

Enrolled
Senate Bill 345

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

CHAPTER

AN ACT

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

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

SECTION 1. ORS 18.875 is amended to read:

18.875. (1) The judgment creditor shall provide instructions to the sheriff with a writ of execution. The instructions must be signed by the judgment creditor or the judgment creditor's attorney. The instructions may be delivered to the sheriff after the writ is delivered to the sheriff. The instructions must include:

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

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

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

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

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

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

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

(h) A statement identifying [*whether*] any portion of the property to be levied on **that** is intangible personal property, and any special instructions required to implement an order entered pursuant to ORS 18.884.

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

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

(4) If a judgment creditor seeks sale of real property under a writ of execution, the instructions to the sheriff must direct the sheriff to include the following notice in conspicuous language in the notice of sale required by ORS 18.924:

Before bidding at the sale a prospective bidder should independently investigate:

- (a) The priority of the lien or interest of the judgment creditor;**
 - (b) Land use laws and regulations applicable to the property;**
 - (c) Approved uses for the property;**
 - (d) Limits on farming or forest practices on the property;**
 - (e) Rights of neighboring property owners; and**
 - (f) Environmental laws and regulations that affect the property.**
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[4] (5) In addition to the instructions required by this section, a sheriff may require that a judgment creditor provide all other instructions as may be necessary to allow the sheriff to levy on and to sell or deliver property pursuant to a writ of execution.

SECTION 2. ORS 18.930 is amended to read:

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

(2) At least 10 days before the date first set for an execution sale, a judgment creditor must provide the sheriff with any report for real property to be sold at the execution sale that is in the possession of the judgment creditor and that shows interests of record in the property. The sheriff shall make the report available to bidders who appear at the sale. No civil action may be brought against a title company, the judgment creditor, the sheriff or any other person by reason of omissions or errors in the report, and the validity of the sale is not affected by reason of any omissions or errors in the report.

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

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

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

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

SECTION 3. ORS 18.970 is amended to read:

18.970. (1) A claimant who wishes to redeem property must serve the certificate holder with a redemption notice. The notice must specify a date and approximate time when the claimant will make payment to the sheriff, the redemption amount calculated by the claimant and the manner in which the redemption amount was calculated. The notice must include a mailing address for the claimant. The date of the redemption must be a weekday that is not a legal holiday. The time of the

redemption must be between the hours of 9 a.m. and 4 p.m. The notice must inform the certificate holder if an accounting under ORS 18.980 is required.

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

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

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

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

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

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

SECTION 4. (1) The amendments to ORS 18.875 by section 1 of this 2007 Act apply only to writs of execution issued on or after the effective date of this 2007 Act.

(2) The amendments to ORS 18.930 and 18.970 by sections 2 and 3 of this 2007 Act apply only to execution sales conducted on or after the effective date of this 2007 Act.

Passed by Senate May 8, 2007

Received by Governor:

Repassed by Senate June 13, 2007

.....M.,....., 2007

Approved:

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Secretary of Senate

.....M.,....., 2007

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President of Senate

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Governor

Passed by House June 8, 2007

Filed in Office of Secretary of State:

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Speaker of House

.....M.,....., 2007

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Secretary of State