENEFICIARY:

DATE:

TIME:

GRANTOR:

CITY:

TRUST DEED FORECLOSURE SALE

This is the time and place set for the Trustee's sale in the nonjudicial trust deed foreclosure proceeding in which _____ is the Beneficiary and _____ is/are the Grantor[s]. The real property in question is located at [address] in the County of [county], Oregon, and the complete legal description is set forth in the Notice of Default and Election to Sell, which also describes the subject Deed of Trust and the default thereon giving rise to this foreclosure. Does anyone want me to read the legal description? *[Read legal if requested.]* The Notice of Default and Election to Sell was recorded in the Official Records of this County on [date] as [recording information].

I am the [attorney or agent for the Successor Trustee or Successor Trustee] of the Trust Deed in question and at this time, pursuant to the previously referred to Notice of Default and Election to Sell, I am offering for sale to the highest bidder for cash the interest in the real property described therein which the grantor or grantors had power to convey at the time of the execution of the subject Trust Deed.

This property is being sold on an "AS-IS" basis, without representations or warranties of any kind, express or implied. All bids must be unconditional net bids. The purchaser must pay all costs of transfer, including any title insurance and recording fees and will be responsible for all unpaid taxes and prior liens, if any.

The Beneficiary has submitted written bidding instructions to the Trustee. These instructions include an opening or minimum bid and may include instructions to submit additional bids on behalf of the Beneficiary. The Beneficiary may credit bid up to the amount of the indebtedness owing under the Trust Deed. The successful bidder must immediately pay the final bid amount by "cashier's check or certified funds" payable to the Trustee or the Beneficiary.

Subject to the time limitations under ORS 86.782(4), the funds constituting the successful final bid will be conditionally received and held by the Trustee until the Trustee is satisfied in its sole discretion that no bankruptcy was filed prior to the sale and that there has been no occurrence under ORS 86.782(4)(a) that would give the Trustee cause to rescind the sale and void the Trustee's Deed.

It must be understood by all bidders that, in the event that the Trustee rescinds the Trustee's sale, the Trustee shall give notice of the rescission, as required by law, and comply with the provisions of ORS 86.782(4)(c) and (d) regarding refund to the purchaser and recording the affidavit that notice of the rescission has been given. During the period between the sale and the Trustee's confirmation of the regularity of the sale proceedings, the successful bid cannot be withdrawn.

On behalf of the Beneficiary, I now open the bidding with the minimum bid of \$[amount]. Does anyone wish to enter a higher bid?

SAMPLE 14 - BID SCRIPT TRUST DEED FORECLOSURE CHECKLIST

There being no other bids, the bid of \$[amount] from [client or third party] is declared to be the highest and best bid and is therefore accepted.

Date
Signature
Name

PLEASE NOTE: As [client] has an interest in the Trust Deed as beneficiary, representing unpaid principal, accrued interest, advances, and foreclosure costs and fees, it can enter a bid without having to tender cash. Should anyone else wish to enter a bid, however, it would have to be in excess of the bid of [client] and be accompanied by cash or certified funds in the full amount of that bid, tendered to you at the time and place of sale. If [client] desires to bid more than the full amount of principal, accrued interest, advances and foreclosure costs and fees, [client] must have cash or certified funds for that increased amount.

Should you have any questions, or run into any problems, you can postpone the sale once for *[insert period of time up to 2 days without the need for written notice- See ORS 86.782. Note: Although the statute allows this much time, you may want to limit authority to postpone to a shorter period]*. For example, an hour, or "until _____ at 1 p.m. at this same place." This can be done by public pronouncement at the time of the sale, so long as the postponement does not exceed two consecutive days, and give me a call for further instructions.

Attorney Name
Address
Telephone Number

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**SAMPLE 15 - BID COMPUTATION FORM TRUSTEE'S SALE
TRUST DEED FORECLOSURE CHECKLIST**

| | |
|-------------------------------|--|
| PRINCIPAL | |
| INTEREST ON OBLIGATION | |
| LATE CHARGES | |
| TAXES ADVANCED | |
| RESERVE BALANCE | |
| TITLE EXPENSE | |
| RECORDING FEES | |
| SERVICE FEES | |
| PUBLICATION EXPENSE | |
| POSTAGE | |
| PHOTOCOPY EXPENSE | |
| LONG DISTANCE TELEPHONE CALLS | |
| MILEAGE EXPENSE | |
| DMV INQUIRIES | |
| TRUSTEE SALE GUARANTEE | |
| TRUSTEE'S FEE | |
| ATTORNEY FEES | |
| OTHER (Specify) | |

**SAMPLE 15 - BID COMPUTATION FORM TRUSTEE'S SALE
TRUST DEED FORECLOSURE CHECKLIST**

| | |
|---|--|
| OTHER ADVANCES (e.g., force-placed premiums or payment on senior liens) | |
|---|--|

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**SAMPLE 16 - BID STATEMENT
TRUST DEED FORECLOSURE CHECKLIST**

TRUSTEE'S SALE

Trustee's sale held [date] at [time] on the front steps of the [county] County Courthouse, [city], Oregon.

| | | |
|-------------------|----|----------|
| PRINCIPAL BALANCE | \$ | _____ |
| INTEREST | | _____ |
| RESERVE BALANCE | | _____ |
| ADVANCED COSTS | | _____ |
| TOTAL | | \$ _____ |

COSTS ADVANCED:

| | |
|-------------------------|-------|
| Attorney Fees | _____ |
| Trustee Fees | _____ |
| Trustee Sale Guarantee | _____ |
| County Recorder | _____ |
| Process Server | _____ |
| Publication Expense | _____ |
| Postage | _____ |
| Long Distance Telephone | _____ |
| Mileage | _____ |
| Photocopies | _____ |
| Other | _____ |

TOTAL \$ _____

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**SAMPLE 17 - LETTER TO ATTORNEY [OR AGENT] CONDUCTING SALE
TRUST DEED FORECLOSURE CHECKLIST**

[Date]

[Attorney]

Re: Trust Deed Foreclosure
[Beneficiary/Grantor]
Date of Sale:
Time of Sale:
Place of Sale:

Dear [Name]:

Here are the following documents for your use in conducting the above-referenced trustee's sale:

1. A script for you to read.
2. A copy of the bid statement & bid computation form showing how the beneficiary's bid was computed.
3. A copy of the Trustee's Notice of Sale.
4. Sale Checklist.
5. Receipt for Funds.

All potential bidders will need to have cashier's checks or certified funds which must be payable to [Trustee]. Please verify the funds of all potential bidders before opening the bidding. Please open the bidding at \$_____.

Immediately following the sale, please inform me by telephone of the result. Then follow up with a brief confirming letter to me and arrange for delivery of any third party funds from the purchaser and a completed copy of the Receipt of Funds if the purchaser is not the Beneficiary. Please enclose the signed and dated Bid Script.

Thank you.

Very truly yours,

Encs.

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**SAMPLE 17A - SALE CHECKLIST
TRUST DEED FORECLOSURE CHECKLIST**

SALE DATE:

TIME:

LOCATION:

FILE:

PROPERTY ADDRESS:

CONDUCTED BY:

1. READING OF NOTICE OF SALE _____

2. OPENING BIDS: \$ _____

\$ _____

FINAL BID: \$ _____

FUNDS RECEIVED: Cash / Cashier's Check / Credit Bid

Endorsed: Yes / No Receipt issued: Yes / No

BUYER: _____

ADDRESS: _____

EMAIL: _____

TELEPHONE: _____

3. TRUSTEE'S DEED

GRANTEE'S NAME: _____

IMPORTANT NOTICES

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**SAMPLE 17B – RECEIPT FOR FUNDS
TRUST DEED FORECLOSURE CHECKLIST**

I, _____, as [choose: *an employee of* _____, *Trustee, Trustee's Agent/Lawyer*], hereby acknowledge receipt of \$ _____ in the form of [*cash, cashier's check or certified funds, include check no.*] from _____ as payment for the debt and amount bid at the Trust Deed foreclosure sale held on _____ regarding the following Trust Deed. Trust deed's original parties, date and recording information are as follows:

Grantor:

Trustee:

Beneficiary:

Dated:

Recording Date:

Recording Reference:

Recording County:

DATED: _____

Signature

Comments:

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**SAMPLE 18 – CERTIFICATE OF NON-MILITARY SERVICE
TRUST DEED FORECLOSURE CHECKLIST**

CERTIFICATE OF NON-MILITARY SERVICE

STATE OF OREGON)
) ss
County of _____)

THIS IS TO CERTIFY that:

1. I am the Successor Trustee of the Trust Deed described below:

Grantor:

Trustee:

Beneficiary:

Recorded:

Date:

[instrument no. / book and page etc.]

_____ County Oregon Records

2. To the best of my knowledge and belief the Grantors of the above Trust Deed are not in the military service, or were not so within 367 days before the recording of the Notice of Default, or a dependent of a service member in military service based on the following facts made known to me by the Beneficiary or based on inquiry made by this office: (1) Grantor(s) address(es) are not part of a military installation; (2) the Beneficiary has not been provided with any information that indicated that Grantor(s) are members of any branch of military service, whether active or reserve, and a search of the Department of Defense Manpower Data Center ("DMDC") did not indicate Grantors are on active duty (See DMDC printouts attached); and (3) notice was personally served Grantor(s) at an address that is not part of a military installation. [add such other facts as appropriate]

Subscribed and sworn to before me by _____, on _____, 20____.

Notary Public for Oregon

My commission expires: _____

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**SAMPLE 19- TRUSTEE'S DEED
TRUST DEED FORECLOSURE CHECKLIST**

AFTER RECORDING RETURN TO:

SEND TAX STATEMENTS TO:

TRUSTEE'S DEED

TRUSTEE: _____ ("Trustee")

BUYER: _____ ("Buyer")

TRUE AND ACTUAL CONSIDERATION: \$ _____

RECITALS

Reference is made to that certain trust deed ("Trust Deed"), the original parties and other information of which are as follows:

Grantor: _____
Trustee: _____
Beneficiary: _____
Date: _____
Recording Date: _____
Recording Reference: _____
County of Recording: _____ County, Oregon

[(If the Beneficiary's interest has been assigned:) The Beneficiary's interest in the Trust Deed was assigned to _____ (the "Beneficiary"), by instrument recorded on _____, 20__, as No. 20__ - _____, Official Records, _____, County, Oregon.]

The Trust Deed encumbered certain real property described therein (the "Property") to secure the performance of obligations of the Grantor to the Beneficiary. Thereafter, Beneficiary informed the Trustee that the obligations were in default and declared default, including an acceleration of all sums due and owing.

On _____, 20__, _____ was appointed the Trustee by the Beneficiary in the Appointment of Successor Trustee recorded as follows:

Recording Date: _____, 20__
Recording Reference: 20__ - _____
County of Recording: _____

**SAMPLE 19- TRUSTEE'S DEED
TRUST DEED FORECLOSURE CHECKLIST**

Pursuant to the Oregon Trust Deed Act, (the "Act"), the Trustee recorded a Notice of Default and Election to Sell as follows:

Recording Date: _____, 20__
Recording Reference: 20__ - _____
County of Recording: _____

The Trustee served a Trustee's Notice of Sale [and the notice required under ORS 86.756 (*if a residential trust deed*)] on all parties entitled thereto under the Act within the time required by ORS 86.764(1) and 86.774. The Trustee hereby certifies that any valid requests for information under ORS 86.786 have been responded to within the time prescribed by statute. The Trustee further certifies that proof of compliance with ORS 86.774(3) and (4) (if any) has been recorded.

[*In the event of a stay:* By proceedings in bankruptcy/or other stay, the foreclosure proceedings were stayed on _____, 20__. The stay was released on _____, 20__.] Pursuant to the [Amended (*if applicable*) Trustee's Notice of Sale, the Trustee on _____, 20__, at the hour of ____ a.m./p.m. [*if the date has been postponed or stayed:* (which was the day and hour to which the sale was postponed as permitted by ORS 86.782(2) or (12)),] at the place so fixed for the sale, sold the Property in one parcel at public auction to the Buyer for the sum of \$_____.00, which sum was the highest and best bid at the sale and the true and actual consideration paid for this transfer.

CONVEYANCE

Trustee conveys to Buyer all interest which the Grantor had or had the power to convey at the time of Grantor's execution of the Trust Deed, together with any interest which the Grantor or Grantor's successors in interest acquired after the execution of the Trust Deed in and to the Property legally described as follows:

[Insert legal description]

More commonly known as: [street address].

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009 AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007,

**SAMPLE 20 - SETOVER LETTER
TRUST DEED FORECLOSURE CHECKLIST**

[Date]

Re: [Beneficiary Name] / [Grantor Name]

Trust Deed Foreclosure Sale

Date: [Date], [Time]

Place: [Address], the [Name of County] County Courthouse

Dear [Name]:

The above-referenced foreclosure sale, currently scheduled for the date and time shown above, is being postponed. Please postpone the sale to [date], [time] at the same location. *or* [Please postpone the sale indefinitely due to the grantor filing for relief under the United States Bankruptcy Code or because of a lawful stay imposed by a court of competent jurisdiction.] Enclosed is a copy of the Trustee's Notice of Sale, the setover script, and the confirmation of postponement. Before beginning the set over, please inquire of anyone around the entrance if they are interested in this sale and obtain their name and address. Announce the postponement by reading the postponement script in a voice loud enough to be heard by any person in the area, even if no one is present.

Please contact me immediately after the postponement to confirm the results and provide me with the name and address of any party who appeared and witnessed the announcement of the postponement.

After the sale has been postponed, please return the confirmation of postponement and your billing statement to my attention.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

Encs.

cc: [Client]

NOTE: If the sale is postponed for more than 2 calendar days, or is postponed more than once, written notice of the postponement must be given pursuant to ORS 86.782(2). Be sure to allow for adequate time for giving the required notice in choosing a postponement date.

NOTE: The sale must be postponed for at least 15 calendar days from the date the required notice is given, but no more than 180 days from the original sale date, pursuant to ORS 86.782(2).

**SAMPLE 20 - SETOVER LETTER
TRUST DEED FORECLOSURE CHECKLIST**

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**SAMPLE 21 - REINSTATEMENT LETTER
TRUST DEED FORECLOSURE CHECKLIST**

[Date]

[Grantor]

Re: [Matter] [Loan No.]

Dear [Name]:

You have requested information regarding reinstatement of the above loan from [client] to you. Under ORS 86.778, a reinstatement must be made "prior to five days before the date last set" for the foreclosure sale. The foreclosure sale is now set for [date].

The amount necessary to reinstate the loan as of the date of this letter is \$[amount], itemized as follows:

| | |
|--|----------|
| [number] monthly installments of \$[amount] each (includes payments due through [date]) | \$ _____ |
| [number] late charges of \$[amount] each (includes late charge due for [date] payment) | \$ _____ |
| Service fee(s) | \$ _____ |
| Publication fee | \$ _____ |
| Trustee's Sale Guarantee fee | \$ _____ |
| Additional foreclosure costs | \$ _____ |
| Anticipated cost to record Notice of Rescission | \$ _____ |
| Trustee and Attorney fees | \$ _____ |
| TOTAL | \$ _____ |

The above amount must be paid to the beneficiary in cash, or by money order, cashier check, certified check, or other form of certified funds. Please make a check payable to [beneficiary] and send it to:

[Address]

[Address]

[Address]

The amount set out above is good through and including [date]. Fees and costs will continue to be charged throughout the foreclosure process and the foreclosure will not be stopped until the loan has either been reinstated or paid off. You must contact this office to obtain an updated reinstatement amount after [date].

[Client] has instructed us to continue with the foreclosure proceedings until you have paid the amount necessary to reinstate the loan. If the reinstatement payment is made after [date], an additional monthly payment of [\$amount] should be included with your payment. If the reinstatement payment is made after [date], an additional late charge of [\$amount] should be included with your payment.

Please contact this office if you have questions regarding this letter. If you have questions of a legal nature, I suggest you contact an attorney of your choice.

Very truly yours,

cc: [Client]

SAMPLE 21 - REINSTATEMENT LETTER TRUST DEED FORECLOSURE CHECKLIST

NOTE: Include an appropriate FDCPA (Fair Debt Collections Practices Act) notice in this letter.

NOTE: ORS 86.778(1)(a) limits the total amount of attorney fees and trustee fees to \$1,000 for non-judicial foreclosures of residential trust deeds.

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**SAMPLE 22 - PAY OFF LETTER
TRUST DEED FORECLOSURE CHECKLIST**

[Date]

[Name/Address]

Re: [Matter]

Dear [Name]:

We represent [client] in regards to the above-referenced secured loan executed by [borrower]. Pursuant to the written authorization of [borrower], the total amount due to payoff the secured loan through [date] is as follows:

| | | |
|---|----|-------|
| Unpaid principal balance | \$ | _____ |
| Interest at [percent]% from [date] to [date]* | | _____ |
| Late charges | | _____ |
| Reserve balance | | _____ |
| Service fee | | _____ |
| Publication fee | | _____ |
| Trustee's Sale Gurantee fee | | _____ |
| Additional foreclosure costs | | _____ |
| Fee for recording Reconveyance | | _____ |
| Trustee and Attorney fees | | _____ |
| TOTAL | \$ | ===== |

*Interest continues to accrue at the rate of \$[amount] per day from [date] until paid in full. Fees and costs will continue to be charged throughout the foreclosure process and the foreclosure will not be stopped until the loan has either been reinstated or paid off. You must contact this office to obtain a final accounting before processing the payoff. The foreclosure sale is currently scheduled for [date].

The above amount must be paid in cash, or by money order, cashier check, certified check, or other form of certified funds. Please make your check payable to [name of law firm] and send it to us at the above address.

If we receive the above amount, this office will prepare and record a Deed of Reconveyance.

Please contact this office if you have questions regarding this letter.

Very truly yours,

cc: [Client]

NOTE: Include an appropriate FDCPA (Fair Debt Collections Practices Act) notice in this letter.

NOTE: ORS 86.778(1)(a) limits the total amount of attorney fees and trustee fees to \$1,000 for non-judicial foreclosures of residential trust deeds.

**SAMPLE 22 - PAY OFF LETTER
TRUST DEED FORECLOSURE CHECKLIST**

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SAMPLE 23 – SETOVER SCRIPT FOR SALE POSTPONEMENT TRUST DEED FORECLOSURE CHECKLIST

Reference is made to a certain trust deed ("Trust Deed") made, executed and delivered by _____, as grantor, to _____, as trustee, in favor of _____, as beneficiary, dated _____, and recorded on _____, as Recording No. _____, in the mortgage records of _____, County, Oregon.

The Trust Deed covers the following described real property situated in said county and state, to-wit:

[legal description].

I am here to announce that this foreclosure sale is setover [to *[date]* at *[time]* at the same location] *or* [indefinitely due to the grantor filing for relief under the United States Bankruptcy Code or because of a lawful stay imposed by a court of competent jurisdiction]

If this foreclosure was postponed indefinitely, and in the event that the property is released from the stay, the trustee may give amended notice of sale pursuant to ORS 86.782(12).

YOU SHOULD OBTAIN THE NAME AND ADDRESS OF EACH PERSON WHO APPEARED AND WITNESSED THE ANNOUNCEMENT OF THE STAY.

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**SAMPLE 23A – WRITTEN NOTICE OF POSTPONEMENT
TRUST DEED FORECLOSURE CHECKLIST**

**NOTICE OF POSTPONEMENT OF THE SALE DATE
OF THE TRUSTEE'S SALE
PURSUANT TO ORS 86.782(2)(b)**

NOTICE IS HEREBY GIVEN that the foreclosure sale previously scheduled for [date], at the hour of [time], [place of sale], will now be sold on [date], **at the same time and place**, at public auction to the highest and best bidder, payable at the time of sale, the following-described real property, situated in the County of [county], State of Oregon, to-wit:

[legal description],

which is subject to that certain Deed of Trust dated _____, recorded _____, as Recording No. _____, records of _____ County, Oregon, from _____ **as Grantor**, to _____ as Trustee, to secure an obligation in favor of _____ **as Beneficiary**.

DATED: _____.

Successor Trustee

Address:

Telephone:

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**SAMPLE 23B – AFFIDAVIT OF MAILING NOTICE OF POSTPONEMENT
TRUST DEED FORECLOSURE CHECKLIST**

After Recording Return To:

**AFFIDAVIT OF MAILING NOTICE OF POSTPONEMENT PURSUANT TO
OREGON LAWS 2012, CHAPTER 112, SECTION 9(2)(b)**

STATE OF OREGON)
) ss
County of _____)

I, _____, _____ at _____
_____, being first duly sworn, depose, say and certify that:

At all times mentioned herein, I was and now am a resident of the State of Oregon, a competent person over the age of eighteen years, and not the beneficiary or the beneficiary's successor in interest named in the Trustee's Notice of Sale.

I gave notice of the postponement of the trustee's sale of the real property described in the attached Notice of Postponement by mailing copies thereof by both first class and certified mail with return receipt requested to each of the following named persons (or their legal representatives, where so indicated) at their respective last known addresses, to-wit:

Each of the notices so mailed was a true copy of the original Notice of Postponement. Each such copy was mailed in a sealed envelope, with postage thereon fully prepaid, and was deposited by me in the United States Post Office at Portland, Oregon, on _____. With respect to each person listed above, one such notice was mailed by first class mail to the address indicated, and another such notice was mailed by certified mail with return receipt requested. Each such notice was mailed at least 15 days before the new sale date stated therein.

By:

SUBSCRIBED AND SWORN to before me this _____ day of _____, 20__.

Notary Public – State of Oregon

SAMPLE 23B – AFFIDAVIT OF MAILING NOTICE OF POSTPONEMENT TRUST DEED FORECLOSURE CHECKLIST

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SAMPLE 24 – CONFIRMATION OF TRUSTEE'S SALE POSTPONEMENT TRUST DEED FORECLOSURE CHECKLIST

[Name of Attorney or Agent conducting sale]

Re: [Beneficiary Name] / [Grantor Name]

Date/Time of Sale:

Place of Sale:

On [date], I postponed the trustee's sale in connection with the above proceedings at the [place of sale].

The following persons were present:

_____, Agent for Successor Trustee

_____, Phone No. and Address: _____

_____, Phone No. and Address: _____

Attach additional pages if necessary.

At [time], I verified the time. I read the postponement script postponing the sale [to [date] at the same time and location] *or* [indefinitely due to the grantor filing for relief under the United States Bankruptcy Code or because of a lawful stay imposed by a court of competent jurisdiction].

[Name of Attorney or Agent]

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**SAMPLE 25 - LETTER TO CLIENT CONFIRMING SALE
TRUST DEED FORECLOSURE CHECKLIST**

[Date]

[Client]

Re: *[Matter]*

[Client's Name]:

This will confirm that the foreclosure sale took place as scheduled. As we have previously confirmed with you, the property reverted to the beneficiary. Enclosed is the Trustee's Deed which has been recorded in *[county]* County, Oregon. We have previously provided you with copies of other documents recorded or served during the foreclosure and will be happy to provide you with any additional copies or information regarding this foreclosure upon your request.

Enclosed is my statement for fees and costs. At this point, I will close my file, unless you notify me that you require additional assistance with this matter.

Thank you for the opportunity to have been of service.

Very truly yours,

Encs.

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Surplus proceeds of property tax foreclosure sales

During the HB 4056 Workgroup meeting held May 1, 2024 there was interest expressed in reviewing information from counties related to property foreclosure sales, including specific information regarding property values, minimum bid amounts, County fees and costs included in the minimum bid amounts, and surplus funds remaining after all taxes, costs, and fees had been satisfied. With the acknowledgement that gathering this historical data could be a time and labor-intensive undertaking, the Department of Revenue asked Counties to provide any relevant data in whatever form it currently existed so that the information could be combined and disseminated out to Counties to aid in ongoing discussions.

DOR received foreclosure data from 8¹ counties: Clackamas, Clatsop, Coos, Deschutes, Morrow, Multnomah, Union, and Yamhill. The data reflects 240² total sales spanning the years 2016 – 2023. Because no specific data structure was prescribed, and because policies governing the foreclosure sale process differ between counties, the content, detail levels, and timelines included in the data varied. The following are some key datapoints related to fees and surplus funds compiled from the information provided. The raw data as it was provided by individual Counties is also included for review.

Clatsop, Coos, Deschutes, Union, and Yamhill counties included fee and expense information with their data. Fees included in the foreclosure sale costs included but were not limited to interest, maintenance costs, legal fees, HOA fees, recording fees, auction fees, lien search fees, postage, salary/benefit/labor costs, land agent time, sheriff fees, Assessor costs, and Board of Commissioner costs. Total fees and costs reported for all years was \$1,563,898.50 across approximately 185³ accounts, representing an approximate average of \$8453.50 in fees per account.

The amount of surplus attributed to a single sale varied from a high of \$241,343.87 to zero, with some counties reporting negative balances remaining after all taxes and fees were accounted for. Data from all years shows a total surplus amount after all taxes, fees, and county costs of \$5,602,702.54⁴, reflecting an average surplus amount of \$23,344.59 per sale.

¹ Morrow County data did not include final sale prices or surplus information and is not included in total or average dollar figures.

² Assumes each row of data on Clatsop County report represents 1 account; Union County did not include number of individual accounts in their data.

³ Union county did not include number of individual accounts in their data.

⁴ Surplus figures for Deschutes County are not reflected in the total as there were no surplus amount details included in the supplied data.

CLACKAMAS

**** The information in this spreadsheet provides estimated data, is not binding and is subject to change.**

| Clackamas County Foreclosure Properties Sales and Surplus Estimates | | |
|--|----------------------------------|--------------------------|
| Year | Number of Sold Properties | Potential Surplus |
| 2023 | 0 | \$0.00 |
| 2022 | 0 | \$0.00 |
| 2021 | 5 | \$135,020.81 |
| 2020 | 3 | \$214,388.35 |
| 2019 | 7 | \$107,802.96 |
| 2018 | 4 | \$149,959.12 |
| 2017 | 14 | \$902,509.74 |
| Totals | 33 | \$1,509,680.98 |
| | | |

The year indicates the year the foreclosure action was filed. The property was sold later in time. That is why there is zero for 2022 and 2023 - those properties are still in the foreclosure process.


The properties listed are properties that sold and a surplus resulted.





DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045



Results - June 2023 Real Property Surplus Auction

| Item # | Aerial View | Description | Assessed Real Market Value | Minimum Bid Amount | Final Bid |
|--------|--|---|----------------------------|--------------------|-----------|
| 1 |  | <p>Tax Lot Number 22E15C 00702 Parcel Number 00485996 Unimproved parcel new Clackamas River Dr., 97045 Unincorporated Clackamas County</p> <p>Zone EFU: 1.37 Acres Fire District: Clackamas RFPD #1 Park District: Not in District School District: Oregon City Sewer: Not In District Water: Not in District</p> <p>Latitude: +45.2341484 Longitude: -122.331831</p> | \$52,910 | \$26,455 | \$65,000 |



* All sales may be subject the Tyler vs Hennepin Ruling.

| Item # | Aerial View | Description | Assessed Real Market Value | Minimum Bid Amount | Final Bid |
|--------|--|--|----------------------------|--------------------|-----------|
| 2 |  | <p>Tax Lot Number 22E18DC00209 Parcel Number 00518719</p> <p>Improved parcel located at 18148 SE SUN MEADOW CT, MILWAUKIE, 97267 Zone R7: 0.1 Acres Fire District: Clackamas RFPD #1 Park District: NORTH CLACKAMAS PARKS AND REC School District: Oregon City Sewer: Oak Lodge Water Services District Water: OAK LODGE</p> <p>Latitude: +45.233236 Longitude: -122.36195</p> | \$410,444 | \$266,250 | \$320,000 |
| 3 |  | <p>Tax Lot Number 22E19AD07000 Parcel Number 00523357</p> <p>Improved parcel located at 1640 MANOR DR, GLADSTONE, OR 97027</p> <p>Zone R7.2: 0.28 Acres Fire District: Gladstone Park District: Not in District School District: Gladstone Sewer: WES Tri-City Water: Gladstone</p> <p>Latitude: +45.2306614 Longitude: -122.36248631</p> | \$422,141 | \$157,000 | \$240,000 |



* All sales may be subject the Tyler vs Hennepin Ruling.

| Item # | Aerial View | Description | Assessed Real Market Value | Minimum Bid Amount | Final Bid |
|--------|--|--|----------------------------|--------------------|-----------|
| 4 |  | <p>Tax Lot Number 22E31DA01601 Parcel Number 00578841 Unimproved parcel located at 6th St & Van Buren St, Oregon City, 97045</p> <p>Zone R3.5: 0.15 Acres Fire District: Clackamas RFPD #1 Park District: Not in District School District: Oregon City Sewer: WES TRI-CITY Water: Oregon City Latitude: +45.2107856 Longitude: -122.355926</p> | \$81,202 | \$40,606 | No Bid |
| 5 |  | <p>Tax Lot Number 22E31DA03200 Parcel Number 00579029 Unimproved parcel located at 5th St & Jq Adams St, Oregon City, 97045</p> <p>Zone MUC1: 0.03 Acres Fire District: Clackamas RFPD #1 Park District: Not in District School District: Oregon City Sewer: WES TRI-CITY Water: Oregon City Latitude: +45.2108935 Longitude: -122.361040</p> | \$24,338 | \$6,084 | No Bid |

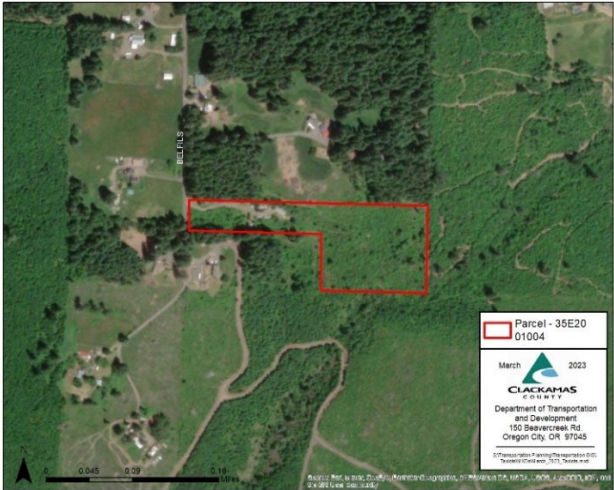

* All sales may be subject the Tyler vs Hennepin Ruling.

| Item # | Aerial View | Description | Assessed Real Market Value | Minimum Bid Amount | Final Bid |
|--------|--|--|----------------------------|--------------------|-----------|
| 6 |  | <p>Tax Lot Number 24E08 00502 Parcel Number 00651048 Improved parcel located at 31262 SE KELSO RD, BORING, 97009</p> <p>Zone RRFF5: 5.16 Acres Fire District: Clackamas RFPD #1 Park District: NOT IN A DISTRICT School District: OREGON TRAIL Sewer: Not in a District Water: Not in a District Latitude: -122.202907 Longitude: +45.25001630</p> | \$559,213 | \$368,550 | \$440,000 |
| 7 |  | <p>Tax Lot Number 27E32BC11900 Parcel Number 00733987 Unimproved parcel located at or near E Hwy 26 & E Lataurelle Ave, Unincorporated Clackamas Co., 97011</p> <p>Zone RR: 0.17 Acres Fire District: Hoodland Fire Dist #74 Park District: Not in District School District: Oregon Trail Sewer: Not in District Water: Not in District Latitude: +45.2113392 Longitude: -121.585874</p> | \$77,269 | \$19,317 | \$20,000 |


* All sales may be subject the Tyler vs Hennepin Ruling.

| Item # | Aerial View | Description | Assessed Real Market Value | Minimum Bid Amount | Final Bid |
|--------|--|--|----------------------------|--------------------|-----------|
| 8 |  | <p>Tax Lot Number 27E32BD05200, 05300 & 05400 Parcel Number 00734487, 0073496 & 00734502 Improved parcel located at 66947 E Oregon St, Welches, OR 97011</p> <p>Zone RR: 0.21 Acres Fire District: Hoodland Fire Dist #74 Park District: Not in District School District: Oregon Trail Sewer: Not In District Water: Not in District Latitude: +45.2113639 Longitude: -121.583364</p> | \$117,834 | \$88,375 | No Bid |
| 9 |  | <p>Tax Lot Number 35E05 01401 Parcel Number 00958137 Improved parcel located at 42990 SE WILDCAT MOUNTAIN DR SANDY 97055</p> <p>Zone RRFF5: 3.04 Acres Fire District: Sandy Fire Dist #72 Park District: Not in District School District: Oregon Trail Sewer: Not In District Water: Not in District Latitude: +45.2015543 Longitude: -122.131418</p> | \$276,941 | \$207,705 | No Bid |

* All sales may be subject the Tyler vs Hennepin Ruling.

| Item # | Aerial View | Description | Assessed Real Market Value | Minimum Bid Amount | Final Bid |
|--------|--|---|----------------------------|--------------------|-----------|
| 10 |  | <p>Tax Lot Number 35E20 01004 Parcel Number 00961622 Improved parcel located at 32390 SE BELFILS RD ESTACADA 97023</p> <p>Zone AGF: 8.86 Acres Fire District: Estacada Fire Dist #69 Park District: Not in District School District: Estacada Sewer: Not In District Water: Not in District Latitude: +45.1717132 Longitude: -122.133612</p> | \$419,185 | \$217,500 | \$217,500 |
| 11 |  | <p>Tax Lot Number 37E03BA02100 Parcel Number 00964816 Unimproved parcel located at E Salmonberry Rd & E Arthur Hailey Rd, Unincorporated Clackamas Co., 97049</p> <p>Zone RR: 0.11 Acres Fire District: Hoodland Fire Dist #74 Park District: Not in District School District: Oregon Trail Sewer: Not In District Water: RHODODENDRON WATER ASSOCIATION Latitude: Longitude: -121.561227</p> | \$23,289 | \$11,644 | \$22,000 |

* All sales may be subject the Tyler vs Hennepin Ruling.

| Item # | Aerial View | Description | Assessed Real Market Value | Minimum Bid Amount | Final Bid |
|--------|---|--|----------------------------|--------------------|-----------|
| 12 |  | <p>Tax Lot Number 37E03CA05200 Parcel Number 00967797 Unimproved parcel located at E Pinner Rd & E Jennie Ln, Unincorporated Clackamas Co., 97049</p> <p>Zone RR: 0.17 Acres Fire District: Hoodland Fire Dist #74 Park District: Not in District School District: Oregon Trail Sewer: Not In District Water: RHODODENDRON WATER ASSOCIATION Latitude: +45.2018216 Longitude: -121.555075</p> | \$65,209 | \$32,604 | No Bid |

** All sales may be subject the Tyler vs Hennepin Ruling.*

June 2023 Auction:

After the sheriff's auction, if there was a surplus, Notice was mailed to the last known address of the owner of record at the time of foreclosure. The notice stated that there may be surplus funds available and to inquire with County.

Notice of surplus was published in local print media.

Notice was on County website: <https://www.clackamas.us/news/2023-08-24/notice-of-potential-surplus-funds>.

Claims Form provided upon request for surplus.

| Property | Foreclosure Date | Claimant | Claim Form or Lawsuit | Surplus Amount |
|--------------------------------------|----------------------------|---|--|--|
| 1640 Manor Drive, Gladstone | 2019 Foreclosure 19CV37131 | Owner deceased - probate | ██████████ makes claim and fills out claim form on October 26, 2023 | \$175,455 – paid to ██████████ |
| 32390 SE Belfils Rd., Estacada | 2019 Foreclosure 19CV37131 | Owners are married couple | The owners refused to fill out claim form and filed lawsuit 23CV41548. County interpleads surplus to court. | Court distributes surplus: \$217,500.00 |
| 18148 SE Sun Meadow Court, Milwaukie | 2018 Foreclosure 18CV37238 | Competing claims: Caesar Proceeds LLC vs. Former owner Goudge | ██████████ refuses to fill out County claim form, files lawsuit 23CV46142. ██████████ fills out claim form with County. County interpleads money for court to award to either party. | \$214,388.35 Pending in court Court to decide if goes to ██████████ or to previous owner ██████████. |
| 31262 SE Kelso Rd, Boring | 2019 Foreclosure 19CV37131 | Owner has asked about making claim through attorney | May either fill out County claim form or sue. Money being held upon claim form or court order. | \$104,504.42 – held in anticipation of claim/lawsuit. |

**The difference in the selling price and the surplus includes the subtraction of taxes, fees, penalties, costs to the county and IRS liens.

