

Enrolled
Senate Bill 367

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CHAPTER

AN ACT

Relating to execution sale of real property subject to declaration; creating new provisions; and amending ORS 18.966, 18.967, 18.972, 18.980, 94.712 and 100.475.

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

SECTION 1. ORS 18.966 is amended to read:

18.966. Subject to ORS 18.968, a claimant may redeem property from the purchaser at an execution sale by paying to the sheriff:

(1) The amount paid by the purchaser at the execution sale, with interest [*on that amount*] at the rate of nine percent per annum from the date of sale;

(2) The amount of any taxes **paid by** the purchaser [*has paid*] on the property, with interest at the rate of nine percent per annum from the date of payment;

(3) Any amounts necessarily expended by the purchaser to prevent waste, with interest at the rate of nine percent per annum from the date of payment; [*and*]

(4) Any amounts [*that the purchaser has*] **paid by the purchaser** on liens superior to the interest of the purchaser, with interest at the rate of nine percent per annum from the date of payment[.]; **and**

(5) Any assessments paid by the purchaser to a homeowners association under ORS 94.550 to 94.783, or to an association of unit owners under ORS chapter 100, with interest at the rate of nine percent per annum from the date of payment.

SECTION 2. ORS 18.967 is amended to read:

18.967. Subject to ORS 18.968, a claimant may redeem property from a redemptioner by paying to the sheriff:

(1) The amount paid by the redemptioner, with interest [*on that amount*] at the rate of nine percent per annum from the date of payment;

(2) The amount owing on the lien of the redemptioner, unless the payment is made by a lien claimant [*and the lien claimant has a lien that*] **whose lien** has a priority that is superior to the lien of the redemptioner;

(3) The amount of any taxes **paid by** the redemptioner [*has paid*] on the property, with interest at the rate of nine percent per annum from the date of payment;

(4) Any amounts necessarily expended by the redemptioner to prevent waste, with interest at the rate of nine percent per annum from the date of payment; [*and*]

(5) Any amounts [*that the redemptioner has*] paid **by the redemptioner** on liens superior to the lien of the redemptioner, with interest at the rate of nine percent per annum from the date of payment[.]; **and**

(6) Any amounts paid by the redemptioner to a homeowners association under ORS 94.550 to 94.783, or to an association of unit owners under ORS chapter 100, with interest at the rate of nine percent per annum from the date of payment.

SECTION 3. ORS 18.972 is amended to read:

18.972. (1) A certificate holder shall respond to a redemption notice if:

- (a) The notice requests an accounting under ORS 18.980; or
- (b) The certificate holder objects to the redemption amount specified in the notice.

(2) A response to a redemption notice must be served by personal service or by first class mail. If the response is served by first class mail, service is effective on mailing. A copy of the response may be filed with the sheriff before the response is given to the claimant, but must be filed with the sheriff before the payment date specified in the notice. The response must be served on the claimant before the payment date specified in the notice.

(3) If the redemption notice requests an accounting, the accounting must be attached to the response given under this section.

(4) If the certificate holder objects to the redemption amount specified in the notice because the certificate holder claims additional amounts are owing under ORS 18.966 or 18.967, the response must include all information specified in ORS 18.980 (1)(a) to [(d)] (e).

(5) A response filed under this section must include a statement of the amount claimed as the proper redemption amount after deductions or additions by reason of any accounting provided with the response or by reason of additional amounts claimed under subsection (4) of this section.

SECTION 4. ORS 18.980 is amended to read:

18.980. (1) A judgment debtor may require that a certificate holder provide an accounting under this section by including a request for an accounting in the redemption notice. If a redemption notice includes a request for an accounting, the certificate holder shall attach an accounting to the response given under ORS 18.972. The accounting must reflect:

(a) The amount of any taxes the certificate holder has paid on the property, with interest at the rate of nine percent per annum from the date of payment.

(b) Any amounts necessarily expended by the certificate holder to prevent waste, with interest at the rate of nine percent per annum from the date of payment.

(c) Any amounts that the certificate holder has paid on liens superior to the lien of the certificate holder, with interest at the rate of nine percent per annum from the date of payment.

(d) The amount of any assessments paid by the certificate holder to a homeowners association under ORS 94.550 to 94.783, or to an association of unit owners under ORS chapter 100, with interest at the rate of nine percent per annum from the date of payment.

[(d)] (e) The amount owing on the lien of the certificate holder, if the certificate holder is a redemptioner.

[(e)] (f) The net proceeds of rents, income or profits from the property by the certificate holder while the certificate holder has been in possession of the property.

(2) If a redemption notice includes a request for an accounting and the certificate holder fails to respond as required by ORS 18.972, the time for paying the redemption amount is automatically extended to 30 days after the redemption date specified in the redemption notice or until the time specified by subsection (4) of this section if a claimant files a motion under subsection (3) of this section.

