

HB 4056 -8 STAFF MEASURE SUMMARY

House Committee On Revenue

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Meeting Dates: 2/15, 2/28, 2/29, 3/4

WHAT THE MEASURE DOES:

Allows the former property owner, or their heirs or successors, to claim from the county a return of any surplus from a property tax foreclosure. Defines a “surplus” as the value of the property less the allowable costs to the county. Requires a claim of surplus to be made no later than 120 days after the property has been deeded to the county. Sets a statute of limitations for making a claim of surplus at no later than two years after a claimant becomes entitled to a return of surplus. Makes the statute of limitations retroactive two years. Requires county tax foreclosure notices to include information about the former property owner’s rights to claim a surplus, and to be posted to the county website.

ISSUES DISCUSSED:

- *Tyler v. Hennepin County*, May 2023 U.S. Supreme Court Decision
- Separability of potential fixes in 2024 and later sessions: notice, assistance, allowable costs, statute of limitations, look-back (retroactivity), lienholder priority
- Rights of property owners, administrative burden
- Auction/sale price of property deeded to county
- Uniformity

EFFECT OF AMENDMENT:

- 8 Replaces the bill.
- Adds sections 2 and 3 of the bill to the ORS chapter 312 series.
- Requires each county to establish processes to:
 - Determine the amount of any surplus proceeds from the sale of property deeded to the county after a property tax lien foreclosure.
 - Notify all interested parties.
 - Determine right to the surplus.
 - Deposit the surplus in full in an interest-bearing account until the amount and the distribution of the surplus have been determined.
- Suspends the deeding of property to counties during the period from the effective date of the bill to 12/31/2025.
- Requires the Department of Revenue to collaborate with at least one tax officer from each county to determine a detailed, uniform process by which the counties shall comply with section 2 of the bill (above) and the ruling of the United States Supreme Court in *Tyler v. Hennepin County, Minnesota*, 598 U.S. 631 (2023).
- Requires the department to submit a report by September 23, 2024, in the manner provided under ORS 192.245, and to the interim committees on revenue that sets forth the determinations made pursuant to sections 1 and 2 of the bill.

BACKGROUND:

In 2023, the U.S. Supreme Court ruled in *Tyler v. Hennepin County* (598 U.S. 631) that the government may not take more property than it is owed, per the Takings Clause of the 5th Amendment of the U.S. Constitution.

Counties in Oregon are currently not required to return to the former property owner, or their heirs or successors, any surplus of a property tax foreclosure. After a county reimburses itself for the amounts owed (property taxes

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and interest) and additional costs (redemption penalty and fee, legal costs, and property maintenance and supervision), the county may elect to distribute any surplus to taxing districts, including the county. That distribution of surplus to taxing districts is mandatory in Multnomah County.

Deeding real property to a county under ORS 312.200 is a six-year process. Tax foreclosure cases begin in year four, after property taxes have been delinquent for three years. In years five and six, certain persons can redeem the property by paying the amount owed, a penalty of five percent of the amount owed and a fee of at least \$50. In addition to annual notices for delinquent property tax, the county sends four notices regarding the tax foreclosure case and when the redemption period ends. Property deeded to the county, which can be in poor condition and have limited improvability, can take years for it to be sold at a public sale/auction or private sale.

Class action lawsuits have arisen in several states following the decision in *Tyler v. Hennepin County*, including three currently in Oregon (all counties implicated). There are also multiple individual lawsuits in various counties in Oregon.

Informational meetings on *Tyler v. Hennepin County* were provided to the following committees:

- Senate and House Interim Committees on Judiciary, January 12, 2024
- House Committee on Revenue, February 12, 2024