CLATSOP

Clatsop Summary of 7 years by fiscal year

| YEAR | RMV | Minimum Bid | Foreclosure Sale Funds | Legal Fees | HOA Fees | Maintenance Fees | Recording Fees | Auction Fees | Lien Search | Postage | Salary/Benefit Costs | Sale less Costs |
|---------|---------------|---------------|------------------------|-------------|--------------|------------------|----------------|--------------|-------------|-----------|----------------------|-----------------|
| 2023-24 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | |
| 2022-23 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| 2021-22 | \$ 91,241.00 | \$ 15,000.00 | \$ 12,322.00 | \$ 1,997.19 | \$ 7,467.91 | \$ 508.01 | \$ 1,154.00 | \$ - | \$ - | \$ 17.26 | \$ 33,100.02 | \$ (31,922.39) |
| 2020-21 | \$ 430,634.00 | \$ 139,550.00 | \$ 171,404.47 | \$ 4,886.40 | \$ 4,443.69 | \$ 3,200.14 | \$ 2,238.00 | \$ 1,688.40 | \$ 200.00 | \$ 212.32 | \$ 47,553.36 | \$ 106,982.16 |
| 2019-20 | \$ 192,540.00 | \$ 65,100.00 | \$ 104,100.00 | \$ 1,277.20 | \$ 8,370.83 | \$ 58.16 | \$ 1,557.00 | \$ 1,286.08 | \$ 1,914.96 | \$ 50.45 | \$ 45,413.82 | \$ 44,171.50 |
| 2018-19 | \$ 124,146.00 | \$ 65,000.00 | \$ 52,200.00 | \$ 500.00 | \$ - | \$ 17,868.05 | \$ 1,828.00 | \$ 672.00 | \$ 3,332.63 | \$ 45.80 | \$ 80,483.14 | \$ (52,529.62) |
| | \$ 838,561.00 | \$ 284,650.00 | \$ 340,026.47 | \$ 8,660.79 | \$ 20,282.43 | \$ 21,634.36 | \$ 6,777.00 | \$ 3,646.48 | \$ 5,447.59 | \$ 325.83 | \$ 206,550.34 | \$ 66,701.65 |

COOS

| Accounts | Deed Year | Date Auctioned | RMV | Sale Price | Tax | Fees/ Penalties | Total Taxes/ Fees | Land Agent Time | Land Sale Exp | BOC | Assessors | Sheriff | Total County Cost | Sale Price Less Taxes & Costs |
|---------------|--------------|-------------------|-------------------|-------------------|------------------|--------------------|----------------------|--------------------|------------------|---------------|---------------|-----------------|----------------------|----------------------------------|
| 378101 | 2022 | 4/8/2023 | 152,430.00 | 135,000.00 | 14,099.06 | 740.02 | 14,839.08 | 5,912.33 | 37,487.11 | 78.08 | 99.39 | 3,962.85 | 47,539.76 | 72,621.16 |
| 397202 | 2022 | 4/8/2023 | 160,320.00 | 225,000.00 | 29,382.34 | 1,103.91 | 30,486.25 | 4,773.15 | 999.60 | 78.08 | 99.39 | - | 5,950.22 | 188,563.53 |
| 1171902 | 2022 | 4/8/2023 | 41,470.00 | 30,000.00 | 1,282.65 | 246.37 | 1,529.02 | 1,143.70 | 341.70 | 78.08 | 99.39 | - | 1,662.87 | 26,808.11 |
| 1422901 | 2022 | 4/8/2023 | 8,120.00 | 2,000.00 | 328.07 | 212.00 | 540.07 | 385.43 | 241.70 | 78.08 | 99.39 | - | 804.60 | 655.33 |
| 1733700 | 2022 | n/a | n/a | 800.00 | 197.65 | 207.53 | 405.18 | 53.73 | 241.70 | - | 99.39 | - | 394.82 | - |
| 2128000 | 2022 | n/a | n/a | 10,100.00 | 1,255.97 | 244.39 | 1,500.36 | 1,143.70 | 241.70 | - | 99.39 | - | 1,484.79 | 7,114.85 |
| 3506400 | 2022 | 4/8/2023 | 55,850.00 | 25,000.00 | 2,585.30 | 292.68 | 2,877.98 | 1,545.39 | 255.50 | 78.08 | 99.39 | - | 1,978.36 | 20,143.66 |
| 5730700 | 2022 | 4/8/2023 | 50,000.00 | 53,000.00 | 5,945.58 | 424.37 | 6,369.95 | 1,525.76 | 315.30 | 78.08 | 99.39 | - | 2,018.53 | 44,611.52 |
| 7465700 | 2022 | 4/8/2023 | 85,310.00 | 72,000.00 | 5,195.72 | 731.37 | 5,927.09 | 3,043.05 | 26,659.82 | 78.08 | 99.39 | - | 29,880.34 | 36,192.57 |
| 3639900 | 2021 | n/a | n/a | 2,500.00 | 330.38 | 203.85 | 534.23 | 202.50 | 241.70 | - | - | - | 444.20 | 1,521.57 |
| 1161101 | 1996 | n/a | n/a | 10,000.00 | 170.62 | - | 170.62 | 239.17 | - | - | - | - | 239.17 | 9,590.21 |
| | | | | | | | | | | | | | | |
| TOTALS | | | 553,500.00 | 565,400.00 | 60,773.34 | 4,406.49 | 65,179.83 | 19,967.91 | 67,025.83 | 546.56 | 894.51 | 3,962.85 | 92,397.66 | 407,822.51 |

COOS COUNTY

DESCHUTES

Deschutes County - Foreclosure sales 2018-2022

A couple of important points,

The expense amount referenced on each sheet by year represents expenses paid for all properties in inventory in that given year. That means properties that were auctioned as well as properties that remained in inventory, but needed attention, like cleanup, for example. As a reminder, historically Deschutes County has not tracked expenses by individual property, per se, so it's difficult or in some cases impossible to gather that data. We could provide some specific expenses for auctioned properties, like advertising for the auction or a few other line items, but it would not represent the full picture.

Expenses noted on the sheets for each year do not include taxes, penalties and interest through to the time of Tax Deed (specific to the properties that were auctioned). If you would like us to include these amounts, let us know and we can complete that exercise.

Additionally, attached is an outline of the County's "touch points" with property owners through to Tax Deed.

| 2022 Auction for October 7, 2022 | | | | 2022 Expenses, Includes Allocation Of Staff Labor | | \$146,565.00 |
|----------------------------------|-------------|-------------------------|----------------------|---|-----------------|--------------------------|
| Parcel No. | Tax Account | Broker Opinion of Value | less 20% minimum bid | Removed From Auction | Sold At Auction | No Bid/Post Auction Sale |
| 2022-01 | | \$107,800.00 | \$86,240.00 | ✓ | N/A | N/A |
| 2022-02 | | \$90,600.00 | \$72,480.00 | ✓ | N/A | N/A |
| 2022-03 | 123098 | \$52,400.00 | \$41,920.00 | N/A | \$49,000.00 | N/A |
| 2022-04 | | \$77,900.00 | \$62,320.00 | ✓ | N/A | N/A |
| 2022-05 | 108432 | \$24,400.00 | \$19,520.00 | N/A | \$19,520.00 | N/A |
| 2022-06 | 115509 | \$83,000.00 | \$66,400.00 | N/A | \$66,400.00 | N/A |
| 2022-07 | 115548 | \$83,000.00 | \$66,400.00 | N/A | N/A | \$60,500.00 |
| 2022-08 | 115599 | \$83,000.00 | \$66,400.00 | N/A | \$66,400.00 | N/A |
| 2022-09 | 115851 | \$83,000.00 | \$66,400.00 | N/A | \$66,400.00 | N/A |
| 2022-10 | 115918 | \$83,000.00 | \$66,400.00 | N/A | \$80,000.00 | N/A |
| 2022-11 | 116121 | \$150,000.00 | \$120,000.00 | N/A | \$120,000.00 | N/A |
| 2022-12 | 138687 | \$74,300.00 | \$59,440.00 | N/A | \$59,440.00 | N/A |
| 2022-13 | 126609 | \$40,200.00 | \$32,160.00 | N/A | N/A | \$30,010.00 |
| 2022-14 | 127297 | \$88,000.00 | \$70,400.00 | N/A | \$88,000.00 | N/A |
| 2022-15 | 140736 | \$109,300.00 | \$87,440.00 | N/A | \$87,440.00 | N/A |
| 2022-16 | 140735 | \$95,000.00 | \$76,000.00 | N/A | N/A | \$64,600.00 |
| Total | | \$1,324,900.00 | \$1,059,920.00 | \$0.00 | \$702,600.00 | \$155,110.00 |

| 2021 Auction for October 8, 2021 | | | | 2021 Expenses, Includes Allocation Of Staff Labor | | \$198,481.00 |
|----------------------------------|-------------|-------------------------|----------------------|---|-----------------|--------------------------|
| Parcel No. | Tax Account | Broker Opinion of Value | less 20% minimum bid | Removed From Auction | Sold At Auction | No Bid/Post Auction Sale |
| 2021-01 | 118340 | \$56,600.00 | \$45,280.00 | ✓ | N/A | N/A |
| 2021-02 | 115601 | \$52,500.00 | \$42,000.00 | N/A | \$ 74,000.00 | N/A |
| 2021-03 | 115873 | \$67,000.00 | \$53,600.00 | N/A | \$74,000.00 | N/A |
| 2021-04 | 116115 | \$67,000.00 | \$53,600.00 | N/A | \$77,000.00 | N/A |
| 2021-05 | 116205 | \$60,000.00 | \$48,000.00 | N/A | \$82,000.00 | N/A |
| 2021-06 | 116606 | \$67,000.00 | \$53,600.00 | N/A | \$74,000.00 | N/A |
| 2021-07 | 116600 | \$45,000.00 | \$36,000.00 | N/A | \$70,000.00 | N/A |
| 2021-08 | 116640 | \$75,000.00 | \$60,000.00 | N/A | \$124,000.00 | N/A |
| 2021-09 | 117115 | \$30,000.00 | \$24,000.00 | N/A | \$83,000.00 | N/A |
| 2021-10 | 114156 | \$55,000.00 | \$44,000.00 | N/A | \$160,000.00 | N/A |
| 2021-11 | 144183 | \$372,000.00 | \$297,600.00 | N/A | \$505,000.00 | N/A |
| 2021-12 | 143581 | \$11,500.00 | \$9,200.00 | N/A | \$13,000.00 | N/A |
| Total | | \$958,600.00 | \$766,880.00 | \$0.00 | \$1,336,000.00 | \$0.00 |

| 2020 Auction for October 16, 2020 | | | | 2020 Expenses, Includes Allocation Of Staff Labor | | \$141,220.00 |
|-----------------------------------|-------------|-------------------------|----------------------|---|-----------------|--------------------------|
| Parcel No. | Tax Account | Broker Opinion of Value | less 20% minimum bid | Removed From Auction | Sold At Auction | No Bid/Post Auction Sale |
| 2021-01 | 113285 | \$125.00 | \$100.00 | N/A | \$300.00 | N/A |
| 2021-02 | 168465 | \$10,625.00 | \$8,500.00 | N/A | \$8,500.00 | N/A |
| 2021-03 | 202728 | \$875.00 | \$700.00 | N/A | \$700.00 | N/A |
| 2021-04 | 193913 | \$5,000.00 | \$4,000.00 | ✓ | N/A | \$2,078.00 |
| 2021-05 | 203015 | \$1,000.00 | \$800.00 | N/A | \$6,000.00 | N/A |
| 2021-06 | 246123 | \$500.00 | \$400.00 | N/A | \$400.00 | N/A |
| 2021-07 | 121690 | \$1,250.00 | \$1,000.00 | N/A | \$4,600.00 | N/A |
| 2021-08 | 246451 | \$2,000.00 | \$1,600.00 | N/A | \$5,100.00 | N/A |
| 2021-09 | 143179 | \$1,875.00 | \$1,500.00 | N/A | \$8,600.00 | N/A |
| 2021-10 | 117290 | \$28,000.00 | \$22,400.00 | N/A | \$42,000.00 | N/A |
| 2021-11 | 115864 | \$28,000.00 | \$22,400.00 | N/A | \$32,500.00 | N/A |
| 2021-12 | 116120 | \$25,900.00 | \$20,720.00 | N/A | \$42,000.00 | N/A |
| 2021-13 | 116404 | \$26,000.00 | \$20,800.00 | N/A | \$55,600.00 | N/A |
| 2021-14 | 117365 | \$31,000.00 | \$24,800.00 | N/A | \$60,100.00 | N/A |
| 2021-15 | 116750 | \$30,237.50 | \$24,190.00 | N/A | \$40,000.00 | N/A |
| 2021-16 | 116768 | \$30,237.50 | \$24,190.00 | N/A | \$39,000.00 | N/A |
| 2021-17 | 116812 | \$23,500.00 | \$18,800.00 | N/A | \$52,000.00 | N/A |
| 2021-18 | 116916 | \$30,000.00 | \$24,000.00 | N/A | \$26,500.00 | N/A |
| 2021-19 | 117032 | \$32,200.00 | \$25,760.00 | N/A | \$91,500.00 | N/A |
| 2021-20 | 117257 | \$31,000.00 | \$24,800.00 | N/A | \$50,000.00 | N/A |
| 2021-21 | 126164 | \$58,100.00 | \$46,480.00 | N/A | \$130,700.00 | N/A |
| 2021-22 | 126487 | \$15,000.00 | \$12,000.00 | N/A | \$28,000.00 | N/A |
| 2021-23 | 126486 | \$15,000.00 | \$12,000.00 | N/A | \$28,000.00 | N/A |
| 2021-24 | 126803 | \$12,500.00 | \$10,000.00 | ✓ | N/A | N/A |
| 2021-25 | 126785 | \$12,500.00 | \$10,000.00 | ✓ | N/A | N/A |
| 2021-26 | 126798 | \$12,500.00 | \$10,000.00 | ✓ | N/A | N/A |
| 2021-27 | 151526 | \$12,500.00 | \$10,000.00 | ✓ | N/A | N/A |
| 2021-28 | 126799 | \$12,500.00 | \$10,000.00 | ✓ | N/A | N/A |
| 2021-29 | 126800 | \$12,500.00 | \$10,000.00 | ✓ | N/A | N/A |
| 2021-30 | 150980 | \$3,818.75 | \$3,055.00 | N/A | \$16,000.00 | N/A |
| Total | | \$506,243.75 | \$404,995.00 | \$0.00 | \$768,100.00 | \$2,078.00 |

| 2019 Auction for May 17, 2019 | | | | 2019 Expenses, Includes Allocation Of Staff Labor | | \$146,618.00 |
|-------------------------------|-------------|-------------------------|----------------------|---|---------------------|--------------------------|
| Parcel No. | Tax Account | Broker Opinion of Value | less 20% minimum bid | Removed From Auction | Sold At Auction | No Bid/Post Auction Sale |
| 2019-01 | 172130 | \$55,750.00 | \$44,600.00 | N/A | \$44,800.00 | N/A |
| 2019-02 | 202728 | \$2,610.00 | \$2,088.00 | N/A | N/A | \$1,400,000.00 |
| 2019-03 | 131692 | \$65,000.00 | \$52,000.00 | N/A | \$89,000.00 | N/A |
| 2019-04 | 108401 | \$2,400.00 | \$1,920.00 | N/A | \$7,600.00 | N/A |
| 2019-05 | 108411 | \$2,400.00 | \$1,920.00 | N/A | \$7,000.00 | N/A |
| 2019-06 | 137352 | \$3,500.00 | \$2,800.00 | N/A | \$10,000.00 | N/A |
| 2019-07 | 115495 | \$32,470.00 | \$25,976.00 | N/A | \$36,000.00 | N/A |
| 2019-08 | 115677 | \$25,500.00 | \$20,400.00 | N/A | \$20,400.00 | N/A |
| 2019-09 | 115629 | \$25,500.00 | \$20,400.00 | N/A | \$20,400.00 | N/A |
| 2019-10 | 115628 | \$25,500.00 | \$20,400.00 | N/A | \$20,400.00 | N/A |
| 2019-11 | 115681 | \$25,500.00 | \$20,400.00 | N/A | \$20,400.00 | N/A |
| 2019-12 | 115682 | \$25,500.00 | \$20,400.00 | N/A | \$20,400.00 | N/A |
| 2019-13 | 115569 | \$32,470.00 | \$25,976.00 | N/A | \$37,000.00 | N/A |
| 2019-14 | 115568 | \$32,470.00 | \$25,976.00 | N/A | \$38,000.00 | N/A |
| 2019-15 | 115567 | \$32,470.00 | \$25,976.00 | N/A | \$36,500.00 | N/A |
| 2019-16 | 115664 | \$27,030.00 | \$21,624.00 | N/A | \$25,000.00 | N/A |
| 2019-17 | 115747 | \$25,500.00 | \$20,400.00 | N/A | \$20,400.00 | N/A |
| 2019-18 | 115746 | \$25,500.00 | \$20,400.00 | N/A | \$20,400.00 | N/A |
| 2019-19 | 115765 | \$25,500.00 | \$20,400.00 | N/A | \$20,400.00 | N/A |
| 2019-20 | 115869 | \$20,400.00 | \$16,320.00 | N/A | \$24,000.00 | N/A |
| 2019-21 | 115868 | \$20,400.00 | \$16,320.00 | N/A | \$25,000.00 | N/A |
| 2019-22 | 115877 | \$20,400.00 | \$16,320.00 | N/A | \$25,000.00 | N/A |
| 2019-23 | 115876 | \$20,400.00 | \$16,320.00 | N/A | \$21,000.00 | N/A |
| 2019-24 | 117891 | \$20,400.00 | \$16,320.00 | N/A | \$21,000.00 | N/A |
| 2019-25 | | N/A | \$0.00 | ✓ | N/A | N/A |
| 2019-26 | 116618 | \$23,970.00 | \$19,176.00 | N/A | N/A | \$19,176.00 |
| 2019-27 | 116617 | \$23,970.00 | \$19,176.00 | N/A | \$30,000.00 | N/A |
| 2019-28 | 126803 | \$17,500.00 | \$14,000.00 | N/A | N/A | N/A |
| 2019-29 | 126785 | \$17,500.00 | \$14,000.00 | N/A | N/A | N/A |
| 2019-30 | 126798 | \$17,500.00 | \$14,000.00 | N/A | N/A | N/A |
| 2019-31 | 151526 | \$17,500.00 | \$14,000.00 | N/A | N/A | N/A |
| 2019-32 | 126799 | \$17,500.00 | \$14,000.00 | N/A | N/A | N/A |
| 2019-33 | 126800 | \$17,500.00 | \$14,000.00 | N/A | N/A | N/A |
| 2019-34 | 141996 | \$20,000.00 | \$16,000.00 | ✓ | N/A | \$3,275.00 |
| Total | | \$767,510.00 | \$614,008.00 | \$0.00 | \$640,100.00 | \$1,422,451.00 |

| 2018 Auction for May 17, 2018 | | | | 2018 Expenses, Includes Allocation Of Staff Labor | | \$182,803.00 |
|-------------------------------|-------------|--|---------------------|---|-----------------------|--------------------------|
| Parcel No. | Tax Account | Broker Opinion of Value less 20% minimum bid | | Removed From Auction | Sold At Auction | No Bid/Post Auction Sale |
| 2019-01 | 122925 | \$8,525.00 | \$6,820.00 | | \$12,000.00 | N/A |
| 2019-02 | 130051 | \$27,450.00 | \$21,960.00 | ✓ | N/A | N/A |
| 2019-03 | 130073 | \$27,450.00 | \$21,960.00 | ✓ | N/A | N/A |
| 2019-04 | 248210 | \$8,712.50 | \$6,970.00 | N/A | \$6,970.00 | N/A |
| 2019-05 | 188881 | \$5,625.00 | \$4,500.00 | N/A | \$5,500.00 | N/A |
| 2019-06 | 151092 | \$8,712.50 | \$6,970.00 | N/A | \$6,970.00 | N/A |
| 2019-07 | 100733 | \$12,500.00 | \$10,000.00 | N/A | N/A | \$1.00 |
| 2019-08 | 203015 | \$46,887.50 | \$37,510.00 | N/A | N/A | N/A |
| 2019-09 | 156107 | \$362,500.00 | \$290,000.00 | N/A | \$334,000.00 | N/A |
| 2019-10 | 115532 | \$15,500.00 | \$12,400.00 | N/A | \$29,000.00 | N/A |
| 2019-11 | 115529 | \$15,500.00 | \$12,400.00 | N/A | \$33,500.00 | N/A |
| 2019-12 | 115528 | \$15,500.00 | \$12,400.00 | N/A | \$33,000.00 | N/A |
| 2019-13 | 115610 | \$15,875.00 | \$12,700.00 | N/A | \$26,000.00 | N/A |
| 2019-14 | 115609 | \$15,875.00 | \$12,700.00 | N/A | \$30,000.00 | N/A |
| 2019-15 | 115647 | \$18,300.00 | \$14,640.00 | N/A | \$51,000.00 | N/A |
| 2019-16 | 116084 | \$16,600.00 | \$13,280.00 | N/A | \$26,500.00 | N/A |
| 2019-17 | 116102 | \$18,300.00 | \$14,640.00 | N/A | \$50,000.00 | N/A |
| 2019-18 | 116113 | \$15,875.00 | \$12,700.00 | ✓ | N/A | \$20,000.00 |
| 2019-19 | 116280 | \$15,875.00 | \$12,700.00 | N/A | \$38,000.00 | N/A |
| 2019-20 | 116391 | \$15,875.00 | \$12,700.00 | N/A | \$27,000.00 | N/A |
| 2019-21 | 137639 | \$22,000.00 | \$17,600.00 | N/A | \$37,000.00 | N/A |
| 2019-22 | 126784 | \$13,600.00 | \$10,880.00 | N/A | \$10,880.00 | N/A |
| 2019-23 | 126783 | \$13,600.00 | \$10,880.00 | N/A | \$10,880.00 | N/A |
| 2019-24 | 126782 | \$13,600.00 | \$10,880.00 | N/A | \$10,880.00 | N/A |
| 2019-25 | 126778 | \$13,600.00 | \$10,880.00 | N/A | \$10,880.00 | N/A |
| 2019-26 | 141698 | \$40,000.00 | \$32,000.00 | N/A | \$91,000.00 | N/A |
| 2019-27 | 141852 | \$4,500.00 | \$3,600.00 | N/A | \$3,600.00 | N/A |
| 2019-28 | 141851 | \$4,500.00 | \$3,600.00 | N/A | \$3,800.00 | N/A |
| 2019-29 | 141869 | \$4,500.00 | \$3,600.00 | N/A | \$6,500.00 | N/A |
| 2019-30 | 141136 | \$35,500.00 | \$28,400.00 | N/A | \$57,000.00 | N/A |
| 2019-31 | 115926 | \$15,875.00 | \$12,700.00 | N/A | \$12,700.00 | N/A |
| 2019-32 | 115947 | \$15,875.00 | \$12,700.00 | N/A | \$15,000.00 | N/A |
| 2019-33 | 115963 | \$15,875.00 | \$12,700.00 | N/A | \$15,500.00 | N/A |
| 2019-34 | 143943 | \$22,125.00 | \$17,700.00 | N/A | \$46,000.00 | N/A |
| 2019-35 | 117183 | \$15,875.00 | \$12,700.00 | N/A | \$27,000.00 | N/A |
| 2019-36 | 117207 | \$9,375.00 | \$7,500.00 | N/A | \$11,000.00 | N/A |
| 2019-37 | 116218 | \$15,875.00 | \$12,700.00 | N/A | \$36,000.00 | N/A |
| Total | | \$963,712.50 | \$682,270.00 | \$0.00 | \$1,115,060.00 | \$20,001.00 |

MULTNOMAH

Multnomah County sold properties

| Property Account Number | Address | Surplus | No Surplus | Date Sold |
|---------------------------------------|---|-----------------|----------------|-----------|
| 2022 | | | | |
| R627250 | 5100 SW Vermont | \$ 136,335.79 | | 8.19.22 |
| R623524 | Parking Unit PS19, Quail Wood Condominium | \$ 1,024.81 | | 2.10.22 |
| R608004 | Parking Unit 23-B 2817 NE Rene Ave | | \$ (1,221.71) | 8.19.22 |
| R504018 | Near 42715 NE 2nd Street | | \$ (263.20) | 3.31.22 |
| R334001 | SE Powell to SE Bush in the 11700 block | \$ 1,831.97 | | 3.31.22 |
| R333881 | 12044 SE Kelly ST | \$ 181,056.83 | | 8.19.22 |
| R333282 | 4300 E/ SE 79TH AVE PORTLAND OR 97206 | \$ 4,032.41 | | 3.31.22 |
| R308276 | 6051 NW 60th Ave | \$ 161,594.94 | | 8.19.22 |
| R288376 | SWC/110th&NW 1st St | | \$ (3,567.47) | 8.19.22 |
| R288350 | NW 1st ST | | \$ (6,824.71) | 8.19.22 |
| R245566 | 8563 N Tioga Ave | \$ 241,343.87 | | 8.19.22 |
| R111291 | Ball PARC American Condo LOT S-6 Storage | \$ 7,035.40 | | 4.7.22 |
| Total | | \$ 734,256.02 | \$ (11,877.09) | |
| 2023 | | | | |
| R530195 | Marshall-Wells Lofts Condominiums, Parking Unit | \$ 10,900.20 | | 7.28.23 |
| R341715 & R341751 & R504179 & R504184 | SE Rickert Road | \$ 145,920.21 | | 7.28.23 |
| R335456 | 120400 SE Martins St | \$ 22,595.70 | | 7.28.23 |
| R297004 | 3145 N/NE Rocky Butte Rd | \$ 15,387.64 | | 9.19.23 |
| R217191 | 10449 SE Martin Lot | \$ 23,789.69 | | 7.28.23 |
| R197108 | 4208 SE 67th Ave | \$ 113,179.50 | | 7.28.23 |
| R197014 | 7027 SE Gladstone St | \$ 114,507.97 | | 7.28.23 |
| R190184 | 2715 NE Jarrett St | \$ 210,327.98 | | 7.28.23 |
| R186929 | NW Corneilius Pass Rd | \$ 2,914.63 | | 7.28.23 |
| R186926 | NW Conrneilius Pass Rd | \$ 1,439.31 | | 7.28.23 |
| R163425 | 6911 SE Mitchell CT | \$ 60,123.24 | | 8.11.23 |
| R153869 | 11345 SE Lexington | \$ 232,418.79 | | 7.28.23 |
| R117073 | 2146 W/N Blandena St | | \$ (696.04) | 7.28.23 |
| Total | | \$ 953,504.86 | \$ (24,450.22) | |
| 2022 and 2023 amount | | \$ 1,687,760.88 | | |

UNION

Foreclosure Sale Summaries - Union County

| | Gross | Liens & Expenses | Distributed |
|--------|---------|------------------|-------------|
| 2017 | 115,910 | 24,612.03 | 91,297.97 |
| 2019 | 62,000 | 14,385.54 | 47,614.46 |
| 2022 | 509,500 | 39,793.89 | 469,706.11 |
| Totals | 687,410 | 78,791 | 608,619 |

Union County Tax Foreclosure Auction 2017

| Property | Zone | Approx Size | Real Market Value | Tax Judgement | Minimum * Price | Sale Price | Description |
|--|-------|----------------|-------------------|---------------|-----------------|------------------------|---|
| | | | | | | | |
| 1 | LG-R2 | 48.00 x 55.00 | \$ 60,410.00 | \$ 3,512.32 | \$ 4,390.40 | \$15,000 25% of RMV | 1910 Class 2 Single Family Dwelling Patio Cover |
| Ref #1964 1805 Alder LA GRANDE | | | | | | | |
| | | | | | | | |
| 2 | EL-R | 75.00 x 100.00 | \$ 43,600.00 | \$ 3,493.80 | \$ 4,367.25 | \$8,100 19% of RMV | 1945 Class 2 Single Family Dwelling 807 SF, 2 Bedroom, 1 Bath Attached Garage |
| Ref #12564 1215 Evanston ELGIN | | | | | | | |
| | | | | | | | |
| 3 | LG-GC | .02 Acres | \$ 3,350.00 | \$ 211.58 | \$ 264.48 | \$1,900 57% of RMV | Commercial Land |
| Ref #18384 Between Les Schwab and ODForestry | | | | | | | |
| | | | | | | | |
| 4 | NP-I | 52.95 x 151.26 | \$ 13,840.00 | \$ 604.60 | \$ 755.75 | \$4,000 29% of RMV | Commerical Land 1980 Class 4 Multi-Purpose Shed 5'x20' Chain Link Fence |
| Ref #15811 425 2nd Street NORTH POWDER | | | | | | | |
| | | | | | | | |
| 5 | UC-R2 | .12 Acres | \$ 7,410.00 | \$ 206.24 | \$ 257.80 | \$600 8% of RMV | AA3 Rural Tract Land |
| Ref #16081 Near Cottonwood LA GRANDE | | | | | | | |
| | | | | | | | |
| 6 | NP-R | 25.00 x 75.00 | \$ 3,150.00 | \$ 137.49 | \$ 171.86 | \$700 22% of RMV | Residential Land |
| Ref #9545 NORTH POWDER | | | | | | | |
| | | | | | | | |

YAMHILL

Yamhill County tax foreclosures

| <u>Tax Lot</u> | <u>Record Owner</u> | <u>Year Foreclosed</u> | <u>Date Deeded to</u> <u>County</u> | <u>Case No.</u> | <u>Sale Date</u> | <u>Sale Price</u> | <u>Sale Method</u> | <u>Purchaser</u> | <u>Taxes Owed @</u> <u>Judgment</u> | <u>Interest @ Sale</u> <u>Date</u> | <u>Maintenance</u> <u>Costs</u> | <u>Fees</u> | <u>Surplus</u> <u>Proceeds</u> |
|----------------|---------------------|------------------------|--|--------------------|------------------|-------------------|--------------------------------|------------------|--|---------------------------------------|------------------------------------|-------------|-----------------------------------|
| R5626CC 00590 | | 2010 | 9/24/2015 | CV100368 | 9/1/2016 | \$390.00 | Private Sale | | \$149.54 | \$82.56 | \$0.00 | \$0.00 | \$157.90 |
| R43270 0900 | | 2000 | 5/12/2006 | CV00248 | 6/1/2017 | \$160,000.00 | Gov't Agency | | \$3,674.59 | \$5,632.67 | \$783.73 | \$175.00 | \$149,734.01 |
| R5427 01890 | | 2011 | 7/9/2015 | CV110322 | 9/14/2017 | \$3,500.00 | Former Owner | | \$94.56 | \$52.12 | \$0.00 | \$0.00 | \$3,353.32 |
| R5408AD 00292 | | 2009 | 7/9/2015 | CV090400 | 9/14/2017 | \$151.00 | Private Sale | | \$3.38 | \$2.48 | \$0.00 | \$0.00 | \$145.14 |
| R3219AC 12600 | | 2010 | 7/9/2015 | CV100368 | 6/21/2018 | \$6,740.00 | Low Income Housing | | \$5,261.70 | \$3,332.21 | \$865.73 | \$200.00 | (\$2,919.64) |
| R4317CD 02313 | | 2009 | 7/9/2015 | CV090400 | 9/19/2018 | \$2,562.99 | Gov't Agency | | \$1,917.24 | \$1,596.16 | \$146.83 | \$200.00 | (\$1,297.24) |
| R4317CD 02312 | | 2009 | 7/9/2015 | CV090401 | 9/19/2018 | \$2,562.99 | Gov't Agency | | \$1,917.24 | \$1,596.16 | \$146.83 | \$200.00 | (\$1,297.24) |
| R4317CD 02311 | | 2009 | 7/9/2015 | CV090402 | 9/19/2018 | \$2,562.99 | Gov't Agency | | \$1,917.24 | \$1,596.16 | \$146.83 | \$200.00 | (\$1,297.24) |
| R4317CD 02310 | | 2009 | 7/9/2015 | CV090403 | 9/19/2018 | \$2,562.99 | Gov't Agency | | \$1,917.24 | \$1,596.16 | \$146.83 | \$200.00 | (\$1,297.24) |
| R4317CD 02309 | | 2009 | 7/9/2015 | CV090404 | 9/19/2018 | \$2,562.99 | Gov't Agency | | \$1,917.24 | \$1,596.16 | \$146.83 | \$200.00 | (\$1,297.24) |
| R4317CD 02308 | | 2009 | 7/9/2015 | CV090405 | 9/19/2018 | \$2,562.99 | Gov't Agency | | \$1,917.24 | \$1,596.16 | \$146.83 | \$200.00 | (\$1,297.24) |
| R4317CD 02307 | | 2009 | 7/9/2015 | CV090406 | 9/19/2018 | \$2,562.99 | Gov't Agency | | \$1,917.24 | \$1,596.16 | \$146.83 | \$200.00 | (\$1,297.24) |
| R4317CD 02306 | | 2009 | 7/9/2015 | CV090407 | 9/19/2018 | \$2,562.99 | Gov't Agency | | \$1,917.24 | \$1,596.16 | \$146.83 | \$200.00 | (\$1,297.24) |
| R4317CD 02305 | | 2009 | 7/9/2015 | CV090408 | 9/19/2018 | \$2,562.99 | Gov't Agency | | \$1,917.24 | \$1,596.16 | \$146.83 | \$200.00 | (\$1,297.24) |
| R4317CD 02304 | | 2009 | 7/9/2015 | CV090409 | 9/19/2018 | \$2,562.99 | Gov't Agency | | \$1,917.24 | \$1,596.16 | \$146.83 | \$200.00 | (\$1,297.24) |
| R4317CD 02303 | | 2009 | 7/9/2015 | CV090410 | 9/19/2018 | \$2,562.99 | Gov't Agency | | \$1,917.24 | \$1,596.16 | \$146.83 | \$200.00 | (\$1,297.24) |
| R4317CD 02302 | | 2009 | 7/9/2015 | CV090411 | 9/19/2018 | \$2,562.99 | Gov't Agency | | \$1,917.24 | \$1,596.16 | \$146.83 | \$200.00 | (\$1,297.24) |
| R4306CC 01401 | | 2005 | 7/10/2015 | CV050259 | 10/11/2018 | \$1,777.04 | Low Income Housing | | \$1,244.45 | \$1,487.17 | \$662.88 | \$225.00 | (\$1,842.46) |
| R5413 03100 | | 2000 | 1/8/2007 | CV00248 | 11/1/2018 | \$76,548.75 | Former Owner | | \$3,500.42 | \$5,817.68 | \$1,325.00 | \$299.46 | \$65,606.19 |
| R4307BA 04500 | | 2015 | 2/6/2018 | 15CV23063 | 2/14/2019 | \$19,264.73 | Low-Income Housing | | \$3,432.29 | \$1,074.97 | \$1,052.40 | \$250.00 | \$13,455.07 |
| R4416DC 00502 | | 2012 | 7/16/2015 | 12CV00512 | 3/6/2019 | \$10,591.31 | Low-Income Housing | | \$8,362.84 | \$4,972.18 | \$0.00 | \$0.00 | (\$2,743.71) |
| R4317AD 01400 | | 2015 | 2/13/2018 | 15CV23063 | 5/10/2019 | \$36,350.31 | Low-Income Housing | | \$9,948.12 | \$3,375.33 | \$1,102.40 | \$200.00 | \$21,724.46 |
| R4307BA 04901 | | 2015 | 2/6/2018 | 15CV23063 | 5/10/2019 | \$19,699.73 | Low-Income Housing | | \$3,432.29 | \$390.14 | \$1,052.34 | \$250.00 | \$14,574.96 |
| R2231 03702 | | 2015 | 2/6/2018 | 15CV23063 | 10/15/2019 | \$120,416.56 | Former Owner | | \$27,235.87 | \$10,177.25 | \$2,750.00 | \$3,052.52 | \$77,200.92 |
| R4414 03591 | | 2011 | 7/9/2015 | CV110322 | 7/21/2020 | \$5,175.00 | Private Sale | | \$1.23 | \$1.01 | \$300.00 | \$0.00 | \$4,872.76 |
| R3325BC 03500 | | 2015 | 5/10/2019 | 15CV23063 | 7/30/2020 | \$3,109.38 | Gov't Agency | | \$36.52 | \$16.42 | \$ 2,709.38 | \$ 400.00 | (\$52.94) |
| R4421CC 00500 | | 2016 | 8/6/2019 | 16CV28740 | 9/30/2020 | \$19,592.78 | Former Owner | | \$6,736.79 | \$2,561.99 | \$5,600.00 | \$1,000.00 | \$3,694.00 |
| R3219AD 09499 | | 2000 | 5/9/2006 | CV00248 | 12/4/2020 | \$3,001.00 | Private Sale | | \$41.28 | \$75.92 | \$0.00 | \$0.00 | \$2,883.80 |
| R2409 01303 | | 2014 | 2/13/2018 | 14CV12233 | 3/5/2021 | \$80,189.00 | Former Owner | | \$39,061.55 | \$23,057.52 | \$3,500.00 | \$4,866.17 | \$9,703.76 |
| R6701AC 07200 | | 2015 | 2/6/2018 | 15CV23063 | 2/17/2022 | \$19,911.83 | Former Owner | | \$4,504.10 | \$2,689.45 | \$1,250.00 | \$5,000.00 | \$6,468.28 |
| R3404AD 09402 | | 2019 | 3/28/2022 | 19CV38606 | 5/19/2022 | \$1,650.00 | Private Sale | | \$36.93 | \$8.48 | \$0.00 | \$464.24 | \$1,140.35 |
| R4420DA 06100 | | 2019 | 4/11/2022 | 19CV38607 | 8/25/2022 | \$31,472.61 | Former Owner | | \$13,523.46 | \$3,414.15 | \$681.00 | \$5,000.00 | \$8,854.00 |
| R3219AB 03990 | | 2011 | 7/9/2015 | CV110322 | 11/16/2022 | \$1,336.50 | Auction | | \$106.25 | \$108.45 | \$0.00 | \$0.00 | \$1,121.80 |
| R4317 01701 | | 2014 | 4/27/2022 | 14CV12233 | 11/16/2022 | \$6,302.50 | Auction | | \$981.90 | \$733.74 | \$685.15 | \$0.00 | \$3,901.71 |
| R4401 03800 | | 2014 | 4/27/2022 | 14CV12233 | 11/16/2022 | \$654.90 | Former Owner | | \$90.32 | \$67.50 | \$400.00 | \$0.00 | \$97.08 |
| R4401DA 00800 | | 2012 | 7/9/2015 | 12CV00512 | 12/1/2022 | \$135.64 | Gov't Agency | | \$2,247.48 | \$2,095.42 | \$135.64 | \$0.00 | (\$4,342.90) |
| R4401DA 00814 | | 2012 | 7/9/2015 | 12CV00512 | 12/1/2022 | \$0.00 | Gov't Agency | | \$2,892.55 | \$2,697.39 | \$0.00 | \$0.00 | (\$5,589.94) |
| R4412AA 03700 | | 1967 | 12/1/2022 | CJ Vol 15, page 22 | 12/1/2022 | \$135.64 | Gov't Agency | | \$0.00 | \$0.00 | \$135.64 | \$0.00 | \$0.00 |
| R4421CB 15200 | | 2019 | 4/11/2022 | 19CV38606 | 12/19/2022 | \$26,097.00 | Low-Income Housing | | \$12,779.08 | \$3,776.97 | \$600.00 | \$5,000.00 | \$3,940.95 |
| R2325 01600 | | 2015 | 4/27/2022 | 15CV23063 | 1/3/2023 | \$100,100.00 | Private Sale (Auction Failure) | | \$6,779.37 | \$4,544.39 | \$686.00 | \$2,500.00 | \$85,590.24 |
| R3204 00203 | | 2015 | 2/6/2018 | 15CV23063 | 1/3/2023 | \$15,200.00 | Private Sale (Auction Failure) | | \$1,064.96 | \$713.81 | \$895.15 | \$2,500.00 | \$10,026.08 |
| R5926 00400 | | 2015 | 2/6/2018 | 15CV23063 | 2/8/2023 | \$15,250.00 | Private Sale (Auction Failure) | | \$2,692.20 | \$1,828.44 | \$500.00 | \$2,500.00 | \$7,729.36 |
| R3219AB 04400 | | 2009 | 7/10/2015 | CV090400 | 3/23/2023 | \$192.00 | Private Sale (Auction Failure) | | \$122.42 | \$151.28 | \$192.00 | \$0.00 | (\$273.70) |
| R3434 01190 | | 2013 | 4/27/2022 | 13CV05396 | 4/13/2023 | \$500.00 | Private Sale | | \$1,492.43 | \$1,331.82 | \$400.00 | \$0.00 | (\$2,724.25) |
| R4414 03590 | | 2011 | 7/9/2015 | CV110322 | 4/18/2023 | \$17,500.00 | Private Sale (Auction Failure) | | \$62.55 | \$66.27 | \$200.00 | \$2,000.00 | \$15,171.18 |
| R5626CD 01604 | | 2004 | 3/19/2009 | CV040304 | 4/26/2023 | \$5,000.00 | Gov't Agency | | \$1,774.36 | \$3,002.16 | \$457.93 | \$0.00 | (\$234.45) |
| R5626CD 01702 | | 2004 | 3/19/2009 | CV040304 | 4/26/2023 | \$5,000.00 | Gov't Agency | | \$1,677.13 | \$2,820.26 | \$457.93 | \$0.00 | \$44.68 |
| R3220AC 15000 | | 2017 | 4/28/2023 | 17CV37128 | 4/28/2023 | \$1,260.00 | Private Sale | | \$713.46 | \$363.90 | \$150.00 | \$0.00 | \$32.64 |
| R3220DB 01500 | | 2017 | 4/28/2023 | 17CV37129 | 4/28/2023 | \$1,260.00 | Private Sale | | \$951.34 | \$485.23 | \$150.00 | \$0.00 | (\$326.57) |
| R4417DA 10200 | | 1983 | 4/9/1984 | 830295 | 4/28/2023 | \$100.00 | Private Sale | | \$7.66 | \$27.17 | \$100.00 | \$0.00 | (\$34.83) |
| R3216AB 01802 | | 2006 | 10/21/2015 | CV060284 | 5/3/2023 | \$250.00 | Private Sale | | \$86.45 | \$131.18 | \$200.00 | \$0.00 | (\$167.63) |
| R4317CC 01028 | | 2014 | 7/5/2018 | 14CV12233 | 5/4/2023 | \$24,895.00 | Low-Income Housing | | \$7,757.60 | \$6,153.43 | \$1,500.00 | \$5,000.00 | \$4,483.97 |
| R5634AA 07700 | | 2012 | 7/9/2015 | 12CV00512 | 5/25/2023 | \$578.69 | Gov't Agency | | \$3.54 | \$3.44 | \$0.00 | \$0.00 | \$571.71 |
| R5634AA 07500 | | 2003 | 7/9/2015 | CV030298 | 5/25/2023 | \$578.69 | Gov't Agency | | \$45.16 | \$81.10 | \$0.00 | \$0.00 | \$452.43 |
| R5635AB 01400 | | 2009 | 7/9/2015 | CV090400 | 5/25/2023 | \$578.69 | Gov't Agency | | \$186.03 | \$232.84 | \$300.00 | \$0.00 | (\$140.18) |
| R5635BD 02300 | | 2015 | 4/27/2022 | 15CV23063 | 6/7/2023 | \$0.00 | Gov't Agency | | \$926.31 | \$657.24 | \$452.30 | \$0.00 | (\$2,035.85) |

| | | | | | | | | | | | | | | |
|---------------|--|--|------|-----------|-----------|-----------|-------------|--------------------------------|--|------------|-------------|-------------|------------|-------------|
| R5332BB 00200 | | | 1970 | 5/14/1976 | UNK | 6/8/2023 | \$8,500.00 | Auction (sold with 187390) | | \$64.81 | \$184.22 | \$945.38 | \$1,000.00 | \$6,305.59 |
| R5332BB 00100 | | | 1991 | 1/22/1996 | CV 91-246 | 6/8/2023 | \$8,500.00 | Auction (sold with 192320) | | \$77.47 | \$220.21 | \$945.38 | \$1,000.00 | \$6,256.94 |
| R5635AB 00801 | | | 2009 | 7/9/2015 | CV090400 | 6/8/2023 | \$200.00 | Private Sale | | \$33.65 | \$42.21 | \$200.00 | \$0.00 | (\$75.86) |
| R6701DB 07600 | | | 2012 | 9/24/2015 | 12CV00512 | 7/20/2023 | \$87,000.00 | Private Sale (Auction Failure) | | \$6,252.89 | \$24,174.26 | \$15,978.62 | \$5,000.00 | \$35,594.23 |

Compilation of county policies and orders received for May 22 meeting.

