

House Bill 2089

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Revenue for Representative Nancy Nathanson)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act would set up a means for the former owners of foreclosed real property to get the surplus after the property is sold by the county. (Flesch Readability Score: 60.3).

Provides for a process by which former owners of real property delinquent to the county for delinquent property taxes may claim the surplus value after the property has been disposed of by the county.

Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to surpluses from the disposition of foreclosed property; creating new provisions; amending
3 ORS 312.040 and 312.125; and prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

FORECLOSURE NOTICES

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6
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8 **SECTION 1.** ORS 312.040 is amended to read:

9 312.040. (1)(a) **At least 60 days but not more than 120 days prior to the date of a foreclo-**
10 **sure proceeding**, notice of *[each]* **the** foreclosure proceeding shall be given by *[publication and by*
11 *both certified and regular first class mail as provided in this section]* **both of the following means:**

12 *[(a)]* **(A)** *[Notice shall be given by]* One publication of the foreclosure list in a newspaper of
13 general circulation in the county, to be designated by the **governing body of the county** *[court or*
14 *board of county commissioners]*. The price charged by the newspaper shall be at the legal rate as
15 provided by law. A copy of the newspaper notice shall be mailed by the county to each incorporated
16 city in the county.

17 *[(b)]* **(B)** *[In addition, notice of the foreclosure proceeding shall be sent by certified and regular*
18 *first class mail to the owner or owners]* **Delivery of notice to any owners, heirs of deceased**
19 **owners, lienholders and mortgagees**, as shown in the county deed records, of each property in-
20 cluded on the foreclosure list at the address or addresses as reflected in the county records under
21 ORS 93.260, 311.555 or 311.560.

22 **(b) Notwithstanding paragraph (a) of this subsection, if it is deemed expedient, notice of**
23 **the institution of a foreclosure proceeding may be given by personal service. Notice by per-**
24 **sonal service shall be in lieu of service by the means required under paragraph (a) of this**
25 **subsection as to the defendant or defendants so served, and it shall not be necessary to in-**
26 **clude in the publication of the foreclosure list the names of such defendants or the de-**
27 **scriptions or other matters relating to their respective properties.**

28 **(2) For all notices of foreclosure proceedings, counties shall conduct due diligence to lo-**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 cate property owners or heirs of deceased owners by means including, but not limited to,
2 searches of land, court and other records, online databases and other resources and notifi-
3 cation of adjacent property owners.

4 (3)(a) Each notice of a foreclosure proceeding shall be made in English and the five other
5 most commonly spoken languages in this state listed by the Secretary of State pursuant to
6 ORS 251.167.

7 (b) Each notice shall include:

8 (A) The exact amount of unpaid taxes owed, including interest and fees.

9 (B) The following language, in capital letters, in at least 20-point type:

11
12 **WARNING: THERE ARE UNPAID TAXES AND FEES IN THE AMOUNT OF \$_____**
13 **ON PROPERTY AT (ADDRESS) WHICH YOU MAY OWN OR HAVE A LEGAL INTEREST**
14 **IN. THE PROPERTY WILL BE DEEDED TO THE COUNTY AND YOUR INTEREST WILL**
15 **BE TERMINATED UNLESS THE BACK TAXES ARE PAID. THE REDEMPTION PERIOD**
16 **TO PAY THE BACK TAXES AND RETAIN YOUR PROPERTY ENDS ON (DATE). TO MAKE**
17 **PAYMENT, OR TO RECEIVE FURTHER INFORMATION ABOUT PAYMENT, CONTACT**
18 **(TAX COLLECTOR) IMMEDIATELY AT (ADDRESS), (TELEPHONE NUMBER).**

19 **IF THE PROPERTY IS DEEDED TO THE COUNTY AS A WAY OF COLLECTING THE**
20 **BACK TAXES OWED, AND THE PROPERTY IS WORTH MORE THAN YOU OWE, YOU**
21 **ARE ENTITLED TO A RETURN OF MONEY FROM THE COUNTY. IN ORDER TO RECEIVE**
22 **A NOTICE OF A POTENTIAL SURPLUS FROM THE COUNTY, PLEASE PROVIDE THE**
23 **COUNTY WITH NOTICE OF A CURRENT ADDRESS, AND UPDATE THAT ADDRESS IF**
24 **YOU MOVE.**

25 **THERE ARE GOVERNMENT AGENCIES AND NONPROFIT ORGANIZATIONS THAT**
26 **CAN GIVE YOU INFORMATION ABOUT FORECLOSURE AND HELP YOU DECIDE WHAT**
27 **TO DO. FOR GENERAL INFORMATION AT NO COST TO YOU, CONTACT A CERTIFIED**
28 **HOUSING COUNSELOR. YOU CAN FIND A HOUSING COUNSELOR NEAR YOU AT**
29 **[HTTPS://WWW.HUD.GOV/STATES/OREGON#HOMEOWNERSHIP](https://www.hud.gov/states/oregon#homeownership). YOU MAY ALSO WANT**
30 **TO TALK TO A LAWYER. YOU CAN REACH THE OREGON STATE BAR'S LAWYER RE-**
31 **FERRAL SERVICE AT 800-452-7636 (TOLL-FREE IN OREGON) OR VISIT THE WEBSITE**
32 **AT [WWW.OSBAR.ORG](http://www.osbar.org). FREE LEGAL ASSISTANCE MAY ALSO BE AVAILABLE. FOR**
33 **MORE INFORMATION AND A DIRECTORY OF LEGAL AID PROGRAMS, GO TO**
34 **[WWW.OREGONLAWHELP.ORG](http://www.oregonlawhelp.org).**

