

A-Engrossed
Senate Bill 345

Ordered by the Senate May 4
Including Senate Amendments dated May 4

Sponsored by Senator PROZANSKI (at the request of Roy Crump) (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Requires that notice of execution sale of real property identify all other interests of record in property. **Requires judgment creditor to provide sheriff with title report that shows all interests of record in property. Requires sheriff to make title report available to bidders who appear at sale.**

A BILL FOR AN ACT

1
2 Relating to execution sales; creating new provisions; and amending ORS 18.875, 18.924, 18.930 and
3 18.970.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 18.875 is amended to read:

6 18.875. (1) The judgment creditor shall provide instructions to the sheriff with a writ of exe-
7 cution. The instructions must be signed by the judgment creditor or the judgment creditor's attor-
8 ney. The instructions may be delivered to the sheriff after the writ is delivered to the sheriff. The
9 instructions must include:

10 (a) The names and addresses of the judgment creditor and all debtors to whom notice must be
11 given under ORS 18.888;

12 (b) The names and addresses of any other persons to whom notice must be given under ORS
13 18.918;

14 (c) A description of any personal property to be levied on;

15 (d) A street address or other description of the place where any tangible personal property may
16 be found;

17 (e) A legal description for any real property or interest in real property to be levied on;

18 (f) A statement indicating whether any property to be levied on is residential property as defined
19 by ORS 18.901;

20 (g) **A statement indicating** whether any condominium unit, manufactured dwelling or floating
21 home to be levied on is inventory held for sale or lease in the regular course of business; and

22 (h) A statement identifying *[whether]* any portion of the property to be levied on **that** is intan-
23 gible personal property, and any special instructions required to implement an order entered pur-
24 suant to ORS 18.884.

25 (2) If instructions to the sheriff direct the sale of tangible personal property, the judgment
26 creditor may request in the instructions that the property not be seized by the sheriff and that the
27 property be secured in the manner provided by ORS 18.880. The instructions may request that the

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 property be rendered temporarily inoperable, and the manner in which the property should be ren-
2 dered inoperable.

3 (3) If a judgment creditor seeks sale of real property under a writ of execution and the real
4 property has a street address, the instructions to the sheriff must include the street address of the
5 real property to be sold. If the real property is residential property that is subject to ORS 18.904,
6 a copy of the court order authorizing the sale, or a copy of the judgment directing sale or foreclo-
7 sure of the property, must be attached to the instructions.

8 **(4) If a judgment creditor seeks sale of real property under a writ of execution, the in-**
9 **structions to the sheriff must include a list of all interests of record in the property.**

10 [(4)] (5) In addition to the instructions required by this section, a sheriff may require that a
11 judgment creditor provide all other instructions as may be necessary to allow the sheriff to levy on
12 and to sell or deliver property pursuant to a writ of execution.

13 **SECTION 2.** ORS 18.924 is amended to read:

14 18.924. (1) Before conducting an execution sale of real property, a sheriff shall give written no-
15 tice of the sale in the manner provided by this section. The notice must identify the property to be
16 sold and the time and place of the sale. **The notice must identify all interests of record in the**
17 **property, as reflected in the instructions given to the sheriff under ORS 18.875.**

18 (2) Before any execution sale of real property, the sheriff shall:

19 (a) Mail copies of the notice of sale by first class mail and by certified mail, return receipt re-
20 quested, to the judgment debtor at the address provided in the instructions to the sheriff;

21 (b) Mail a copy of the notice of sale by first class mail to any attorney for the judgment debtor
22 identified in the instructions at the address provided in the instructions; and

23 (c) Mail a copy of the notice of sale by first class mail to any other person listed in the in-
24 structions pursuant to ORS 18.918 at the address provided in the instructions.

25 (3) The notices required by subsection (2) of this section must be mailed not less than 28 days
26 before an execution sale is conducted.

27 (4) Before any execution sale of real property for which the judgment creditor has provided a
28 street address under ORS 18.875 (3), the sheriff shall post a notice of the sale in a conspicuous place
29 on the property. The notice must be posted not more than seven days after the sheriff mails notices
30 as required by subsection (2) of this section.

31 (5) The sheriff shall publish a copy of the notice of sale of real property once a week for four
32 successive weeks in a newspaper of general circulation in the county where the real property is
33 located. The sheriff may not conduct the sale until the expiration of the four-week period.

34 (6) In lieu of publication in a newspaper under subsection (5) of this section, a sheriff shall
35 publish a notice of sale of real property by Internet posting if the State Court Administrator has
36 established a website for the purpose of giving legal notice pursuant to the provisions of ORS 18.926
37 and the judgment creditor has requested that notice be published by Internet posting in the in-
38 structions provided to the sheriff under ORS 18.875. Subject to ORS 18.926 (3), the notice must be
39 posted on the Internet not less than 28 days before the date identified in the notice of sale and re-
40 main posted until that date.