BAKER

**IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON
FOR THE COUNTY OF BAKER**

In the Matter of Adopting a Policy for
Disposition of Tax Foreclosed Real Property

ORDER No. 2024-112

WHEREAS, on May 25, 2023, the Supreme Court of the United States delivered an opinion in which they determined that any proceeds from a tax foreclosed property sale that exceeds the tax debt is protected by the Fifth Amendment's Takings Clause (see *Tyler v. Hennepin County*, 598 U.S. 631 (2023)); and

WHEREAS, the Policy for Disposition of Tax Foreclosed Real Property provided in Exhibit A includes provisions and procedures that satisfy the decision in *Tyler v. Hennepin County*; and

WHEREAS, it is in the County's best interest to adopt the policy as provided in Exhibit A until such time as the Oregon legislature passes legislation that addresses the *Tyler v. Hennepin County* decision; and now, therefore

IT IS HEREBY ORDERED BY THE BOARD AS FOLLOWS:

1. The Baker County Policy for Disposition of Tax Foreclosed Real Property is hereby adopted as provided in Exhibit A, attached hereto and incorporated herein.
2. The policy provisions shall take effect immediately.
3. County staff tasked with the proper administration of sale of foreclosed property to take all actions necessary to implement the policy.

DONE and Dated on this 7th day of February, 2024.

BAKER COUNTY BOARD OF COMMISSIONERS



Shane Alderson, Chair



Christina Witham, Commissioner



Bruce Nichols, Commissioner



BAKER COUNTY ADMINISTRATIVE POLICY

| | |
|-----------------------|--|
| POLICY NAME | DISPOSITION OF TAX FORECLOSED REAL PROPERTY |
| POLICY NUMBER | TBD |
| EFFECTIVE DATE | 2/7/2024 |

A. Purpose. To establish County policy and procedures regarding the County’s disposition of tax foreclosed real property, that are consistent with state and federal law.

B. Definitions

1. “Acquisition Date” means the date on which a Tax Foreclosed Real Property (TFRP) is deeded to the County following foreclosure proceedings.
2. “Board” means the Baker County Board of Commissioners.
3. “Claim Period” means the period from the Acquisition Date to one (1) year after the Sale Date, except as provided in sections C.2. and C.3., below.
4. “County” means Baker County, Oregon.
5. “Heir(s)” means a person, persons or entity who succeeds to the rights and occupies the place of, or who is entitled to succeed to the state of a decedent, whether by act of the decedent or by operation of law.
6. “Prior Owner” means the Record Owner, or their heirs, assigns, or successors as demonstrated through court order and/or other legal document(s).
7. “Property Costs” means any/all taxes, interest, penalties, fees; a 10% of sale price property management fee; other actual property maintenance and supervision expenses incurred by County, pursuant to ORS 275.275(1)(a)-(c); any municipal corporation local improvement lien, plus interest and penalties as of the Sale Date, pursuant to ORS 275.275(3)(a)(A); and any administrative fees paid by purchaser pursuant to a land sale contract.
8. “Real Market Value” (“RMV”) means the property value established by the tax assessor for either the year in which the TFRP was acquired, or the year of the Sale Date, whichever is lower.
9. “Record Owner” means the individual(s) and/or entity(ies) identified as the owner in tax records at the time of foreclosure.
10. “Sale Date” means the earlier of the date on which title to property is conveyed from County to a purchaser or the date on which a memorandum of land sale contract is recorded. Sale Date shall also include the date on which the County issues a Board Order retaining the property for public use.

11. “Successor(s)” means a person or entity that acquires the assets and liability of a business entity by merger, takeover or dissolution.
12. “Tax Foreclosed Real Property” (“TFRP”) means real property acquired by County as a result of tax foreclosure following expiration of the period of redemption.

C. Eligible Property.

1. This policy shall apply to all TFRP acquired on or after the date the policy is enacted.
2. For TFRP acquired on or after May 25, 2017, and sold on or after the date the policy is enacted, the claim period shall be one (1) year from the Sale Date.
3. For TFRP acquired on or after May 25, 2017, and sold prior to the date the policy is enacted, the claim period shall be one (1) year from the date the policy is enacted.
4. TFRP acquired by County prior to May 25, 2017, shall be excluded from this policy.

D. Process for Selling or Retaining Tax Foreclosed Real Property

1. Within sixty (60) days of Acquisition Date, County shall extend an offer to sell the TFRP to the Record Owner, pursuant to ORS 275.180. Record Owner shall have thirty (30) days to enter into an agreement with County to purchase the property.
2. If no agreement is reached with Record Owner, within one (1) year of the Acquisition Date Board shall issue an Order determining whether to retain or sell the TFRP. If applicable, Board may determine whether to designate the property to Parks, or for another use.
3. TFRP to be sold shall be placed on a Sheriff’s Sale, except those with a real market value less than \$15,000 and unsuited for development pursuant to ORS 275.225(1).
 - i. The minimum bid shall be set at not less than the total Property Costs at the time of the sale, plus 15%, unless the Board determines it is in the best interest of the County to set a lower minimum bid.
4. TFRP not sold at auction or otherwise exempt from the auction requirement shall be available for private sale, placed on a Sheriff’s Sale, and/or retained by County at the Board’s discretion.
 - i. The sale price shall be not less than the total Property Costs at the time of the sale, unless the Board determines it is in the best interest of the County to set a lower minimum price. In no circumstances will the property be sold at a price less than 15% of the minimum bid set as described in Section C. (3), above. ORS 275.200
5. The Board Order authorizing sale of TFRP shall distribute amounts for any known Property Costs at the time of sale to the appropriate account(s). Any remaining proceeds shall be placed in a designated fund for further distribution pursuant to this policy.

E. Notice of Right to Claim Proceeds from Sale of TFRP

1. For all property acquired after the date of adoption of this policy, general notice of the right to submit a claim for proceeds from Sale of TFRP shall be provided as follows:
 - i. As part of any notice to any person or entity entitled to redeem the property pursuant to ORS 312.125.
 - ii. As part of the general notice of expiration of redemption period pursuant to ORS 312.190.
 - iii. Included in the Sheriff's notice of sale pursuant to ORS 275.120.

F. Distribution of Proceeds from Sale of TFRP

1. Proceeds from the sale of TFRP shall be distributed in the following order:
 - i. To County in the amount of Property Costs.
 - ii. To Prior Owner(s) who have submitted to the Board Office a completed claim form (Appendix A) and W-9 within the Claim Period.
 - (1) Surplus Proceeds paid to Prior Owner shall not exceed the lower of:
 - a. The sale price less any Property Costs; or
 - b. The RMV of the property less any Property Costs.
 - (2) The burden of demonstrating entitlement to surplus proceeds shall be on the Prior Owner. Where it is not clear to County that the claimant meets the definition of the Prior Owner and is entitled to receive surplus proceeds, a court order as to the status of the claimant shall be required to demonstrate entitlement.
 - (3) Where there is more than one Prior Owner, any individual Prior Owner may submit a claim form on behalf of all Prior Owners if such claim identifies all other Prior Owners entitled to claim surplus proceeds, includes proof of notice to all other Prior Owners, and includes either their approval of or court order as to distribution apportionment.
 - (4) Upon distribution of proceeds to one or more Prior Owners any future claim for proceeds shall be barred.
 - (5) Prior Owners who purchased the property from County shall not be entitled to surplus proceeds.
 - (6) Claim forms shall be retained for seven (7) years from the date of receipt.
 - iii. Any remaining proceeds shall be distributed pursuant to ORS 275.275(3)(a)(B), or to Parks, if so designated.
2. Proceeds received pursuant to a land sale contract shall be applied in the order described in Section F.1., except that any amounts paid to Prior Owner(s) or

taxing districts pursuant to Section F.1. shall be distributed annually less any additional Property Costs incurred since the last distribution.

3. In the event a cash sale or land sale contract is not completed and title is not conveyed to the purchaser, any proceeds received shall be applied in the order described in Section F.1. Any additional proceeds received from a subsequent sale shall be distributed in the same manner.
4. Upon expiration of the Claim Period any remaining proceeds from the sale of TFRP shall be distributed pursuant to this policy.

G. Payment on Claims for Retained TFRP

1. Where TFRP is retained by County pursuant to Board Order, the County shall place funds in the designated fund equal to the RMV less any Property Costs. If a claim is submitted within the Claim Period the funds shall be distributed pursuant to Section E.1. (ii), above. If there is no claim submitted in the Claim Period, the funds shall be returned to the County fund from which they were provided.

APPENDIX A
Request for Surplus Proceeds - Instructions

If you believe you are entitled to surplus proceeds as a result of a tax foreclosure sale, complete this form and mail or otherwise deliver it, along with the required attachments and documentation outlined below, to the following address:

Board of County Commissioners
1995 3rd St
Baker City, OR 97814

Surplus Proceeds shall only be distributed to the Prior Owner of the property. “**Prior Owner**” means the Record Owner, or their heirs, assigns, or successors as demonstrated through court order and/or other legal document(s). “**Record Owner**” means the individual(s) and/or entity(ies) identified as the owner in tax records at the time of foreclosure. The burden of demonstrating entitlement to surplus proceeds is on the Prior Owner.

Where there is more than one Prior Owner, any single Prior Owner may submit a single claim form on behalf of all Prior Owners, if such claim identifies all other Prior Owners, includes proof of notice to all other Prior Owners, and includes either their approval of or court order as to distribution apportionment. For each additional Prior Owner an Additional Prior Owner Attachment must be included along with documentation of their entitlement to claim surplus proceeds.

A Prior Owner submitting this request must:

1. Attach a copy of the property deed or other record showing prior ownership. Only one copy is required if Prior Owner consists of multiple parties.
2. Attach a copy of the front and back of current photo identification (e.g., driver’s license). Provide proof of current mailing address if different from current photo identification.
3. If applicable, attach a copy of any court order or legal document establishing Prior Owner status for all Prior Owners.
4. If you are claiming surplus proceeds on behalf of another person, please provide documentation of legal authority to do so, such as a power of attorney, conservator, guardian, etc.
5. If you are claiming property as an heir to a deceased person, provide documentation such as a death certificate or obituary. If the probate is open, include original court-certified copies of Letters of Administration or Affidavit Claiming Successor. If the probate is closed, include an original court certified copy of the Final Decree of Distribution listing the heirs.
6. Sign the completed form in the presence of a notary public.

Incomplete requests will be administratively closed after the Claim Period has expired.



REQUEST FOR SURPLUS PROCEEDS

SECTION 1. PROPERTY INFORMATION

PROPERTY ID:

MAP/TAX LOT:

PROPERTY ADDRESS

PRIOR OWNER (IDENTIFY ALL PARTIES)

SECTION 2. PRIOR OWNER INFORMATION

SELECT ONE OF THE FOLLOWING AND COMPLETE THE SECTION.

_____ MORE THAN ONE PRIOR OWNER—COMPLETE THE SECTION BELOW AND THE
_____ ADDITIONAL PRIOR OWNER ATTACHMENT(S)

_____ I AM THE ONLY PRIOR OWNER—SEE BELOW

FULL LEGAL NAME:

DATE OF BIRTH:

MAILING ADDRESS:

PHONE NUMBER:

EMAIL ADDRESS:

SELECT ONE OF THE FOLLOWING:

_____ RECORD OWNER

_____ HEIR, ASSIGN, OR SUCCESSOR
(DOCUMENTATION ATTACHED)

SECTION 3. SURPLUS PROCEEDS DISTRIBUTION

SELECT ONE OF THE FOLLOWING:

ALL PROCEEDS SHOULD BE DISTRIBUTED TO THE PRIOR OWNER AS A WHOLE (ONE
CHECK ISSUED TO PRIOR OWNER)

PROCEEDS SHOULD BE DISTRIBUTED TO THE PRIOR OWNER PARTIES AS FOLLOWS:

| NAME | ADDRESS | % OF PROCEEDS |
|------|---------|---------------|
| | | |
| | | |
| | | |

Section 4.

I declare under penalty of perjury and/or mail fraud:

- That I have reviewed all sections of this Request for Surplus Proceeds.
- That to the best of my knowledge I am entitled to the excess funds described herein and agree to indemnify Baker County and hold it harmless for and from all claims, loss, costs, damages, and expenses that Baker County may sustain by turning these funds over to me, or of its refusal to pay this claim or any part of it to any person(s).
- That I have identified any and all other Prior Owners, provided notice to them of this claim, and have either obtained their approval for the distribution described in Section 3 (as evidenced through the Additional Prior Owner Attachments) or have obtained and attached a court order for distribution.
- That all statements in this Request for Surplus Proceeds, any Additional Prior Owner Attachments, or other documents attached to this request are true and correct.
- I understand that incomplete requests will be administratively closed after the Claim Period has expired.

Signature

Date

State of _____)
County of _____) ss

This record was acknowledged before me on _____, 20____ by _____

IN WITNESS WHEREOF, I have hereunto set my hand and seal.

NOTARY PUBLIC

My Commission Expires: _____



ADDITIONAL PRIOR OWNER ATTACHMENT(S)

INSTRUCTIONS: COMPLETE THIS PAGE FOR EACH ADDITIONAL PRIOR OWNER

FULL LEGAL NAME:

DATE OF BIRTH:

MAILING ADDRESS:

PHONE NUMBER:

EMAIL ADDRESS:

| | | | |
|--|--|--|----|
| STATUS (SELECT ONE): | | RECORD OWNER | |
| | | HEIR, ASSIGN, OR SUCCESSOR (DOCUMENTATION ATTACHED) | |
| NOTICE OF CLAIM FOR SURPLUS PROCEEDS WAS PROVIDED TO THIS PRIOR OWNER (ATTACH PROOF OF NOTICE) | | YES | NO |
| DATE PROVIDED: | | | |
| BY (PERSON/ENTITY PROVIDING NOTICE): | | | |
| METHOD OF NOTICE: | | | |

DISTRIBUTION OF SURPLUS PROCEEDS

A COURT ORDER REGARDING ALLOCATION OF SURPLUS PROCEEDS IS ATTACHED

THE PRIOR OWNER IDENTIFIED ABOVE AGREES TO RECEIVE THE FOLLOWING ALLOCATION OF PROCEEDS (IDENTIFIED PRIOR OWNER MUST SIGN BELOW IN THE PRESENCE OF A NOTARY):

| | |
|-----------------|---------------------------------------|
| _____ | % OF SURPLUS PROCEEDS |
| \$ _____ | LUMP SUM FROM SURPLUS PROCEEDS |

I, _____ (Prior Owner identified above) declare under penalty of perjury and/or mail fraud:

- That I have reviewed all sections of the Request for Surplus Proceeds.
- That to the best of my knowledge I am entitled to the excess funds described herein and agree to indemnify Baker County and hold it harmless for and from all claims, loss, costs, damages, and expenses that Baker County may sustain by turning these funds over to me, or of its refusal to pay this claim or any part of it to any person(s).
- That I agree to the Distribution of Proceeds indicated herein.
- I understand that incomplete requests will be administratively closed after the Claim Period has expired.

Signature

Date

State of _____)
County of _____) ss

This record was acknowledged before me on _____,
20_____ by _____.

IN WITNESS WHEREOF, I have hereunto set my hand and seal.

NOTARY PUBLIC
My Commission Expires: _____

**IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON
FOR THE COUNTY OF BAKER**

IN THE MATTER OF

SUSPENDING IMPLEMENTATION OF
THE BAKER COUNTY POLICY FOR
DISPOSITION OF TAX FORECLOSED
REAL PROPERTY

Order No. 2024-126

WHEREAS, the Board of Commissioners adopted the Baker County Policy for Disposition of Tax Foreclosed Real Property on February 7th, 2024 providing a process for determination of, and distribution of, surplus proceeds from the sale of tax foreclosed real property; and

WHEREAS, the Oregon Legislature passed HB 4056 on March 4th, 2024, making certain requirements of Oregon counties and the Oregon Department of Revenue (ODOR) to address issues related to the U.S. Supreme Court decision *Tyler v. Hennepin County*, 598 U.S. 631 (2023), including tasking ODOR with determining a uniform process by which the counties will determine and distribute surplus proceeds from the sale of tax foreclosed real property and otherwise comply with HB 4056; and

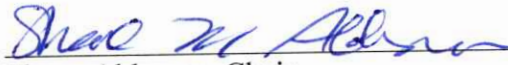
WHEREAS, the Board of Commissioners is aware of federal class-action law suits and one state Circuit Court case currently active in the courts that address constitutional questions related to the disposition of sale proceeds from tax foreclosed real property in Oregon, and Commissioners further acknowledge that the outcomes of those pending cases will impact Baker County's handling of tax foreclosed real property and the proceeds from any sale of such property; and now, therefore

IT IS HEREBY ORDERED BY THE BOARD AS FOLLOWS:

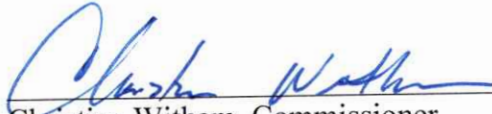
1. The Baker County Policy for Disposition of Tax Foreclosed Real Property is hereby held in abeyance and implementation shall be suspended until such time as there is clear direction from the Oregon Department of Revenue, the Oregon Legislative Assembly, or a court of competent jurisdiction, regarding a uniform process for determination and distribution of proceeds from the sale of tax foreclosed real property deeded to Baker County.
2. The abeyance and suspension shall take effect immediately.
3. County staff tasked with the proper administration of sale of foreclosed property will take all actions necessary to ensure compliance with this Order.

DONE and Dated on this 15th day of May, 2024.

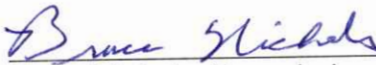
BAKER COUNTY BOARD OF COMMISSIONERS



Shane Alderson, Chair



Christina Witham, Commissioner



Bruce Nichols, Commissioner

CLACKAMAS

Notice of Potential Surplus Funds

Date: 8/24/2023

If you are a prior owner of record of a tax foreclosed property in Clackamas County and the property sold at the June 21, 2023 Clackamas County Sheriff's Real Property Surplus Auction, you may have surplus funds available to you. **[See a list of properties sold at the auction.](#)**

Surplus funds are the amount of funds remaining after the Clackamas County Department of Transportation and Development (DTD) Property Disposition Division sells a tax foreclosed property and recovers the taxes, penalties, and costs.

Prior owners of record have **until Jan. 26, 2024** to complete and return the required claim forms and supporting documentation to Clackamas County DTD Property Disposition Division.

CLAIM FORM

Contact

Property Disposition
Division

503-742-4384

realpropertysurplus@clackamas.us

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of Adopting Revised
Property Disposition Policy and
Procedures



Order No. **2018-100**

WHEREAS, the Property Disposition Division of the Business and Community Services Department of Clackamas County has policies and procedures related to the sale or transfer of certain property; and

WHEREAS, on September 25, 2018 the Board of County Commissioners met to discuss proposed changes to the Policies and Procedures for the Sale, Transfer and Administration of Tax Foreclosed and Surplus County Property; and

Now, therefore, it is hereby ordered:

1. That the Clackamas County Board of County Commissioners hereby adopts the Policies and Procedures for the Sale, Transfer and Administration of Tax Foreclosed and Surplus County Property as shown on Attachments A and B to this board order.

DATED this 4th day of October, 2018

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary



Business & Community Services Department

TITLE: PROPERTY DISPOSITION POLICIES

Attachment A

Originally Adopted: March 11, 2014

Last Updated: September 12, 2018

PURPOSE:

Establish Policies for the Sale, Transfer and Administration of Tax Foreclosed and Surplus County Property.

POLICY STATEMENT:

Real property acquired by Clackamas County (the County) in any manner which is not needed for County use shall be declared surplus, except as otherwise provided for by Oregon law.

The Property Disposition Manager and BCS Director/Deputy Director will annually review and recommend to the Board of County Commissioners those real properties to be declared surplus and considered for transfer or sale. Surplus real properties shall be sold or transferred according to the procedures adopted by the County, which follow Oregon law where applicable.

The Board of County Commissioners will authorize by Board Order the list of surplus properties to be transferred or sold through the auction process. The Board of County Commissioners delegates its authority to the Business and Community Services Director and Deputy Director to develop and implement the procedures necessary and by which surplus property is transferred or sold in accordance with ORS 275 and other applicable Oregon laws.

The costs incurred by the County in the maintenance, management and administration of properties acquired by the County will be determined annually by the BCS Director. As Property Disposition is not general fund supported, the BCS Director shall ensure at all times that the necessary operational and capital reserve requirements are maintained prior to releasing excess funds as follows:

- Four (4) years of operating expenses are held in reserve and calculated annually
- Capital requirements in the amount of \$100,000.00 shall be held in reserve
- Property Cleanup and Unknown Liabilities Reserve Funds shall be held in the amount of \$500,000.00 for those assets that do not qualify as a Brownfield (i.e. site mitigation, building teardowns, legal, etc.)

RELATED RULE:

The Board of County Commissioners further delegates under Board Order 2015-27 its authority to authorize final sales to the Director or Deputy Director of the Business and Community Services Department and Clackamas County Administration





Business & Community Services Department

TITLE: PROPERTY DISPOSITION PROCEDURES

Attachment B

Originally Adopted: March 11, 2014

Last Updated: September 12, 2018

PURPOSE:

Establish procedures for the Sale, Transfer and Administration of Tax Foreclosed and Surplus County Property consistent with adopted Policy.

The Director of Business and Community Services has directed the Property Disposition Division to manage tax foreclosed properties to secure the Highest Permanent Value benefitting the citizens of Clackamas County. Highest Permanent Value is defined as managing, administering and dispersing of tax foreclosed and surplus real property assets in a timely and cost effective manner that can provide a full range of social, economic and environmental benefits for the citizens of Clackamas County.

PROCEDURES:

A. General

1. Property Disposition Division shall annually:
 - a. Review its real property inventory of assets and identify tax foreclosed properties to consider for sale or transfer.
 - b. Review its budget and reserve requirements to determine available net real property revenue for distribution to the taxing districts within Clackamas County.
2. The sale or transfer of tax foreclosed properties shall be made by the Property Resources Division in accordance with ORS 275.000 to ORS 275.340 and ORS 271.300 to 271.360 and the following Highest Permanent Value criteria:
 - a. Transfer of property to taxing districts and other eligible entities – to meet local resource and public benefit needs (i.e. parks, open space, Brownfield sites)
 - b. Return property to tax rolls
 - c. Board of County Commissioners, or those with delegated authority, shall have final approval of those properties considered for transfer or sale.
 - d. At the discretion of the County, and with extenuating circumstances, the record owner or contract purchaser may be given the opportunity to repurchase the property pursuant to ORS 275.180. Said repurchase shall be in the amount of the total back taxes, interest, penalties and County administrative fee. Such repurchase or agreement to repurchase must occur within six (6) months following the expiration of the statutory redemption period commencing with the filing of the foreclosure deed.





Business & Community Services Department

TITLE: PROPERTY DISPOSITION PROCEDURES

B. Transfer Objective

Property Disposition Management Team will consider the tax foreclosed property assets to be declared as surplus and develop a list of available properties which will be distributed to County Departments, local Municipalities, County agencies and Special Districts.

1. Should any of the eligible entities above request a transfer of a property, transfers will be based on the following conditions:
 - a. Subject to final approval of the Board of County Commissioners.
 - b. Property will be used for a perpetual public use benefit (i.e. park, open space, greenway, trail, easement, Brownfield sites, etc.) consistent with an adopted strategic plan, master plan or other long term management plan of the requesting entity.
 - c. Property shall be conveyed for the Transfer Value as calculated on the back taxes, interest, penalties owed, plus associated costs (title report, deed recording, etc.) and Property Disposition administrative fee as determined under Section E. In certain cases, the set value of the property will be based on an appraised value (i.e. public benefit value) in consideration of its limited use under ORS 271.310 to 271.330.
 - d. Brownfield sites transferred to Land Bank Authority subject to ORS 271.310 and 271.335 and:
 - i. Transfer Value is paid in the amount of back taxes, penalties, interest, and administration fee in compliance with ORS 275.275 and as determined in Section E below.
2. Properties in excess of \$15,000 (Assessor's Estimate of Real Market Value – ARMV) are assigned to public auction; properties with an ARMV of less than \$15,000 will be considered for private marketing or assigned to public auction under ORS 275.225 (a)

C. Tax Roll Objective

Board of County Commissioners will declare tax foreclosed property assets as surplus and the Property Disposition Management Team will put them up for public auction. Public Oral Auction considerations include:

1. Value will be based on the Assessor's estimate of Real Market Value (ARMV) and/or Independent Appraised Value (IAV) at the discretion of Property Resources Division.
2. Minimum bid amounts will generally be set, but not limited to, the following criteria:
 - a. 25% of ARMV:
 - i. Property is not buildable
 - ii. Property is constrained by one or more of the following:
 - Identified wetlands or riparian overlays
 - Identified septic limitations
 - iii. Review of adjacent parcels show no existing improvements
 - iv. No public access or deeded easement for access
 - b. 50% of ARMV:
 - i. Property may be buildable



Business & Community Services Department

TITLE: PROPERTY DISPOSITION PROCEDURES

- ii. Property is constrained by one or more of the following:
 - Identified wetlands or riparian overlays
 - Identified septic limitations
 - iii. Review of adjacent parcels show no, or minimal existing improvements
 - iv. Limited public access or deeded easement.
- c. 75% of ARMV:
- i. Property is buildable or has existing improvements
 - ii. Review of adjacent parcels show existing improvements
 - iii. Public access or deeded easements are identified
- d. 100% of Appraised Value
- i. Property is of high value and has considerable interest
 - ii. Independent Third Party Verification will be obtained. The Property Resources Manager will obtain an Opinion of Value/Salability or Appraisal from qualified professionals on high value or significant parcels, in order to validate setting minimum bid price.
 - iii. Third party verification may be considered for all properties at the Property Resources Manager's discretion.

D. Properties not selling at the Oral Public Auction

The Property Disposition Management Team will review and consider the tax foreclosed property assets and consider the following options:

1. Property may be placed with a private real estate broker (market value)
2. Property may be considered for transfer to a qualifying special district or non-profit organization per ORS 271.330
 - a. Properties being transferred will be conveyed for a minimum of back taxes, interest, penalties owed, plus associated costs (title report, deed recording) and a Property Disposition administrative fee as set by Property Resources Manager.
 - b. A property list may be made available and distributed to qualifying nonprofit organizations.
3. Property may be removed from the current surplus inventory list at any time by the Property Disposition Management Team and/or Board of County Commissioners.

E. Property Disposition Division - Cost Recovery and Administrative Fee Schedule

Oregon Revised Statutes (ORS275.275) provides for Property Disposition Division to recover annual operational expenses. With consideration that the Property Disposition Division is not general fund supported, the Property Disposition Division shall be entitled to recover the direct and indirect costs associated with managing, selling, and transferring tax foreclosed and surplus real properties.



Business & Community Services Department

TITLE: PROPERTY DISPOSITION PROCEDURES

1. Direct costs include such services related to property inspections, title and property history searches, document and legal review, document preparation, accounting, sale/transfer preparation, deed recording, property liability mitigation, and other property management services as needed. The property account will be charged for the direct costs for title reports, property appraisals, deed recording and for those direct property management services performed at the established billable rates set by the Business and Community Services Department.
2. Indirect costs will be assessed to the sale or transfer of properties for administration of Property Disposition allocated cost services (reporting, accounting, legal, liability, etc.) using the following fee schedule (based on property sale or transfer value):
 - a. \$1 to \$15,000 – 15% (minimum \$150.00)
 - b. \$15,001 to \$50,000 – 12%
 - c. \$50,001 to \$100,000 – 10%
 - d. \$100,001 to \$500,000 – 8%
 - e. \$500,001 to \$1,000,000 – 5%
 - f. > \$1,000,000 – 3%
3. Former Record Owner or Contract Purchaser Repurchase fee – no less than 2% of property assessed value plus back taxes, interest, and penalties.

RELATED RULE:

The Board of County Commissioners further delegates under Board Order 2015-27 its authority to authorize final sales to the Director or Deputy Director of the Business and Community Services Department and Clackamas County Administration.





DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING

150 BEAVERCREEK ROAD OREGON CITY, OR 97045

Clackamas County Real Property Surplus Funds Claim Form

Please complete all sections of this application accurately and provide all required documentation to support your claim for surplus funds.

APPLICATION

1. Clackamas County Property Disposition Division will not accept applications from third parties, other than from attorneys licensed to practice law in Oregon. The Division does not recognize applications from asset recovery firms or non-attorneys who purport to represent claimants. **A licensed attorney should submit a written, notarized statement from the claimant authorizing the attorney to act on the claimant's behalf.**
2. Incomplete or illegible applications will not be considered.
3. The following information must be provided for each person that was entitled to surplus proceeds at the time of the sale: full name, current physical address, telephone number, copy of State issued Driver's License, State issued ID or passport, completed W-9 and County-required vendor forms and percent ownership of the property at the time of sale. US Post Office boxes are not acceptable physical addresses. Applications without physical addresses will not be accepted.
4. In the event of a dispute between two or more claimants regarding surplus funds, or in other situations where the Property Disposition Division deems it necessary, the Division may interplead funds to Clackamas County Circuit Court in Oregon. See Oregon Rules of Civil Procedure 31.
5. Please provide supporting documentation stating why applicant is entitled to surplus funds. Also include original supporting documents to verify your claim (e.g., deed, death certificate, court order). If you are claiming as an heir, provide a properly completed Affidavit pursuant to Probate laws and a notarized verification of proof of identity and the percentage of the claim you are owed. The Property Disposition Division will only release surplus proceeds to a legitimate claimant or claimant's attorney.
6. Claims will be processed 180 days after receipt by the Property Disposition Division.



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING

150 BEAVERCREEK ROAD OREGON CITY, OR 97045

THIS APPLICATION MUST BE NOTARIZED BY A NOTARY PUBLIC BEFORE SUBMITTING.

Section 1: Property Details

Parcel No.: _____

Property Address: _____

City: _____ State: _____ ZIP: _____

Auction Date of Sale: _____

Section 2: Claimant Information

By submitting this form, I claim surplus proceeds for the sale of the above referenced tax foreclosed property in the amount of \$_____ or _____ % per cent of available proceeds based upon my interest in the described property as a:

- ☐ Owner of Record
- ☐ Qualified Heir
- ☐ Assignee or Party of Interest
- ☐ Lien holder

Claimant's Full Name(s): _____

Claimant's Physical Address: _____

City: _____ State: _____ ZIP: _____

Claimant's Mailing Address: ☐ Check if same as physical address

Claimant's Mailing Address _____

City: _____ State: _____ ZIP: _____

Claimant's Phone Number: _____

Claimant's Email Address: _____

Driver License State and No.: _____

Provide Copy Front & Back of Driver's License, State ID or Passport
Expired photo identification will not be accepted.



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING

150 BEAVERCREEK ROAD OREGON CITY, OR 97045

Section 2 cont'd:

Were you the sole owner of the property listed above at the time of foreclosure? ☐ Yes ☐ No

If not, please provide a claim form, or notarized statement, for all additional owners releasing their portion of the surplus funds and waiving rights to future claims. Statements must include copies of approved identification.

If a Claimant has authorized an attorney to make a claim on their behalf, the claimant must submit notarized documentation naming and authorizing the attorney to act on their behalf. If claimant is requesting a check be made payable to their attorney, please provide the following information:

Attorney's Full Name: _____

Attorney's Bar Number: _____

Attorney's Mailing Address: _____

City: _____ State: _____ ZIP: _____

Attorney's Phone Number: _____

Attorney's Email Address: _____

Make Check Payable to: _____



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING

150 BEAVERCREEK ROAD OREGON CITY, OR 97045

Section 3: Documentation Checklist

Please attach the following documents to support your claim:

Required for all claimants:

- ✓ Copies of Front & Back of Photo Identification – State issued driver's license, state issued identification or US Passport.
- ✓ Proof of Claimants Interest in the Property - Attach copies or original documents to verify your claim.
 - Acceptable documentation includes:
 - Original or certified copy of recorded deed at time of claimant's purchase
 - Assignments
 - Original promissory note
 - Executed probated will or Trust documents if applicable (Heir to Owner of Record)
 - Court Order
- ✓ Court Orders or Judgments Related to the Surplus Funds (if applicable).
- ✓ Other Relevant Supporting Documentation
- ✓ Clackamas County Vendor Packet
- ✓ Clackamas County Vendor ACH Form if applicable

Clackamas County reserves the right to ask for additional supporting documentation as needed to confirm statements made on this claim form.

Section 4: Claim Statement

Please provide a detailed statement explaining the basis of your claim and why you believe you are entitled to the surplus funds. Include any relevant facts, evidence, or legal arguments to support your claim. You may continue explanation on a separate page if needed.



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

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150 BEAVERCREEK ROAD OREGON CITY, OR 97045

Section 5: Release and Indemnification Agreement to be signed by each claimant – Notary Required.

Personally appeared before me the undersigned deponent, who being duly sworn, says on oath as follows:

That the following property was owned by _____ at the time the foreclosure proceedings commenced in Clackamas County Circuit Court, to wit: the tract or parcel of land located in Clackamas County, Oregon with the current address _____, and parcel number _____, as recorded in the records of the Clerk of Clackamas County, Oregon as being the same property that was sold for delinquent taxes on _____.

That at the time of said above tax sale (check one):

_____ there were no outstanding security deeds, liens or other encumbrances existing on said property; or

_____ the only outstanding security deeds, liens, or encumbrances on said property on the date of tax sale are listed below:

| <u>Name of Lienholder</u> | <u>Address of Lienholder</u> | <u>Amount of Lien</u> |
|---------------------------|------------------------------|-----------------------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING

150 BEAVERCREEK ROAD OREGON CITY, OR 97045

Section 5 Cont'd:

The undersigned is entitled to receive all the surplus from the Clackamas County Property Disposition Division by virtue of said tax sale.

The undersigned further states:

- The surplus funds are due to the undersigned and there are no other rightful claimants to the proceeds (no other owner of record at the time of the foreclosure lawsuit was filed).
- The undersigned is requesting a check made payable to the party who held title on the date the foreclosure lawsuit was filed and to be sent to the address provided below or to their attorney as listed below.
- The undersigned will provide photo identification, proof of ownership and supporting documentation **as listed in Section 3 - Documentation Checklist**.
- The undersigned acknowledges that it will take up to 180 days to process the claim once the Property Disposition Division receives it and the payment will be issued after 180 days.
- The undersigned agrees to indemnify and hold harmless Clackamas County, its officers, directors, employees, agents, and affiliated entities from and against all claims, damages, liabilities, costs, and expenses, including but not limited to attorney fees, arising out of or relating to real property surplus funds.
- The Claimant acknowledges that this indemnification constitutes a full and final settlement of all rights or claims that may exist or arise through the date of this agreement regarding the subject matter of indemnification. Clackamas County shall have no obligation to make further payments or satisfy any additional claims arising from the same event, condition, or circumstance.
- The Claimant waives any further rights to pursue any additional claims, suits, demands, or causes of action against Clackamas County, its successors, agents, or assigns, relating to real property surplus funds.



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING

150 BEAVERCREEK ROAD OREGON CITY, OR 97045

Section 5 cont'd:

By completing and signing this form, I certify that all information provided herein is true and accurate to the best of my knowledge. I understand that any false statements or omissions may result in the denial of my claim.

PLEASE PRINT OR TYPE

Claimant's Signature: _____

Date: _____

Claimant's Signature: _____

Date: _____

Claimant's Signature: _____

Date: _____

AND (If there is an attorney)

Attorney's Name: _____

Signature of Attorney: _____

Date: _____



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING

150 BEAVERCREEK ROAD OREGON CITY, OR 97045

Section 5 cont'd - Notary:

State of Oregon)

County of Clackamas)

On this _____ day of _____, before me, _____,
the undersigned Notary Public, personally appeared _____,
personally known to me, and acknowledged to me the execution of this instrument as the
_____ on behalf _____.

WITNESS my hand and official seal.

Commission expires_____

Section 6: Submission

Please submit the completed claim form and all required documentation to the following address:

Clackamas County Property Disposition

Department of Transportation and Development
150 Beaver Creek Road
Oregon City, OR 97045

Alternatively, you may email the completed form and attachments to D'Anne Rome at
DRome@clackamas.us

Thank you for submitting your claim for surplus funds. We will review your submission and communicate any further steps or requirements.

