

Testimony on House Bill 2127

House Revenue Committee

March 23, 2015

Presented by: Tom Linhares

Representing the Oregon State Association of County Assessors

Mr. Chair and members of the committee, thank you for this opportunity to speak on behalf of the Oregon State Association of County Assessors (OSACA) in support of House Bill (HB) 2127.

My name is Tom Linhares. My address is 740 Golden Pheasant Drive, Redmond, Oregon. I have worked in the assessment and taxation field for over 30 years and I am here today representing OSACA.

As you know, publicly owned property is exempt from property taxes. This includes property owned by the federal government (ORS 307.040) and state and local government (ORS 307.090).

Also, under ORS 311.410 property that is taxable on July 1 remains taxable for the entire tax year (July 1 through June 30) while property that is exempt on July 1 remains exempt for the entire tax year.

The problem that HB 2127 addresses is when a property owned by a taxable owner is sold or otherwise transferred to an exempt owner and there are property taxes that are or will become payable have not been paid.. These delinquent taxes remain a lien on the property and continue to accrue interest charges. However, since the governmental entity now has title to the property the county cannot foreclose on the property. The delinquent property taxes remain on the tax rolls but essentially cannot be collected.

Unfortunately, there is anecdotal evidence that public and private entities recognize this loophole and property is being transferred knowing there are delinquent taxes that are a matter of public record. There is little if any incentive on either the party to ensure that legally assessed property taxes are paid prior to the sale.

But the problem can also happen inadvertently. Last year while I was Interim Director of Assessment and Taxation for Wasco County the US Forest Service purchased a piece of property from a taxable owner in August. The title company did in fact collect back taxes that would be payable in November due to a disqualification from farm use deferral. What the title company failed to realize was that since the sale occurred after July 1, property taxes would be assessed for the 2014-15 tax year. The property was also subject to Oregon Department of Forestry's fire patrol per acre assessment.

The result was that the title company collected \$6,057.58 and paid this amount to the county tax collector. However, the total tax bill was \$7,553.23. After receiving a partial discount for early payment, the balance due was \$1,372.03 and this amount continues to accrue interest every month. As noted above, Wasco County has no leverage to collect this amount since the property cannot be foreclosed on.

HB 2127, as amended by the -1 amendments dated March 12, 2015, would address this problem in three ways:

First, Section 1; the bill requires escrow agents - title companies and attorneys – to collect all of the property taxes, fees and interest that “have been or will be charged...” against the property prior to distribution of the sale proceeds to the seller.

Second, Section 2, subsections (1) to (3): the bill prohibits a county clerk from recording a deed transferring property to a public body whose property is exempt under ORS 307.040 or 307.090 unless the deed is accompanied by a certificate signed by the county assessor that all taxes fees and interest have been paid. This will be a new form developed by the Oregon Department of Revenue. This certification is similar to the county assessor signing off on subdivision and partition plats prior to recording. If a deed or other instrument is recorded without the certificate, then the recording is not considered valid.

Third, Section 2, subsection (4); any amounts that are not paid and are therefore left as delinquent can be collected from the seller in the same manner as business personal property taxes. This avoids the problem of not being able to foreclose on the property.

HB 2127 creates new methods for ensuring that properly assessed taxes, fees and interest charges can and will be collected on behalf of the county, cities, school districts and special districts in the county.

It is our intention that these additional methods will ensure that the taxable entity that generated the tax bill in the first place will ultimately be responsible for paying the property taxes.

Thank you again for this opportunity to speak on behalf of what we feel is an important bill. I would be more than happy to answer any questions you might have.