41 **SECTION 3.** ORS 18.930 is amended to read:

42 18.930. (1) The sheriff shall conduct an execution sale by public oral auction. The sale must be
43 conducted between 9 a.m. and 4 p.m. All property shall be sold by the sheriff in such parcels as are
44 likely to bring the highest price. Any portion of real property belonging to a person other than the
45 judgment debtor must be sold separately if the person requests a separate sale.

1 **(2) A judgment creditor must provide the sheriff with a title report for any real property**
2 **to be sold at the execution sale that shows all interests of record in the property. The title**
3 **report must have been issued within 10 days before the date of the sale. The sheriff shall**
4 **make the title report available to bidders who appear at the sale.**

5 [(2)] (3) A judgment creditor that is a public body, as defined in ORS 174.109, may set a minimum
6 bid amount for property to be sold at an execution sale.

7 [(3)] (4) Tangible personal property to be sold at an execution sale must be present at the place
8 where the sale is conducted unless the property is not in the possession of the sheriff.

9 [(4)] (5) The county may establish a fee to be collected by the sheriff at the time of sale. The
10 amount of the fee shall be established by the governing body of the county and may not be greater
11 than the amount necessary to pay the county for the expenses incurred by the county for giving
12 notice of the sale and conducting the sale and for the anticipated expenses for any notices required
13 to be given after the sale and other post-sale administration of the sale.

14 [(5)] (6) A person who purchases real property that is subject to redemption at an execution sale
15 must provide the sheriff with an address to which a redemption notice may be sent and must notify
16 the sheriff of any change in address until the purchaser transfers the purchaser's interest in the
17 property, the property is redeemed or the time allowed for redemption expires, whichever occurs
18 first. Any person who thereafter acquires the purchaser's interest in the property must notify the
19 sheriff of the transfer, provide the sheriff with an address to which a redemption notice may be sent
20 and notify the sheriff of any change in address until there is a another transfer, the property is re-
21 deemed or the time allowed for redemption expires, whichever occurs first.

22 **SECTION 4.** ORS 18.970 is amended to read:

23 18.970. (1) A claimant who wishes to redeem property must serve the certificate holder with a
24 redemption notice. The notice must specify a date and approximate time when the claimant will
25 make payment to the sheriff, the redemption amount calculated by the claimant and the manner in
26 which the redemption amount was calculated. The notice must include a mailing address for the
27 claimant. The date of the redemption must be a weekday that is not a legal holiday. The time of the
28 redemption must be between the hours of 9 a.m. and 4 p.m. The notice must inform the certificate
29 holder if an accounting under ORS 18.980 is required.

30 (2) If the claimant is a lien claimant, the notice must reflect the nature of the lien claimant's
31 interest and the claimant shall attach to the notice copies of any documents necessary to establish
32 that interest. If the claimant is a successor in interest to another person with redemption rights
33 under ORS 18.963, the claimant shall attach to the notice copies of any documents necessary to es-
34 tablish how the person acquired the interest. If the claimant claims to have an interest with a pri-
35 ority that is superior to the interest of the certificate holder, the claimant shall attach to the notice
36 copies of any documents necessary to establish that priority.

37 (3) A redemption notice must be served by personal service or by first class mail. If the notice
38 is served by first class mail, service is effective on mailing. A copy of the notice may be filed with
39 the sheriff before the notice is given to the certificate holder, but must be filed with the sheriff no
40 later than seven days before the redemption date specified in the notice. The notice must be served
41 on the certificate holder not more than 30 days before the payment date specified in the redemption
42 notice, and:

43 (a) Not less than 14 days before the payment date specified in the notice, if service is made by
44 first class mail; or

45 (b) Not less than seven days before the payment date specified in the notice, if personal service

1 is made.

2 (4) A claimant shall submit proof of service of the notice required by this section at the time
3 the claimant pays the sheriff under ORS 18.975.

4 (5) If a certificate holder fails to comply with the requirements of ORS 18.930 [(5)] (6) or 18.982,
5 the certificate holder may not object to a redemption by reason of failure to receive a redemption
6 notice.

7 **SECTION 5. The amendments to ORS 18.924 by section 2 of this 2007 Act apply only to**
8 **notices of execution sales given on or after the effective date of this 2007 Act.**

9 **SECTION 6. The amendments to ORS 18.930 and 18.970 by sections 3 and 4 of this 2007**
10 **Act apply only to execution sales conducted on or after the effective date of this 2007 Act.**

11