COOS

Coos County Filing Cover Sheet

06/23/2023 10:20:34 AM

TO: Coos County Clerk's Office



2023-0423

FROM: County Counsel

The original document will be filed, scanned, indexed and returned to your office.

Please file the attached document in the selected category indicated in the box below using the following information:

| Commissioner Journal Filings | | | | |
|------------------------------|------|----------|---|--------|
| Affidavit of Publication | R=3Y | X | Orders and/or Resolutions | R=P |
| Board of Commissioners | R=P | | Payroll Resolutions | R=P |
| BoPTA | R=6Y | | Registry of Offices | R=6YAE |
| Contracts & Agreements | R=P | | Special District Budget | R=P |
| County Budget | R=P | | Special District <small>Formations, Annexations, Dissolutions, Election Results</small> | R=P |
| County Code | R=P | | Vacation Proceedings | R=P |
| Minutes - BOC | R=P | | R=Retention P=Permanent Y=Year AE=After Expiration | |

INDEXING INFORMATION

Affected Parties Names:

Board of Commissioners

Subject of Document :

Order

Brief description, minutes, contracts, orders, etc.

Resolution or Order #:

23-06-037L

Example: 18-2-156-X

Document Remarks:

Order 23-06-037L Matter of Approving A County Policy on the Distribution of Tax Foreclosure Sale Proceeds in Accordance with the United States Supremen Court's Decision in Tyler V. Hennepin County

Date of Meeting or of Document:

"Date Only"

June 20, 2023

Clerk use - Filed: Scanned: Indexed: Verified:

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BOARD OF COMMISSIONERS
COUNTY OF COOS
STATE OF OREGON

IN THE MATTER OF APPROVING A COUNTY POLICY) ORDER
ON THE DISTRIBUTION OF TAX FORECLOSURE SALE) 23-06-037L
PROCEEDS IN ACCORDANCE WITH THE UNITED)
STATES SUPREME COURT'S DECISION IN TYLER V.)
HENNEPIN COUNTY)

NOW BEFORE the Coos County Board of Commissioners (the "Board"), sitting for the transaction of County business on the 20th day of June, 2023, is the matter of approving a policy on the distribution of tax foreclosure sale proceeds in accordance with the decision of the United States Supreme Court ("Supreme Court") in *Tyler v. Hennepin County*. The Board makes the following findings:

- A. ORS 275.275(3) provides that, after certain refunds to cover County costs as set forth in ORS 275.275(1), proceeds from tax foreclosure sales are to be distributed to taxing districts in accordance with the formula provided in ORS 311.390. This distribution to taxing districts is not limited by Oregon statute to the tax debt owed by a former property owner.
- B. ORS 275.275(1) allows the County to use proceeds from tax foreclosure sales to reimburse the County general fund for the amount actually paid by the county to advance state tax, the penalties and fees described in ORS 312.120, and the costs actually incurred by the County in the maintenance and supervision of the tax foreclosed properties.
- C. In *Tyler v. Hennepin County*, the Supreme Court held that it was unconstitutional for a government entity to retain any surplus funds generated from a tax foreclosure sale. However, the *Tyler* ruling does not preclude the County from using the proceeds of a tax foreclosure sale to reimburse its actual costs and expenses in attempting to collect the back tax, reimbursing any fees allowed by Oregon law, and reimbursing its costs actually

1 incurred in the maintenance and supervision of the tax foreclosure properties. These
2 reimbursements may be deducted from any calculation of surplus that must be remitted to
3 a former property owner.

4 D. To the extent that ORS 275.275 calls for the County to distribute surplus from tax
5 foreclosure sales to government entities, it is unconstitutional and cannot be administered
6 by the County as currently written.

7
8 E. Oregon Law currently provides for no formal process for providing a former property
9 owner with the opportunity to claim the surplus from a tax foreclosure sale. The Board
10 finds that a former property owner shall be given a reasonable notice of 90 days in which
11 to collect surplus property. Providing a period of time for a former property owner to claim
12 the surplus is endorsed by the Supreme Court's decision in *Tyler*.

13 NOW, THEREFORE, BE IT HEREBY RESOLVED as follows:

14 1. To comply with the Supreme Court's decision in *Tyler v. Hennepin County*, the County
15 shall initially distribute the proceeds from the sale of tax foreclosed real property in any
16 fiscal year, on or before June 30 in the applicable year, as follows:

17
18 a. First, the County shall apply the proceeds arising from a tax foreclosure sale to
19 the County's general fund in accordance with ORS 275.275(1)(a)-(c). General
20 administrative expenses not attributable to specific tax foreclosed property shall
21 be drawn equally from the proceeds of each foreclosure sale. Costs attributable to
22 specific tax foreclosed properties shall be reimbursed to the County from the
23 proceeds of the sale of the property for which the cost was incurred. For example,
24 the County shall be reimbursed for the costs of cleaning a specific property from
25 the tax foreclosure sale proceeds for that property.

26
27 b. Next, the County shall distribute remaining funds pursuant to ORS 275.275(3),

1 subject to the limitations of this Section. The distribution to the taxing districts
2 under ORS 275.275(3)(B) shall not exceed the sum total of all outstanding taxes,
3 fees, and interest, not covered in Section 1.a. above, and attributable to the tax
4 foreclosure properties sold by the County.

- 5 2. The Tax Collector shall calculate any surplus that must be returned to a former property
6 owner after distribution under Section 1 above. The surplus shall be calculated starting
7 with the total price a property brought at action, then subtracting the County's costs
8 attributable to the property under Section 1.a. above along with the total tax, fees, and
9 interest attributable to the property and distributed under Section 1.b. above. Any
10 remaining value shall be considered the surplus.
11
- 12 3. A former property owner shall have ninety (90) days from the date of the mailing of the
13 notice specified in Section 5 below to claim any surplus from a tax foreclosure sale.
14
- 15 4. A former property owner shall have thirty (30) days from the date of the mailing of the
16 notice specified in Section 5 below to file a written appeal of the County's surplus
17 calculation. The appeals process shall be conducted as follows:
- 18 a. A former property owner shall file a written appeal with the Coos County Tax
19 Collector.
 - 20 b. The County shall schedule a hearing on the appeal no sooner than 14 days after
21 receipt of the notice of appeal, and no later than ninety (90) days from the mailing
22 of the notices under Section 5 below.
 - 23 c. The hearing on appeal shall be before the Coos County Board of Commissioners
24 or a hearings officer appointed by the Board to hear appeals under this Resolution.
 - 25 d. At the hearing, the County shall bear the burden of proving, by a preponderance
26 of the evidence, that its surplus calculation was correct.
27

- 1 e. The decision of the Coos County Board of Commissioners, or appointed hearings
2 officer, is the final decision of the County. This final decision is appealable to the
3 Coos County Circuit Court by filing a Writ of Review pursuant to ORS 34.010 to
4 34.100.
- 5 5. For any property generating a tax foreclosure surplus, the Tax Collector shall provide a
6 notice by both certified and first-class mail to the former owner(s) as follows:
7
- 8 a. The notice shall identify the property by tax lot number and contain the amount of
9 the surplus, the tax foreclosure sale price of the property, the amount of the taxes,
10 fees, and interest distributed to the taxing districts, and the amount of the
11 distribution to the County pursuant to ORS 275.275(1)(a)-(c), including any
12 expenditures specifically attributable to the property.
- 13 b. The notice shall state that the recipient has ninety (90) days from the date of the
14 letter to claim the surplus.
- 15 c. The notice shall state that the recipient may challenge the County's calculation of
16 the surplus by filing a written appeal with the Tax Collector no later than thirty
17 (30) days from the date of the notice.
- 18
- 19 6. In addition to the notice mailed under Section 5 above, the Tax Collector shall publish a
20 notice in a newspaper of general circulation in the County as follows:
21
- 22 a. The notice shall be published within fourteen (14) days of the date of mailing the
23 notice set forth in Section 5 above.
- 24 b. The notice shall identify, by tax lot number, each property for which a tax
25 foreclosure surplus exists. The notice shall specify the time period in which
26 former owners must file an appeal and claim the surplus funds and shall direct any
27 interested party to contact the Tax Collector's office as soon as possible for more

information.

7. If a former owner fails to claim tax foreclosure surplus within 90 days of the Section 5 notice, the surplus shall be deemed abandoned and revert to the possession of the County.

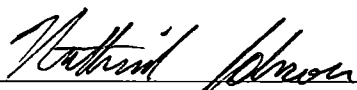
The County may distribute any unclaimed surplus in the following order:

- a. In the event that the County's costs were not fully reimbursed by the initial distribution authorized under Section 1.a. above, the unclaimed funds shall first be used to reimburse the County's general fund for these remaining costs.
- b. All remaining funds shall be distributed to the taxing districts pursuant to ORS 275.275(3).

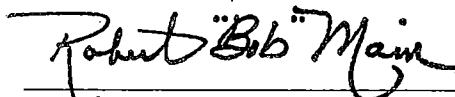
8. This resolution shall remain in full force and effect until the Oregon legislature amends the tax foreclosure process to comply with *Tyler v. Hennepin County*.


Dated this 20th day of June, 2023.

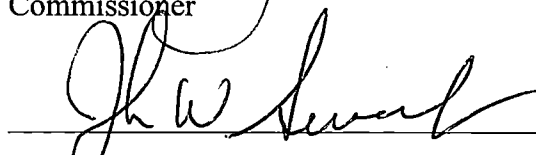
Approved as to form:


Office of Legal Counsel

Coos County Board of Commissioners


Chair


Commissioner


Commissioner

Coos County Filing Cover Sheet

TO: Coos County Clerk's Office

07/24/2023 2:21:39 PM



2023-0654

FROM: County Counsel

The original document will be filed, scanned, indexed and returned to your office.

Please file the attached document in the selected category indicated in the box below using the following information:

| Commissioner Journal Filings | | | | | |
|------------------------------|--------------------------|------|-------------------------------------|---|--------|
| <input type="checkbox"/> | Affidavit of Publication | R=3Y | <input checked="" type="checkbox"/> | Orders and/or Resolutions | R=P |
| <input type="checkbox"/> | Board of Commissioners | R=P | <input type="checkbox"/> | Payroll Resolutions | R=P |
| <input type="checkbox"/> | BoPTA | R=6Y | <input type="checkbox"/> | Registry of Offices | R=6YAE |
| <input type="checkbox"/> | Contracts & Agreements | R=P | <input type="checkbox"/> | Special District Budget | R=P |
| <input type="checkbox"/> | County Budget | R=P | <input type="checkbox"/> | Special District <small>Formations, Annexations, Dissolutions, Election Results</small> | R=P |
| <input type="checkbox"/> | County Code | R=P | <input type="checkbox"/> | Vacation Proceedings | R=P |
| <input type="checkbox"/> | Minutes - BOC | R=P | <input type="checkbox"/> | R=Retention P=Permanent Y=Year AE=After Expiration | |

INDEXING INFORMATION

Affected Parties Names:

Board of Commissioners

Subject of Document :

Order

Brief description, minutes, contracts, orders, etc.

Resolution or Order #:

23-07-044L

Example: 18-2-156-X

Document Remarks:

Order 23-07-044L Matter of Approving an amended County Policy on the Distribution of Tax Foreclosure Sale Proceeds in Accordance with the United States Supreme Court's Decision in Tyler V. Hennepin County

Date of Meeting or of Document:

"Date Only"

July 18, 2023

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| Clerk use - | Filed: | Scanned: | Indexed: | Verified: |
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1
2 BOARD OF COMMISSIONERS
3 COUNTY OF COOS
STATE OF OREGON

4 IN THE MATTER OF APPROVING AN AMENDED) ORDER
5 COUNTY POLICY ON THE DISTRIBUTION OF TAX) 23-07-044L
6 FORECLOSURE SALE PROCEEDS IN ACCORDANCE)
WITH THE UNITED STATES SUPREME COURT'S)
DECISION IN TYLER V. HENNEPIN COUNTY)

7
8 NOW BEFORE the Coos County Board of Commissioners (the "Board"), sitting for the
9 transaction of County business on the 18th day of July, 2023, is the matter of approving an amended
10 policy on the distribution of tax foreclosure sale proceeds in accordance with the decision of the
11 United States Supreme Court ("Supreme Court") in *Tyler v. Hennepin County*. The Board makes
12 the following findings:

- 13
14 A. The Board wishes to amend the previous policy as set forth in Order 23-06-037L in order
15 to provide more time for a previous owner of tax foreclosed property to claim any surplus
16 generated by a tax foreclosure sale and to challenge the surplus calculation. In all other
17 respects, the previous policy remains unchanged.
- 18 B. ORS 275.275(3) provides that, after certain refunds to cover County costs as set forth in
19 ORS 275.275(1), proceeds from tax foreclosure sales are to be distributed to taxing districts
20 in accordance with the formula provided in ORS 311.390. This distribution to taxing
21 districts is not limited by Oregon statute to the tax debt owed by a former property owner.
- 22 C. ORS 275.275(1) allows the County to use proceeds from tax foreclosure sales to reimburse
23 the County general fund for the amount actually paid by the county to advance state tax,
24 the penalties and fees described in ORS 312.120, and the costs actually incurred by the
25 County in the maintenance and supervision of the tax foreclosed properties.
- 26
27 D. In *Tyler v. Hennepin County*, the Supreme Court held that it was unconstitutional for a

1 government entity to retain any surplus funds generated from a tax foreclosure sale.
2 However, the *Tyler* ruling does not preclude the County from using the proceeds of a tax
3 foreclosure sale to reimburse its actual costs and expenses in attempting to collect the back
4 tax, reimbursing any fees allowed by Oregon law, and reimbursing its costs actually
5 incurred in the maintenance and supervision of the tax foreclosure properties. These
6 reimbursements may be deducted from any calculation of surplus that must be remitted to
7 a former property owner.
8

9 E. To the extent that ORS 275.275 calls for the County to distribute surplus from tax
10 foreclosure sales to government entities, it is unconstitutional and cannot be administered
11 by the County as currently written.

12 F. Oregon Law currently provides for no formal process for providing a former property
13 owner with the opportunity to claim the surplus from a tax foreclosure sale. The Board
14 finds that a former property owner shall be given a reasonable notice of two years in which
15 to collect surplus property. Providing a period of time for a former property owner to claim
16 the surplus is endorsed by the Supreme Court's decision in *Tyler*.
17

18 NOW, THEREFORE, BE IT HEREBY RESOLVED as follows:

19 1. To comply with the Supreme Court's decision in *Tyler v. Hennepin County*, the County
20 shall initially distribute the proceeds from the sale of tax foreclosed real property in any
21 fiscal year, on or before June 30 in the applicable year, as follows:

- 22 a. First, the County shall apply the proceeds arising from a tax foreclosure sale to
23 the County's general fund in accordance with ORS 275.275(1)(a)-(c). General
24 administrative expenses not attributable to specific tax foreclosed property shall
25 be drawn equally from the proceeds of each foreclosure sale. Costs attributable to
26 specific tax foreclosed properties shall be reimbursed to the County from the
27

1 proceeds of the sale of the property for which the cost was incurred. For example,
2 the County shall be reimbursed for the costs of cleaning a specific property from
3 the tax foreclosure sale proceeds for that property.

4 b. Next, the County shall distribute remaining funds pursuant to ORS 275.275(3),
5 subject to the limitations of this Section. The distribution to the taxing districts
6 under ORS 275.275(3)(B) shall not exceed the sum total of all outstanding taxes,
7 fees, and interest, not covered in Section 1.a. above, and attributable to the tax
8 foreclosure properties sold by the County.
9

10 2. The Tax Collector shall calculate any surplus that must be returned to a former property
11 owner after distribution under Section 1 above. The surplus shall be calculated starting
12 with the total price a property brought at action, then subtracting the County's costs
13 attributable to the property under Section 1.a. above along with the total tax, fees, and
14 interest attributable to the property and distributed under Section 1.b. above. Any
15 remaining value shall be considered the surplus.
16

17 3. A former property owner shall have two years from the date of the mailing of the notice
18 specified in Section 5 below to claim any surplus from a tax foreclosure sale.

19 4. A former property owner shall have one years from the date of the mailing of the notice
20 specified in Section 5 below to file a written appeal of the County's surplus calculation.

21 The appeals process shall be conducted as follows:

22 a. A former property owner shall file a written appeal with the Coos County Tax
23 Collector.
24

25 b. The County shall schedule a hearing on the appeal no sooner than 14 days after
26 receipt of the notice of appeal, and no later than two 90 days from the receipt of
27 the notice of appeal.

- c. The hearing on appeal shall be before the Coos County Board of Commissioners or a hearings officer appointed by the Board to hear appeals under this Resolution.
 - d. At the hearing, the County shall bear the burden of proving, by a preponderance of the evidence, that its surplus calculation was correct.
 - e. The decision of the Coos County Board of Commissioners, or appointed hearings officer, is the final decision of the County. This final decision is appealable to the Coos County Circuit Court by filing a Writ of Review pursuant to ORS 34.010 to 34.100.
5. For any property generating a tax foreclosure surplus, the Tax Collector shall provide a notice by both certified and first-class mail to the former owner(s) as follows:
 - a. The notice shall identify the property by tax lot number and contain the amount of the surplus, the tax foreclosure sale price of the property, the amount of the taxes, fees, and interest distributed to the taxing districts, and the amount of the distribution to the County pursuant to ORS 275.275(1)(a)-(c), including any expenditures specifically attributable to the property.
 - b. The notice shall state that the recipient has two years from the date of the letter to claim the surplus. The Tax collector shall include a form to be completed by the individual claiming the surplus. The form shall be reviewed and approved for legal sufficiency by the Coos County Office of Legal Counsel.
 - c. The notice shall state that the recipient may challenge the County's calculation of the surplus by filing a written appeal with the Tax Collector no later than one year from the date of the notice.
6. In addition to the notice mailed under Section 5 above, the Tax Collector shall publish a notice in a newspaper of general circulation in the County as follows:

1 a. The notice shall be published within fourteen (14) days of the date of mailing the
2 notice set forth in Section 5 above.

3 b. The notice shall identify, by tax lot number, each property for which a tax
4 foreclosure surplus exists. The notice shall specify the time period in which
5 former owners must file an appeal and claim the surplus funds and shall direct any
6 interested party to contact the Tax Collector's office as soon as possible for more
7 information.
8

9 7. If a former owner fails to claim tax foreclosure surplus within two years of the Section 5
10 notice, the surplus shall be deemed abandoned and revert to the possession of the County.

11 The County may distribute any unclaimed surplus in the following order:

12 a. In the event that the County's costs were not fully reimbursed by the initial
13 distribution authorized under Section 1.a. above, the unclaimed funds shall first be
14 used to reimburse the County's general fund for these remaining costs.

15 b. All remaining funds shall be distributed to the taxing districts pursuant to ORS
16 275.275(3).
17


18 8. This resolution shall remain in full force and effect until the Oregon legislature amends
19 the tax foreclosure process to comply with *Tyler v. Hennepin County*.
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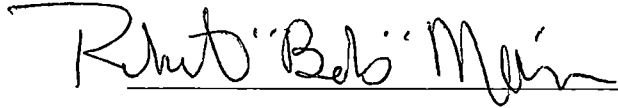
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1
2 Dated this 18th day of July, 2023.

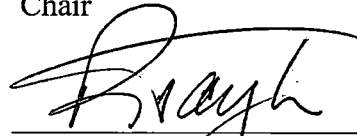
3 Approved as to form:

Coos County Board of Commissioners

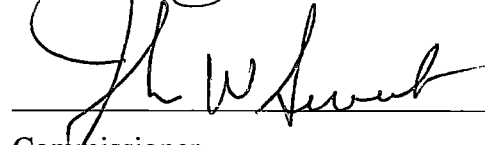
4 
5
6 Office of Legal Counsel



Chair



Commissioner



Commissioner

DESCHUTES



Touchpoints for Foreclosure Proceedings – Tax Office

- 1) Annual statement sent in October for November 15 due date. 2nd Trimester statements mailed 3rd week of January for February 15th due date. 3rd Trimester statements mailed 3rd week of April for May 15th due date.
- 2) Tax staff tries to contact every account owner by phone in March & April that has 4 years owing to let them know about the foreclosure process and to try to get them to pay the oldest year to keep them out of foreclosure.
- 3) Delinquent notice sent after May 15th with a large “NOTICE” box explaining that foreclosure proceedings may commence in August if they have a balance owing on the oldest year (2020 for this year).
- 4) A “Courtesy Notice of Pending Foreclosure” is sent out after July 16th to all homeowners with 4 years owing that are not in active bankruptcy or have an active Senior Deferral account with DOR. This notice gives all the dates of when fees will be assessed and that the account will be listed in the County’s foreclosure lawsuit if not paid by August 15th at 5 p.m.
- 5) On August 16th, a “Notice of Foreclosure Proceeding” is sent by regular and certified mail, notifying each account that still owes 4 years, that they have 30 days to respond or pay the oldest year and the fees to be removed from the foreclosure judgment.
- 6) If any of the mail is returned, all efforts are made to contact the owner to get a good forwarding address, phone number or email to ensure that they are being notified.
- 7) Notice of the next year’s tax statement with a personal letter regarding payoff information for the redemption of the property is sent to the homeowner in October of that first year of foreclosure.
- 8) Thirteen months prior to the end of the redemption period, a letter is sent certified and by regular mail to notify homeowners and all lien holders that are still in foreclosure that they have 13 months to redeem their account by paying all the taxes, interest, and fees that were part of the foreclosure. At this time, if owner is deceased, all efforts are made to locate a next of kin so they can receive the redemption notice.
- 9) Tax staff reviews all certified mail that gets returned to find a correct mailing address for owner or next of kin or lien holder and get it back out to the intended party.
- 10) Two to three months prior to the end of the redemption period, phone calls are again made to homeowners to give them notice that they are nearing the end of that redemption period.



Touchpoints Prior to Tax Deed – Property Management

- 1) Roughly 3-months prior to the end of the redemption period, Property Management staff completes site visits to ideally make in-person contact. Multiple attempts are made to make personal contact as needed.
 - a. More times than not, face-to-face contact is effective. Often property owners feel paralyzed with foreclosure and the interaction can help them get “unstuck”. During personal interactions, Property Management will help the property owner “brainstorm” on ideas to potentially bring their account current. During these interactions, open 2-way communication is encouraged.
- 2) Property Management will make calls to the property owners for follow ups, but in-person contact is primary.
- 3) Prior to recording the Tax Deed, Property Management will issue a 30-day Notice to Vacate.

Note: It’s important to recognize that between the Tax Office and Property Management, a lot of extra effort and contact is made to property owners that is not required by statute. This often results in paid property taxes and property owners retaining their property.

MORROW

In the Matter of Real Property)
Owned by Morrow County and) ORDER NO. OR-2018-12
Directing Sheriff to Conduct Sale.)

WHEREAS, foreclosure proceedings are completed, and tax deeds in the regular form have been executed by the Morrow County Tax Collector and recorded in the Deed Records of Morrow County pursuant to ORS 312.200 with respect to real properties acquired by tax foreclosure, and

WHEREAS, the property described in Exhibit "A," attached is not needed for County purposes and, thus, surplus, and

WHEREAS, it is in the best interests of the County to sell the real property described in Exhibit "A", and that the minimum price of \$11,770.00 shall be set, and

That the Sheriff of Morrow County is hereby directed to sell, in the manner provided by ORS 275.120, et. seq., the parcel(s) of real property described in Exhibit "A", which is attached hereto and by this reference incorporated herein; said sale shall be for the minimum price and upon such terms and conditions as is set forth with particularity in said Exhibit "A".

That a minimum bid of \$ 11,770 .00 will be required.

That all sales shall be deemed conditional until such time as the Morrow County Court formally accepts or rejects said sale.

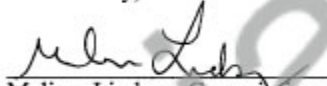
That, if the Sheriff is unsuccessful in selling any of the property listed in Exhibit "A" at said sale, said property may be sold at private sale pursuant to ORS 275.200.

Dated this 22nd day of August, 2018.

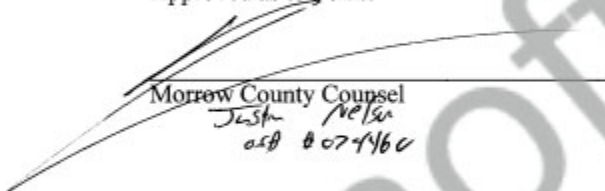
**MORROW COUNTY BOARD OF COMMISSIONERS
MORROW COUNTY, OREGON**


Don Russell, Chair


Jim Doherty, Commissioner


Melissa Lindsay, Commissioner

Approved as to Form:


Morrow County Counsel
Justin Nelson
asb 07/16/18

MORROW COUNTY, OREGON **CJ2018-0128**
Commissioners' Journal 08/22/2018 3:01:18 PM



2018-0128

I, Bobbi Childers, County Clerk for Morrow County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.

Bobbi Childers - County Clerk



SUMMARY OF FACTS AND CONCLUSIONS

Account: Acct 2461, MTL 5N2635C-208
Situs: 74609 Cain Lane
Owner of Record: Morrow County
Size: 1.39 acres
Current Use: Bare land (Cain Lane)
Zoning: Rural Residential
Highest & Best Use: Rural Residential
Date of Value: August 3, 2018
Date of Report: August 3, 2018
Estate Appraised: Fee Simple
Special Assessments: None
Taxes: Currently the property is owned by Morrow County and is exempt from taxation.

Cost Approach to Value Not Applicable

Sales Comparison Approach to Value \$23,540.00

Income Approach to Value Not Applicable

FINAL DETERMINATION OF VALUE AS OF 8/3/18: \$23,540.00

GENERAL DATA

Identification of Property

The subject property is identified as a .139 acre parcel of bare land with access from Cain Ln off of West Eighth Rd, West of the City of Irrigon.

Attached is the vicinity and location map of the property.

Zoning

The zoning for the parcel is Rural Residential. The zone is identified in the Morrow County Zoning Ordinance 3.040 and includes the following outright uses; Single-family dwelling, including a mobile home subject to requirements set forth in section 3.040 of the Morrow County Zoning Ordinances, farming, subject to requirements set forth in section 3.040 of the Morrow County Zoning Ordinances, public service utility facility, public park, recreation center, community or neighborhood center, other public uses or buildings necessary to serve the rural residential needs for the area. Permitted conditional uses are as such: Golf course, home occupation conducted in structure accessory to the dwelling, provided all other limitations of occupations are observed, water supply and sewer treatment facility, solid waste disposal site, two family dwelling (duplex).

Rural Residential has a 2 acre minimum lot size. Since this lot is only 1.39 acres and was created prior to the 2 acre minimum requirement, it is referred to as a preexisting non-conforming parcel and will receive all of the benefits as if it did conform to the zone.

Highest and Best Use Analysis

The highest and best use of the land is determined to be Rural Residential.

Site Valuation

The subject property was reappraised for 1/1/2016 as part of the normal reappraisal cycle. The appraisal area land study identified this parcel as having a market value of \$23,540.00. The value is based on a land study and site development study completed by the Morrow County Assessor's office for 1/1/15 and includes any market trending since. After reviewing recent sales of rural tract properties in the area I believe the Real Market Value to be consistent with the current assessment.

Conclusion of Value

\$23,540.00

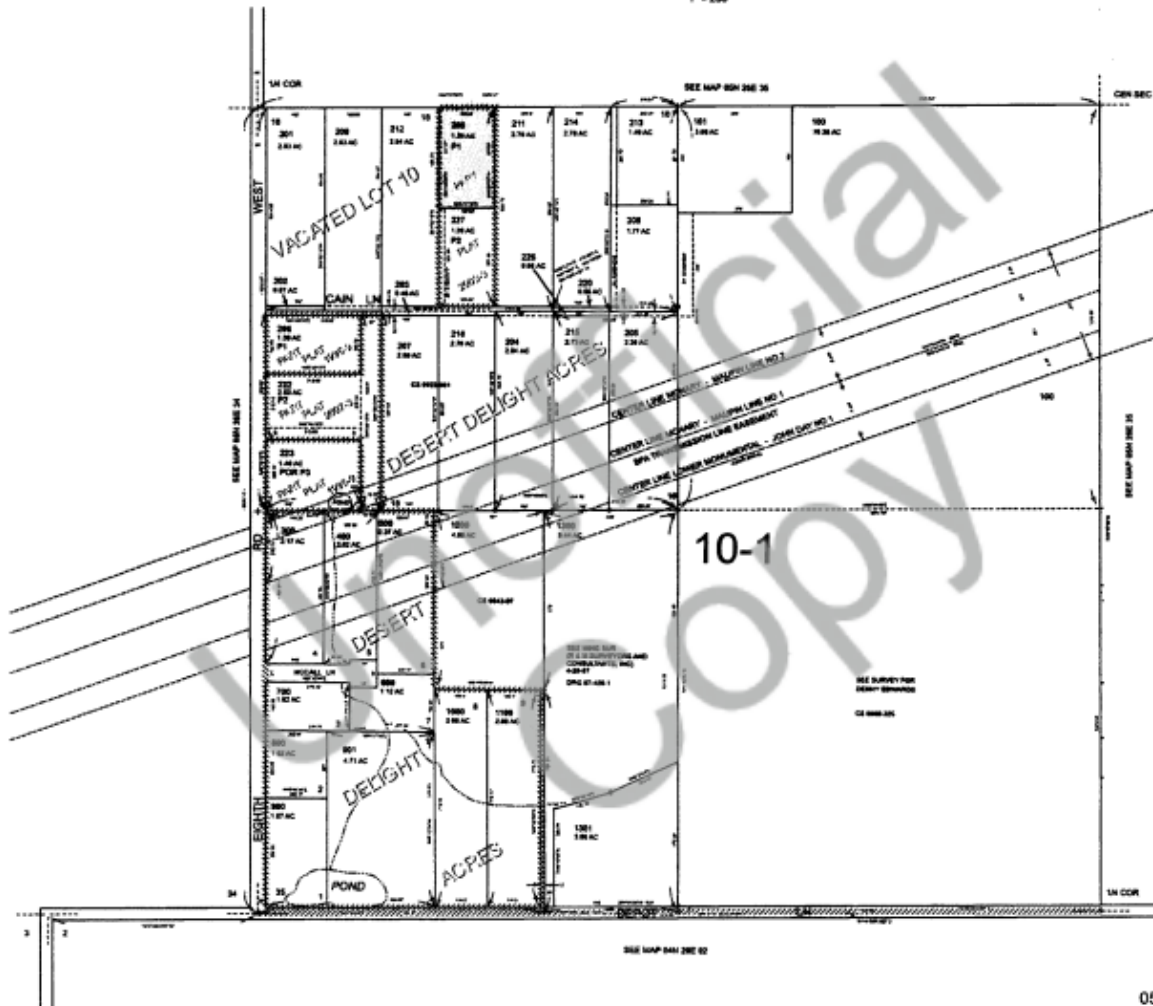
THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY



S.W.1/4 SEC.35 T.5N. R.26E. W.M.
MORROW COUNTY
1" = 200'

05N26E35C

Created:
216 1149U 218
221
224
225
228



Revised: 0C
2280213

05N26E35C

In the Matter of Real Property)
Owned by Morrow County and) ORDER NO. OR-2018-13
Directing Sheriff to Conduct Sale.)

WHEREAS, foreclosure proceedings are completed, and tax deeds in the regular form have been executed by the Morrow County Tax Collector and recorded in the Deed Records of Morrow County pursuant to ORS 312.200 with respect to real properties acquired by tax foreclosure, and

WHEREAS, the property described in Exhibit "A," attached is not needed for County purposes and, thus, surplus, and


NOW THEREFORE, be it resolved that the Morrow County Court hereby orders as follows:

That a minimum bid of \$ 11,770 .00 will be required.


That, if the Sheriff is unsuccessful in selling any of the property listed in Exhibit "A" at said sale, said property may be sold at private sale pursuant to ORS 275.200.

Dated this 22nd day of August, 2018.

**MORROW COUNTY BOARD OF COMMISSIONERS
MORROW COUNTY, OREGON**


Don Russell, Chair


Jim Doherty, Commissioner


Melissa Lindsay, Commissioner

Approved as to Form:


Morrow County Counsel

Justin Nelson
OS# 207446

MORROW COUNTY, OREGON **CJ2018-0129**
Commissioners' Journal 08/22/2018 3:01:18 PM



2018-0129

I, Bobbi Childers, County Clerk for Morrow County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.

Bobbi Childers - County Clerk



SUMMARY OF FACTS AND CONCLUSIONS

Account: Acct 10185, MTL 5N2635C-227
Situs: Cain Lane
Owner of Record: Morrow County
Size: 1.39 acres
Current Use: Bare land (Cain Lane)
Zoning: Rural Residential
Highest & Best Use: Rural Residential
Date of Value: August 3, 2018
Date of Report: August 3, 2018
Estate Appraised: Fee Simple
Special Assessments: None
Taxes: Currently the property is owned by Morrow County and is exempt from taxation.

Cost Approach to Value Not Applicable

Sales Comparison Approach to Value \$23,540.00

Income Approach to Value Not Applicable

FINAL DETERMINATION OF VALUE AS OF 8/3/18: \$23,540.00

GENERAL DATA

Identification of Property

The subject property is identified as a .1.39 acre parcel of bare land with access from Cain Ln off of West Eighth Rd, West of the City of Irrigon.

Attached is the vicinity and location map of the property.

Zoning

The zoning for the parcel is Rural Residential. The zone is identified in the Morrow County Zoning Ordinance 3.040 and includes the following outright uses; Single-family dwelling, including a mobile home subject to requirements set forth in section 3.040 of the Morrow County Zoning Ordinances, farming, subject to requirements set forth in section 3.040 of the Morrow County Zoning Ordinances, public service utility facility, public park, recreation center, community or neighborhood center, other public uses or buildings necessary to serve the rural residential needs for the area. Permitted conditional uses are as such: Golf course, home occupation conducted in structure accessory to the dwelling, provided all other limitations of occupations are observed, water supply and sewer treatment facility, solid waste disposal site, two family dwelling (duplex).

Rural Residential has a 2 acre minimum lot size. Since this lot is only 1.39 acres and was created prior to the 2 acre minimum requirement, it is referred to as a preexisting non-conforming parcel and will receive all of the benefits as if it did conform to the zone.

Highest and Best Use Analysis

The highest and best use of the land is determined to be Rural Residential.

Site Valuation

The subject property was reappraised for 1/1/2016 as part of the normal reappraisal cycle. The appraisal area land study identified this parcel as having a market value of \$23,540.00. The value is based on a land study and site development study completed by the Morrow County Assessor's office for 1/1/15 and includes any market trending since. After reviewing recent sales of rural tract properties in the area I believe the Real Market Value to be consistent with the current assessment.

Conclusion of Value

\$23,540.00

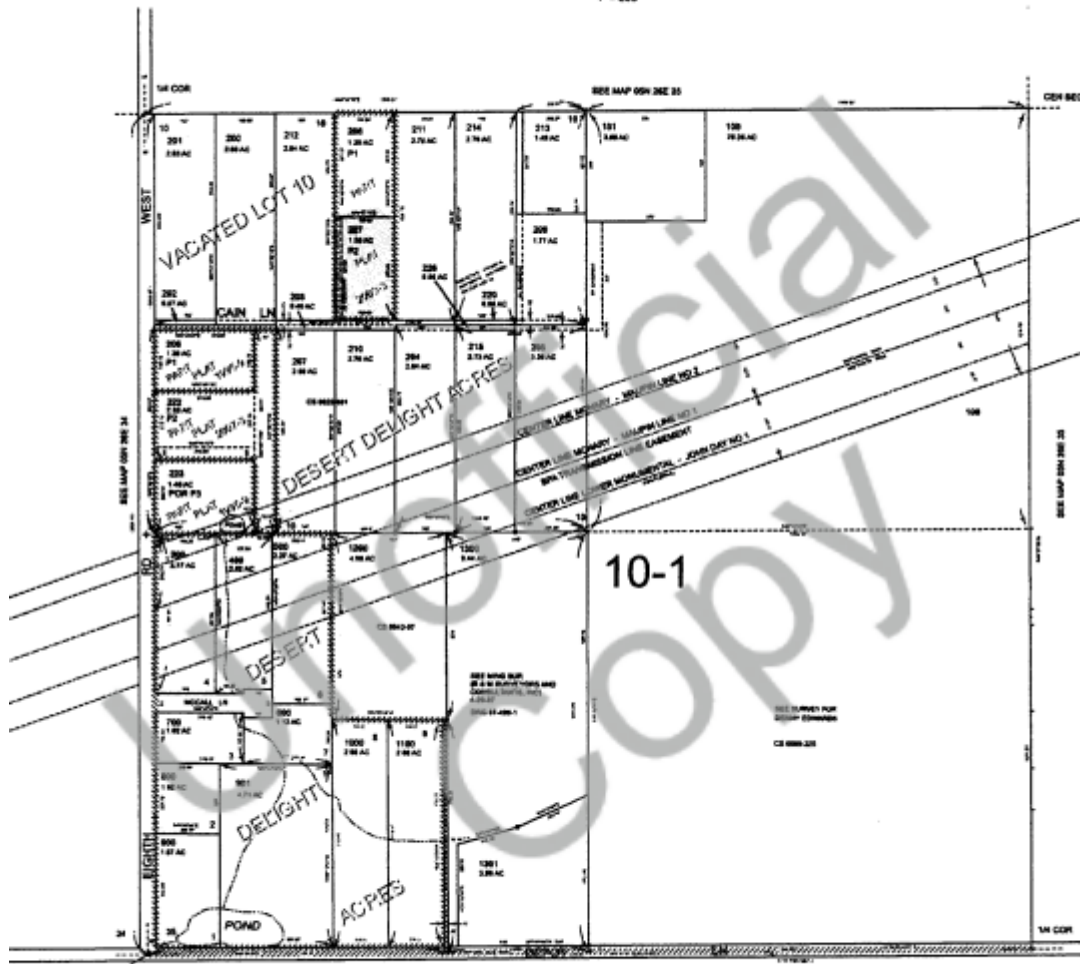
THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY



S.W.1/4 SEC.35 T.5N. R.26E. W.M.
MORROW COUNTY
1" = 200'

05N26E35C

Controlled
214 215 216 217
221
224
225
226



SEE MAP 05N 26E 35

Revised: BC
3/28/2013

05N26E35C

**BEFORE THE BOARD OF COMMISSIONERS
FOR MORROW COUNTY, OREGON**

IN THE MATTER OF
DISTRIBUTING PROCEEDS
HELD BY THE COUNTY
TREASURER FROM SALES
OF TAX FORECLOSED LANDS

)
)
)
)
)

ORDER NO.: OR-2018-14

WHEREAS, ORS 275.275(3) requires the county governing body to direct the County Treasurer by order to distribute funds held representing proceeds of sales of tax foreclosed property;

THEREFORE THE MORROW BOARD OF COMMISSIONERS ORDER:

- (1) The County Treasurer shall distribute all monies held representing proceeds for sales of tax foreclosed property provided either a deed for the property has been issued or the Court has declared such funds forfeited to the County.
- (2) Such distribution shall be to the current taxing districts in accordance with the formula provided in ORS 311.390.

DATED this 12th day of September, 2018.

