HB 2089 -6 STAFF MEASURE SUMMARY

House Committee On Revenue

Prepared By: Beau Olen, Economist
Meeting Dates: 1/30, 4/8, 5/29

WHAT THE MEASURE DOES:

Provides for a claims process, through the Unclaimed Property program of the Oregon State Treasury, for the surplus proceeds of real property deeded to the county and sold to repay delinquent property taxes. Defines "claimant". Allows "person other than a claimant" to file a claim based on a valid lien or debt. Establishes tiered system to sell property by listing the property with a real estate agent, then placing the property in a high-bid auction. Sets a minimum auction bid at two-thirds of fair market value, determined by higher of third-party appraisal or current assessment. Requires online bidding process. Clarifies county allowable costs. Requires county to provide certain notices in additional languages, provide a notice of surplus, provide certain notices to more parties and the public, include additional information on certain notices, and search public records and online databases to locate owners and heirs. Applies to claims for which the claimant received the notice of one-year redemption period expiration on or after May 25, 2023.

ISSUES DISCUSSED:

- Look-forward and look-back periods
- Unclaimed Property (UP) program of the Oregon State Treasury (OST)
- Administrative requirements
- Residential property
- Vacant land
- Tyler v. Hennepin County (598 U.S. 631)
- Liens
- Property valuation

EFFECT OF AMENDMENT:

-6 Requires that notices of (1) foreclosure proceeding, (2) redemption period expiration, and (3) surplus include a referral to the UP program of the OST, in the five most commonly spoken languages in the state other than English, to request a translation of the notice. Reduces required font size for notices (1), (2), and (3) from 20-point type to 14-point type. Requires notices (1), (2), and (3) to include contact information for the Oregon Law Center. Clarifies for notices (1), (2), and (3) that free legal assistance may be available only to individuals with low incomes. Eliminates requirement for counties to deliver notices (1) and (2) to heirs of deceased owners. Requires OST to make notices (1) and (2) publicly available on its website. Eliminates requirements that notice (1) be given within 60 to 90 days before the date of foreclosure proceeding. Eliminates requirements that notice (1) include the date of the redemption period expiration. Defines "former owner". Requires appraisal from a licensed unaffiliated appraiser for property retained or transferred by the county. Increases property value that triggers appraisal requirement for certain property from $10,000 to $250,000. Clarifies a public, high-bid auction is not required for property retained or transferred by the county. Clarifies fair market value of the property is the higher of the real market value as shown on the last tax statement or the appraised value. Allows counties to establish an online bidding process for public high-bid auctions of foreclosed property. Clarifies property appraisal does not require a redetermination of the property value for property tax purposes. Clarifies Public Contracting Code does not apply to any agreement a county enters into for the purpose of selling foreclosed property. Clarifies value of property retained or transferred by the county is the fair market value. Requires county to deliver the surplus proceeds of property tax foreclosure sales to the OST within 30 days after the surplus is determined. Provides OST immunity from legal action associated with processing UP claims for the surplus proceeds of property tax foreclosure sales.

BACKGROUND:

Under current Oregon law, counties are not required to pay former owners the surplus proceeds of property tax foreclosure sales. After a county is reimbursed for delinquent property taxes and other allowable costs, it may elect to distribute surplus proceeds to taxing districts. County allowable costs include the redemption penalty and fee, property maintenance and supervision, and legal costs.

On May 25, 2023, *Tyler v. Hennepin County* was a unanimous U.S. Supreme Court decision in favor of Tyler (598 U.S. 631). The Court decided counties which foreclose on property to repay delinquent property taxes can't take more property than what is owed (Takings Clause of the U.S. Constitution's 5th amendment).

HB 4056 (2024) required Oregon counties to establish a process to comply with *Tyler v. Hennepin County.* The bill suspended the deeding of property to counties until January 1, 2026. The bill also required the Department of Revenue to coordinate a work group with county tax officers and interested parties, and submit a report to the Legislature by September 15, 2024, which sets forth recommendations for legislation.

On April 23, 2024, Linn County Circuit Court dismissed the case *Western States Land Reliance Trust vs. Linn County.* The court held that since Oregon's statute is silent on the disposition of surplus proceeds and the plaintiff did not redeem the property or file an answer to the 2008 foreclosure judgement, the County's retention of surplus proceeds was not a violation of the Takings Clause. An appeal was filed in the Oregon Court of Appeals on May 1, 2024. On January 24, 2025, Linn County motioned for the case to be certified to the Oregon Supreme Court, and Western States Land Reliance Trust joined in the motion on January 27.