

## HB 2089 -8 STAFF MEASURE SUMMARY

### House Committee On Revenue

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**Prepared By:** Beau Olen, Economist

**Meeting Dates:** 1/30, 4/8, 6/3

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#### WHAT THE MEASURE DOES:

Provides for a process, through the Unclaimed Property (UP) program of the Oregon State Treasury (OST), to claim the surplus proceeds of real property that has been foreclosed, deeded to the county, and sold to pay delinquent property taxes. Defines "claimant". Allows person other than a claimant to file a claim based on a valid lien or debt. Defines "surplus". Establishes tiered system to sell property in which the property is placed in a public high-bid auction if not sold by a real estate agent. Sets a minimum auction bid of two-thirds of property fair market value, determined by higher of third-party appraisal or current assessment. Requires online bidding process for public high-bid auctions. Clarifies allowable costs county may subtract from surplus. Requires county to provide notice of surplus, provide certain notices in additional languages, provide certain notices to more parties and the public, include additional information on certain notices, and search public records and online databases to locate property owners and heirs. Applies to claims for which the claimant received the notice of redemption period expiration on or after May 25, 2023.

#### ISSUES DISCUSSED:

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

#### EFFECT OF AMENDMENT:

-8 Replaces bill. Provides for a process, through the Unclaimed Property (UP) program of the Oregon State Treasury (OST), to claim the surplus proceeds of real property that has been foreclosed, deeded to the county, and sold to pay delinquent property taxes. Defines "claimant". Allows person other than a claimant to file a claim based on a valid lien or debt. Defines "surplus". Establishes tiered system to sell certain property in which the property is placed in a public high-bid auction if not sold by a real estate agent. Sets a minimum auction bid of two-thirds of property fair market value, determined by higher of third-party appraisal or current assessment. Clarifies allowable costs county may subtract from surplus. Requires county to provide notice of surplus. Applies to claims for which the claimant received the notice of redemption period expiration on or after May 25, 2023.

Requires notices of (1) foreclosure proceeding, (2) redemption period expiration, and (3) surplus to include a referral to the UP program of OST, in the five most commonly spoken languages in the state other than English, for translation of notices. Reduces font size used in notices (1), (2), and (3) from 20-point type to 14-point type. Clarifies in notices (1), (2), and (3) that free legal assistance may be available only to low-income individuals. Eliminates requirement that counties deliver notices (1) and (2) to heirs of deceased former owners. Requires notices (1) and (2) be publicly available on OST website. Eliminates requirement that notice (1) be given within 60 to 90 days before the date of foreclosure proceeding. Eliminates requirement that notice (1) include the date of redemption period expiration. Defines "former owner". Allows counties to retain or transfer title to certain

property for purposes of public benefit. Increases minimum property value in which certain property must be appraised from \$10,000 to \$250,000. Requires property appraisals be conducted by licensed appraisers unaffiliated with counties. Clarifies which property requires listing with a real estate agent, appraisal, or public auction. Clarifies property fair market value is real market value, or higher of real market value or appraised value for certain property. Allows counties to establish an online bidding process for public auctions. Requires, after the first failed attempt to sell property in public auction, that the minimum starting bid is the amount of delinquent property taxes. Allows, after the second failed attempt to sell property in public auction, counties to forgive delinquent property taxes and retain or transfer property. Clarifies property appraisal does not require redetermination of property value for property tax purposes. Clarifies value of property retained or transferred by county is the fair market value. Clarifies Public Contracting Code does not apply to any agreement a county enters into to sell property. Requires county to deliver surplus to OST within 30 days after surplus was determined. Provides OST immunity from legal action associated with processing UP claims for 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 that 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 5<sup>th</sup> 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.