MORROW COUNTY, OREGON **CJ2018-0141**
Commissioners' Journal
09/13/2018 11:29:38 AM



2018-0141


I, Bobbi Childers, County Clerk for Morrow County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.

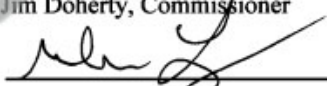
Bobbi Childers - County Clerk



**BOARD OF COMMISSIONERS OF
MORROW COUNTY, OREGON**


Don Russell, Chair


Jim Doherty, Commissioner


Melissa Lindsay, Commissioner



AGENDA ITEM COVER SHEET
Morrow County Board of Commissioners
(Page 1 of 2)

(For BOC Use)
Item #

Please complete for each agenda item submitted for consideration by the Board of Commissioners
(See notations at bottom of form)

Staff Contact: Justin Nelson
Department: County Counsel

Phone Number (Ext): 5627
Requested Agenda Date: 9/12/2018

Short Title of Agenda Item: Distributing Foreclosure Sale Proceeds Order
(No acronyms please)

This Item Involves: (Check all that apply for this meeting.)

- | | |
|---|--|
| <input checked="" type="checkbox"/> Order or Resolution | <input type="checkbox"/> Appointments |
| <input type="checkbox"/> Ordinance/Public Hearing: | <input type="checkbox"/> Update on Project/Committee |
| <input type="checkbox"/> 1st Reading <input type="checkbox"/> 2nd Reading | <input type="checkbox"/> Consent Agenda Eligible |
| <input type="checkbox"/> Public Comment Anticipated: | <input type="checkbox"/> Discussion & Action |
| Estimated Time: | Estimated Time: |
| <input type="checkbox"/> Document Recording Required | <input type="checkbox"/> Purchase Pre-Authorization |
| <input type="checkbox"/> Contract/Agreement | <input type="checkbox"/> Other |

☐ N/A

Purchase Pre-Authorizations, Contracts & Agreements

Contractor/Entity:

Contractor/Entity Address:

Effective Dates – From:

Through:

Total Contract Amount:

Budget Line:

Does the contract amount exceed \$5,000? ☐ Yes ☒ No

Reviewed By:

Department Head

Required for all BOC meetings

Justin Nelson DATE 9/12/18

Admin. Officer/BOC Office

Required for all BOC meetings

JWN- 9-7-2018

County Counsel

*Required for all legal documents

Justin Nelson DATE 9/12/18

Finance Office

*Required for all contracts; other items as appropriate.

Human Resources

*If appropriate

DATE

* Allow 1 week for review (submit to all simultaneously). When each office has notified the submitting department of approval, then submit the request to the BOC for placement on the agenda.

Note: All other entities must sign contracts/agreements before they are presented to the Board of Commissioners (originals preferred). Agendas are published each Friday afternoon, so requests must be received in the BOC Office by 1:00 p.m. on the Friday prior to the Board's Wednesday meeting. Once this form is completed, including County Counsel, Finance and HR review/sign-off (if appropriate), then submit it to the Board of Commissioners Office.

AGENDA ITEM COVER SHEET
Morrow County Board of Commissioners
(Page 2 of 2)

1. ISSUES, BACKGROUND, DISCUSSION AND OPTIONS (IF ANY):

The Morrow County real estate owned manufactured home in Irrigon has completed the process for the sale.

ORS 275.275 specifies how proceeds from the sale of county foreclosed properties are to be distributed. ORS 275.275(6) requires that the distribution must occur after the signing of an order by the County Court. The County Treasurer does not have the authority to distribute the funds until the County Order is signed.

To conform to the statutory requirements of ORS 275.275, I have prepared the attached Order Distributing Proceeds.

2. FISCAL IMPACT:

3. SUGGESTED ACTION(S)/MOTION(S):

Motion to approve Order Number OR-2018-14.

☒ Attach additional background documentation as needed.

BEFORE THE BOARD OF COMMISSIONERS
FOR MORROW COUNTY, OREGON

IN THE MATTER OF
DISTRIBUTING PROCEEDS
HELD BY THE COUNTY
TREASURER FROM SALES
OF TAX FORECLOSED LANDS

ORDER NO. OR-2018-23

WHEREAS, ORS 275.275(3) requires the county governing body to direct the County Treasurer by order to distribute funds held representing proceeds of sales of tax foreclosed property;

THEREFORE THE MORROW COUNTY BOARD OF COMMISSIONERS ORDER:

- (1) The County Treasurer shall distribute all monies held representing proceeds for sales of tax foreclosed property provided either a deed for the property has been issued or the Court has declared such funds forfeited to the County.
- (2) Such distribution shall be to the current taxing districts in accordance with the formula provided in ORS 311.390.

DATED this 12th day of December 2018.

BOARD OF COMMISSIONERS OF
MORROW COUNTY, OREGON

Don Russell, Chair

Jim Doherty, Commissioner

Melissa Lindsay, Commissioner

Approved as to Form:

Richard S. Torrey OSB 044373
Morrow County Counsel

MORROW COUNTY, OREGON CJ2018-0191
Commissioners' Journal 12/13/2018 7:54:57 AM



2018-0191

I, Bobbi Childers, County Clerk for Morrow County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.

Bobbi Childers - County Clerk





AGENDA ITEM COVER SHEET
Morrow County Board of Commissioners
(Page 1 of 2)

(For BOC Use)
Item #

4b

Please complete for each agenda item submitted for consideration by the Board of Commissioners
(See notations at bottom of form)

Staff Contact: Richard Tovey
Department: County Counsel
Short Title of Agenda Item:
(No acronyms please)

Phone Number (Ext): 5410
Requested Agenda Date: 12-12-2018

Order Distributing Foreclosure Sale Proceeds

This Item Involves: (Check all that apply for this meeting.)

- | | |
|---|--|
| <input checked="" type="checkbox"/> Order or Resolution | <input type="checkbox"/> Appointments |
| <input type="checkbox"/> Ordinance/Public Hearing: | <input type="checkbox"/> Update on Project/Committee |
| <input type="checkbox"/> 1st Reading <input type="checkbox"/> 2nd Reading | <input type="checkbox"/> Consent Agenda Eligible |
| <input type="checkbox"/> Public Comment Anticipated: | <input type="checkbox"/> Discussion & Action |
| Estimated Time: | Estimated Time: |
| <input type="checkbox"/> Document Recording Required | <input type="checkbox"/> Purchase Pre-Authorization |
| <input type="checkbox"/> Contract/Agreement | <input type="checkbox"/> Other |

☒ N/A

Purchase Pre-Authorizations, Contracts & Agreements

Contractor/Entity:

Contractor/Entity Address:

Effective Dates – From:

Through:

Total Contract Amount:

Budget Line:

Does the contract amount exceed \$5,000? ☐ Yes ☒ No

Reviewed By:

| | | |
|---------------|---------------------------|--|
| _____ | Department Head | Required for all BOC meetings |
| DATE | | |
| _____ | Admin. Officer/BOC Office | Required for all BOC meetings |
| DATE | | |
| Richard Tovey | 12-10-2018 | County Counsel |
| DATE | | |
| _____ | Finance Office | *Required for all legal documents |
| DATE | | |
| _____ | Human Resources | *Required for all contracts; other items as appropriate. |
| DATE | | |
| | | *If appropriate |

Note: All other entities must sign contracts/agreements before they are presented to the Board of Commissioners (originals preferred). Agendas are published each Friday afternoon, so requests must be received in the BOC Office by 1:00 p.m. on the Friday prior to the Board's Wednesday meeting. Once this form is completed, including County Counsel, Finance and HR review/sign-off (if appropriate), then submit it to the Board of Commissioners Office.

Rev: 3/28/18

AGENDA ITEM COVER SHEET

Morrow County Board of Commissioners

(Page 2 of 2)

1. ISSUES, BACKGROUND, DISCUSSION AND OPTIONS (IF ANY):

The Morrow County Assessor's Office completed the sale of three properties by Sheriff's sale.

ORS 275.275 specifies how proceeds from the sale of county foreclosed properties are to be distributed. ORS 275.275(6) requires that the distribution must occur after the signing of an order by the county governing body. The County Treasurer does not have the authority to distribute the funds until the County Order is signed.

To conform to the statutory requirements of ORS 275.275, I have prepared the attached Order Distributing Proceeds.

2. FISCAL IMPACT:

3. SUGGESTED ACTION(S)/MOTION(S):

Motion to approve Order Number OR-2018-23.

☒ Attach additional background documentation as needed.

YAMHILL



ADMINISTRATIVE POLICIES

| | | | |
|----------------------|--|----------------------|-------------------|
| SECTION: | Yamhill County Facilities Policies | POLICY NO.: | 208 |
| TITLE: | Tax Foreclosed Property Management and Disposition Policy | | |
| BOARD ORDERS: | B.O. 23-49; B.O. 23-398 | LAST REVISED: | 10/26/2023 |

I. PURPOSE

- 1.01 **Purpose.** The purpose of this policy is to establish procedures for managing and conveying parcels of tax foreclosed property to the general public, or to Local Municipalities, Governmental Bodies, or Qualifying Nonprofits as applicable, in a fair and equitable manner for the benefit of the taxing districts, the County, and the public good.

II. DEFINITIONS

As used in this policy, the following definitions apply:

“**Board**” is the Yamhill County Board of Commissioners.

“**County**” means Yamhill County.

“**County Counsel**” means the Yamhill County Counsel, or his/her duly appointed representative.

“**Governmental Body**” means the State of Oregon, a political subdivision thereof, the United States of America, or an agency thereof.

“**Foreclosed Property**” means real property located in Yamhill County that is subject to a foreclosure judgment under ORS 312, but that has not yet been deeded to the County.

“**Improved Real Property**” is Real Property on which permanent improvements, or improvements under construction or in process of construction, suitable for residence, institutional, commercial, or industrial use, are situated.

“**Local Municipality**” means a unit of local government located within Yamhill County.

“Permissible Purpose” means any of the following purposes:

1. To provide low-income housing, social services, or childcare services; or
2. For the creation of open space, parks, or natural areas for perpetual public use.

“Personal Property” means tangible goods or items left upon Real Property, including, but not limited to, furniture, personal effects, movable tools and equipment, and manufactured dwellings that are considered separate from the Real Property under the County’s tax assessment roll. Personal Property does not include “motor vehicle” as set forth in ORS 801.590.

“Property Management” means the department and/or individual designated by the County Administrator as the manager of tax-foreclosed real property.

“Public Purpose” means a purpose of promoting the collective health, safety, and general welfare of the citizens of Yamhill County.

“Qualifying Nonprofit” means a corporation that is a public benefit corporation as defined in ORS 65.001 and that has obtained a ruling from the federal Internal Revenue Service providing that the corporation is exempt from federal income taxes under section 501(c)(3) of the Internal Revenue Code.

“Record Owner” means the person, corporation, or entity who held legal title to Real Property on the date it was conveyed to the County as a result of tax foreclosure proceedings.

“Real Property” means the land, and all buildings, structures, improvements, machinery, equipment or fixtures erected on, above, or under the land, to which the County has obtained title through tax foreclosure.

“Sheriff” means the Yamhill County Sheriff, or his/her duly appointed representative.

“Social services” and **“childcare services”** means, but is not limited to, education, training counseling, health and mental health services, and the provision of facilities and administrative services to support social services and childcare services.

III. MANAGING TAX-FORECLOSED PROPERTIES

3.01 Redemption Period; Deeding Foreclosed Property to the County.

- A. Pursuant to ORS 312.120, all Foreclosed Property shall be held by the County for a period of two years after the date of the judgment of foreclosure.
- B. Upon expiration of the two-year redemption period, the County Counsel shall prepare and record a deed transferring ownership to the County for any Foreclosed Property not otherwise redeemed. Deeds should be recorded no later than December 31st of that year.
- C. The County’s deed shall include a legal description of the Foreclosed Property. The legal description may be taken from prior deeds, title reports, or as prepared by a licensed surveyor if otherwise unavailable.
- D. Any person having a lawful interest in a Foreclosed Property shall be given the opportunity to redeem the Foreclosed Property up until the date it is officially deeded to the County.

3.02 Real Property Initial Evaluation; Insurance; Ongoing Inspections.

- A. At the time the Real Property is deeded to the County, or as soon thereafter as time and resources allow, Property Management shall evaluate the Real Property for signs of occupancy, debris, security issues, hazardous conditions, or other abatement needs and inform the County Counsel of its findings. A County Inspection Form (Addendum A) may be utilized at the discretion of Property Management.
- B. The County Counsel shall inform the Yamhill County Administrator if it's determined that Real Property requires an environmental assessment due to probable contamination. Board approval is required prior to engaging in a Phase I or Phase II Environmental Site Assessment.
- C. County Counsel shall recommend to the Yamhill County Administrator which Real Property is to be added to the County's various insurance policies based on the following:
 - 1. Improved Real Property should be added to the County's General Liability insurance policy.
 - 2. Real Property with a high real market value, or which is likely to contain pollutants, asbestos, and/or other hazardous waste, should be added to the County's Property insurance policy.
 - 3. Improved Real Property which has not been added to the County's Property insurance policy, but which may still pose a financial risk to the County due to dilapidation or disrepair, should be added as a Debris Removal Only Endorsement to the County's Property insurance policy.
- D. Property Management shall request a general, nonbinding evaluation from the Yamhill County Tax Assessor as to the accuracy of the market value of the Real Property and note any potential discrepancies on the County Inspection Form.
- E. Property Management shall note on the County Inspection Form whether the Real Property is a "buildable lot" under state and local code. Where buildable status is uncertain, Property Management may request the assistance of the Yamhill County Planning and Development Department in providing a nonbinding assessment of the Real Property's buildable status.
- F. Property Management shall inspect the Real Property on an ongoing, regular basis. If any changes in occupancy, debris, security issues, hazardous conditions of the Real Property are observed, Property Management shall immediately notify and report those findings to the County Counsel.

3.03 Risk Mitigation Procedures for Structures. Property Management may take the following steps to mitigate any risk of unlawful use of Real Property structures (non-exclusive):

- A. Cancel all utilities (unless needed for safety and/or security purposes);
- B. Change all locks;
- C. Disconnect garage door openers;

- D. Post no trespassing signs at each entrance to the structure;
- E. Board up doors and windows, if needed;
- F. Install lighting timers to ensure the exterior is well lit; and
- G. Move items inside whenever possible.

3.04 Vegetation Management. Property Management shall attempt, to the best of its abilities, to manage vegetation growing on Real Property in such a way as to prevent:

- A. Excessive growth of foliage that diminishes the value of any adjacent property;
- B. Trespassers or squatters to remain on the Real Property;
- C. Mosquito larvae or pupae to grow in standing water on the Real Property; or
- D. Other conditions on the Real Property that cause or contribute to causing a public nuisance or other violation of law.

3.05 Removing Abandoned Non-vehicular Property.

- A. If a former owner or occupant of Real Property leaves behind Personal Property, the County shall abide by the procedures provided in this section to ensure that the owner of the Personal Property, or any lienholder thereto, has been given adequate opportunity to reassert ownership and to retrieve the item(s).
- B. Prior to storing, selling, or disposing of Personal Property left upon Real Property, Property Management shall provide written notice to the former owner stating that the County is in possession of their Personal Property. The notice shall include the following information:
 - i. Personal Property has been left upon the premises and is considered abandoned;
 - ii. The former owner or any lienholder must contact the County by a specified date to arrange for the removal of the Personal Property. The specified date by which a former owner or lienholder must contact the County is:
 - 1) For manufactured dwellings, not less than 45 days after personal delivery or mailing of the notice; or
 - 2) For all other Personal Property, not less than five (5) days after personal delivery or eight (8) days after mailing of the notice;
 - iii. The Personal Property is being safely stored at the Real Property or, if applicable, being stored at a secured storage facility;
 - iv. The former owner or any lienholder may arrange for removal of the Personal Property by contacting the County at a provided telephone number or address on or before the specified date;

- v. The County shall make the Personal Property available for removal by appointment only and only at reasonable times; and
 - vi. If the former owner or any lienholder fails to contact the County by the specified date, or after that contact, fails to remove the Personal Property within 15 days (or within 30 days for manufactured dwellings), the County may sell or dispose of the Personal Property at its discretion. If the County reasonably believes the Personal Property should be disposed of, or if the County intends to dispose of the Personal Property if it is not claimed, the notice shall state that belief and intent.
- C. For lienholders, notice shall be delivered via first class mail and certified mail, with a return receipt requested. For all else, notice shall be:
 - i. Personally delivered to the former owner; or
 - ii. Sent by first class mail addressed and mailed to the former owner at either:
 - 1) Any post-office box known to be held by the former owner; or
 - 2) The most recent forwarding address, if known by the County.
- D. After notifying the former owner, and/or any lienholder as applicable, Property Management shall safely store the Personal Property either at the Real Property or in a secured storage facility. Property Management should promptly dispose of rotting food and allow an animal control agency to remove any abandoned pets or livestock, if necessary.
- E. If the former owner or any lienholder responds to the written notice on or before the specified date and requests retrieval of any personal property, Property Management shall make that personal property available for removal by appointment during the 15 days (or in the case of manufactured dwellings, 30 days following the date of the response).
- F. If the former owner or lienholder does not respond or remove the Personal Property within the time required, Personal Property is conclusively presumed to be abandoned, and Property Management may dispose of it by:
 - i. Selling the Personal Property at a public sale or auction pursuant to state law;
 - ii. Donating the Personal Property without consideration to a nonprofit organization;
 - iii. Destroying or otherwise discarding of the Personal Property if the current fair market value of the personal property is estimated to be less than \$1,000 (or \$8,000 for manufactured dwellings);
 - iv. Disposing of the Personal Property pursuant to the provisions of the Oregon Uniform Disposition of Unclaimed Property Act, ORS 98.302 to 98.436; or
 - v. Some combination thereof.

3.06 Removing Motorized Vehicles Left Upon Real Property.

- A. If a former owner or occupant of Real Property leaves behind a motor vehicle, Property Management shall abide by the procedures provided in this Section to ensure that the owner of the motor vehicle, or any lienholder thereto, has been given adequate opportunity to reassert ownership and to retrieve the vehicle(s).
- B. Prior to towing a motor vehicle left upon Real Property, Property Management shall:
 - i. Affix notice to the vehicle stating that the vehicle will be towed if it is not removed pursuant to ORS 98.830; and
 - ii. Run a title search on the motor vehicle(s) and provide written notice to all registered owners and lienholders (if any) stating that the County is in possession of the motor vehicle(s) and intends to tow it if it is not immediately removed.
- C. The notice required of subsection (B) shall be signed by an authorized County employee and shall include the following information:
 - i. The motor vehicle is unlawfully parked in violation of ORS 98.810;
 - ii. That the motor vehicle will be towed pursuant to ORS 98.830 if it is not removed by a given deadline. Such a deadline shall be no less than five (5) business days from the date of the notice;
 - iii. A description of the motor vehicle to be towed;
 - iv. The location of the Real Property from which the motor vehicle will be towed;
 - v. Contact information for the County;
 - vi. A statement confirming that, if the motor vehicle is towed, the tower will have the right to retain possession of the vehicle and its contents until the just and reasonable charges for the towage, care, and storage have been paid; and
 - vii. A statement that the County has complied with the requirements of ORS 98.830.
- A. Notice shall be delivered via first class mail and certified mail, with a return receipt requested.
- B. If the registered owner or any lienholder fails to remove the motor vehicle prior to the stated deadline, Property Management may have the vehicle towed pursuant to the provisions of ORS 98.830.
- C. A County employee that tows a motor vehicle under this section must keep written documentation of the following information:
 - i. The location from which the motor vehicle was towed;
 - ii. The circumstances of the tow;
 - iii. A description of the motor vehicle and a copy of the title search;
 - iv. A copy of all notices;

- v. The name and contact information of the tower used to tow the motor vehicle; and
- vi. The location where the motor vehicle is being lawfully stored.

3.07 Ejectment of Occupants; Valid Lease Holders.

- A. Real and actual notice to vacate shall be delivered by Property Management upon the occupants of the Real Property via both first class mail and in-person service and/or posting.
- B. In the event that an occupant refuses to vacate Real Property after receiving notice to vacate in accordance with subsection (A), the County Counsel may proceed with requesting a Writ of Assistance from a judicial court in accordance with ORS 107.437.
- C. If the occupants of any tax-foreclosed Real Property are able to demonstrate that they are subject to a valid, enforceable lease agreement, the County may, at the discretion of the Board:
 - i. Uphold and maintain the landlord-tenant relationship when doing so is deemed to be in the best interests of the County; or
 - ii. Proceed with evicting the tenant in compliance with ORS 90 if the occupancy is residential, or ORS 91 if the occupancy is commercial.

3.08 Cleanup of Toxic Contamination from Illegal Drug Manufacturing.

- A. In the event that Property Management suspects that Real Property may have been involved in the manufacture or distribution of illegal drugs, it shall work with the County Counsel to determine if the Real Property is “fit for use” pursuant to ORS 105.555, 431.175, and 453.855 to 453.912 and the rules of the Oregon Health Authority (OHA), or as authorized by ORS 453.870.
- B. If Real Property is determined to not be “fit for us”, the County may only sell the property if it includes a full, written disclosure, which shall be attached to the earnest money receipt (or any other receipt as provided) and the sale document, though it is not to be recorded.
- C. The County may, at the Board’s discretion, provide notice to neighboring properties of the contamination in accordance with ORS 453.876.
- D. At the Board’s discretion, and in coordination with local health and law enforcement entities, the County may engage the services of a contractor licensed by the Oregon Health Authority to decontaminate the Real Property pursuant to the provisions of 453.855 to 453.912 and other applicable law as required.

IV. DISPOSITION OF TAX-FORECLOSED PROPERTIES

4.01 General Policy; Order of Priority for the Use, Transfer, or Sale of Excess Real Property; Deeds and Purchase Sale Agreements.

- A. The County’s primary goal for Real Property is to have it reinstated to the Tax Roll or into public use.

- B. The County shall convey Real Property by quitclaim deed and shall make no representation about the value, zoning, suitability for any purpose, building feasibility, environmental condition, wetland designation, forest zones, easements, city ordinances and regulations or any other matter. All Real Property shall be conveyed “AS IS”.
- C. The Board has established the following preferred order of priority for the use, transfer, or sale of Real Property:
 - i. Sale to the former owner if requested and qualified;
 - ii. Sale at public auction;
 - iii. Retention by the County for ongoing County use;
 - iv. Transfer to a Governmental Body, Local Municipality, or Qualifying Nonprofit for the purposes provided in Section 3.04;
 - v. Transfer to any nonprofit, Local Municipality, or private corporation for the purpose of providing broadband service; and
 - vi. Sale by private sale.
- D. The County Counsel shall prepare all deeds, purchase sale agreements, and other transactional documents required for transferring ownership (or other rights) of Real Property. All such transactional documents must be approved by the Board.

4.02 Sale to Former Owner. If the former owner indicates an interest to reacquire Real Property, the County Counsel shall follow procedures in accordance with ORS Chapter 275.180 and as otherwise set forth in these procedures.

4.03 Retention by the County for County Use.

- A. The County Counsel shall provide a listing of available Real Property annually to both the Board and any interested County departments for review and recommendation as to whether the Real Property is needed for County use.
- B. Any Real Property not needed for County use is deemed to be excess Real Property and is subject to sale or transfer as provided in this policy.

4.04 Transfer to a Local Government, Local Municipality, or Qualifying Nonprofit.

- A. *Transfer to Governmental Body for a Public Purpose.* In accordance with ORS 271.330(1), the County may relinquish title to Real Property not needed for public use to any Governmental Body, provided the Real Property is used for not less than twenty (20) years for a Public Purpose.
 - i. Before transferring Real Property under this section (A), the County Counsel shall advertise in a newspaper of general circulation in Yamhill County once per week for two successive weeks the Board’s intention to transfer the Real Property. The notice must state when the Board will hear objections to the transfer and must specifically describe the Real Property intended to be transferred. After the hearing set in the notice

is held and objections are heard, the Board may, at the Board's sole discretion, proceed with the transfer of the Real Property.

- B. *Transfer to Local Municipality or Qualifying Nonprofit for a Permissible Purpose.* In accordance with ORS 271.330(2)-(3), the County may relinquish title to Real Property not needed for public use to a Local Municipality or Qualifying Nonprofit for a Permissible Purpose.
- C. Except in the case of a title transfer for low-income housing, Real Property transferred under this section shall be deeded subject to a reversionary interest retained by the County in the event that the Real Property is used for a purpose that is inconsistent with purpose of the transfer originally granted by the County. At their sole discretion, the Board may waive the County's right to a reversionary interest at the time the Real Property is conveyed.

4.05 Transfer for the Purpose of Providing Broadband Services.

- A. In accordance with ORS 271.330(4), the County may relinquish title to Real Property to any nonprofit, Local Municipality, or private corporation for the purpose of providing broadband service.
- B. Real Property transferred under this section shall be deeded subject to a reversionary interest retained by the County in the event that the Real Property is no longer being used for the purpose of providing broadband services. At their sole discretion, the Board may waive the County's right to a reversionary interest at the time the Real Property is conveyed.

4.06 Sale by Private Sale.

- A. The following Real Property may be sold via private sale:
 - i. Pursuant to ORS 275.200, Real Property that failed to sell at public auction (see Section 3.07(G) for additional requirements);
 - ii. Industrial property in accordance with ORS 275.318;
 - iii. Pursuant to ORS 275.225, Real Property that:
 - 1) Has a real market value of less than \$15,000 on the Tax Roll; and
 - 2) Is unsuited for the construction or placement of a dwelling unit under applicable zoning ordinances and building codes; and
 - iv. Real Property that is otherwise authorized to be privately sold by law.
- B. *Notification of Private Sale.*
 - i. Whenever possible, a description of the Real Property available for private sale shall be made available to the public at the County Counsel's Office and on the Yamhill County website. At minimum, the description shall contain the following information:
 - 1) The Real Property's Tax Lot Number;

- 2) The Real Property Tax Account Number;
 - 3) A legal description of the Real Property;
 - 4) The real market value of the Real Property; and
 - 5) The minimum price for which the Real Property may be sold, if any.
- ii. Upon order of the Board, the County Counsel shall publish a notice of a private sale of Real Property in a newspaper of general circulation in Yamhill County. At its discretion, the County Counsel may mail notice of a private sale of Real Property to any known interested parties, including surrounding property owners, if any.

C. *Additional Private Sale Requirements.*

i. **Offer Forms.**

- 1) Except as otherwise provided herein, all offers to purchase via a private sale shall be submitted on an “Offer Form” as provided by the County Counsel.
- 2) All submitted Offer Forms shall be accompanied by a money order or by cashiers’ check, made out to Yamhill County, for at least 10% of the bid amount (the “deposit”).
- 3) The Offer Form shall contain the following statement: “The Real Property is being sold “AS IS” and the County makes no representation about the value, zoning, suitability for any purpose, building feasibility, environmental condition, wetland designation, forest zones, easements, city ordinances and regulations, nor any other matter in relation to the Real Property.”

- ii. **Receipt of an Offer.** All offers shall be submitted in a sealed envelope, with the Real Property’s tax lot number labeled on the outside of the envelope. The County Counsel shall date and timestamp a sealed offer envelope upon receipt.

- iii. **Opening of Offers.** Sealed bids shall be opened publicly at the next available Board meeting. If a subsequent bid(s) is received for a property that already has a sealed bid pending, the subsequent bid(s) shall also be opened at the same Board meeting as the initial bid, unless unforeseen circumstances prevent it.

- iv. **Acceptance of an Offer.** The Board will consider all satisfactory bid offers during its regularly-scheduled Board meetings. The Board will either: 1) reject all bids received for a certain property; 2) accept the “highest and best” bid offered and order staff to proceed with a sale; or 3) delay formal acceptance of a bid and order staff to engage in additional outreach to potential buyers. Once an offer is accepted by the Board, the deposit shall be non-refundable, and payment in full shall be due within ten (10) business days.

- v. **Notification of Winning Offer.** Once an offer has been accepted by the Board, the County Counsel shall immediately notify the winning offeror and return to any non-winning offeror their respective deposit.

- vi. **Failure to Consummate Offer.** If the winning offeror fails to consummate the sale within ten (10) business days, the deposit shall be retained by the County, and the Real Property will then be offered to the next-highest offeror, if any. If the next-highest offeror does not exercise the purchase option, or if no additional offers are received, the Real Property shall be placed on the County's "Available Property List" and/or offered at future auctions upon recommendation of the Board.

4.07 Sale at Public Auction.

- A. In accordance with ORS 275.110, the Board shall enter an order directing the Sheriff to sell at public auction any excess Real Property not otherwise transferred or sold as permitted in this policy. The order shall:
 - i. List all properties to be sold;
 - ii. Establish the terms and conditions of the sale; and
 - iii. Fix the minimum price for which each parcel may be sold.
- B. Properties are normally sold with the minimum bid set at 75% of the current real market value (RMV) as estimated by the County Assessor, unless otherwise authorized by the Board. However, the minimum bid amount should be sufficient to recover the unpaid property taxes on the Real Property and any costs and expenses incurred by the County in the maintenance and supervision of the Real Property.
- C. Upon approval of the order, the County Counsel shall publish notice of the sale of the Real Property pursuant to ORS 275.120. In addition, a description of the Real Property to be auctioned shall be made available to the public at the County Counsel's Office and on the Yamhill County website.
- D. With the assistance of the County Counsel, Real Property shall be auctioned by the Sheriff at a designated location and time in accordance with ORS 275.140.
- E. All public auctions shall adhere to the following requirements:
 - i. *Registration.*
 - 1) Individuals intending to bid or purchase Real Property must first register with the County. Registration shall be opened to the public at least one hour prior to the auction start time.
 - 2) Bidders must be present at the auction. Property Management shall not allow absentee bidding.
 - i. *Bidding.*
 - 1) The County shall only accept oral bids during the auction. Any sealed bids received by the County shall be rejected.
 - 2) Bids for less than the advertised minimum bid shall not be accepted.

3) Bidding shall be done in increments of \$100.00.

i. *Payment & Fees.*

- 1) Successful bidders must immediately pay the County an amount equal to 20% of the minimum advertised price for the Real Property purchased (the “deposit”). Once accepted from the winning bidder, deposits are not refundable.
- 2) Full payment shall be made by the winning bidder within two business days following the auction. The County shall not carry contracts or purchase agreements for publicly auctioned Real Property.
- 3) Payment must include the bid amount plus all applicable recording fees.
- 4) Payment shall be made in cash, money order, or by cashiers’ check, made payable to “Yamhill County”.

i. *Certificate of Sale and Receipt; Deed.*

- 1) The County shall issue a “Certificate of Sale and Receipt” to the winning bidder at the time of payment. The “Certificate of Sale and Receipt” shall be signed by the successful bidder and shall include the amount of the sale and the name that is to be recorded on the deed.
- 2) The County shall deed the Real Property to the winning bidder no later than thirty (30) days following payment.

F. The County may remove any Real Property from a public auction if the Board deems it to be in the best interest of the County.

G. Real Properties offered but not sold at a public auction are to be sold on a first-come-first-serve basis after the auction via the private sale process outlined in Section 3.06. Such properties should initially be listed with a minimum bid price of 90% of the auction minimum bid, with the price being lowered at least monthly until the property sells or the price reaches 15% of the auction minimum bid. Notwithstanding the foregoing, the minimum bid price of certain Real Properties may be lowered immediately to 15% of the auction minimum bid amount if it is determined to be in the best interests of the County (e.g., Real Properties with significant expenses or risk).

4.08 Request for Proposals. At the discretion of the Board, and where permitted by law, the County may sell Real Property by releasing a Request for Proposals whereby the County seeks out prospective buyers and requests written proposals for the purchase and development of the Real Property. The terms of any such Request for Proposal shall be determined by the Board on a case-by-case basis.

4.09 Surplus Proceeds from Sale of Real Property.

A. If the sale amount for any Real Property sold exceeds the back taxes owed, plus interest, the surplus proceeds from the sale shall be refunded, following payment of all amounts authorized under ORS 275.275, upon application of the Record Owner of the Real Property.

- B. Applications for Surplus Proceeds shall be in a form substantially similar to Addendum 2, attached hereto.
- C. Assignments of interests, deeds, or other documents executed or recorded after Real Property is deeded to the County shall not affect the payment of surplus proceeds to the Record Owner as described herein.
- D. In the event that no claim for the surplus proceeds is received by the County within two (2) years after the date of the sale, the County shall, at expiration of the two-year period, distribute the surplus funds as provided in ORS 275. Pursuant to ORS 98.336, the expiration of the two-year period extinguishes all claims by any Record Owner to the surplus proceeds.
- E. Any determination or decision made by the County under this Section 4.09 is subject to review by the Yamhill County Circuit Court via a Writ of Review proceeding pursuant to the provisions of ORS 34.

4.10 Surplus Proceeds Procedure when Real Property is Retained by the County or Transferred to a Local Government, Local Municipality, or Qualifying Nonprofit.

- A. If the County retains Real Property as permitted under Section 4.03, or if the County transfers Real Property as permitted under Sections 4.04 and 4.05, the County shall provide notice to the Record Owner of its intent to retain or transfer the Real Property.
- B. The County shall send written notice to the Record Owner, if known, by either registered or certified mail notifying them of the County's intent to retain or transfer the Real Property. The notice shall, at minimum, include the following information:
 - 1) A statement that the County intends to retain or transfer the Real Property, and that the Record Owner has the right to object to the retention or transfer;
 - 2) An accounting of:
 - i. The total amount of back-taxes owed, plus interest, for the Real Property;
 - ii. The total amount of expenses expended by the County in the maintenance and supervision of the Real Property; and
 - iii. The total fees and penalties that are lawfully owed on the Real Property;
 - 3) An explanation that, if the Record Owner wishes to object to the retention or transfer, a notice of objection may be filed with the Board not less than 10 days from the date of the notice; and
 - 4) Clarification that any objection must contain information adequate to ascertain whether the Real Property has a market value substantially exceeding the amount of back-taxes owed, plus interest, all expenses expended by the County for the maintenance and upkeep of the Real Property, and any fees or penalties otherwise permitted by law.
- C. If an objection is adequately and timely filed, the Board shall, at the next regular meeting, hear the objections and determine if the Record Owner has a right to alleged surplus proceeds, if any.
- D. The Board's decision is subject to review by the Yamhill County Circuit Court via a Writ of Review proceeding pursuant to the provisions of ORS 34.

ADDENDUM 1: YAMHILL COUNTY PROPERTY INSPECTION FORM

| | |
|---|---|
| Date: | Tax Lot Number: |
| Inspector: | Tax Account Number: |
| Previous Owner(s): | Address: |
| Acres: | Zoning: |
| Real Market Value: \$ _____ | Buildable Lot? <input type="checkbox"/> Y <input type="checkbox"/> N |
| Confirmed by Tax & Assess*? <input type="checkbox"/> Y <input type="checkbox"/> N | Confirmed by Planning*? <input type="checkbox"/> Y <input type="checkbox"/> N |
| Accessible by Car? <input type="checkbox"/> Y <input type="checkbox"/> N | Evidence of Occupancy? <input type="checkbox"/> Y <input type="checkbox"/> N |
| Connected Utilities? <input type="checkbox"/> Y <input type="checkbox"/> N | DEQ Notices Exist for Property? <input type="checkbox"/> Y <input type="checkbox"/> N |
| Structures on Property? <input type="checkbox"/> Y <input type="checkbox"/> N | Vegetation Maintenance Required? <input type="checkbox"/> Y <input type="checkbox"/> N |
| Condition of Property (short summary): | |
| Security/Enforcement Checklist: <input type="checkbox"/> Changed Locks – Date/Details: _____ <input type="checkbox"/> Shut Off Utilities – Date/Details: _____ <input type="checkbox"/> Disconnected Garage Doors – Date/Details: _____ <input type="checkbox"/> Posted No Trespassing Signs – Date/Details: _____ <input type="checkbox"/> Moved Exterior Items Inside/Secured – Date/Details: _____ <input type="checkbox"/> Boarded Up Windows and Doors – Date/Details: _____ <input type="checkbox"/> Installed Exterior Lighting System – Date/Details: _____ <input type="checkbox"/> Other – Date/Details: _____ | |
| Vehicles on Property? <input type="checkbox"/> Y <input type="checkbox"/> N Plate State/Number: _____ VIN: _____ Plate State/Number: _____ VIN: _____ Plate State/Number: _____ VIN: _____ | |
| Personal Property Left on Property? <input type="checkbox"/> Y <input type="checkbox"/> N [describe] | |
| Signs of Hazardous Materials or Conditions? <input type="checkbox"/> Y <input type="checkbox"/> N [describe] | |
| Signs of Drug Manufacturing? <input type="checkbox"/> Y <input type="checkbox"/> N [describe] | |
| Other Concerns: | |
| Pictures Attached? <input type="checkbox"/> Y <input type="checkbox"/> N | |

*Nonbinding assessment

ADDENDUM 2: REQUEST FOR SURPLUS PROCEEDS



YAMHILL COUNTY

REQUEST FOR SURPLUS PROCEEDS OF A TAX FORECLOSURE SALE

For Internal Use Only

Date Received: _____

Payment Sent: _____

CONTACT INFORMATION

Name: _____
Last First Middle

Mailing Address: _____
Number Street City State Zip Code

Phone Number: _____ Email Address: _____

PROPERTY INFORMATION

Tax Lot No. _____ Tax Account No. _____

Property Address: _____
Number Street City State Zip Code

Nature of Ownership: ☐ Deed ☐ Court Judgment ☐ Other: _____

Recording Date: _____ Instrument No.: _____ Book/Volume No.: _____

CLAIM INFORMATION

Sale Date: _____ Sale Amount: \$ _____ Surplus Proceeds Requested: \$ _____

Mailing Address for Payment (if different than above): _____

I declare under penalty of perjury and/or mail fraud that to the best of my knowledge I am entitled to the excess funds described herein and agree to indemnify Yamhill County and hold it harmless for and from all claims, loss, costs, damages and expenses that Yamhill County may sustain by turning these funds over to me, or of its refusal to pay this claim or any part of it to any person(s).

STATE OF _____)
COUNTY OF _____) ss
Signature _____ Date _____

This record was acknowledged before me on [date] _____, 20____ by [name(s)] of individual(s)] _____.
IN WITNESS WHEREOF, I have hereunto set my hand and seal.

[seal]

NOTARY PUBLIC
My Commission Expires: _____

ADDENDUM 2: REQUEST FOR SURPLUS PROCEEDS

CLAIM FORM INSTRUCTIONS

If you believe you are entitled to surplus proceeds as a result of a tax foreclosure sale, fill out this form and mail it, along with the required documentation outlined below, to the following address:

Yamhill County Counsel's Office
ATTN: Tax Foreclosure Surplus Claim
535 NE Fifth Street
McMinnville, OR 97128

1. Attach a copy of the front and back of your current photo identification (e.g., driver's license). Provide proof of your current mailing address if different from current photo identification.
2. If applicable, attach a copy of documentation showing proof of any name changes (e.g., marriage certificate).
3. Include a copy of the property deed or other documentation showing prior ownership.
4. If you are claiming surplus proceeds for someone else, please provide documentation such as a power of attorney, conservator, guardian, etc.
5. If you are claiming property as an heir to a deceased person, send documentation such as a death certificate or obituary. If the probate is open, send original court-certified copies of Letters of Administration or Affidavit of Claiming Successor. If the probate is closed, send an original court certified copy of the Final Decree of Distribution listing the heirs. Note: Yamhill County requires probate on claims for surplus funds valued at \$5,000 and above.
6. Sign completed form in the presence of a notary public.

