

HB 4056 A STAFF MEASURE SUMMARY

Senate Committee On Finance and Revenue

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Meeting Dates: 3/6

WHAT THE MEASURE DOES:

Requires counties to establish a process to determine the amount of any surplus proceeds from the sale of property deeded to the county after a property tax lien foreclosure. Requires counties to notify all interested parties of the surplus. Requires counties to determine the right to the surplus. Requires counties to 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 December 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 the bill 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 15, 2024, to the Legislative Assembly and the interim committees on revenue that sets forth recommendations for legislation and the determinations made pursuant to a detailed, uniform process by which the counties shall comply with the bill and the United States Supreme Court decision. Takes effect on the 91st day after sine die.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

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.

Prior to the ruling in *Tyler v. Hennepin County*, it was considered ambiguous whether counties were required to return to the former property owner, or their heirs or successors, any surplus of proceeds from a property tax foreclosure sale. Oregon counties had reimbursed themselves for the amounts owed (property taxes and interest) and additional costs (redemption penalty and fee, legal costs, and property maintenance and supervision) and made an election to distribute any surplus to taxing districts, including the county. That distribution of surplus to taxing districts was 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 the end of the redemption period. Property deeded to the county, which can be in poor condition and have limited improvability, can take years for it to be sold at public auction or private sale.

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