

Senate Bill 345

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 **as introduced**.

Requires that notice of execution sale of real property identify all other interests of record in property.

A BILL FOR AN ACT

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

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

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

5 18.875. (1) The judgment creditor shall provide instructions to the sheriff with a writ of exe-
6 cution. The instructions must be signed by the judgment creditor or the judgment creditor's attor-
7 ney. The instructions may be delivered to the sheriff after the writ is delivered to the sheriff. The
8 instructions must include:

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

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

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

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

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

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

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

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

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

29 (3) If a judgment creditor seeks sale of real property under a writ of execution and the real
30 property has a street address, the instructions to the sheriff must include the street address of the
31 real property to be sold. If the real property is residential property that is subject to ORS 18.904,

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 a copy of the court order authorizing the sale, or a copy of the judgment directing sale or foreclo-
 2 sure of the property, must be attached to the instructions.

3 **(4) If a judgment creditor seeks sale of real property under a writ of execution, the in-**
 4 **structions to the sheriff must include a list of all interests of record in the property that**
 5 **have priority over the lien of the judgment creditor.**

6 [(4)] (5) In addition to the instructions required by this section, a sheriff may require that a
 7 judgment creditor provide all other instructions as may be necessary to allow the sheriff to levy on
 8 and to sell or deliver property pursuant to a writ of execution.

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

10 18.924. (1) Before conducting an execution sale of real property, a sheriff shall give written no-
 11 tice of the sale in the manner provided by this section. The notice must identify the property to be
 12 sold and the time and place of the sale. **The notice must identify all interests of record in the**
 13 **property that have priority over the lien of the judgment creditor, as reflected in the in-**
 14 **structions given to the sheriff under ORS 18.875.**

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

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

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

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

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

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

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

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

38 **SECTION 3.** The amendments to ORS 18.924 by section 2 of this 2007 Act apply only to
 39 notices of execution sales given on or after the effective date of this 2007 Act.