SURPLUS FUNDS COMPUTATION

(to be completed by County Staff)

| | | <u>Staff Initial</u> |
|--------------------------|-----------------|----------------------|
| Sale Amount: | \$ _____ | _____ |
| Back Taxes Owed: | \$ _____ | _____ |
| Interest: | \$ _____ | _____ |
| Liens: | \$ _____ | _____ |
| Fees & Penalties: | \$ _____ | _____ |
| Maintenance Costs: | \$ _____ | _____ |
| Legal Expenses: | \$ _____ | _____ |
| SURPLUS PROCEEDS: | \$ _____ | _____ |

JUNE 26, 2024:

MEETING DOCUMENTS

AGENDA – June 26, 2024 – 9:00am-11:00am [TEAMS LINK HERE](#)

- Welcome and Introductions – Rep. Conrad and Rep. E. Levy
- Overview of [Western State Land Reliance Trust v. Linn County](#)
- Presentation – Oregon Consumer Justice, Oregon Law Center, Oregon Trial Lawyers, AARP
 - Residential tenants, eviction process
 - Suggestions regarding a possible look back
 - Suggestions for look forward
 - Appropriate notice
 - Other topics
- Presentation – DOJ – Brief overview of garnishment process
- Lookback and Prospective Options
- County time for comments, questions, ideas that have not been previously addressed
- Wrap-up
 - Summarize recommendations that have been made so far
 - Summarize decision points for future meetings
 - Task list

Future Meeting Dates – 9:00am-11:00am - virtual

- Wednesday, July 17
- Wednesday, August 14

DOR Website for Meeting Materials and Information

https://www.oregon.gov/dor/programs/property/Pages/property_tax-foreclosure_sales.aspx

Agency Contact

Marjorie Taylor, Legislative Director, marjorie.taylor@dor.oregon.gov (503)476-7644

Meeting Attendance – June 26, 2024

| Name in Teams | Organization Type | Organization |
|--|-------------------|--------------------------|
| Aebi, Andrew (External) | City | Portland |
| Benton, Beth (External) | City | Portland |
| Mitchell, Evyn (External) | City | Portland |
| Tom Holt (External) | Consumers | Cascade Policy Institute |
| Karen Saxe (External) | Consumers | DevNW |
| Hal Scoggins (External) | Consumers | Financial |
| John C Powell (Guest) (Unverified) | Consumers | Financial |
| Chris Coughlin (External) | Consumers | OR Consumer Justice |
| Arthur Towers (External) | Consumers | OR Trial Lawyers Assoc |
| Sybil Hebb (External) | Consumers | Oregon Law Center |
| Jim M. Manley (External) | Consumers | Pacific Legal |
| Mallorie Roberts, AOC (Unverified) | County | AOC |
| Jennifer Button, Tax Deputy (Unverified) | County | Baker |
| Cooper, Todd (External) | County | Clackamas |
| Coy, Melissa (External) | County | Clackamas |
| Rueda, Bronson (External) | County | Clackamas |
| Sarah Foreman, Clackamas County (Unverified) | County | Clackamas |
| Sosna, Leslie (External) | County | Clackamas |
| Wilson, Trent (External) | County | Clackamas |
| Amanda R (she/her) - Clatsop Policy Analyst | County | Clatsop |
| Anthony Pope (Unverified) | County | Clatsop |
| Chris Leader (Unverified) | County | Clatsop |
| Suzanne Johnson (Unverified) | County | Clatsop |
| Tara Gramson - Clatsop County (Unverified) | County | Clatsop |
| Megan Simms, Coos County (Unverified) | County | Coos |
| Doug Riggs (Guest) (Unverified) | County | Deschutes |
| Robert Tintle (External) | County | Deschutes |
| Chet Wilkins (External) | County | Gilliam |
| Bill Hart, Harney County (Unverified) | County | Harney |
| Michelle Wickham, Jackson Co (Unverified) | County | Jackson |
| Pete Philbrick (Jackson County) (Unverified) | County | Jackson |
| SMITH Stacie E | County | Lane |
| VARIO Emily D | County | Lane |
| Cheryl W Linn County (Unverified) | County | Linn |
| Malheur (Unverified) | County | Malheur |
| Austin Dhillon (External) | County | Marion |
| Natasha McVey (External) | County | Marion |
| Carlos Rasch (Unverified) | County | Multnomah |
| Tom Powers - MultCo (he/him) (Unverified) | County | Multnomah |

| | | |
|--|--------|------------|
| Ashley Immoos (External) | County | Wallowa |
| Gregg Weiman (External) | County | Washington |
| Jason Bush (Unverified) | County | Washington |
| Wheeler County (External) | County | Wheeler |
| Jodi Gollehon (External) | County | Yamhill |
| +15415542112 (Unverified) | Guest | Unknown |
| AM (Unverified) | Guest | Unknown |
| DENISE STEVE JEFF GORDON (Unverified) | Guest | Unknown |
| Gene (Unverified) | Guest | Unknown |
| Mike Sublett (Unverified) | Guest | Unknown |
| Miles Palacios (he/him) (Guest) (Unverified) | Guest | Unknown |
| Grant Michael W (External) | State | DOJ |
| McCullough Kimberly (External) | State | DOJ |
| Ritchey Michael L (External) | State | DOJ |
| BENJAMIN Danette M * DOR | State | DOR |
| BROCKIE Jason D * DOR | State | DOR |
| EKSTRAND Bram N * DOR | State | DOR |
| ELLIOTT Robin * DOR | State | DOR |
| KRAMER Gregory A * DOR | State | DOR |
| TAYLOR Marjorie * DOR | State | DOR |
| Fleener Marilyn | State | Legis |
| Mannon Olivia | State | Legis |
| Olen Beau | State | Legis |
| Rep Conrad | State | Legis |
| Rep Levy E | State | Legis |
| Rosenau Spencer | State | Legis |
| CIOBANU Claudia (External) | State | OST |
| HARRIS Carolyn (External) | State | OST |
| HOWELL Jessica (External) | State | OST |

To: HB 4056 Oregon Department of Revenue Workgroup

**From: AARP Oregon
AFT-Oregon
Columbia Cascade Housing Corp.
DevNW
Fair Housing Council of Oregon
Oregon Consumer Justice
Oregon AFL-CIO
Oregon Law Center
Oregon Trial Lawyers Association
Urban League of Portland**

Date: June 24th, 2024

Re: Workgroup Proposals

The following provides the recommendations from the above listed groups.

Rights of Owners

Prohibit any requirement that a homeowner must file an action or claim to qualify or obtain access to their equity (e.g. no “opt-in” or “demand” requirement).

Counties with proceeds from sales beyond what was due for taxes and allowable expenses should have an affirmative obligation to notify the consumer and return surplus money to the consumer rather than requiring the consumer to jump through hoops to obtain the money to which they have a constitutional right. Without this protection, even if there is a known significant value beyond owed taxes and allowable county costs and a known homeowner, a county would be under no obligation to return the money.

Ensure the Owners, Including Persons who have Inherited an Ownership Interest, Receive Notice at each Stage of the Foreclosure

The goal is to use all opportunities for notice to happen, to prevent unnecessary foreclosure, keep people in their homes, and ensure homeowner retention of surplus in the event of home loss.

- Provide information about existing property tax deferral programs during the foreclosure process to inform property owners about how to avoid foreclosure for back taxes if they qualify.
- Provide clear and regular information (available in both plain language, large font size, and multiple languages) about homeowner rights and how to make claims. Engage local service providers working with low-income and culturally specific populations in drafting notices.

- Conduct adequate individualized outreach and posting which should include:
 - By USPS First Class mail, certified mail, and, when possible, email.
 - By publication in local media, social media, posting at the property, outreach to community partners, and posting online.
 - Upon losing rights to property i.e.: when judgment is applied for in the Circuit Court, there should be personal service with hand delivery using a process server, delivered upon the initiation of the process used to terminate the owner's rights in the property.
- Due diligence should be used by the county to locate the owner(s) of the property. "Due diligence" includes a search of land, court, and other records and online resources such as a LexusNexis public records search that charges per search. If the owner is deceased, the state should appoint an attorney ad litem to conduct due diligence in locating heirs. In the alternative, the county should use due diligence in finding the heirs and rightful owners of the property.

Provide Effective Assistance & Outreach to Individuals and Communities About Their Rights to Remaining Equity

Without adequate notice and outreach, consumers will not understand their rights or how to access them. We must ensure community-wide outreach to ensure that an owner who cannot be reached individually may still have access to their constitutional rights. If an individual is seeking to assert their rights, we must ensure access to assistance to help navigate the process. The statute should provide consistent standards for community outreach and homeowner assistance. Specifically:

- Provide help to families navigating the claims process.
- Provide assistance for homeowners in determining the current value of amounts inappropriately taken.
- Provide consumer-centered processes when ownership and heirs are not clear.

Establish appropriate pre- and post-sale processes and standards that maximize sale proceeds

- Attempt to sell the property using a real estate agent before conducting a public auction.
- If the property does not sell on the open market, conduct a high bid public auction with a minimum bid amount based on a percentage of the property's recently appraised or assessed value, whichever is higher to allow for the best determination of current value.
- Appraiser should be licensed and unaffiliated with the county.
- Provide and document reasonable, fair, and clear methods to calculate charges related to the tax foreclosure process, such as taxes owed, costs associated with maintaining and selling the property and appropriate attorney fees.
- The statute should specify that the only expenses that the county can retain from the proceeds of the sale are: the expenses of the sale; the taxes and interest owed; and expenses related to property cleanup for nuisance properties while the property was in

government care. No other expenses should be allowed to be retained by the county. All expenses should be documented in writing.

- Return any sale proceeds beyond what is owed for taxes and any allowable expenses to the former owner, including heirs if the former owner is deceased. This should be done by the county using due diligence, noted above, to find former owners/heirs and provide them with sale proceeds beyond what is owed for taxes and any allowable expenses within 90 days of the sale.
- Along with an affidavit, establish an expansive list of documents from which heirs can choose one document to establish ownership. The list may include birth certificates, death certificates, will, if available, and the list of documents used by FEMA.
- In the case of multiple heirs, create a presumption that heirs who have resided in the property as their primary residence for more than a year at the time of the sale have the authority to receive the excess proceeds on behalf of all heirs, in the absence of a written agreement between heirs or objection by a non-resident heir.

Oversight

- Ensure that there is adequate and appropriate process management oversight and accountability to audit counties' processes for the distribution of surplus values.

Provide Appropriate and Meaningful "Look-Back"

We view the issue from the perspective of property owners who have had their property unconstitutionally seized. Their government should make things right, full stop. The cases filed in federal court make the point that there is no statute of ultimate repose in cases involving constitutional claims.

In that light, we feel that a ten-year limit is a reasonable compromise between the counties' position of six years and the potential for the courts to rule that claims cannot be time-barred.

Ten-year limits are common in Oregon law:

ORS 12.115 negligence

ORS 12.135(1) construction defects

ORS 30.905 products

There is a power imbalance between the government and property owners. The legislature should go the extra mile to ensure that the rights of the individuals who have lost property are centered in constructing this legislation.

We recognize the outcome in Walton v. Neskowin Regional Sanitary Authority and believe that the case is not applicable since issues of Constitutional rights were raised in Tyler V. Hennepin.



DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

DATE: June 26, 2024 Work Group Meeting

TO: Members of the HB 4056 (Tyler v. Hennepin) Work Group

FROM: Kimberly McCullough, Legislative Director
Oregon Department of Justice

SUBJECT: Outline of DOJ's Child Support and Restitution Collection Process

What we collect at DOJ:

- **Child support**
 - The Division of Child Support (DCS) administers the Oregon Child Support Program, the federal Title IV-D program, for the state. After public schools, the Oregon Health Plan, and SNAP, the Oregon Child Support Program is the public program serving the most children in Oregon.
 - The program collects more than \$366 million in child support annually for Oregon families.
- **Restitution**
 - Restitution is compensation for loss or injury. In criminal cases, restitution refers to compensation for loss that a criminal would pay to a victim as part of a criminal sentence or as a condition of probation. In civil cases, restitution is a remedy associated with unjust enrichment in which the amount of recovery is typically based on the defendant's gain rather than the plaintiff's loss.¹
 - **Restitution for crime victims:**
 - In criminal cases where restitution is owed to victims, we assist with collection efforts when the Oregon Judicial Department (OJD) asks our Civil Enforcement Division (CED) for our assistance. OJD typically does this when a judicial foreclosure is occurring and there is a junior lien for criminal restitution.²

¹ See Definition of "Restitution" from the Legal Information Institute (LII) at Cornell Law School.

² Typically, OJD collects criminal restitution through the Department of Revenue or private collection agencies.

- In some cases, restitution is owed to DOJ's Crime Victim and Survivor Services Division (CVSSD), because CVSSD has provided up-front compensation to a victim through our Crime Victims Compensation program. In such cases, CVSSD essentially steps into the shoes of the victim for the purposes of collection of restitution from the defendant.
- **Civil restitution in DOJ cases:**
 - DOJ sometimes collects restitution for victims of harm related to civil cases litigated by CED. Typically, these are cases brought by the Consumer Protection Unit of CED.
 - This is less common than our collection of restitution for crime victims.
 - Typically, the debtor in these cases will be a business that has caused harm to Oregonians and has violated one or more of our state's consumer protection laws, such as our Unlawful Trade Practices Act or our state's antitrust laws. In some matters, officers or agents of the business may also be personally liable and end up owing restitution to victims.
- NOTE: DOJ is also sometimes asked to assist with collection of outstanding debts related to litigation involving other state agencies, but that's not the focus of this document.

How DOJ collects Child Support and Restitution

- **Voluntary payment**
 - Our initial attempts at collection are to obtain voluntary payment.
 - For our child support collection:
 - If not using traditional income withholding (see below), payments of monthly court-ordered amounts are expected to be made voluntarily.
 - DCS has case managers who work closely with paying parents, directly engaging them to fully understand their circumstances and to attempt to find an equitable solution.
 - This often involves getting the paying parent to enter into a voluntary compliance agreement.
 - This also may involve agreeing to a payment plan that works for the paying parent. Payments under these plans is often less than what we could garnish if using that process (see below).
 - This also may involve modification of the child support order over the long life of a child support obligation.

- **Income withholding orders in child support cases**

- When using this federally mandated collection tool, DCS sends an income withholding order to the paying parent's employer ordering the employer to withhold the appropriate level of support from the paying parent's wages and send it to DCS to be distributed to the parent who receives support.
- An income withholding order is not unlike a continuous garnishment that continues until modified or terminated.
- Around 70% of the total support collected by DCS is the result of income withholding orders.
- This is not a tool used by CED related to restitution.

- **Tax refund offsets**

- If a debtor owes money to a state agency, the IRS and Oregon Department of Revenue may use part or all of the debtor's tax refund to repay the debt.
- Both CED and DCS use tax refund offsets as a collection tool.

- **Garnishment**

- Garnishment refers to the legal process for collecting on a judgment, which takes money directly from the debtor's wages or other third party who owes the debtor a debt. A writ of garnishment instructs a third party who owes money to the debtor, typically the debtor's employer or the debtor's bank, to pay some or all of that money to the creditor instead of the debtor. This third party is called a garnishee.³
- Like most creditors who engage in garnishment, CED primarily garnishes from employers and banks. DCS generally uses this form of garnishment to collect past-due support (arrears) from bank accounts.
- After we obtain a money judgment from the court, we fill out a garnishment form and serve it on the employer or bank. The garnishment form instructs the garnishee to put a hold on the amount of funds necessary to pay the garnishment. Note that DCS has authority under ORS 18.645 to issue these writs without involving the court.
- After service of the garnishee has occurred, we then serve the debtor with the garnishment paperwork, so they are aware of the garnishment process and their legal rights.

³ Definition of "Garnishment" from the Legal Information Institute (LII) at Cornell Law School.

- NOTE: the amount that can be garnished at any given time is limited by the law. Legislation passed last session (SB 1595, the Family Financial Protection Act) altered these amounts, but child support and restitution were carved out from the changes in the law and will therefore remain the same as prior to the passage of SB 1595.
- **Real property liens**
 - When a circuit court enters a money judgment for child support or restitution, that creates a judgment lien against the defendant's real property in that county.
 - **Collection by Title Company at Sale**
 - Generally, DOJ's collection happens when there is a sale of the property. In such circumstances, a title company will notify DOJ that there will be a sale of the property and will request a payoff amount for the lien prior to the sale.
 - After DOJ is paid off, we provide the title company with a release of lien (if we are paid less than what is owed) or satisfaction of judgment (if we are paid the full amount due), so they can record the release or satisfaction in the real property records.
 - **Foreclosure sales with surplus sale proceeds**
 - **Judicial foreclosure sales**
 - In a judicial foreclosure, after we receive notice of the foreclosure, we file a motion with the court to obtain surplus sale proceeds. These are usually distributed to junior lienholders in order of their lien priority.
 - **Nonjudicial foreclosures:**
 - In a nonjudicial foreclosure, we are given notice that there are surplus sale proceeds. We then file a claim with the trustee. If there are competing claims and insufficient assets to fully pay them, the trustee may file an interpleader, and the court determines who is entitled to the sale proceeds.
 - NOTE: these are typically bank foreclosures and do not include tax foreclosures.

- **Personal Property Liens**

- When collecting a judgment, DOJ will sometimes issue a writ of execution to collect the debt from personal property. This is typically a vehicle or other more expensive property.
- Pursuant to ORS 25.670, a lien arises by operation of law on personal property owned by a parent who owes delinquent child support. When property is identified that is in the possession of a third party, a personal property lien notice is recorded and served on the third party.

County Tax Foreclosures

- When a county tax foreclosure occurs, DOJ generally has no viable options to assert our lienholder rights.
- If we get notice of tax foreclosure or a notice of the expiration of the redemption period, we don't have funds to pay the outstanding taxes, like some other creditors do.
 - Other creditors may pay the property tax and step into the shoes of the county, so they could keep the property out of foreclosure and/or foreclose themselves.
See ORS 312.160.

Proposed Solutions

- **Option A**

- This option only addresses collection of DOJ child support and restitution.
- Process:
 - DOJ is provided with notice from the county that identifies the relevant lien and the date when the money will be returned to the property owner.
 - DOJ is allowed to issue a garnishment to the county, which must be issued by DOJ prior to the date that the funds are to be returned to the property owner.
 - Just as when DOJ issues a garnishment to a bank (as described above), the garnishment will include clear instructions to the county regarding how to comply with the garnishment.

- **Option B**

- This option (which has multiple sub-options) would address all lienholders.
- Potential processes:
 - All junior lienholders are provided with notice from the county that identifies their relevant liens and the date when the money will be returned to the property owner.
 - All junior lienholders are then able to assert their claims:
 - Directly with the county;
 - Through an interpleader process; or
 - Through an alternative process.



Clatsop County

Assessment and Taxation

820 Exchange St., Suite 210
Astoria, OR 97103
(503) 325-8522 phone (503) 338-3638 fax
www.co.clatsop.or.us

Comments for HB 4056

Clatsop County is committed to thorough examination and inspection of properties that end up in a foreclosure action. Our goal has always been to find a solution where the property owner, especially a residential inhabited property, remains the owner.

The following are comments and questions that we have identified in implementing HB 4056.

In the case where a solution cannot be found and a county is required to commence foreclosure proceedings, the **ORS accommodates the property owner with several notifications regarding redemption** as noted below.

ORS 312.120 (2) provides that *during the two-year period any person having an interest in the property at the date of the judgment of foreclosure, or any heir or devisee of such person, or any person holding a lien of record on the property, or any municipal corporation having a lien on the property, may redeem the property by payment of the full amount applicable to the property under the judgment, with interest thereon as provided by law, plus a penalty of five percent of the total amount applicable to the property under the judgment and a fee as specified under subsection (5) of this section.*

ORS 312.125 provides for (1) *Not less than one year prior to the expiration of the period of redemption of any real property ordered sold to the county under a judgment under ORS 312.100, the tax collector shall provide notice of the expiration of the period of redemption to any person or entity entitled to redeem the property under ORS 312.120 (2) whose interest appears in the records of the county as of the date foreclosure proceedings were instituted. Any person or entity whose interest has terminated by any means other than a judgment of foreclosure under ORS 312.120 shall not be entitled to such notice.*

(5) *Failure of a lien, instrument or other document, memorandum or other writing to contain the*

(C) *The County Clerk Lien Record described in ORS 205.130 (3).*

(D) *Records of federal tax liens and other liens, instruments or other documents or writings reflecting an interest in real property described in ORS 205.246, if those records are kept separately from the records described in paragraph (b) of this subsection.*

(E) *Records of statutory liens on real property described in ORS 87.372.*

(F) *Any other records of interests in real property required to be kept by the county clerk, if the records contain a legal description of the property and an address specifically designated as indicated on the instrument, document or other memorandum or writing for purposes of mailing the notice required by this section.*

(b) *For purposes of this section only, "records of the county" includes:*

(A) *The appropriate records of the courts described in ORS 7.010 in the custody of the clerk of the appropriate court or court administrator under ORS 7.110; and*

(B) *Probate records in the custody of the clerk of the appropriate court or court administrator under ORS 7.230 and 7.240. Notwithstanding any provision to the contrary in ORS chapter 7 or other law, the*

clerk of the appropriate court or the court administrator shall make available to and assist the tax collector in the examination of the records described in this paragraph for purposes of carrying out the obligations of the tax collector under this section without charge. [1987 c.311 §2; 1989 c.628 §1; 2003 c.576 §422; 2009 c.33 §11]

ORS 312.140 provides that *(1) A mortgagee or other holder of a recorded lien on real property may file with the tax collector a request that notice of any foreclosure list including the real property be given to the mortgagee or other lienholder. The request shall contain the name and address of the person filing it, the description of the property and the name of the owner or reputed owner thereof, and the date of expiration of the mortgage or lien. Notice need not be given after expiration of the mortgage or lien, unless a further request therefor is filed. If the mortgagee or lienholder furnishes a duplicate form of request for the notice, the tax collector shall certify thereon to the filing and return the duplicate to the person making the request.*

(2) Whenever any property described in the request for notice is included in a foreclosure list, the tax collector shall send by registered mail or by certified mail with return receipt written notice thereof to the mortgagee or other lienholder. At the time of mailing the notice the tax collector shall note that fact in the latest tax roll opposite the description of the property. The notation in the tax roll is prima facie evidence that the notice was mailed. Where the same mortgagee or lienholder has filed requests for notices on two or more properties included in a foreclosure list, one general notice may be issued covering all such properties. [Amended by 1991 c.249 §24; 1997 c.170 §50; 2001 c.753 §2]

Finally, an additional notice of the exemption period is published as noted in ORS 312.190.

The statutory requirements above ensure adequate notification is provided to those property owners and lienholders that may be eligible for surplus.

Once the property deemed surplus is sold at public auction or private sale, **ORS 275.275** requires the **following reimbursement from the proceeds**.

(a) First, applied to refund the county general fund for the full amount actually paid by the county to advance the state tax upon all properties upon which the county has foreclosed liens for delinquent taxes;

(b) Second, applied to the county general fund in an amount equal to the penalty and fee described in ORS 312.120 for each property upon which the county has foreclosed a lien for delinquent taxes;

(c) Third, applied to refund the county general fund for all the costs and expenses actually incurred by the county in the maintenance and supervision of the properties and in any suits or proceedings by the county to quiet title to or to defend the county's title to property sold, including suits or land use proceedings to ascertain and determine the actual boundaries of the properties;

For counties with populations less than 650,000:

(3)(a) After a portion of the proceeds arising under ORS 275.090 to 275.290 and 275.296 to 275.310 and a portion of the proceeds arising under ORS 275.294 are applied as provided in subsections (1) and (2) of this section, the balance of the proceeds arising under ORS 275.090 to 275.290 and 275.296 to 275.310 and the balance of the proceeds arising under ORS 275.294, including the payments for land sold under contract pursuant to ORS 275.190 or 275.200, must be distributed by the county treasurer as follows:

(A) First, to a municipal corporation that has filed a notice, in accordance with ORS 275.130, relating to a local improvement lien against the property from which the sale proceeds are derived. The

amount of the distribution to each municipal corporation must be in the principal amount of the lien, plus the interest and any penalties that accrued to the date of sale of the property.

(B) Second, to governmental units in accordance with the formula provided in ORS 311.390 for the distribution of tax collections. The amount distributed to governmental units must be the amount remaining after the distribution, if any, under subparagraph (A) of this paragraph.

(b) Notwithstanding ORS 294.080, as used in this subsection, "balance of the proceeds" includes all accumulated interest earned on the proceeds arising under ORS 275.294 that are segregated pursuant to subsection (2)(b) of this section, unless a court of competent jurisdiction rules otherwise.

(4) Distribution of moneys under subsections (2) and (3) of this section must be made on or before June 30 in each year.

If HB 4056 will be retroactive for 6 years, would all of those taxing districts that received proceeds from surplus land sales need to pay back the revenues received on those properties that are deemed to have a lienholder surplus?

Marjorie,

I wanted to make some written comments that I know our office have been concerned about but has not really been discussed, and that is the potential for predatory practices used by third parties to garner claims from prior property owners. There was one meeting that I was unable to attend and therefore, and thus it is possible that this might have already been discussed, but I wanted to raise it with you again.

The first issue here has to deal with assignment of claims. The bulk of the claims coming in on these cases, to Washington County at least, have not been through the prior owner, or a heir or assign, instead it is coming through an LLC that was has specifically been created to purchase(?) these claims from tax foreclosed individuals and request the proceeds from the County. This includes Casear's Proceeds LLC, Local Site LLC, etc. Often times the assignment is a one page document that references a separate contract that the county is unable to see. that does not does not even discuss the terms between the former owner and company. It's not clear if the former owner is receiving the bulk of the proceeds are not. Maybe, that is something the county should not be concerned about but I think that goes to the intent of the Tyler case.

I know that some states have flat out banned assignments. For instance, below is the Washington State statute on this point. Washington like Oregon is a deed state:

Under Washington (RCW 84.65.080) Law assignments are illegal: (10) If the highest amount bid for any separate unit tract or lot exceeds the minimum bid due upon the whole property included in the certificate of delinquency, the excess must be refunded, following payment of all recorded water-sewer district liens, on application therefor, to the record owner of the property. The record owner of the property is the person who held title on the date of issuance of the certificate of delinquency. *Assignments of interests, deeds, or other documents executed or recorded after filing the certificate of delinquency do not affect the payment of excess funds to the record owner.*

Secondarily, should there be a cap on attorney awards for these cases?

Once again under Washington Law there is a limit to how much an attorney can collect: <https://law.justia.com/codes/washington/2005/title63/63.29.350.html>. The Cap is at 5%. A violation of this statute is also a crime, which in theory could disbar an attorney.

It is unlawful for any person to seek or receive from any person or contract with any person for any fee or compensation for locating or purporting to locate any property which he knows has been reported or paid or delivered to the department of revenue pursuant to this chapter **in excess of five percent of the value thereof returned to such owner.** Any person violating this section is guilty of a misdemeanor and shall be fined not less than the amount of the fee or charge he has sought or received or contracted for, and not more than ten times such amount, or imprisoned for not more than thirty days, or both.

Recently, an attorney in Clackamas did get a copy of the contract with one of these LLC (attached). The Company takes 50% after taking out costs and attorneys fees (which we can assume are not

inconsequential on these claims). As a practical matter, after the fees are taken out it would seem the property owner is then getting just a small fraction of an award.

The first, and second issues seem to really weed out third parties essentially taking advantage of claim holders making valid claims.

Third, Priority of Claims: If we do allow assignments how should that affect priority of claims? It really does not seem that the counties are in the best position to determine who has what priority in claims process. Is every claim going to be interplead with the Court? That does not seem like the most efficient system either. I know that in some previous meetings, there have been some comments that we could model the process off a bank foreclosure, but Washington County Tax is rarely directly involved in bank foreclosures.

Fourth protection/indemnification from giving the wrong claimant requested funds. The Recording office currently receives protection from lawsuits under ORS 205.130 for recording instruments. It makes sense to me that a similar protection for counties making good faith efforts to fulfilling claims should apply. Theoretically, we could ask the party we return the funds to for indemnification, but if a party has not paid taxes in several years, it seems unlikely they are going to indemnify a county, even if there is an agreement. If we return funds based upon a claims process, it would be nice to have some protection against suit.

Thank you,

Jason Bush
Deputy County Counsel
Washington County
503-846-3747

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF CLACKAMAS
Civil Department

CAESAR’S PROCEEDS, LLC, an Oregon
domestic limited liability company,

Plaintiff,

vs.

CLACKAMAS COUNTY, a political
subdivision of the state of Oregon,

Defendant.

CLACKAMAS COUNTY,

Third-party Plaintiff

v.

JAMIE GOUDGE,

Third-party Defendant.

Case No.: 23CV46142

PLAINTIFF’S ANSWER, AFFIRMATIVE
DEFENSES TO THIRD-PARTY
DEFENDANT’S THIRD-PARTY CLAIMS
AND COUNTERCLAIM AGAINST
THIRD-PARTY DEFENDANT
(Breach of Contract; Contractual and
Statutory Attorney Fees)

Plaintiff Caesar’s Proceeds, LLC (“Caesar’s”) answers Third-party Defendant Jamie Goudge’s
 (“Goudge”) third-party claims against Caesar’s as follows in like numbered paragraphs:

1.

The allegations contained in paragraph 1 of Goudge’s Third Party Defendant’s Answer,
Affirmative Defenses, Cross Claims and Counterclaims (“Goudge Response”) do not require a

1 response from Caesar's. To the extent any of the allegations contained in paragraph 1 of the
2 Goudge Response require a response from Caesar's, Caesar's denies the same.

3 2.

4 The allegations contained in paragraph 2 of Goudge's Third Party Defendant's Answer,
5 Affirmative Defenses, Cross Claims and Counterclaims ("Goudge Response") do not require a
6 response from Caesar's. To the extent any of the allegations contained in paragraph 2 of the
7 Goudge Response require a response from Caesar's, Caesar's denies the same.

8 3.

9 Caesar's denies the allegations contained in paragraph 3 of the Goudge Response.

10 4.

11 Caesar's denies the allegations contained in paragraph 4 of the Goudge Response.

12 5.

13 Caesar's denies the allegations contained in paragraph 5 of the Goudge Response.

14 6.

15 Caesar's admits the allegations contained in paragraph 6 of the Goudge Response.

16 7.

17 Caesar's admits the allegations contained in paragraph 7 of the Goudge Response.

18 8.

19 Caesar's denies the allegations contained in paragraph 8 of the Goudge Response.

20 9.

21 Caesar's is without knowledge of the allegations contained in paragraph 9 of the Goudge
22 Response and therefore denies the same.

23 ///

24 ///

10.

Caesar's denies the allegations contained in paragraph 10 of the Goudge Response.

11.

Caesar's denies the allegations contained in paragraph 11 of the Goudge Response.

12.

Caesar's denies the allegations contained in paragraph 12 of the Goudge Response.

13.

Caesar's denies the allegation in paragraph 13 of the Goudge Response that any statements or representations were false in any manner. Caesar's is without sufficient knowledge to admit or deny the remaining allegations made in paragraph 13 of the Goudge Response and therefore denies the same.

14.

Caesar's denies the allegation in paragraph 14 of the Goudge Response that any statements or representations were false in any manner. Caesar's is without sufficient knowledge to admit or deny the remaining allegations made in paragraph 13 of the Goudge Response and therefore denies the same.

15.

Caesar's denies the allegations contained in paragraph 15 of the Goudge Response.

16.

Caesar's admits and denies the allegations contained in paragraph 16 of the Goudge Response consistent with the admissions and denials contained herein.

17.

Caesar's denies the allegations contained in paragraph 17 of the Goudge Response.

////

1 18.

2 Caesar's denies the allegations contained in paragraph 18 of the Goudge Response.

3 19.

4 Caesar's admits and denies the allegations contained in paragraph 19 of the Goudge
5 Response consistent with the admissions and denials contained herein.

6 20.

7 Caesar's denies the allegations contained in paragraph 20 of the Goudge Response.

8 21.

9 Caesar's denies the allegations contained in paragraph 21 of the Goudge Response.

10 22.

11 The allegations contained in paragraphs 22-24 are claims made against other parties and
12 therefore do not require a response from Caesar's.

13 **CAESAR'S AFFIRMATIVE DEFENSES**



15 **FAILURE TO STATE FACTS SUFFICIENT TO STATE A CLAIM**
16 *(Against Third-Party Defendant Jamie Goudge)*

17 23.

18 Caesar's readmits and reallege all facts contained in paragraphs 1 through 22 of this
19 Answer to Third-Party Defendant's Third Party Claims as if fully set forth herein.

20 24.

21 Goudge fails to state ultimate facts sufficient to constitute a claim against Caesar's.

22 ///

23 ///

24 ///



RESERVATION OF ADDITIONAL AFFIRMATIVE DEFENSES

25.

Caesar's readmits and reallege all facts contained in paragraphs 1 through 22 of this Answer to Third-Party Defendant's Third Party Claims as if fully set forth herein.

26.

Caesar's reserves the right to amend this pleading to assert additional affirmative defenses.

CAESAR'S COUNTERCLAIM AGAINST THIRD PARTY DEFENDANT GOUDGE



BREACH OF CONTRACT/ATTORNEY FEES
(Against Third-Party Defendant Jamie Goudge)

27.

Caesar's readmits and reallege all facts contained in paragraphs 1 through 22 of this Answer to Third-Party Defendant's Third Party Claims as if fully set forth herein.

28.

On or about August 29th, 2023, Goudge entered into an Equity Recovery Service Contract and Assignment of Rights ("Agreement") with Caesar's. A true and correct copy of the Agreement is attached as Exhibit 1 to this Response and is incorporated by this reference as if fully set forth herein.

29.

The Agreement is an enforceable contract between Caesar's and Goudge.

30.

Caesar's has fully performed under the terms and conditions of the Agreement.

31.

Goudge has breached her obligations under the Agreement in one or more of the following ways:

- a. Goudge has not cooperated with Caesar's as required by paragraph 5(d.) of the Agreement;
- b. Goudge, by filing counterclaims against Caesar's, has clearly manifested an intent to not perform under the terms and conditions of the Agreement. Goudge's repudiation is unambiguous.

32.

As a result of Goudge's breach of the Agreement, Caesar's has been damaged in the amount of at least **ONE-HUNDRED SEVEN-THOUSAND ONE-HUNDRED FORTY-FOUR DOLLARS AND SEVENTEEN CENTS (\$107,288.17)**, or an amount to be proven at trial.

33.

Pursuant to Paragraph 8 of the Agreement, Caesar's is entitled to an award of its attorney fees and costs incurred.

WHEREFORE, NOW, the Caesar's prays the Court for the following relief against Third-Party Defendant Goudge:

1. Denial of all claims by Third-Party Defendant Goudge against Plaintiff;
2. Denial of all claims by Third-Party Defendant against Defendant Clackamas County;
3. Plaintiff's attorney fees pursuant to ORS 646.638;
4. On Plaintiff's counterclaim against Third-Party Defendant Goudge, the sum of **ONE-HUNDRED SEVEN-THOUSAND ONE-HUNDRED FORTY-FOUR DOLLARS AND SEVENTEEN CENTS (\$107,288.17)**, or an amount to be proven at trial.
5. Plaintiff's attorney fees and costs pursuant to paragraph 8 of the Agreement.

1 6. Any other relief the Court deems equitable and just.

2 ***RESPECTFULLY SUBMITTED*** this 19th day of June, 2024

3 **DAY LAW, PC**
4 *Attorneys for Plaintiff*

5 /s/ Ross Day
6 Ross A. Day, OSB #002395
7 Day Law, P.C.
8 7831 St. Charles Street NE
9 Keizer, Oregon 97303
10 T: 503-743-6460
11 F: 503-207-6683
12 E: ross@daylawpc.com
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EQUITY RECOVERY SERVICE CONTRACT AND ASSIGNMENT OF RIGHTS

This Equity Recovery Service Contract ("Contract") is entered into between Caesar's Proceeds, LLC, an Oregon domestic limited liability company ("Company") and **Jamie Goudge** ("Client") as of the date below ("Execution Date").

1. **Company's Services.** The Company agrees to assist the Client in recovering surplus funds to which the Client is entitled after the sale of Client's real property located at **18148 SE Sun Meadow Ct, Milwaukie, OR 97267** ("Property") in **Clackamas County, Oregon** ("County"). The County sold Client's Property after foreclosing on property tax lien(s) on the Property and, on information and belief, retained the surplus proceeds ("Surplus Proceeds") from said sale.
2. **Payment to Company.** The Client agrees to pay Company an amount equal to **FIFTY PERCENT (50%)** of the Net Surplus Proceeds ("Net Surplus Proceeds" is equal to Surplus Proceeds minus Client's attorney fees and costs) actually recovered by the Company.

ADDITIONAL TERMS AND CONDITIONS

3. **No guarantees or warranties.** The Company makes no guarantees, warranties or other promises that the Company's efforts to recover Surplus Proceeds, if any are available, will be successful and/or result in the payment of any proceeds to the Client by the County.
4. **Client's Obligations.** The Client agrees:
 - a. To provide such information as is reasonably necessary to the Company upon request;
 - b. To execute the attached Assignment of Rights in favor of the Company;
 - c. To execute documents, respond to communications, and take other actions as is requested and reasonably necessary in the judgment of the Company;
 - d. To hold the Company, its owners, officers, employees, agents and contractors harmless from any legal action, whether or not a civil action is actually commenced, arising out of this Contract;
 - e. That in the event no Surplus Proceeds are recovered by the Company, the Client shall have no cause of action of any kind against the Company for any conduct arising out of the terms and conditions of this Contract.
 - f. This Contract is an exclusive service contract between the Client and the Company. Client agrees that until this Contract is terminated as described in paragraph 6 of this Contract, Client will not solicit, accept, offer, or otherwise create any legally enforceable agreement with any person, entity or otherwise, for the provision of services described in this Contract. This exclusivity clause shall not apply to the Company.
5. **Company's Obligations.** The Company agrees to pursue available Surplus Proceeds in a diligent and professional manner, using the Company's best efforts in performing under this Contract. In the event no Surplus Proceeds are recovered, the Company shall have no claim against the Client for payment of any remuneration arising from the Company's performance under this Contract.
 - a. The Company's attorneys will pursue the Surplus Proceeds on behalf of the Company for the benefit of the Client. The Company's attorneys represent the Company, and not the Client, and nothing in this Contract shall be interpreted or construed to create an attorney-client relationship between the Company's attorneys and the Client. Nothing in this Contract shall be construed or interpreted to create a third party relationship between the Client and the Company's attorneys.
 - b. The Company has an existing attorney-client relationship with the following attorneys:
Ross Day
Day Law, P.C.
7831 St. Charles Street NE
Keizer, Oregon 97303
 - c. The fee charged by the Company's attorneys is twenty-five percent (25%) of any Surplus Proceeds recovered by the attorneys.
 - d. Client agrees to cooperate with Company's attorneys, as necessary, to assist Company's attorneys' efforts in recovering all Surplus Proceeds.
6. **Term of Agreement.** This Contract shall remain in full force and effect from the Execution Date until the earlier of any of the following:
 - a. Surplus Proceeds are recovered by the Company and paid to the Client in the manner provided by this Contract;
 - b. The Contract is terminated by mutual written agreement of the parties;
 - c. The Contract is terminated through default of one of the parties, as determined by a court of competent jurisdiction;
 - d. The Contract is terminated in any other manner allowed by law.
7. **Default.** In the event of default by the Client, the Company shall be entitled to recover portion of Exhibit 1

Surplus Proceeds awarded to Client, whether received or not, in addition to additional consequential damages in an amount to be proven at trial. In the event of default by the Company, the Company shall not be entitled to recover any portion of any Surplus Proceeds actually received by the Client.