(3) If a redemption notice includes a request for an accounting, and the certificate holder fails to respond as required by ORS 18.972, the claimant may file a motion with the court requesting an order requiring the certificate holder to show cause why the certificate holder should not be held in contempt. A motion under this subsection must be made not more than 28 days after the redemption notice is served on the certificate holder. The claimant must deliver a copy of the motion to the sheriff.

(4) If a motion is filed under subsection (3) of this section:

(a) The time for redemption of the property is automatically extended to 30 days after the accounting is provided by the certificate holder; and

(b) The time for paying the redemption amount is automatically extended to 30 days after the accounting is provided by the certificate holder.

SECTION 5. ORS 94.712 is amended to read:

94.712. (1) **Except as provided in subsection (4) of this section**, an owner [*shall be*] is personally liable for all assessments imposed on the owner or assessed against the owner's lot by the homeowners association.

(2)(a) Subject to paragraph (b) of this subsection, in a voluntary conveyance of a lot, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor of the lot to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor.

(b) Upon request of an owner or owner's agent, for the benefit of a prospective purchaser, the board of directors shall make and deliver a written statement of the unpaid assessments against the prospective grantor or the lot effective through a date specified in the statement, and the grantee in that case shall not be liable for any unpaid assessments against the grantor not included in the written statement.

(3) An escrow agent or a title insurance company providing escrow services or issuing title insurance in conjunction with the conveyance:

(a) May rely on a written statement of unpaid assessments delivered pursuant to **subsection (2) of this section**; and

(b) Is not liable for a failure to pay the association at closing any amount in excess of the amount set forth in the written statement.

(4) During the redemption period that follows an execution sale conducted under ORS 18.860 to 18.993, a certificate holder, as defined in ORS 18.960, is solely liable for all assessments that come due during the redemption period.

(5) For purposes of ORS 94.550 to 94.783, when the redemption period described in ORS 18.964 ends and the claimant has not redeemed the lot, the certificate holder is deemed the owner of a lot sold by execution sale, without regard to whether the certificate holder has caused the sheriff to execute and deliver a deed under ORS 18.985.

SECTION 6. ORS 100.475 is amended to read:

100.475. (1) **Except as provided in subsection (5) of this section**, a unit owner [*shall be*] is personally liable for all assessments imposed on the unit owner or assessed against the unit by the association of unit owners.

(2) [*Where*] **If** the purchaser of a unit obtains title to the unit as a result of foreclosure of the first mortgage or trust deed, [*such*] **the** purchaser, **and** the successors and assigns of the purchaser, [*shall not be*] **are not** liable for any of the assessments against [*such*] **the** unit or its owner [*which*] **that** became due prior to the acquisition of title to [*such*] **the** unit by [*such*] **the** purchaser except as specifically provided otherwise in ORS 100.450. [*Such*] **The** unpaid assessments [*shall be*] **are** a common expense of all the unit owners, including [*such*] **the** purchaser[,] **and** the successors and assigns of the purchaser.

(3)(a) Subject to paragraph (b) of this subsection, in a voluntary conveyance of a unit, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor of the unit to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor.

(b) Upon request of an owner or owner's agent, for the benefit of a prospective purchaser, the board of directors shall make and deliver a written statement of the unpaid assessments against the prospective grantor or the unit effective through a date specified in the statement, and the grantee in that case shall not be liable for any unpaid assessments against the grantor not included in the written statement.

(4) An escrow agent or a title insurance company providing escrow services or issuing title insurance in conjunction with the conveyance:

(a) May rely upon a written statement of unpaid assessments delivered pursuant to this section; and

(b) Is not liable for a failure to pay to the association at closing any amount in excess of the amount set forth in the written statement.

(5) During the redemption period that follows an execution sale conducted under ORS 18.860 to 18.993, a certificate holder, as defined in ORS 18.960, is solely liable for all assessments that come due during the redemption period.

(6) For purposes of ORS chapter 100, when the redemption period described in ORS 18.964 ends and the claimant has not redeemed the unit, the certificate holder is deemed the unit owner of the unit sold by execution sale, without regard to whether the certificate holder has caused the sheriff to execute and deliver a deed under ORS 18.985.

SECTION 7. The amendments to ORS 18.966, 18.967, 18.972, 18.980, 94.712 and 100.475 by sections 1 to 6 of this 2015 Act apply to property sold at an execution sale conducted on or after the effective date of this 2015 Act.

Passed by Senate March 2, 2015

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House May 12, 2015

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Tina Kotek, Speaker of House

Received by Governor:

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Approved:

.....M.,....., 2015

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2015

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Jeanne P. Atkins, Secretary of State