

# Senate Bill 740

Sponsored by Senator PROZANSKI (at the request of Martin Henner)

## 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 real property sold by sheriff pursuant to writ of execution be described by legal description and by street address, if any.

## A BILL FOR AN ACT

1  
2 Relating to sale of real property to enforce obligation; creating new provisions; and amending ORS  
3 18.862, 18.870, 18.906 and 18.924.

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

5 **SECTION 1.** ORS 18.862 is amended to read:

6 18.862. (1) A writ of execution must be directed to a sheriff and must contain the name of the  
7 court, the names of the parties to the action and the case number for the action. The writ must  
8 contain a mailing address for the judgment creditor. The writ must describe the judgment and, if the  
9 writ of execution is issued for application of property of the judgment debtor against a money award,  
10 the writ must state the amount owing on the money award when the writ is issued.

11 (2) If the judgment requires that specific real or personal property of the judgment debtor be  
12 sold, the writ must particularly describe the property and direct the sheriff to sell the specified  
13 property.

14 (3) If the judgment requires the delivery of the possession of real or personal property, the writ  
15 must direct the sheriff to deliver the possession of the property. The writ must particularly describe  
16 the property and specify the party to whom the property is to be delivered.

17 (4) **Real property identified pursuant to this section must be described using a legal de-**  
18 **scription and a street address, if any.**

19 **SECTION 2.** ORS 18.870 is amended to read:

20 18.870. Upon delivery of a writ of execution to the sheriff of any county, the judgment creditor  
21 must record a copy of the writ certified to be true by the court administrator or an abstract of the  
22 writ in the County Clerk Lien Record for the county if the writ of execution or the accompanying  
23 instructions to the sheriff require the sale of real property. A legal description **and a street ad-**  
24 **dress, if any**, of the real property must be included in, or attached to, the copy of the writ or the  
25 abstract. The recording of the writ or abstract in any county in which a judgment lien does not exist  
26 under ORS 18.150 or 18.152, or in a county in which a notice of pendency under ORS 93.740 has not  
27 been previously recorded for the property to be sold, has the same effect as recording a notice of  
28 pendency under ORS 93.740.

29 **SECTION 3.** ORS 18.906 is amended to read:

30 18.906. (1) A judgment creditor may file a motion with a court requesting an order authorizing  
31 the sheriff to sell residential property. The motion must be filed with a court that has authority to

**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 issue a writ of execution for the judgment. The motion must include a statement that does all of the  
 2 following:

3 (a) Indicates the amount of the money award or money awards, as reflected in the judgment or  
 4 judgments.

5 (b) Indicates the amount owing on the money award or money awards on the date the motion  
 6 is filed.

7 (c) Indicates whether any of the money awards arise out of an order or judgment for child sup-  
 8 port as described in ORS 18.398.

9 (d) Identifies the residential property to be sold **by legal description and by street address,**  
 10 **if any.**

11 (e) Indicates whether the property is a homestead. If the property is a homestead, the motion  
 12 must allege facts showing that the homestead may be sold on execution.

13 (2) A motion under this section must be accompanied by an affidavit disclosing the basis of the  
 14 allegations contained in the motion. If the judgment creditor relies on more than one judgment to  
 15 support the order, the motion must be accompanied by copies of all other judgments on which the  
 16 judgment creditor relies.

17 (3) A court shall promptly schedule a hearing on a motion filed under this section. In setting the  
 18 hearing the court shall allow adequate time to allow service on the judgment debtor under ORS  
 19 18.908.

20 **SECTION 4.** ORS 18.924 is amended to read:

21 18.924. (1) Before conducting an execution sale of real property, a sheriff shall give written no-  
 22 tice of the sale in the manner provided by this section. The notice must identify the property to be  
 23 sold **by legal description and by street address, if any,** and the time and place of the sale.

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

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

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

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

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

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

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

40 (6) In lieu of publication in a newspaper under subsection (5) of this section, a sheriff shall  
 41 publish a notice of sale of real property by Internet posting if a website has been established under  
 42 ORS 18.926 for the purpose of giving legal notices under ORS 18.860 to 18.993, and the judgment  
 43 creditor has requested that notice be published by Internet posting in the instructions provided to  
 44 the sheriff under ORS 18.875. Subject to ORS 18.926 (3), the notice must be posted on the Internet  
 45 not less than 28 days before the date identified in the notice of sale and remain posted until that

1 date.

2 **SECTION 5. The amendments to ORS 18.862, 18.870, 18.906 and 18.924 by sections 1 to 4**  
3 **of this 2011 Act apply to documents describing real property that are prepared on or after**  
4 **the effective date of this 2011 Act.**

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