8. **Dispute Resolution/Attorney Fees.** In the event of a dispute between the Client and the Company, the parties agree first to try to resolve such dispute through Alternative Dispute Resolution such as mediation or arbitration. The party successful in the dispute, whether through mediation, arbitration, or a civil action, shall be entitled to recover attorney fees and costs, whether or not a legal action is actually commenced.
9. **Miscellaneous Provisions.** The following additional terms and conditions shall apply:
 - a. Time is of the essence with respect to each and every term, condition and obligation contained in this Contract;
 - b. This Contract shall be governed by the laws of the state of Oregon;
 - c. This written Contract constitutes the entire legally binding understanding and agreement of the parties concerning the subject matter, terms, obligations and conditions of the contained herein and supersedes any prior written or oral agreements, contracts or otherwise between the parties;
 - d. The parties hereby warrant that each has full power and authority to sign and deliver this Contract and perform all other obligations under this Contract;
 - e. If any provision of this Agreement, or any instrument to be delivered by Purchaser at

closing under this Agreement, is declared invalid or is unenforceable for any reason, the provision will be deleted from the document and will not invalidate any other provision contained in the document.

- f. This Agreement has been negotiated with each party having the opportunity to consult with legal counsel and will be construed without regard to which party drafted all or part of this Agreement.
- g. The failure of either party at any time to require performance of any provision of this Agreement will not limit the party's right to enforce the provision. Waiver of any breach of any provision will not be a waiver of any succeeding breach of the provision or a waiver of the provision itself or any other provision. No waiver will be binding on a party unless the waiver is in writing and signed by the party making the waiver.
- h. This Agreement and any of its terms may be changed, waived, discharged, or terminated only by a written instrument signed by the party against whom enforcement of the change, waiver, discharge, or termination is sought.
- i. In any action brought to interpret or enforce any of the provisions of this Agreement, the venue will be in Marion County, Oregon.
- j. Each party agrees to execute and deliver such other documents and to do and perform such other acts and things as may be reasonably necessary to carry out the intent and accomplish the purposes of this Agreement.

It is so AGREED:

DocuSigned by:
Caesar's Proceeds, LLC by Joey McNamara Owner
E15190734EF0402
Caesar's Proceeds, LLC

Caesar's Proceeds, LLC by Joey McNamara Owner

Name/Title

8/16/2023 | 9:03 AM PDT

Date

DocuSigned by:

Joey McNamara
584DA97E667748D...

Client

Jamie Goudge

Name

8/29/2023 | 2:42 PM PDT

Date

ASSIGNMENT OF RIGHTS

I/We, and **Jamie Goudge** hereby assign to Caesar's Proceeds, LLC, an Oregon domestic limited liability company ("Company"), all claims, rights, entitlements, privileges, causes of action, or otherwise related to the recovery of surplus proceeds from the sale of the following private real property, which was taken from me/us through tax foreclosure by **Clackamas County**:

Address: **18148 SE Sun Meadow Ct, Milwaukie, OR 97267**

Pursuant to the Contract between myself/us and the Company executed on or before the date of this Assignment.

I/we make this Assignment of our own free will, in consideration of the promises and obligations made in the Contract between myself/us and the Company, without undue pressure, coercion or other improper influence.

It is so AGREED:

DocuSigned by:
Caesar's Proceeds, LLC by Joey McNamara Owner
E15190734EF6462...
Caesar's Proceeds, LLC

Caesar's Proceeds, LLC by Joey McNamara Owner

Name/Title

8/16/2023 | 9:03 AM PDT

Date

DocuSigned by:
Jamie Goudge
584DA97E867748D...
Client

Jamie Goudge

Name

8/29/2023 | 2:42 PM PDT

Date

CERTIFICATE OF SERVICE

I hereby certify that on the date indicate below I served a true and correct copy of each of the documents listed below on the following attorneys and parties by one of the following methods as designated for each recipient of service below:

Mail First class mail, plainly addressed as shown and deposited,
ORCP 9B postage fully prepaid, with the U.S. Postal Service for delivery.

Electronic Mail Service by electronic mail at the last known electronic mail
ORCP 9G address for the recipient. Service is complete upon
UTCR 21.100 acknowledgement of receipt of the filing by the recipient, unless
the recipient has previously consented to service by electronic
mail.

Electronic Service Service by the electronic filing system provided by the Oregon
ORCP 9H Judicial Department by electronic transmission of a notice of
UTCR 21.100 filing by the electronic filing system to the recipient.

ORCP 7 Service pursuant to Oregon Rules of Civil Procedure Rule 7

| | |
|------------------------|--|
| DOCUMENT SERVED | PLAINTIFF'S ANSWER, AFFIRMATIVE DEFENSES TO THIRD-PARTY DEFENDANT'S THIRD-PARTY CLAIMS AND COUNTERCLAIM AGAINST THIRD-PARTY DEFENDANT |
|------------------------|--|

| PERSON/ENTITY SERVED | DESIGNATION | SERVICE METHOD |
|---|---|---------------------------------------|
| Sarah Foreman, OSB #042859 Assistant County Counsel Clackamas County Counsel 2051 Kaen Road Oregon City, Oregon 97045 T: 503.655.8363 F: 503.742.5397 E: SForeman@clackamas.us | <i>Counsel for Defendant</i> | Electronic Mail Electronic Service |
| Andrew E. Teitleman, OSB #075484 Law Office of Andrew Teitleman, PC 250 Princeton Avenue, Suite 201 Gladstone, Oregon 97027 T: 503.659.1978 F: 503.200.1211 E: andrew@teitlemanlaw.com | <i>Counsel for Third- Party Defendant</i> | Electronic Mail Electronic Service |

DAY LAW, PC
7831 ST. CHARLES STREET NE
KEIZER, OREGON 97303
(503) 743-6460 PHONE
(503) 207-6683 FAX

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DATED this 19th day of June, 2024

by: /s/ Ross Day
Ross Day, OSB# 002395
DAY LAW, PC
Counsel for Plaintiff

JULY 17, 2024:

MEETING DOCUMENTS

AGENDA – July 17, 2024 – 9:00am-11:00am [TEAMS LINK HERE](#)

- Welcome and Introductions – Rep. Conrad and Rep. E. Levy
- Presentation – Oregon State Treasury – [Unclaimed Property Program](#)
- Presentation – County responses and discussion regarding June 26 [Advocates' presentation](#)
(Material provided by counties)
 - [Baker County](#)
 - [Clatsop County](#)
 - [Deschutes County](#)
 - [Morrow County](#)
 - [Washington County](#)
 - [Suggestions from a collection of counties](#) (Clackamas, Josephine, Lane, Marion, Multnomah, Washington, Yamhill)
- Additional discussion from DOJ regarding notification and garnishment (*pending availability*)
- Group discussion
- Wrap-up
 - Summarize decision points for next meeting
 - Task list

Final Scheduled Meeting Date – 9:00am-11:00am - virtual

- Wednesday, August 14

DOR Website for Meeting Materials and Information

https://www.oregon.gov/dor/programs/property/Pages/property_tax-foreclosure_sales.aspx

Agency Contact

Marjorie Taylor, Legislative Director, marjorie.taylor@dor.oregon.gov (503)476-7644

Meeting Attendance – July 17, 2024

| Name in Teams | Organization Type | Organization |
|--|--------------------------|--------------------------|
| Lindsay Tenes (External) | City | LOC |
| Andrea Meyer | Consumers | AARP Oregon |
| Tom Holt (Unverified) | Consumers | Cascade Policy Institute |
| Karen Saxe (External) | Consumers | DevNW |
| John C Powell (Guest) (Unverified) | Consumers | Financial |
| Pamela Leavitt | Consumers | Financial |
| Michelle Hawkins (External) | Consumers | One Mission |
| Kileen Lindgren (External) | Consumers | Pacific Legal |
| Jeremy Rogers (External) | Consumers | Realtors |
| Mallorie Roberts, AOC (Unverified) | County | AOC |
| Jennifer Button, Tax Deputy (Unverified) | County | Baker |
| Kim Mosier (External) | County | Baker |
| Cooper, Todd (External) | County | Clackamas |
| Coy, Melissa (External) | County | Clackamas |
| Foreman, Sarah (External) | County | Clackamas |
| Rueda, Bronson (External) | County | Clackamas |
| Sosna, Leslie (External) | County | Clackamas |
| Amanda R (she/her) - Clatsop Policy Analyst | County | Clatsop |
| Amanda Rapinchuk (External) | County | Clatsop |
| Chris Leader (Unverified) | County | Clatsop |
| Hannah Bryan (External) | County | Clatsop |
| Suzanne Johnson (External) | County | Clatsop |
| Doug Riggs (Unverified) | County | Deschutes |
| Robert Tintle (External) | County | Deschutes |
| Jameson P. Baird (External) | County | Douglas |
| Chet Wilkins (External) | County | Gilliam |
| Michelle W. Jackson Co (Unverified) | County | Jackson |
| Pete Philbrick (Jackson County) (Unverified) | County | Jackson |
| Helene Lulich (External) | County | Josephine |
| SMITH Stacie E | County | Lane |
| VARIO Emily D | County | Lane |
| Ashley M. Lande (External) | County | Lincoln |
| Jayne Welch (External) | County | Lincoln |
| Cheryl W Linn County (Unverified) | County | Linn |
| Rachel Adamec (Unverified) | County | Linn |
| Linn County Tax (Unverified) | County | Linn |
| Malheur (Unverified) | County | Malheur |
| Malheur2 (Unverified) | County | Malheur |
| Scott Norris (External) | County | Marion |

| | | |
|--|--------------|------------|
| Jaylene Papineau (External) | County | Morrow |
| Mike Gorman (External) | County | Morrow |
| Allison Wellman - Multnomah (Unverified) | County | Multnomah |
| Carlos (Guest) (Unverified) | County | Multnomah |
| Tom Powers - MultCo (he/him) (Unverified) | County | Multnomah |
| Carly Sylva-Gabrielson (External) | County | Washington |
| Jason Bush (Unverified) | County | Washington |
| Wheeler County (Unverified) | County | Wheeler |
| Jodi Gollehon (External) | County | Yamhill |
| Gene (Unverified) | Guest | Unknown |
| Jodi Campbell (Unverified) | Guest | Unknown |
| Linda Hopper (Unverified) | Guest | Unknown |
| Michael (Unverified) | Guest | Unknown |
| Mike Sublett (Unverified) | Guest | Unknown |
| Miles Palacios (he/him) (Guest) (Unverified) | Guest | Unknown |
| Rachael (Guest) (Unverified) | Guest | Unknown |
| Hasina Wittenberg (Unverified) | Special Dist | SDAO |
| Grant Michael W (External) | State | DOJ |
| Ritchey Michael L (External) | State | DOJ |
| BENJAMIN Danette M * DOR | State | DOR |
| BROCKIE Jason D * DOR | State | DOR |
| EKSTRAND Bram N * DOR | State | DOR |
| ELLIOTT Robin * DOR | State | DOR |
| KRAMER Gregory A * DOR | State | DOR |
| TAYLOR Marjorie * DOR | State | DOR |
| Olen Beau | State | Legis |
| Rep Conrad | State | Legis |
| Rep Levy E | State | Legis |
| CIOBANU Claudia (External) | State | OST |
| HOWELL Jessica (External) | State | OST |

Unclaimed Property Claims Overview

Claudia Ciobanu, Trust Property Director



**OREGON
STATE
TREASURY**

July 17, 2024

Oregon Unclaimed Property

- **1957 Oregon Abandoned Property Act**
- **Holds \$1B in unclaimed funds; more than \$100M received every year by November 1**
- **Returned \$600M to owners**
- **Processed 65K claims in 2023 - \$60M**
 - **Auto-approval process: \$5M**
 - **Manual approval (staff review): \$45M**
 - **Data-match: \$10M**

<https://unclaimed.oregon.gov/>



OREGON
STATE
TREASURY

Anyone can hold unclaimed funds and have unclaimed property

- Unclaimed funds...
 - Belong to owners **FOREVER**
 - Can be claimed for free, 24/7
- Claims process
 - Fully electronic
 - Option for paper claims



Claims Vary

- **Value: <\$1 to \$5M**
- **Complexity**
 - multiple owners
 - closed businesses
 - bankruptcies
 - heirships
 - assumptions and agents



Who can claim funds?

- **Owners directly (a person, multiple people, a business)**
- **Agents and representatives of owners (via a power of attorney)**
- **Heirs or personal representatives of an estate**
- **Finders (via a contract with the owner; finders must hold a PI license in Oregon; finders take a cut of the unclaimed property)**
- **Creditors (via a garnishment)**
- **Purchasers of rights (via contracts with owners under a variety of terms)**



Claim Form

- **Claim form details: OAR 170-140-0100**
 - **Names, address, SSN (optional), contact information**
- **Notarized signature (\$2,500+, but it used to be \$100+)**
- **Indemnification:** “I declare under penalty of perjury or mail fraud that to the best of my knowledge I am entitled to the assets of this claim and agree to indemnify and hold the State Treasurer harmless for and from all claims, loss, costs, damages and expenses that State Treasurer may sustain by turning this asset over to me, or refusal to pay this asset or any part of it to any other person(s).”



Claims Evidence

- **The burden of proof is on the claimant: OAR 170-140-0130**
- **Evidence proving the claim: OAR 170-140-0105 and OAR 170-140-0115**
- **Evidence when claim is filed on behalf of a claimant: OAR 170-140-0110**
 - **Licensed finder, guardian or conservator, agent, employee,**



Evidence

- **Who is the person claiming?**
 - **Copy of photo ID, verification of SSN (SSN card, tax records, some benefit statements, etc.)**
- **Do they have a right to the property?**
 - **Connection to the property**
 - **Bank statement, bills with same address, etc.**
 - **Explanation of connection**
- **Are they claiming the right property?**
 - **Common names...**
 - **Is this the right John Smith?**
 - **Did this company buy the rights from the right owner?**
- **Verification of where we are sending the money (if we are not sending the money to the address of record)**



Evaluating the Evidence

- **Trust but verify**
 - **Independent verification of evidence**
 - **Accurint (Lexis Nexis product available by paid subscription)**
 - **Clear (Thompson Reuter product available by paid subscription)**
 - **Court records**
 - **Business registry**
 - **Communication with the holder who reported the property**
- **Original, unredacted documents**
- **Request more evidence to address gaps**



Fraud considerations

- **Fraud has increased 600% since the beginning of the pandemic**
- **We see it in claims of various value: \$250 - \$200K**
- **Electronic claims lend themselves to more fraud**
- **Easy to get fake documents that look real (IDs, passports, bank statements, utility bills, etc.)**
- **Unclaimed property is the perfect crime – once it's gone, it's very unlikely that the rightful owner will come forward**



Fraud Mitigation

- Website analytics – fraud index highlights potentially fraudulent claims
 - Our system flagged 11,000+ claims worth \$33M in the last 5 years
- Independent verification – at a minimum, we check SSN (if it's reported by the holder)
- Stay current on fraud trends
- Communicate with other states on fraudulent activities
- Other states have added fraud examiners to their staff and are prosecuting cases



What you can expect...

- **Claims from a variety of individuals**
 - **Owners**
 - **Heirs or personal representatives**
 - **Oregon State Treasury**
 - **Estates Administration Program**
- **Finders representing owners**
- **Companies that bought the rights to foreclosure surplus**
- **Fraudulent claims and documents**



Best Practices

- Ask for notarized signatures on claim forms beyond a certain value level
- Ask for supporting documentation
- Verify what you can independently
- Ask for original, unredacted contracts if surplus property was sold by owner
- Keep the process consistent regardless of who is claiming
- When dealing with companies that bought assets, they may tell you they are the owners, but you have to verify they bought that property from the right person
 - Treat the claim as an owner claim and add to it the business agreement and proof that the person who is claiming is authorized to act on behalf of the company





Thank you!

Questions?

Claims

claims@ost.state.or.us

503-566-9445

Holder

holder@ost.state.or.us

503-986-5290



**OREGON
STATE
TREASURY**

July 17, 2024

COUNTY RECOMMENDATIONS FOR THE HB 4056 DOR WORKGROUP

- 1) Define who is entitled to the surplus proceeds (i.e., the “claimant”) and the method by which a claimant can establish “ownership” status. Counties do not want to be involved in claim litigation or prioritization, and we therefore ask that the term “claimant” not include creditors, garnishors, lienholders, or assignees. However, counties would support a separate “policy” bill that addresses the rights of these groups in relation to the former owner.
- 2) Foreclosed properties will continue to be sold via public auction as we feel that it is the most appropriate manner of selling as-is properties. Counties may opt into using a real estate agent at their own discretion, but they will be under no statutory obligation to do so.
- 3) Allow for all county expenses in administering the surplus proceeds to be deducted from the surplus proceeds prior to distribution (in addition to all other fees/expenses already deductible under ORS 275.275).
- 4) Establish deadlines for a claimant to file for surplus proceeds per the following:
 - a. One year from the date the property is sold or conveyed to a third-party;
 - b. One year from the date the county makes a determination that the county will retain the property for public purposes; or
 - c. If no action is otherwise taken by the county, two years from date the property is deeded to the county under ORS 312.122 or 312.200.
- 5) Clarify what notices are required, to whom they are to be sent to, and when they must be sent. The counties do not support a “due diligence” requirement wherein a county would be obligated to locate all potential claimants. Accordingly, we recommend the following notice requirements:
 - a. Include notification of the potential surplus in the one-year redemption notice already required under ORS 312.125.
 - b. Require written notice be sent to the former owner at their last known address no less than 180 days before the filing deadline.
 - c. County website must publicly post all available surplus proceeds, along with an adequate property description and the respective former owner’s name.
 - d. Annual newspaper posting of expiring surplus claims no later than 60 days before the filing deadline.
- 6) Counties prefer to allow the current lookback litigation to run its/their course before enacting legislation dictating procedures. Alternatively, the counties fully support the State’s takeover of all lookback claims. If requested, the counties prefer a six-year lookback period to align with ORS 12.080.



BAKER COUNTY TREASURER AND TAX COLLECTOR

1995 Third Street, #140
Baker City, OR 97814

Traci Robinson – Treasurer and Tax Collector

LeAnne Bourne – Chief Deputy

Jennifer Button - Tax Deputy

(541) 523-8221

Fax (541) 523-8240

1995 Third Street
Baker City, Oregon 97814

July 11, 2024

Marjorie Taylor
Oregon Department of Revenue
marjorie.taylor@dor.oregon.gov

Re: House Bill 4056 Recommendations and County Support

Dear Chair and Members of the Workgroup,

Baker County is providing a written response to the request from Representative Conrad to respond to the consumer group memo.

Baker County Tax Office supports the considerations other counties have put forward to address the consumer group memo. The following comments are presented in addition to those considerations already put forward by counties.

- Clear definitions of claimants and an articulation of required notices are important. The counties do not support a "due diligence" requirement that would obligate a county to locate all potential claimants. Baker County is particularly concerned with incurring liability for paying out a claim to a purported heir or devisee of a former property owner, only to later discover that there are more or different heirs or devisees that may or may not be entitled to a claim. What constitutes adequate proof of claim should be made clear in statute. Protections for county officials tasked with processing claims should be included, just as protections are given to county clerks for recording instruments. See ORS 205.130.
- Publication of required notices on a county website rather than a newspaper is preferable. Rural counties have recently experienced the closing of newspapers of general circulation, making it difficult to find effective ways to reach the public in print.

Thank you for your time and consideration.

A handwritten signature in cursive script that reads "Traci Robinson".

Traci Robinson
Baker County Treasurer/Tax Collector



July 10, 2024

Marjorie Taylor
Oregon Department of Revenue
marjorie.taylor@dor.oregon.gov

RE: Recommendations for the Department of Revenue House Bill 4056 Workgroup

Dear Chair and Member of the Workgroup:

As a follow-up to the June 26 HB 4056 Workgroup meeting, Deschutes County is providing a written response to the request from Representative Conrad asking counties to review and respond to the consumer group memo. We are supportive of the key considerations prepared by Yamhill, Multnomah, Washington, Josephine, Clackamas, Lane, and Marion counties. The following reiterates those key considerations.

- 1) Define who is entitled to the surplus proceeds (i.e., the “claimant”) and the method by which a claimant can establish “ownership” status. Deschutes County does not want to be involved in claim litigation or prioritization, and we therefore ask that the term “claimant” not include creditors, garnishors, lienholders, or assignees. Deschutes County believes that these rights are adequately addressed in current statute by providing notification during the two-year redemption period. However, if changes need to be made to the current statutory language, Deschutes County would support a separate “policy” bill that addresses the rights of these groups in relation to the former owner.
- 2) Foreclosed properties will continue to be sold via public auction as Deschutes County believes it is the most appropriate and efficient manner of selling as-is properties. Counties may opt into using a real estate agent at their own discretion, but they will be under no statutory obligation to do so. It is worth noting that the property owners have the opportunity for years to utilize a real estate agent prior to the taking of deed by a county, if that is the option they want utilized for the sale of their property.
- 3) Allow for all county expenses in administering the surplus proceeds to be deducted from the surplus proceeds prior to distribution (in addition to all other fees/expenses already deductible under ORS 275.275).
- 4) Establish deadlines for a claimant to file for surplus proceeds per the following:
 - a. One year from the date the property is sold or conveyed to a third-party up to a maximum of two years from the date the property is deeded to the county under ORS 312.122 or 312.200;
 - b. One year from the date the county makes a determination that the county will retain the property for public purposes up to a maximum of two years from the date the property is deeded to the county under ORS 312.122 or 312.200; or

- c. If no action is otherwise taken by the county, two years from date the property is deeded to the county under ORS 312.122 or 312.200.
- 5) Clarify what notices are required, to whom they are to be sent to, and when they must be sent. The counties do not support a “due diligence” requirement wherein a county would be obligated to locate all potential claimants. Accordingly, we recommend the following notice requirements:
- a. Include notification of the potential surplus in the one-year redemption notice already required under ORS 312.125.
 - b. Require written notice be sent to the former owner at their last known address no less than 180 days before the filing deadline of two years from the date the property is deeded to the county under ORS 312.122 or 312.200.
 - c. County website must publicly post all available surplus proceeds, along with an adequate property description and the respective former owner’s name.
 - d. Annual newspaper posting of expiring surplus claims no later than 60 days before the filing deadline of two years from the date the property is deeded to the county under ORS 312.122 or 312.200.
- 6) Deschutes County fully supports the State’s takeover of all lookback claims with funding provided by the State Legislature to pay the claims. If requested, Deschutes County supports a six-year lookback period to align with ORS 12.080. There are arguments that the lookback period should be two years. There are also arguments that the lookback period should be ten years. Six years is a reasonable compromise.

Thank you for your consideration.

The Deschutes County Board of Commissioners



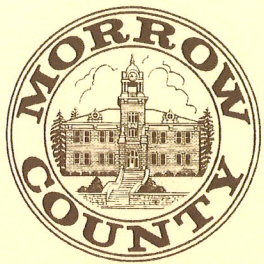
Patti Adair
Chair



Anthony DeBone
Vice Chair



Phil Chang
Commissioner



ASSESSMENT & TAXATION

P.O. Box 247 • Heppner, Oregon 97836
Ph: (541) 676-5607

Mike Gorman
Assessor/Tax Collector

July 10, 2024

Marjorie Taylor
Oregon Department of Revenue
marjorie.taylor@dor.oregon.gov

RE: Recommendations for the Department of Revenue House Bill

4056 Workgroup Dear Chair and Members of the Workgroup:

As a follow-up to the June 26 HB 4056 Workgroup meeting, The Morrow County Tax Collector is providing a written response to the request from Representative Conrad asking counties to review and respond to the consumer group memo. The Morrow County Tax Collector is supportive of the key considerations prepared by Yamhill, Multnomah, Washington, Josephine, Clackamas, Lane, and Marion counties. The following reiterates those key considerations.

Define who is entitled to the surplus proceeds (i.e., the “claimant”) and the method by which a claimant can establish “ownership” status. Morrow County does not want to be involved in claim litigation or prioritization, and we therefore ask that the term “claimant” not include creditors, garnishors, lienholders, or assignees. Morrow County believes that these rights are adequately addressed in current statute by providing notification during the two-year redemption period. However, if changes need to be made to the current statutory language, Morrow County would support a separate “policy” bill that addresses the rights of these groups in relation to the former owner.

Foreclosed properties will continue to be sold via public auction as Morrow County believes it is the most appropriate and efficient manner of selling as-is properties. Counties may opt into using a real estate agent at their own discretion, but they will be under no statutory obligation to do so. It is worth noting that the property owners have the opportunity for years to utilize a real estate agent prior to the taking of deed by a county, if that is the option they want utilized for the sale of their property.

Allow for all county expenses in administering the surplus proceeds to be deducted from the surplus proceeds prior to distribution (in addition to all other fees/expenses already deductible under ORS 275.275).

Establish deadlines for a claimant to file for surplus proceeds per the following:
One year from the date the property is sold or conveyed to a third-party up to a maximum of two years from the date the property is deeded to the county under ORS 312.122 or 312.200;
One year from the date the county makes a determination that the county will retain the property for public purposes up to a maximum of two years from the date the property is deeded to the county under ORS 312.122 or 312.200; or
If no action is otherwise taken by the county, two years from date the property is deeded to the county under ORS 312.122 or 312.200.

Clarify what notices are required, to whom they are to be sent to, and when they must be sent. The counties do not support a "due diligence" requirement wherein a county would be obligated to locate all potential claimants. Accordingly, we recommend the following notice requirements:

Include notification of the potential surplus in the one-year redemption notice already required under ORS 312.125.

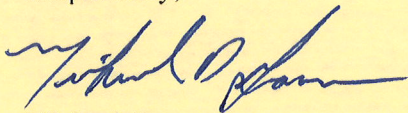
Require written notice be sent to the former owner at their last known address no less than 180 days before the filing deadline of two years from the date the property is deeded to the county under ORS 312.122 or 312.200.

County website must publicly post all available surplus proceeds, along with an adequate property description and the respective former owner's name.

Annual newspaper posting of expiring surplus claims no later than 60 days before the filing deadline of two years from the date the property is deeded to the county under ORS 312.122 or 312.200.

Morrow County fully supports the State's takeover of all lookback claims with funding provided by the State Legislature to pay the claims. If requested, Morrow County supports a six-year lookback period to align with ORS 12.080. There are arguments that the lookback period should be two years. There are also arguments that the lookback period should be ten years. Six years is a reasonable compromise.

Respectfully,

A handwritten signature in blue ink, appearing to read "Michael Gorman", is written over a faint, circular red stamp.

Michael Gorman
Morrow County Assessor/Tax Collector

AUGUST 14, 2024:

MEETING
DOCUMENTS

AGENDA – August 14, 2024 – 9:00am-11:00am [TEAMS LINK HERE](#)

- Welcome and Introductions – Rep. Conrad and Rep. E. Levy
- Group discussion
 - Review and finalize summary of suggestions ([available on web](#))
 - Review and modify draft report ([available on web](#))
- Wrap-up

Anticipated Next Steps for Legislative Report

- Fri. 8/16 – Publish last DRAFT on DOR website and share with email list
- Thurs. 8/22 – Final edits due back to DOR
- Tues. 8/27-9/10 – DOR final edits and formatting
- Tues. 9/10 – Distribute report to legislature and post on DOR website

DOR Website for Meeting Materials and Information

https://www.oregon.gov/dor/programs/property/Pages/property_tax-foreclosure_sales.aspx

Agency Contact

Marjorie Taylor, Legislative Director, marjorie.taylor@dor.oregon.gov (503)476-7644

Meeting Attendance – August 14, 2024

| Name | Org Typ | Org |
|--|-----------|--------------------------|
| Mitchell, Evyn (External) | City | Portland |
| Andrea Meyer | Consumers | AARP Oregon |
| Tom Holt (Unverified) | Consumers | Cascade Policy Institute |
| Karen Saxe (External) | Consumers | DevNW |
| John C Powell (Unverified) | Consumers | Financial |
| Chris Coughlin (Unverified) | Consumers | OR Consumer Justice |
| Brock Nation (External) | Consumers | OR Realtors |
| Arthur Towers (External) | Consumers | OR Trial Lawyers Assoc |
| Sybil Hebb (External) | Consumers | Oregon Law Center |
| Jim M. Manley (External) | Consumers | Pacific Legal |
| Mallorie Roberts, AOC (Unverified) | County | AOC |
| Miles Palacios - AOC (he/him) (Unverified) | County | AOC |
| Jennifer Button, Baker County (Unverified) | County | Baker |
| Cooper, Todd (External) | County | Clackamas |
| Foreman, Sarah (External) | County | Clackamas |
| Sosna, Leslie (External) | County | Clackamas |
| Alicia Sprague (External) | County | Clatsop |
| Amanda Rapinchuk (External) | County | Clatsop |
| Anthony Pope (External) | County | Clatsop |
| Hannah Bryan (External) | County | Clatsop |
| Suzanne Johnson (External) | County | Clatsop |
| Megan Simms, Coos County (Unverified) | County | Coos |
| Doug Riggs (Guest) (Unverified) | County | Deschutes |
| Robert Tintle (External) | County | Deschutes |
| Jameson P. Baird (External) | County | Douglas |
| Chet Wilkins (External) | County | Gilliam |
| Bill Hart, Harney County (Unverified) | County | Harney |
| Corey Hill- Harney (Unverified) | County | Harney |
| Karen Zabala (Unverified) | County | Harney |
| Michelle W. Jackson Co (Unverified) | County | Jackson |
| Stephanie Nuttall (External) | County | Josephine |
| Wally Hicks (External) | County | Josephine |
| Rick Vaughn | County | Klamath |
| SMITH Stacie E | County | Lane |
| VARIO Emily D | County | Lane |
| Jayne Welch (External) | County | Lincoln |
| Amy - Linn County Tax (Unverified) | County | Linn |
| Cheryl W Linn County (Unverified) | County | Linn |
| Malheur (Unverified) | County | Malheur |

| | | |
|--|--------|------------|
| Malheur2 (Unverified) | County | Malheur |
| John Carlson (External) | County | Marion |
| Natasha McVey (External) | County | Marion |
| Scott Norris (External) | County | Marion |
| Jaylene Papineau (External) | County | Morrow |
| Allison Wellman - Multnomah (Unverified) | County | Multnomah |
| Carlos Rasch (Unverified) | County | Multnomah |
| Tom Powers - MultCo GR (he/him) (Unverified) | County | Multnomah |
| Ashley Immoos (External) | County | Wallowa |
| Jodi Beck (External) | County | Wallowa |
| Jill Amery Wasco Co (Guest) (Unverified) | County | Wasco |
| Carly Sylva-Gabrielson (External) | County | Washington |
| Jodi Gollehon (External) | County | Yamhill |
| Charlie (Unverified) | Guest | Unknown |
| Gene (Unverified) | Guest | Unknown |
| Jodi Campbell (Unverified) | Guest | Unknown |
| Johan Pietila (Unverified) | Guest | Unknown |
| Linda Hopper (Unverified) | Guest | Unknown |
| Mike Sublett (Unverified) | Guest | Unknown |
| Phil Dollison (Unverified) | Guest | Unknown |
| Rachael (Guest) (Unverified) | Guest | Unknown |
| Rachel (Unverified) | Guest | Unknown |
| Ryann Gleason (External) | Guest | Unknown |
| Grant Michael W (External) | State | DOJ |
| Kimberly McCullough (Unverified) | State | DOJ |
| Ritchey Michael L (External) | State | DOJ |
| BENJAMIN Danette M * DOR | State | DOR |
| BROCKIE Jason D * DOR | State | DOR |
| EKSTRAND Bram N * DOR | State | DOR |
| ELLIOTT Robin * DOR | State | DOR |
| KRAMER Gregory A * DOR | State | DOR |
| TAYLOR Marjorie * DOR | State | DOR |
| Canfield Sierra | State | Legis |
| Mannon Olivia | State | Legis |
| Marilyn Fleener (Unverified) | State | Legis |
| Olen Beau | State | Legis |
| Rep Conrad | State | Legis |
| CIOBANU Claudia (External) | State | OST |

Suggested Pre-Sale Changes Highlights = Edits/comments 8/19/24

Five Years Through Three Years Prior to Deed to County

Tax statements indicating past due amounts sent annually to property owners per ORS 311.250

Delinquent tax notices sent annually to property owners per ~~311.345~~ 311.545 (Correction per DOJ)

- Interest groups recommend notices are drafted in the most commonly used languages in the County. ([Secretary of State ORS 251.167](#))
 - Deschutes County would recommend adding some language, “If you need this information in an alternative format, please call or email” or “Spanish Version available upon request” for examples. Note, that if the requirement was to provide notices and other documents in different languages in all instances, that this would be an administrative burden and costly due to software limitations and other logistical challenges

Two Years Prior to Deed to County

Intent to Foreclose mailed to owner & mortgagee via certified and first-class mail two years prior to county taking deed per ORS 312.040

- Interest groups recommend notices are drafted in the most commonly used languages in the County. ([Secretary of State ORS 251.167](#))

Foreclosure list published in newspaper per ORS 312.040 & 312.060

- County recommendation to allow posting to county website
 - Deschutes County recommends the State consider developing a centralized State website that Counties can post information accordingly.

One Year Prior to Redemption Period Expiring

Notice of Expiration of Redemption Period sent to anyone with a recorded interest in the property at time of initiating foreclosure proceedings per ORS 312.125

- Interest groups recommend notices are drafted in the most commonly used languages in the County. ([Secretary of State ORS 251.167](#))

One Month prior to Redemption Period Expiring

General Notice of Expiration of Redemption Period printed twice in a newspaper of general circulation 10 – 30 days prior to expiration of the redemption period per ORS 312.190

- County recommendation to allow posting to county website
 - **Deschutes County** recommends the State consider developing a centralized State website that Counties can post information accordingly.

Outstanding Questions

Is there additional clarification needed regarding noticing? Some recommendations from counties:

- Include notification of the potential surplus in the one-year redemption notice already required under ORS 312.125.
- Require written notice be sent to the former owner at their last known address no less than 180 days before the filing deadline.
 - **Deschutes County** requesting confirmation, is this 180-days related to the filing deadline to claim the funds? If yes, would the DOT be responsible for the 180-day notice since funds would have been transferred to DOT after 30-days of sale?
- County website must publicly post all available surplus proceeds, along with an adequate property description and the respective former owner's name.
 - **Deschutes County** recommends the State consider developing a centralized State website that Counties can post information accordingly.
- Annual newspaper posting of expiring surplus claims no later than 60 days before the filing deadline.
 - **Deschutes County** believes that because the funds would have already been turned over to the State after the 30-day post sale, the State/DOT would be responsible for this portion. Also, this would pose a challenge to counties due to cost and often in cases where advertising locally is no longer an option.
 - **The Association of Oregon Counties (AOC)** reiterates and endorses the recommendations and adds one additional note - Notice and publication requirements can be very costly to counties, reimbursement through the sale process is often not viable to mitigate these costs as the sales do not occur within the same year, or sometimes at all.

Suggested Post-Sale Timeline

Immediately After Sale

Counties receive funds from sale and pay all past due taxes, fees, and admin costs.

- County recommendation to expand statute to allow for reimbursement of all expenses in administering the surplus process, in addition to the expenses already deductible under ORS 275.275.
 - **AOC recommends** that *all* claims be transferred to Oregon State Treasury Unclaimed Property –

- Suggested process: county takes deed, executes sale, deducts past due taxes, fees, admin costs from proceeds, and turns the remaining proceeds over to OST.
- Counties are neither equipped to handle lien priority determinations nor indemnified if that priority determination is challenged.
- We anticipate that leaving priority lien determination to counties will result in additional uncertainty, litigation, and unrecoverable costs to counties/the taxpayer.

County notifies the Department of Justice of excess proceeds available for each individual owner.

County deposits proceeds to an escrow account and holds for 30 Days.

- **Deschutes County** recommends that the term “escrow” should be defined to only include an internal account to the county, separately accounted for and interest bearing. The intent is not to transfer funds to a neutral third party (escrow) for the 30-day period. Instead, the county will hold the funds and account for separately in an interest-bearing account.
- **Malheur County** does not want it referred to as an ‘Escrow’ account. We have no problem placing it into an interest-bearing account and calling it an ‘Interest Bearing’ account.

DOJ may assert claims and issue garnishments to the county for any relevant **DOJ child support and restitution (edit per DOJ)** liens against individual property owners within this timeframe.

- **Deschutes County** requests clarification that the State would issue the claim against the property vs an individual. It would be an administrative burden to verify a lien against an individual vs a lien for an actual property. Further, the county does not have personal/confidential information to verify on a property owner (social security number, etc.)
- Other holders of secured priority liens, such as mechanics liens, may also assert claims during this time
- Language will need to be included in legislation to specifically allow DOJ to issue garnishments to the counties

30 Days Post Sale

- **AOC recommends** that Oregon State Treasury handle all surplus claims; remove suggestion of counties handling DOJ liens

County disburses any available funds to DOJ and/or other priority secured lienholders to pay individual liens per DOJ/lienholder claims.

After any available funds have been disbursed towards DOJ or other priority secured liens, Counties will clear the escrow account and forward remaining funds, along with relevant

owners/party of interest info on a per-account basis, to the Department of Treasury. At this point DOT would assume responsibility for processing, validating, and paying claims, and counties would be held harmless for any errors in disbursing funds to an incorrect claimant. Property owners would utilize the existing unclaimed property process through the Department of Treasury to make a claim for any surplus funds.

- Counties would include information regarding the DOT unclaimed property/surplus funds process on their websites and in communications to the property owner.

Claimants must file claims with DOT within the timelines set forth in statute:

- One year from the date the property is sold or conveyed to a third-party up to a maximum of two years from the date the property is deeded to the county under ORS 312.122 or 312.200;
- One year from the date the county makes a determination that the county will retain the property for public purposes up to a maximum of two years from the date the property is deeded to the county under ORS 312.122 or 312.200; or
- If no action is otherwise taken by the county, two years from date the property is deeded to the county under ORS 312.122 or 312.200.