35
36
37 (C) At a minimum, the name, requirements and application process of any existing
38 property tax deferral program operated by this state or by any county or municipal govern-
39 ment within this state.

40 (D) Information regarding local lawyer referral services, legal aid programs or foreclo-
41 sure avoidance programs known by the county and operated by local state agencies, the
42 Oregon State Bar or charitable nonprofit organizations that may be able to provide the
43 owner with assistance in the foreclosure process.

44 (c) A copy of the notice, including the warning statement required under paragraph
45 (b)(B) of this subsection, shall be posted in a conspicuous place on the property that is the

1 **subject of the notice by the sheriff of the county in which the property is located.**

2 [(2)] (4) Each notice given under [subsection (1) or (4) of] this section shall identify the particular
3 property or properties that is the subject of the notice.

4 [(3)] (5) All persons owning or claiming to own, or having or claiming to have, any interest in
5 [any] property included in the foreclosure list are required to take notice of [such] **the foreclosure**
6 **proceeding and of all steps [thereunder] under the proceeding.**

7 [(4) If it is deemed expedient to do so, notice of the institution of the foreclosure proceeding may
8 be given by personal service. Notice by personal service shall be in lieu of service by publication and
9 certified and regular first class mail required by subsection (1) of this section as to the defendant or
10 defendants so served, and it shall not be necessary to include in the publication of the foreclosure list
11 the names of such defendants or the descriptions or other matters relating to their respective
12 properties.]

13 **SECTION 2.** ORS 312.125 is amended to read:

14 312.125. (1)(a) Not less than one year prior to the expiration of the period of redemption of any
15 real property ordered sold to the county under a judgment under ORS 312.100, the tax collector shall
16 provide notice of the expiration of the period of redemption to any person or entity entitled to re-
17 deem the property under ORS 312.120 (2) whose interest appears in the records of the county as of
18 the date foreclosure proceedings were instituted.

19 (b) Any person or entity whose interest has terminated by any means other than a judgment
20 of foreclosure under ORS 312.120 shall not be entitled to such notice.

21 (c) **Counties shall conduct due diligence to locate interested property owners or heirs of**
22 **deceased owners by means including but not limited to searches of land, court and other**
23 **records, online databases and other resources.**

24 [(2) The notice shall contain:]

25 (2)(a) **Each notice of the expiration of the period of redemption shall be made in English**
26 **and the five other most commonly spoken languages in this state listed by the Secretary of**
27 **State pursuant to ORS 251.167.**

28 (b) **Each notice shall include:**

29 (A) **The exact amount of unpaid taxes owed, including interest and fees.**

30 (B) **The following language, in capital letters, in at least 20-point type:**

33 **WARNING: THERE ARE UNPAID TAXES AND FEES IN THE AMOUNT OF \$_____**
34 **ON PROPERTY AT (ADDRESS) WHICH YOU MAY OWN OR HAVE A LEGAL INTEREST**
35 **IN. THE PROPERTY WILL BE DEEDED TO THE COUNTY AND YOUR INTEREST WILL**
36 **BE TERMINATED UNLESS THE BACK TAXES ARE PAID. THE REDEMPTION PERIOD**
37 **TO PAY THE BACK TAXES AND RETAIN YOUR PROPERTY ENDS ON (DATE). TO MAKE**
38 **PAYMENT, OR TO RECEIVE FURTHER INFORMATION ABOUT PAYMENT, CONTACT**
39 **(TAX COLLECTOR) IMMEDIATELY AT (ADDRESS), (TELEPHONE NUMBER).**

40 **IF THE PROPERTY IS DEEDED TO THE COUNTY AS A WAY OF COLLECTING THE**
41 **BACK TAXES OWED, AND THE PROPERTY IS WORTH MORE THAN YOU OWE, YOU**
42 **ARE ENTITLED TO A RETURN OF MONEY FROM THE COUNTY. IN ORDER TO RECEIVE**
43 **A NOTICE OF A POTENTIAL SURPLUS FROM THE COUNTY, PLEASE PROVIDE THE**
44 **COUNTY WITH NOTICE OF A CURRENT ADDRESS, AND UPDATE THAT ADDRESS IF**
45 **YOU MOVE.**

1 **THERE ARE GOVERNMENT AGENCIES AND NONPROFIT ORGANIZATIONS THAT**
 2 **CAN GIVE YOU INFORMATION ABOUT FORECLOSURE AND HELP YOU DECIDE WHAT**
 3 **TO DO. FOR GENERAL INFORMATION AT NO COST TO YOU, CONTACT A CERTIFIED**
 4 **HOUSING COUNSELOR. YOU CAN FIND A HOUSING COUNSELOR NEAR YOU AT**
 5 **HTTPS://WWW.HUD.GOV/STATES/OREGON#HOMEOWNERSHIP. YOU MAY ALSO WANT**
 6 **TO TALK TO A LAWYER. YOU CAN REACH THE OREGON STATE BAR'S LAWYER RE-**
 7 **FERRAL SERVICE AT 800-452-7636 (TOLL-FREE IN OREGON) OR VISIT THE WEBSITE**
 8 **AT WWW.OSBAR.ORG. FREE LEGAL ASSISTANCE MAY ALSO BE AVAILABLE. FOR**
 9 **MORE INFORMATION AND A DIRECTORY OF LEGAL AID PROGRAMS, GO TO**
 10 **WWW.OREGONLAWHELP.ORG.**

13 [(a)] (C) The date of the judgment;

14 [(b)] (D) The date of expiration of the period of redemption;

15 [(c)] (E) A warning to the effect that the property ordered sold under the judgment, unless
 16 sooner redeemed, will be deeded to the county immediately on expiration of the period of redemption
 17 *[and that every right or interest of any person in the property will be forfeited forever to the county];*

18 [(d)] (F) A legal description of the property and a tax account number; *[and]*

19 [(e)] (G) The name of the owner as it appears on the latest tax roll[.];

20 **(H) Information regarding an owner's right to claim a surplus, if any, under sections 3**
 21 **to 9 of this 2025 Act;**

22 **(I) Information regarding local lawyer referral services, legal aid programs or foreclosure**
 23 **avoidance programs known by the county and operated by local state agencies, the Oregon**
 24 **State Bar or charitable nonprofit organizations that may be able to provide the owner with**
 25 **assistance in the foreclosure process; and**

26 **(J) Information regarding any relief programs including but not limited to exemptions,**
 27 **grants or payment plans that are available to the owner.**

28 (3)(a) The notice required *[to be given under subsections (1) and (2) of]* **under** this section shall
 29 be given by both certified mail and by regular first class mail and subsections (4) and (5) of this
 30 section shall apply to both mailings.

31 **(b) A copy of the notice shall be posted to the county's public website.**

32 (4)(a) If the notice required under *[subsections (1) and (2) of]* this section is to be given to an
 33 owner, the notice shall be addressed to the owner or owners, as reflected in the county records of
 34 deeds, at the true and correct address of the owner as appearing on the instrument of conveyance
 35 under ORS 93.260 or as furnished under ORS 311.555 or as otherwise ascertained by the tax collec-
 36 tor pursuant to ORS 311.560.

37 (b) If the person or entity to whom the notice is required under subsection (1) of this section to
 38 be given is a lienholder, or person or entity other than the owner, having or appearing to have a
 39 lien or other interest in the property, the notice shall be addressed to the lienholder, person or en-
 40 tity at the address that the tax collector knows or after reasonable inquiry has reason to believe
 41 to be the address at which the lienholder, person or entity will most likely receive actual notice.
 42 For the convenience of the county, any lien, instrument or other document, memorandum or writing,
 43 filed on or after September 27, 1987, that creates an interest with respect to which notice is required
 44 to be given under this paragraph, shall contain:

45 (A) The address of the person or entity holding lien or other interest created by the instrument

1 or other document, memorandum or writing; and

2 (B) The tax account number, if any, and if known, of the property subject to the lien or in which
3 the interest is created.

4 (5) Failure of a lien, instrument or other document, memorandum or other writing to contain the
5 address and tax account number information required under subsection (4)(b) of this section does
6 not invalidate the lien, instrument or other document, memorandum or writing, nor shall the failure
7 of the writing to contain the information relieve the tax collector of the duty to obtain and mail the
8 notice required under subsection (4)(b) of this section to the address that the tax collector believes
9 to be the address at which the lienholder, person or entity is most likely to receive actual notice.

10 (6) For purposes of subsection (4)(b) of this section, if the lienholder is a corporation or a limited
11 partnership, the tax collector shall be considered to have made reasonable inquiry if the notice is
12 mailed to the registered agent or last registered office of the corporation or limited partnership, if
13 any, as shown by the records on file in the office of the Corporation Commissioner, or if the cor-
14 poration or limited partnership is not authorized to transact business in this state, to the principal
15 office or place of business of the corporation or limited partnership.

16 (7)(a) As used in this section, “records of the county” means the following:

17 (A) The grantor-grantee indexes.

18 (B) Other records of deeds, mortgages, powers of attorney, contracts and other instruments,
19 documents or memorandum of conveyance or otherwise of real property that are described in ORS
20 205.130 (1) and (2).

21 (C) The County Clerk Lien Record described in ORS 205.130 (3).

22 (D) