

HB 2089 A STAFF MEASURE SUMMARY

Senate Committee On Finance and Revenue

Prepared By: Beau Olen, Economist

Meeting Dates: 6/16

WHAT THE MEASURE DOES:

Provides for a process, through the Unclaimed Property program of the Oregon State Treasury, to claim the surplus proceeds of real property that has been foreclosed, deeded to a county, and sold to pay delinquent property taxes. Requires counties provide a notice of surplus to certain parties. Requires notices of foreclosure proceeding, redemption period expiration, and surplus to include a referral to the Unclaimed Property program of the Oregon State Treasury where notices may be translated into the five most commonly spoken languages in the state other than English. Requires notices of foreclosure proceeding and redemption period expiration to include certain information on existing foreclosure avoidance programs, property tax deferral programs, and other property tax relief programs available to the owner. Defines "surplus" and "claimant". Allows person other than a claimant to file a claim based on a valid lien or debt.

Establishes multi-step process to sell property in which counties may retain or transfer non-residential property for public benefit, must attempt to sell residential property by placing it in a public high-bid auction if not sold by a real estate agent, and may forgive delinquent property taxes and retain or transfer residential property after the second failed attempt to sell in auction. Establishes a minimum auction bid of two-thirds of property's fair market value, which decreases to the amount of delinquent property taxes after the first failed attempt to sell in auction. Requires property appraisal, by a licensed appraiser unaffiliated with counties, for non-residential property the county retains or transfers and for residential property which has a real market value that exceeds \$250,000. Defines "fair market value". Clarifies allowable costs counties may charge against the property. Applies to claims for which a claimant received notice of redemption period expiration on or after May 25, 2023.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Under current Oregon law, counties are not required to pay former owners the surplus proceeds of property tax foreclosure sales. After counties use sale proceeds to reimburse themselves for delinquent property taxes and other allowable costs, counties may elect to distribute any 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, in the U.S. Supreme Court case *Tyler v. Hennepin County* (598 U.S. 631), the court made a unanimous decision in favor of Tyler. Per the Takings Clause of the U.S. Constitution's 5th amendment, the court decided that when counties foreclose on property to pay delinquent property taxes, they can't take more property than what is owed.

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

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On April 23, 2024, Linn County Circuit Court dismissed the case *Western States Land Reliance Trust vs. Linn County* (24CV06966). The court held that since Oregon 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 (A184258). 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.

PRELIMINARY