Outstanding Questions

- Who is a claimant?
 - Deschutes County further clarification specific to Claimant and the “look back period”, which still needs to be determined. As far as claims moving forward, the DOT takes on the responsibility of claims, so therefore the DOT would need to define this term.
- What happens to unclaimed surplus funds at the end of the claim period?
 - Deschutes County requests, at the expiration of the claim period, proposing that the State returns the unclaimed funds (minus any State administrative costs) to the Counties for distribution in accordance with ORS 275.275.
 - AOC recommends that any unclaimed surplus is returned to the originating county so the funds can be disbursed to the appropriate taxing districts.
 - Malheur County would like the proceeds returned to the County if there are no claims beyond the set date to have claims turned in. The taxing districts could really benefit from anything sent there way. If the Department of Treasury needs to take a percentage before returning it, that is completely appropriate for all the work they would have done.
- How will assignment of claims to third parties be handled?
 - Deschutes County believes if DOT takes on the responsibility of claims, then DOT would need to define this term.
- How is surplus determined/what is the process in the event a county retains a property?
 - Deschutes County recommends, counties that retain a property to further public interest would be required to have a third-party appraisal. Any qualified claimant “surplus” would be the appraised value minus associated/allowable expenses.

Additional items to be addressed based on participant feedback:

1. **Deschutes**: Need more information/language of the State pool of funds for the “look back period” to pay claims accordingly since funds have already been distributed. Additionally, the “look back period” is still unclear in terms of timeframe. Recommend a short period.
2. **AOC**: Determining value
 - Current case law dictates that the sale price at auction is considered the real market value – AOC suggests that statute codify this for purposes of surplus proceeds
 - Independent appraisers and the use of real estate agents carry significant costs for which counties do not have a budget and would be inappropriate for many of the properties that go to foreclosure.
 - AOC opposes any language creating a duty for the county to maximize the value of a surplus
 - Counties would no longer be able to transfer properties to nonprofits, for use as affordable housing, etc.
 - Counties would no longer be able to invest in cleaning up property, meaning nuisance properties etc. would remain in that state until sold and mitigated by the new owner
3. **AOC**: “Lookback period”
 - Counties prefer to allow the current lookback litigation to run its/their course before enacting legislation dictating procedures.
 - Alternatively, the counties fully support the State’s takeover of all lookback claims.
 - In most cases all of these funds have been distributed to taxing districts. Counties would have to consider claw backs to make payment on surplus funds.
 - If requested, the counties prefer a six-year lookback period to align with ORS 12.080.

Additional Items From 8/14/24 Meeting

- **AARP** Oregon acknowledged that Department of Treasury’s does not currently have a statutory outreach process for unclaimed property. However, Treasury is able to work on outreach when time and resources allow, with a focus on certain types of property.
- **Pacific Legal** advised that once funds are transferred to the Department of Treasury, they should be treated as any other unclaimed property and should not revert to the originating county; there should not be any expiration on the claim period for these funds.
- **Pacific Legal** advised that it is important to his and other interest groups that counties make an effort to maximize the value of properties being sold. This included county

retained properties or deed transfers. These properties should be assessed and marketed, and counties should pay any surplus to the owner. Alternatively, if the property can't be sold for market value it can be auctioned. If the property sells for less than amounts due, there would be no surplus. **With regard to notices – A coalition of advocates recommends the following (we can identify the organizations for Sybil, Andrea, Adrea Bopp Stark(?), Chris Coughlin, Art Towers, Tom Holt, Francoise Cleveland, and Pacific Legal Foundation:**

- Include a warning in all notices. They suggested that standard language can be used by all counties and included in statute. They suggest the following:
WARNING: There are unpaid taxes on property at (address) which you may own or have a legal interest in or which may be contiguous to your property. The property will be (or was) sold at public auction on (date) unless the back taxes are paid. To make payment, or to receive further information, contact (tax collector) immediately at (address), (telephone number). If you are low-income, you may be able to receive free or low-cost legal advice by contacting a legal aid organization. Go to <https://oregonlawhelp.org> to find an office near you. The Oregon State Bar provides information about legal assistance programs at www.osbar.org/public
- Notices for sale or auction should be distributed to the following:
 - Any property owner of record according to the records of the county recorder in the county in which the property is located. If notice to any property owner is returned undeliverable, a diligent search must be undertaken to locate and provide notice to property owners of record.
 - Any lienholder of record who has recorded a lien against the property if an address appears on the recorded lien.
 - Any mortgagee of record if an address appears on the recorded mortgage.
 - Any vendee of a recorded contract for deed if an address appears on the recorded contract.
 - Any other lienholder who has applied to the tax collector to receive notice if an address is supplied to the collector.
 - Any other lienholder who has applied to the tax collector to receive notice if an address is supplied to the collector.
 - Any lienholder of record who has recorded a lien against a mobile home located on the property if an address appears on the recorded lien.
 - Any legal titleholder of record of property that is contiguous to the property described in the tax certificate, if the property described is submerged land or common elements of a subdivision and if the address of the titleholder of contiguous property appears on the record of conveyance of the property to the legal titleholder. As used in this chapter, the term “contiguous” means touching, meeting, or joining at the surface or border, other than at a corner or a single point, and not separated by submerged lands. Submerged lands lying below the ordinary high-water mark which are sovereignty lands are not part of the upland contiguous property for purposes of notification.
 - Any person who has requested to receive notices of delinquent taxes.
- Notices should be posted, mailed, and distributed through social media

- They recommend that counties be required to offer an option of payment plans for past due taxes.
- They recommend that properties be appraised, listed by a real estate agent, and then sold at auction if not sold after a period of time.

DRAFT

POST MEETING DOCUMENTS

From: [Miles Palacios](#)
To: [TAYLOR Marjorie * DOR](#); [ELLIOTT Robin * DOR](#)
Cc: [Miles Palacios](#)
Subject: Re: Dept of Revenue - HB 4056 DRAFT Report (as of 8/19/24)
Date: Friday, August 23, 2024 12:51:44 PM

You don't often get email from mpalacios@oregoncounties.org. [Learn why this is important](#)

Good afternoon, Marjorie and Robin-

Below you will find thoughts and comments from AOC and county counsels-

- Any suggestion that counties should be paying lienholders (including DOJ) before other claimants (i.e., before the proceeds go to Treasury) is going to mean that I immediately take all sale proceeds and submit them to Circuit Court on an interpleader action – **refuse to determine competing claims.**
- **Regarding paying liens before claimants-** strongly advise that counties not be responsible for determining the validity of any liens. If the counties are to remit all surplus funds to the Dept of Treasury, it should include all funds, minus any fees, taxes, or administrative fees owed to the counties. This would make for cleaner accounting of funds.
- Please provide a definition of **administrative fee** that can be deducted.
- Suggest **closing the loop on using the assessed value/appraised** – I would prefer to avoid leaving any room for challenging the assessed value if the property has been trended up rather than individually assessed or challenging the validity of the appraisal for determining RMV for retained property.
- Assessed value should not be used. Deschutes supports the use of a third-party appraisal.

Under County Retained Properties and Deed Transfers:

- **In the assessed value vs. market value conversation:** I would point out the fundamental unfairness of both limiting taxes to an artificially low assessed value (Measure 50) and simultaneously holding counties responsible for maximizing the surplus generated by the sale of foreclosed properties.
- If taxpayers who benefit from taxes based on assessed value, **assessed value is not an accurate measure of the value of their property in the event of property tax foreclosure.** Perhaps it is time to re-evaluate Measure 50.
- **Burdening the County with a duty to attempt to list and sell tax foreclosed properties has significant cost and legal implications.** The counties would have to make a multitude of decisions about matters that directly affect the net “surplus” proceeds, including whether or not to offer to pay cooperating broker compensation to the buyer’s agent, whether to agree to paying or contributing to closing costs, whether to agree to make repairs or reduce the sales price to compensate the buyer for the cost of those repairs, and more. In addition to these discretionary decisions, the counties would be responsible for certain mandatory pre-sale inspection fees, e.g. testing of domestic well water (see ORS 448.271, OAR 333-061-0325). This process would significantly increase the administrative burden on the counties, and has the potential to cause a great deal of litigation over whether the counties properly or improperly exercised their discretion. Given that the taxpayers have no less than 5 years in which to exercise their right to sell the property before tax foreclosure occurs (or pay their taxes and avoid foreclosure entirely), **the counties should not be burdened with doing for the taxpayers that which they neglected or refused to do for themselves.**
- **Determining value** - If there is no auction, there must be some other means of determining value for retained properties or properties transferred to non-profits or other governments. The options should be: 1. An appraisal; 2. The tax roll RMV.
- **Limiting the value of the property to the assessed value eliminates this problem.** For all of the reasons stated above, it is the cleanest and most equitable resolution of this issue.
- Additionally, "sale price at auction" would qualify as the market value, not “RMV”, if the county

retains the property. This is to **distinguish the difference between the market value and the RMV that would normally be determined by the Assessors Office**. We do not want those two terms to be confused or used interchangeably.

Please feel free to reach out with any questions.

With gratitude,
Miles Palacios

----- Forwarded message -----

From: TAYLOR Marjorie * DOR <Marjorie.TAYLOR@dor.oregon.gov>

Date: Mon, Aug 19, 2024 at 4:56 PM

Subject: Dept of Revenue - HB 4056 DRAFT Report (as of 8/19/24)

To: TAYLOR Marjorie * DOR <Marjorie.TAYLOR@dor.oregon.gov>, ELLIOTT Robin * DOR <Robin.ELLIOTT@dor.oregon.gov>

Greetings,

Thank you for your continued interest and participation in the HB 4056 conversation. We're in the final stages of preparing a report to the legislature regarding your work this summer.

Robin Elliott and I will appreciate receiving your thoughts and comments on any of the attached documents by this Friday (8/23) afternoon.

After that, we will finalize the report, and submit to the legislature and House and Senate Revenue Committees before September 15.

For ease, we have attached:

- A four-page .pdf of "Summary of Workgroup Suggestions" from the beginning of the report. It tries to reflect the previous "Suggestions" document including edits and the 8/14 discussion. (This part may be of greatest interest to readers)
- An updated version of the previous "Suggestions" document including edits from 8/14 (attached Word doc) – this will be included as an exhibit near the end of the report. Robin tried to capture the points in the "Summary" document mentioned above.
- Draft Report – Similar to what we recently shared with you, but this includes a summary of 8/14 meeting.

These documents are also available on the [DOR - HB 4056 website](#) – near the bottom of the page.

Please let us know if you have questions. Thank you!

-Marjorie Taylor, Legislative Director

Oregon Department of Revenue

marjorie.taylor@oregon.gov

(503) 476-7644

--

Miles Palacios

Legislative Affairs Manager

Association of Oregon Counties

a: 1212 Court St. NE, Salem, OR 97301

o: 503.585.8351 m: 971.237.9855

e: mpalacios@oregoncounties.org

w: www.oregoncounties.org



Clatsop County

Assessment and Taxation

820 Exchange St., Suite 210
Astoria, OR 97103
(503) 325-8522 phone (503) 338-3638 fax
www.ClatsopCounty.gov

August 23, 2024

Marjorie Taylor
Oregon Department of Revenue
Marjorie.taylor@dor.oregon.gov

RE: Summary of HB 4056 Workgroup Suggestions

Dear Chair and Members of the HB 4056 Workgroup,

Clatsop County has appreciated the opportunity to participate in the HB 4056 Workgroup and provide feedback. The following are the County's comments and questions regarding the Oregon Department of Revenue's updated Summary of Workgroup Suggestions.

General

- Clatsop County supports all items currently listed in the updated Summary of Workgroup Suggestions document under this section.
- Additional recommendations:
 - *Expand statute to allow for reimbursement of all expenses related to administering the surplus process, in addition to the expenses already deductible under ORS 275.275.*
 - In addition to the expenses already deductible under [ORS 275.275](#), the statute should be expanded to include property taxes that would have been assessed on the property during the period following foreclosure while the county holds deed. For example, the State of Maine's current law accounts for this expense: [36 M.R.S. § 943-C\(3\)\(C\)\(2\)](#).

Look-Forward and Look-Back Periods

- Clatsop County supports:
 - *Two bills will be needed to address the tax foreclosure issue: one bill addressing adjustments to the process for future sales (the look-forward period), and one bill addressing policy for sales prior to implementation of any legislative changes to the process (the look-back period).*
 - *A state funded account should be established to cover any surplus refunds required for sales during the look-back period.*
 - *Previously extinguished liens cannot be resurrected for the look-back period.*
 - *A six-year statute of limitations should be utilized for the look-back period.*
 - *Legislation addressing the look-back period should be postponed pending a final decision in Western States Land Reliance Trust vs. Linn County*

- Additional comments/questions:
 - *The definition of a claimant may differ between the look-back and look-forward periods.*
 - How may the definitions differ?
 - *Legislation addressing the look-back period should be postponed pending a final decision in Western States Land Reliance Trust vs. Linn County.*
 - The outcome of this case may also impact the look-forward process. Should the final decision affirm that Linn County did not violate the takings clause, the definition of surplus funds must recognize Oregon's 2-year redemption period as due process for claiming surplus funds.

Pre-Sale Notices

- Clatsop County supports all items currently listed in the updated Summary of Workgroup Suggestions document under this section.

Pre-Sale Publication Requirements

- Clatsop County supports all items currently listed in the updated Summary of Workgroup Suggestions document under this section.

Tax Sale Process

- Clatsop County supports:
 - *Utilize the public auction process; do not require the use of an appraiser or real estate agent.*
- Clatsop County opposes:
 - *Utilize Real Estate agents and independent appraisals to assist in obtaining the maximum possible sale price and maximize potential surplus for a property; this can be a tiered process in which only appropriate, marketable properties would be listed with an agent.*
 - Clatsop County opposes any language creating duty for counties to maximize the sale price value of a property. Current case law dictates that the sale price at auction is considered the real market value. Clatsop County agrees with the Association of Oregon Counties' previously submitted comments recommending that the Legislature codify this definition in Oregon law. Independent appraisers and the use of real estate agents carry significant costs for counties and there is not a direct funding source that would support counties in fulfilling such a mandate. Moreover, these are not turnkey properties. The length of Oregon's foreclosure process (a 4-year notice period prior to foreclosure, followed by a two-year redemption period) further narrows the type of properties deeded to counties. The condition of these properties is reflective of unique circumstances that have resulted in foreclosure, such as limited possible use (i.e. slivers of land or geological constraints) or the condition is unsafe, clean up is needed, and/or eviction is required.
- Additional comments/questions:
 - Per [ORS 275.200](#) Section 2, it appears that a private sale is indicative of no surplus funds. Are there any situations in which a private sale may result in surplus funds?

County Retained Properties and Deed Transfers

- Clatsop County supports:
 - *Do not change the process for County retained properties or deed transfers. These properties are used for public benefit.*
- Additional recommendations:
 - *Acquire an appraisal for properties the County wishes to retain or transfer title to, and pay the market value of the property.*
 - Should the State Legislature determine that this process must include an appraisal, Clatsop County recommends:
 - Counties shall obtain a third-party appraisal for properties they choose to retain or transfer title (per [ORS 275.275](#)). Surplus funds owed to the previous owner are the appraised value minus expenses already deductible under [ORS 275.275](#), costs associated with the third-party appraisal, and property taxes that would have been assessed on the property during the period following foreclosure while a county holds deed.

Land Sale Agreements

- Clatsop County supports all items currently listed in the updated Summary of Workgroup Suggestions document under this section.

Post-Sale Process

- Clatsop County supports:
 - *County holds sale funds in an internal interest-bearing account for a maximum of 60 days to allow time to complete all post-sale administrative processes.*
 - *No later than 60 days post sale, and after deducting all allowable costs, the County forwards remaining funds and all accounting, property, and owner and party of interest information to the Department of Treasury for handling through the existing Unclaimed Property process.*
 - *Surplus proceeds not claimed within the statutorily required timeline must be returned to the originating county to be disbursed to taxing districts. – In accordance with [ORS 275.275](#)*
- Additional recommendations:
 - *County deducts amounts appropriate to pay all taxes, fees, administrative, and other allowable costs within this timeframe.*
 - In addition to the expenses already deductible under [ORS 275.275](#), the statute should be expanded to include property taxes that would have been assessed on the property during the period following foreclosure while the county holds deed. For example, the State of Maine's current law accounts for this expense: [36 M.R.S. § 943-C\(3\)\(C\)\(2\)](#).
 - *The County notifies the Department of Justice of excess proceeds available on individual properties.*
 - Since it is recommended that the Department of Treasury (DOT) facilitate the surplus claims process, Clatsop County recommends that DOT notifies the

Department of Justice (DOJ) of excess proceeds available on individual properties after they receive excess post-sale funds from a county.

- *The Department of Justice may assert claims and issue garnishments to the County or Department of Treasury for any relevant child support and restitution liens against individual property owners; the Department of Treasury will process these claims and garnishments upon receipt of funds and information if they are handling the surplus proceeds claims process.*
 - Since it is recommended that DOT facilitate the surplus claims process, Clatsop County recommends that DOJ assert claims and issue garnishments to DOT.
 - *Claimants must file claims with Department of Treasury within the timelines set forth in statute:*
 - *One year from the date the property is sold or conveyed to a third-party up to a maximum of two years from the date the property is deeded to the county under ORS 312.122 or 312.200;*
 - *One year from the date the county makes a determination that the county will retain the property for public purposes up to a maximum of two years from the date the property is deeded to the county under ORS 312.122 or 312.200; or*
 - *If no action is otherwise taken by the county, two years from date the property is deeded to the county under ORS 312.122 or 312.200.*
 - The maximum amount of time allotted for filing claims with DOT is not realistic for claimants and should be based on the date the property is sold or conveyed to a third-party. The current suggested timeline incorrectly assumes that once a county is deeded a property through the foreclosure process, the county then immediately sells, conveys, or decides to retain that property. There are a range of activities that occur after a county receives deed that extend this timeline. This may include identifying suitable use for the property, determining whether to retain it, addressing hazards or safety concerns on the lot, organizing a public auction, and/or completing the sale or transfer of the property. For rural and frontier counties, in particular, staffing capacity limitations further extend this timeline.
 - Clatsop County recommends legislative language clarifying that receipt of surplus funds by the previous owner(s) is deemed to be a waiver of any right of the previous owner(s) to take legal action challenging the validity of the taking of the property by the county.
- Additional comments/questions:
- *Claimants must file claims with Department of Treasury within the timelines set forth in statute:*
 - *One year from the date the property is sold or conveyed to a third-party up to a maximum of two years from the date the property is deeded to the county under ORS 312.122 or 312.200;*
 - *One year from the date the county makes a determination that the county will retain the property for public purposes up to a maximum of two years from the date the property is deeded to the county under ORS 312.122 or 312.200; or*
 - *If no action is otherwise taken by the county, two years from date the property is deeded to the county under ORS 312.122 or 312.200.*
 - Does the last line limit the time counties have to determine whether to sell, transfer, or retain a property to a maximum of two years from the date that the property was deeded to the county? A maximum of two years is not

always feasible for counties, especially when the condition of the property is unsafe, needs clean up, and requires eviction.

- If the previous property owner is deceased and there are no heirs, is there anyone else that may be entitled to submit a claim for surplus funds?

Post-Sale Noticing

➤ Clatsop County supports:

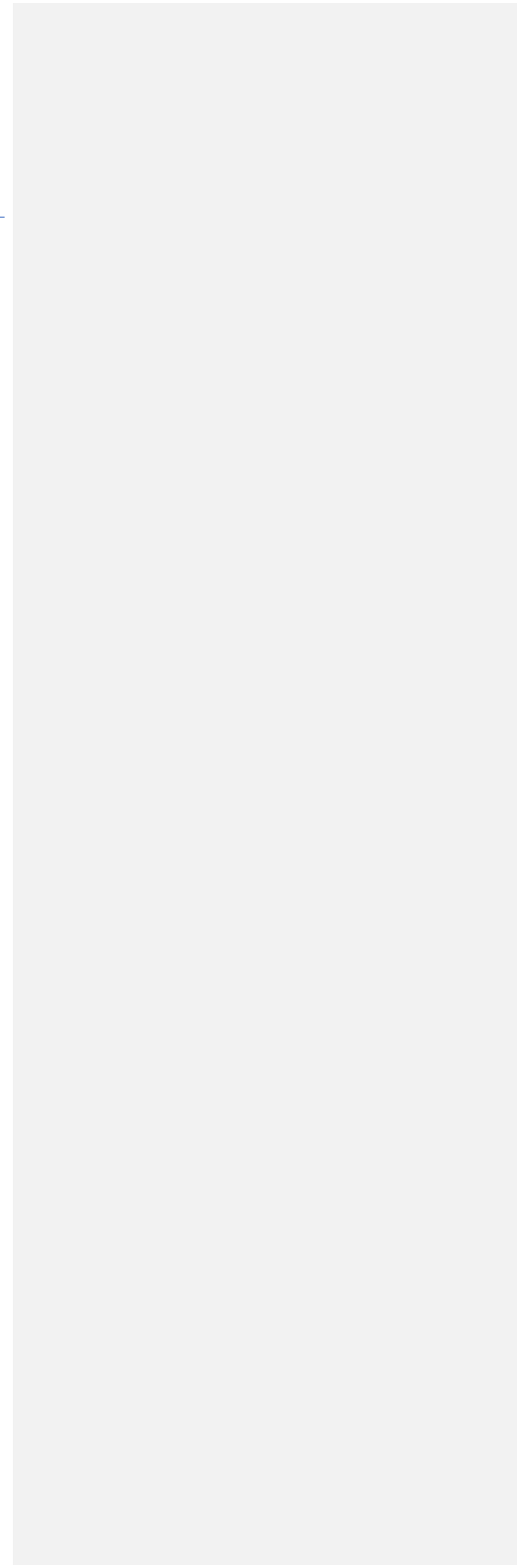
- *Require written notice be sent to the former owner at their last known address no less than 180 days before the filing deadline (notice to be sent by the Department of Treasury, if they are handling the claims process).*
- *Annual publication of expiring surplus claims no later than 60 days before the filing deadline (to be published by the Department of Treasury, if they are handling the claims process).*

➤ Additional recommendations:

- *Publication of available surplus proceeds, property description, and owner names will be made available on appropriate County and/or State centralized website(s).*
 - Clatsop County supports a State centralized website as that work is applicable to DOT's facilitation of the surplus claims process and likely a more effective method of communicating this important information.
- *If utilizing the Department of Treasury Unclaimed Property program, information regarding this program and how to access the claims process should be made available on County websites and in written communications.*
 - It would be helpful if DOT could develop standard/required language that the counties would then include on their websites and written communications.



House Bill 4056
Surplus proceeds of property tax foreclosure sales



Summary of Workgroup Suggestions

The suggestions below encompass feedback from all workgroup participants. Due to the diversity of participants, there may be multiple differing suggestions related to one particular topic or process. The counties do not necessarily speak as one. The following organizations, AARP Oregon, Cascade Policy Institute, Oregon Law Center, the Oregon Trial Lawyers Association and the Pacific Legal Foundation represent different constituencies and interests but because they have common agreement on specific suggestions or disagreements with the counties, they are identified, collectively, as "Consumers."

Commented [AM1]: Marjorie: we defer to how this is expressed but feel it's important that our organizations be listed and, as we noted, identified as "Consumers."

General

- Statutory changes should address any additional administrative burdens placed upon counties to avoid creating unfunded mandates.
- Expand statute to allow for reimbursement of all expenses related to administering the surplus process, in addition to the expenses already deductible under ORS 275.275. Consumers recommend additional statutory requirements that would provide transparency and accountability for any reimbursable expenses, such as an itemized accounting of all charges and expenses subtracted from the surplus.
- Utilize the state's existing Unclaimed Property process for surplus proceed claim, recognizing that its current practices do not require the Oregon State Treasurer to affirmatively identify and contact former homeowners and heirs of deceased former homeowners. The Consumers recommend an explicit statutory duty when surplus from counties is transferred to OTS and the cost be covered by the surplus.
- The counties believe that cCurrent case law dictates that the sale price of a property at auction is considered the real market value; this should be codified in statute for the purposes of surplus proceeds. The Consumers disagree with this interpretation. Homeowners and heirs of deceased homeowners are entitled to just compensation for their property and a sheriff's sale or other auction may not achieve that. Consumers recommend a tiered system to sell the property, starting with a requirement to list the property with a real estate agent for a set amount of time and if it cannot be listed or sold in that time, then the county can conduct a high-bid auction with a minimum bid of 2/3 of the fair market value of the property to be determined with a current, third-party

appraisal or current assessment, whichever is greater (referred to below as the Tiered System).

- The counties believe there should be no duty required for counties to maximize the value of a surplus. The Consumers believe there is an obligation to maximize the value of the surplus and a constitutional obligation to provide just compensation to former homeowners and heirs of deceased former homeowners. This can be achieved through the Tiered System.
- Statutory changes will need to address county-retained properties or properties transferred to a non-profit for public interest purposes. The Consumers do not necessarily agree that there will need to be statutory changes specific to situations when the county wants to retain or sell to a non-profit. The Consumers recommend that in all situations there must be a determination of the fair market value with a current, third-party appraisal or current assessment, whichever is greater, and payment of any excess surplus to the former homeowners and heirs of deceased former homeowners after the amount of taxes due and all expenses administering the process are paid.

Look-Forward and Look-Back Periods

- Two bills will be needed to address the tax foreclosure issue: one bill addressing adjustments to the process for future sales (the look-forward period), and one bill addressing policy for sales prior to implementation of any legislative changes to the process (the look-back period).
- A state funded account should be established to cover any surplus refunds required for sales during the look-back period.
- The definition of a claimant may differ between the look-back and look-forward periods. The Consumers believe that the definition of claimants should include former homeowners and heirs of deceased former homeowners for both periods.
- Previously extinguished liens cannot be resurrected for the look-back period.
- The counties believe a six year statute of limitations should be utilized for the look-back period. The Consumers believe a ten-year statute of limitations should be utilized for the look-back period.
- Legislation addressing the look-back period should be postponed pending a final decision in *Western States Land Reliance Trust vs. Linn County*. The various parties do not agree on when that look-back period begins, and this will be a topic of future discussion.

Pre-Sale Notices

- The Consumers recommend that all notices should include information about where to find legal assistance and about property tax deferral programs.
- The Consumers recommend that for all notices, counties should use due diligence to find property owners, including heirs of deceased owners, through searching online resources and databases and notifying adjacent property owners of notices after foreclosure.
- Make tax foreclosure related notices available in the 6 most commonly used languages in the county, similar to the requirements of ORS 251.167.
- Do not require all notices be published in multiple languages in all instances, but add language in the 6 most commonly used languages in the county to all notices that the information can be made available in other languages or formats by contacting the County. The Consumers do not agree that “contact us if you do not understand” is an adequate accommodation. At the very least, translation into the 6 most commonly used languages in the county should be provided for the warning language, the ORS 312.125 required notice about the redemption period, the potential for surplus and the information about where to get further translation and access to assistance.
- Include notification of the potential for surplus in the one-year redemption notice already required under ORS 312.125.

Pre-Sale Publication Requirements

- Allow publications to be made on a public website, such as the main County or Assessor or Tax Collector website.
- Develop a centralized State website that counties can post information and publications to accordingly.
- Adjust print publication requirements to address increasing difficulty in finding printed publications that meet statutory requirements. At the same time, recognize in some frontier communities, Internet access is limited and print publications are relied upon to communicate this type of information.

Tax Sale Process

- Counties recommend: utilize the public auction process; do not require the use of an appraiser or real estate agent. The Consumers assert that the use of an appraiser and real estate agent, as described in the Tiered System above, is required to fulfill the constitutional obligation to provide just compensation to former homeowners and heirs of deceased former homeowners.
- Utilize Real Estate agents and independent appraisals to assist in obtaining the maximum possible sale price and maximize potential surplus for a property; this can be a tiered process in which only appropriate, marketable properties would be listed with an agent.

County Retained Properties and Deed Transfers

- Acquire an appraisal for properties the County wishes to retain or transfer title to, and pay the market value of the property.
- Offer properties for sale with an agent or at auction; non-profits interested in these properties can purchase through these means. If the property sells for less than the taxes, penalties, and fees due, there would be no surplus to distribute.
- Counties recommend: do not change the process for County retained properties or deed transfers. These properties are used for public benefit.
- In order to comply with the takings clause of the state and federal constitutions, the Consumers recommend if a county wants to retain or transfer title to the property, it must determine the fair market value with a current, third-party appraisal or current assessment, whichever is greater and pay any excess surplus to the former homeowners and heirs of deceased former homeowners after the amount of taxes due and all expenses administering the process are paid.

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Land Sale Agreements

- Allow counties to continue offering land contract sale agreements for tax foreclosed properties.
- Add statutory language to indemnify counties from responsibility for paying surplus funds for properties upon which the land sale agreement is not completed and full payment is never received.
- The Consumers assert that the Constitution requires counties to deduct tax debt from the land sale contract payments and to transfer surplus payments as they are received to the State Treasurer for processing as Unclaimed Property.

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House Bill 4056

Surplus proceeds of property tax foreclosure sales

Post-Sale Process

- County holds sale funds in an internal interest-bearing account for a maximum of 60 days to allow time to complete all post-sale administrative processes.
- County deducts amounts appropriate to pay all taxes, fees, administrative, and other allowable costs within this timeframe.
- The County notifies the Department of Justice of excess proceeds available on individual properties.
- No later than 60 days post sale, and after deducting all allowable costs, the County forwards remaining funds and all accounting, property, and owner and party of interest information to the Department of Treasury for handling through the ~~existing~~ Unclaimed Property process. Under current law and policies, the Department of Treasury is only able to take action to identify and notify possible former homeowners and heirs of deceased former homeowners when time and resources allow. The Consumers recommend that there be statutory language to create an affirmative duty by the Department of Treasury to identify and notify former homeowners and heirs of deceased former homeowners of the surplus from these sales. The costs of these efforts can be paid out of the surplus.
- The Department of Justice may assert claims and issue garnishments to the County or Department of Treasury for any relevant child support and restitution liens against individual property owners; the Department of Treasury will process these claims and garnishments upon receipt of funds and information if they are handling the surplus proceeds claims process.
- The Consumers assert that legally, unclaimed property always remains the property of former homeowners and heirs of deceased former homeowners and consistent with all other unclaimed property in the possession of the Department of Treasury, it is retained in perpetuity, until a former homeowner or heir of deceased former homeowner files a claim. There is no statute of limitations and all current ones related to the surplus should be eliminated.
- Counties want to proceed as follows:
 - Claimants must file claims with Department of Treasury within the timelines set forth in statute:

Commented [AM2]: Marjorie: we wanted to specifically flag that we heard Claudia/DOT be very clear that imposing a statute of limitations on any property held by the Unclaimed Property division would be contrary to the position of the State Treasurer. We would encourage that they be consulted and asked if their position should be reflected in this document since this issue appears to be highly disputed amongst the various parties.

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House Bill 4056

Surplus proceeds of property tax foreclosure sales

- ☐ One year from the date the property is sold or conveyed to a third-party up to a maximum of two years from the date the property is deeded to the county under ORS 312.122 or 312.200;
 - ☐ One year from the date the county makes a determination that the county will retain the property for public purposes up to a maximum of two years from the date the property is deeded to the county under ORS 312.122 or 312.200; or
 - ☐ If no action is otherwise taken by the county, two years from date the property is deeded to the county under ORS 312.122 or 312.200.
- Counties want Surplus proceeds not claimed within the statutorily required timeline must be returned to the originating county to be disbursed to taxing districts.

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Post-Sale Noticing

- Publication of available surplus proceeds, property description, and owner names will be made available on appropriate County and/or State centralized website(s).
- If utilizing the Department of Treasury Unclaimed Property program, information regarding this program and how to access the claims process should be made available on County websites and in written communications.
- Require written notice be sent to the former owner and any heirs of a deceased former homeowner at their last known address no less than 180 days before the filing deadline (notice to be sent by the Department of Treasury, if they are handling the claims process).
- Annual publication of expiring surplus claims no later than 60 days before the filing deadline (to be published by the Department of Treasury, if they are handling the claims process). The Consumers assert this is unnecessary if surplus is treated as ordinary unclaimed property, because claims will never expire.



House Bill 4056
Surplus proceeds of property tax foreclosure sales

DRAFT

From: [TAYLOR Marjorie * DOR](#)
To: [ELLIOTT Robin * DOR](#); [EKSTRAND Bram N * DOR](#)
Subject: FW: Comments on HB4056 Draft
Date: Tuesday, August 27, 2024 2:04:46 PM
Attachments: [image001.png](#)

Thank you for reviewing what we just received from credit unions.

-Marjorie Taylor, Legislative Director
Oregon Department of Revenue
marjorie.taylor@oregon.gov
(503) 476-7644

From: Pamela Leavitt <pleavitt@gowest.org>
Sent: Tuesday, August 27, 2024 1:47 PM
To: TAYLOR Marjorie * DOR <Marjorie.TAYLOR@dor.oregon.gov>
Subject: Comments on HB4056 Draft

Marjorie,

We would like to thank all the work of the members of this HB4056 Task Force and thank you and the Department of Revenue for guiding the discussion and feedback.

In reviewing the draft report, we have some additional feedback to add to the discussion.

- 1) The look forward timeline is a priority issue for credit unions. The suggested Post-Sale Timeline provides for a 30-day period after sale in which the DOJ can garnish or assert claims for child support and restitution, and other “priority” claimants such as mechanic’s lienholders can also assert claims. That puts the Dept. of Justice ahead of secured parties (i.e. parties that had a deed of trust). We believe they should be behind the secured party.
- 2) The proposal only requires notice be specifically given to the Dept. of Justice and the owner. All other interested parties are left to check on the county’s website. Credit unions have a recorded trust deed that shows up in a title report. We are asking that the County send a notice to the Credit Union/Financial Institution at the address shown in the recorded document.
- 3) The draft report has a two-year claims period for claiming surplus funds; after that, the funds go back to the county. Note that the county sale that creates the surplus funds could happen months or years after the date that the property is transferred to the county in its tax lien foreclosure. We believe that claimants would have no reason to know that surplus funds exist until the property is sold. If there is to be a statute of limitations on claims, then there has to be a process (not just notice in the paper or on a website) to notify claimants with a recorded interest in the property. We are asking that a notice be sent to the trust deed holder based on the address in the trust deed.

Thank you for the opportunity to provide feedback.

Pam

Pamela Leavitt

Sr. Vice President of Regional Grassroots and Political Programs/Legislative Affairs for
Oregon

GoWest Credit Union Association

503.887.2336

gowestassociation.org



GoWest Credit Union Association champions credit unions in Arizona, Colorado, Idaho, Oregon, Washington, and Wyoming, and the 17.4 million consumers who have chosen them as their preferred financial services partners. Learn more about credit unions at yourmoneyfurther.com.

Summary of Workgroup Suggestions

The suggestions below encompass feedback from all workgroup participants. Due to the diversity of participants, there may be multiple differing suggestions related to one particular topic or process.

General

- Statutory changes should address any additional administrative burdens placed upon counties to avoid creating unfunded mandates.
- Expand statute to allow for reimbursement of all expenses related to administering the surplus process, in addition to the expenses already deductible under ORS 275.275.
- Utilize the state's existing Unclaimed Property process for surplus proceed claims.
- Current case law dictates that the sale price of a property at auction is considered the **real** market value; this should be codified in statute for the purposes of surplus proceeds.
- There should be no duty required for counties to maximize the value of a surplus.
- Statutory changes will need to address county-retained properties or properties transferred to a non-profit for public interest purposes.

Look-Forward and Look-Back Periods

- Two bills will be needed to address the tax foreclosure issue: one bill addressing adjustments to the process for future sales (the look-forward period), and one bill addressing policy for sales prior to implementation of any legislative changes to the process (the look-back period).
- A state funded account should be established to cover any surplus refunds required for sales during the look-back period.
- The definition of a claimant may differ between the look-back and look-forward periods.
- Previously extinguished liens cannot be resurrected for the look-back period.
- A six year statute of limitations should be utilized for the look-back period.
- Legislation addressing the look-back period should be postponed pending a final decision in *Western States Land Reliance Trust vs. Linn County*.

Pre-Sale Notices

- Make tax foreclosure related notices available in the most commonly used languages in the county.
- Do not require all notices be published in multiple languages in all instances, but add language to all notices that the information can be made available in other languages or formats by contacting the County.
- Include notification of the potential for surplus in the one-year redemption notice already required under ORS 312.125.

Pre-Sale Publication Requirements

- Allow publications to be made on a public website, such as the main County or Assessor or Tax Collector website.
- Develop a centralized State website that counties can post information and publications to accordingly.
- Adjust print publication requirements to address increasing difficulty in finding printed publications that meet statutory requirements.

Tax Sale Process

- Utilize the public auction process; do not require the use of an appraiser or real estate agent.
- Utilize Real Estate agents and independent appraisals to assist in obtaining the maximum possible sale price and maximize potential surplus for a property; this can be a tiered process in which only appropriate, marketable properties would be listed with an agent.

County Retained Properties and Deed Transfers

- Acquire an appraisal for properties the County wishes to retain or transfer title to, and pay the market value of the property.
- Offer properties for sale with an agent or at auction; non-profits interested in these properties can purchase through these means. If the property sells for less than the taxes, penalties, and fees due, there would be no surplus to distribute.
- Do not change the process for County retained properties or deed transfers. These properties are used for public benefit.

Land Sale Agreements

- Allow counties to continue offering land sale agreements for tax foreclosed properties.
- Add statutory language to indemnify counties from responsibility for paying surplus funds for properties upon which the land sale agreement is not completed and full payment is never received.

Post-Sale Process

- County holds sale funds in an internal interest-bearing account for a maximum of 60 days to allow time to complete all post-sale administrative processes.
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- The County notifies the Department of Justice of excess proceeds available on individual properties.
- No later than 60 days post sale, and after deducting all allowable costs, the County forwards remaining funds and all accounting, property, and owner and party of interest information to the Department of Treasury for handling through the existing Unclaimed Property process.
- The Department of Justice may assert claims and issue garnishments to the County or Department of Treasury for any relevant child support and restitution liens against individual property owners; the Department of Treasury will process these claims and garnishments upon receipt of funds and information if they are handling the surplus proceeds claims process.
- Claimants must file claims with Department of Treasury within the timelines set forth in statute:
 - One year from the date the property is sold or conveyed to a third-party up to a maximum of two years from the date the property is deeded to the county under ORS 312.122 or 312.200;
 - One year from the date the county makes a determination that the county will retain the property for public purposes up to a maximum of two years from the date the property is deeded to the county under ORS 312.122 or 312.200; or
 - If no action is otherwise taken by the county, two years from date the property is deeded to the county under ORS 312.122 or 312.200.

- Surplus proceeds not claimed within the statutorily required timeline must be returned to the originating county to be disbursed to taxing districts.

Post-Sale Noticing

- Publication of available surplus proceeds, property description, and owner names will be made available on appropriate County and/or State centralized website(s).
- If utilizing the Department of Treasury Unclaimed Property program, information regarding this program and how to access the claims process should be made available on County websites and in written communications.
- Require written notice be sent to the former owner at their last known address no less than 180 days before the filing deadline (notice to be sent by the Department of Treasury, if they are handling the claims process).
- Annual publication of expiring surplus claims no later than 60 days before the filing deadline (to be published by the Department of Treasury, if they are handling the claims process).

OREGON COUNTS ON US

