

Senate Bill 367

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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**.

Makes purchaser at execution sale of real property in planned community or condominium community jointly and severally liable with title holder for assessments imposed against real property during redemption period.

Requires claimant who redeems real property sold at execution sale to repay assessments, with interest, that are imposed during redemption period and paid by purchaser.

A BILL FOR AN ACT

1
2 Relating to execution sale of real property subject to declaration; creating new provisions; and
3 amending ORS 18.966, 18.967, 18.972, 18.980, 94.712 and 100.475.

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

5 **SECTION 1.** ORS 18.966 is amended to read:

6 18.966. Subject to ORS 18.968, a claimant may redeem property from the purchaser at an exe-
7 cution sale by paying to the sheriff:

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

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

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

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

17 (5) **Any assessments paid by the purchaser to a homeowners association under ORS**
18 **94.550 to 94.783, or to an association of unit owners under ORS chapter 100, with interest at**
19 **the rate of nine percent per annum from the date of payment.**

20 **SECTION 2.** ORS 18.967 is amended to read:

21 18.967. Subject to ORS 18.968, a claimant may redeem property from a redemptioner by paying
22 to the sheriff:

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

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

28 (3) The amount of any taxes **paid by** the redemptioner [*has paid*] on the property, with interest

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 at the rate of nine percent per annum from the date of payment;

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

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

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

10 **SECTION 3.** ORS 18.972 is amended to read:

11 18.972. (1) A certificate holder shall respond to a redemption notice if:

12 (a) The notice requests an accounting under ORS 18.980; or

13 (b) The certificate holder objects to the redemption amount specified in the notice.

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

19 (3) If the redemption notice requests an accounting, the accounting must be attached to the re-
20 sponse given under this section.

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

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

27 **SECTION 4.** ORS 18.980 is amended to read:

28 18.980. (1) A judgment debtor may require that a certificate holder provide an accounting under
29 this section by including a request for an accounting in the redemption notice. If a redemption no-
30 tice includes a request for an accounting, the certificate holder shall attach an accounting to the
31 response given under ORS 18.972. The accounting must reflect:

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

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

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

38 **(d) The amount of any assessments paid by the certificate holder to a homeowners as-**
39 **sociation under ORS 94.550 to 94.783, or to an association of unit owners under ORS chapter**
40 **100, with interest at the rate of nine percent per annum from the date of payment.**

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

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

45 (2) If a redemption notice includes a request for an accounting and the certificate holder fails

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

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

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

12 (a) The time for redemption of the property is automatically extended to 30 days after the ac-
 13 counting is provided by the certificate holder; and

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

16 **SECTION 5.** ORS 94.712 is amended to read:

17 94.712. (1) **Except as provided in subsection (4) of this section**, an owner *[shall be]* is per-
 18 sonally liable for all assessments imposed on the owner or assessed against the owner's lot by the
 19 homeowners association.

20 (2)(a) Subject to paragraph (b) of this subsection, in a voluntary conveyance of a lot, the grantee
 21 *[shall be]* is jointly and severally liable with the grantor for all unpaid assessments *[against the*
 22 *grantor of the lot]* to the time of the grant or conveyance, without prejudice to *[the grantee's right*
 23 *to recover from the grantor the amounts paid by the grantee therefor]* **any right the grantee may**
 24 **have to recover from the grantor the amount of assessments paid by the grantee.**

25 (b) Upon request of an owner or owner's agent, for the benefit of a prospective purchaser, the
 26 board of directors shall make and deliver a written statement of the unpaid assessments *[against the*
 27 *prospective grantor or the lot]* effective through a date specified in the statement., *and the grantee*
 28 *in that case shall not be]* **The grantee is not** liable for any unpaid assessments *[against the*
 29 *grantor]* **assessed on or before the date specified in the written statement that are** not in-
 30 cluded in the *[written]* statement.

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

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

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

37 (4)(a) **Subject to paragraphs (b) and (c) of this subsection, during the redemption period**
 38 **that follows an execution sale conducted under ORS 18.860 to 18.993, a certificate holder, as**
 39 **defined in ORS 18.960, is jointly and severally liable with the owner for all assessments that**
 40 **come due during the redemption period, without prejudice to any right the owner may have**
 41 **to recover from the certificate holder the amount of assessments paid by the owner.**

42 (b) **Any right the owner may have to recover from the certificate holder any portion of**
 43 **the assessments described in paragraph (a) of this subsection is terminated if the owner re-**
 44 **deems the lot under ORS 18.960 to 18.985.**

45 (c) **If the owner does not redeem the lot under ORS 18.960 to 18.985, the owner may re-**

1 cover from the certificate holder the amount of assessments paid by the owner under this
2 subsection.

3 (5) For purposes of ORS 94.550 to 94.783, when the redemption period described in ORS
4 18.964 ends and the claimant has not redeemed the lot, the certificate holder is deemed the
5 owner of a lot sold by execution sale, without regard to whether the certificate holder has
6 caused the sheriff to execute and deliver a deed under ORS 18.985.

7 **SECTION 6.** ORS 100.475 is amended to read:

8 100.475. (1) **Except as provided in subsection (5) of this section,** a unit owner [*shall be*] is
9 personally liable for all assessments imposed on the unit owner or assessed against the unit by the
10 association of unit owners.

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

18 (3)(a) Subject to paragraph (b) of this subsection, in a voluntary conveyance of a unit, the
19 grantee [*shall be*] **is** jointly and severally liable with the grantor for all unpaid assessments [*against*
20 *the grantor of the unit to the time*] **assessed on or before the date** of the grant or conveyance,
21 without prejudice to [*the grantee's right to recover from the grantor the amounts paid by the grantee*
22 *therefor*] **any right the grantee may have to recover from the grantor the amount of assess-**
23 **ments paid by the grantee.**

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

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

31 (a) May rely upon a written statement of unpaid assessments delivered pursuant to **subsection**
32 **(3) of this section;** and

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

35 (5)(a) **Subject to paragraphs (b) and (c) of this subsection, during the redemption period**
36 **that follows an execution sale conducted under ORS 18.860 to 18.993, a certificate holder, as**
37 **defined in ORS 18.960, is jointly and severally liable with the unit owner for all assessments**
38 **that come due during the redemption period, without prejudice to any right the owner may**
39 **have to recover from the certificate holder the amount of assessments paid by the owner.**

40 (b) **Any right the owner may have to recover from the certificate holder any portion of**
41 **the assessments described in paragraph (a) of this subsection is terminated if the unit owner**
42 **redeems the unit under ORS 18.960 to 18.985.**

43 (c) **If the unit owner does not redeem the unit under ORS 18.960 to 18.985, the unit owner**
44 **may recover from the certificate holder the amount of assessments paid by the owner under**
45 **this subsection.**

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

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

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