

# Property Tax

## Implications of *Tyler v. Hennepin County*

House Committee on Revenue

LRO | February 8, 2024

State of Oregon

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LEGISLATIVE REVENUE OFFICE





# Presentation Outline

- Background
- Recent U.S. Supreme Court Decision
- LC Holding and Reflections
- Current Policy in Oregon
- Lawsuits in Oregon
- Recent Policy Committee Discussion





# Background

- Geraldine Tyler owed \$15,000 in property taxes on a condominium she owned in Minneapolis.
- To collect the debt, Hennepin County placed her home in foreclosure, sold it for \$40,000 and, under Minnesota Law, did not pay her the \$25,000 surplus.





# Recent U.S. Supreme Court Decision

- Tyler claimed her rights were violated under the U.S. Constitution's 5<sup>th</sup> and 8<sup>th</sup> amendments:
  - **5<sup>th</sup> Amendment:** No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; **nor shall private property be taken for public use, without just compensation.**
  - 8<sup>th</sup>: Excessive bail shall not be required, **nor excessive fines imposed**, nor cruel and unusual punishments inflicted.
- After Tyler lost in the district court and 8th Circuit, Tyler's case made it to the U.S. Supreme Court. *Tyler v. Hennepin County* (598 U.S. 631) was decided in U.S. Supreme Court on May 25, 2023.
- Unanimous, 9-0 decision in favor of Tyler:
  - Chief Justice Roberts delivered the opinion.
  - Gorsuch and Jackson filed a concurring opinion.





# LC Holding and Reflections

- Government may not take more property than its owed
  - But *Nelson v. City of New York*, 382 U.S. 103 (1956) is still good law
  - No specific requirements on county announced
- Not paying taxes alone is not abandoning property
- Federal courts maybe should be more skeptical of state property law
- Concurrence:
  - Economic penalties imposed to deter noncompliance are fines as well as takings





# Current policy in Oregon

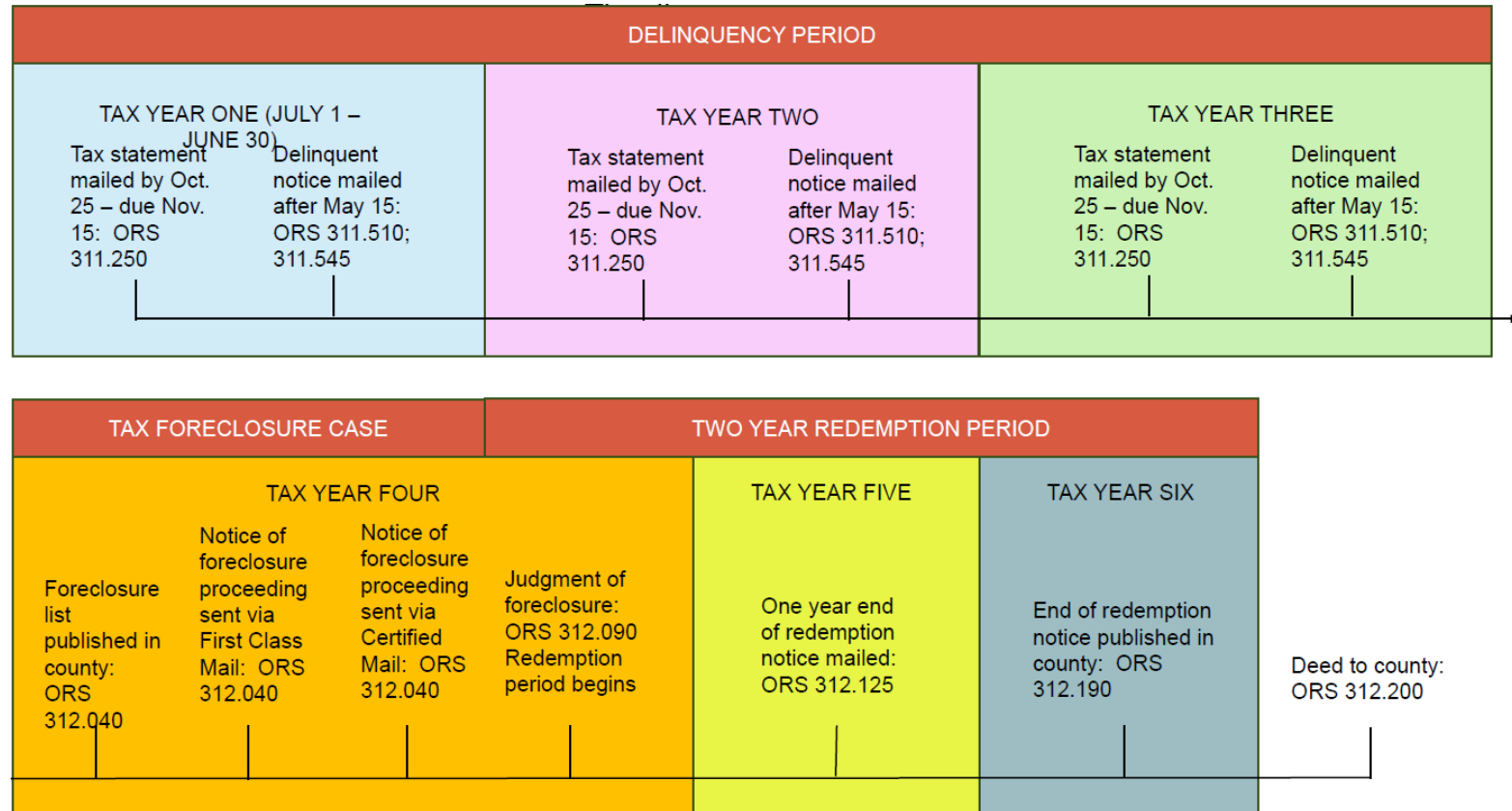
- Counties are not required to return to the former property owner any surplus of a property tax foreclosure.
- After a county reimburses itself for allowable costs, the county may elect to distribute any surplus to taxing districts, including the county (ORS 275.275(1)(d)).
  - That distribution of surplus to taxing districts is mandatory for Multnomah County.
- Allowable costs under ORS 275.275 (1)(a) - (c) include:
  - Property taxes
  - Interest
  - Redemption penalty and fee
  - Property maintenance and supervision
  - Legal costs





# Current Policy in Oregon (cont.)

Deeding real property to a county under ORS 312.200 is a six-year process.



Source: Meeting materials for Senate and House Interim Committees on Judiciary, January 12, 2024





# Lawsuits in Oregon

- Class action lawsuits in several states following *Tyler v. Hennepin County*, including three currently in Oregon (all counties implicated).
- Multiple individual lawsuits in various counties in Oregon.







# Recent Policy Committee Discussion

- On January 12, 2024, county legal counsels and property managers provided an [informational meeting](#) on *Tyler v. Hennepin County* to the Senate and House Interim Committees on Judiciary.



# For More Information

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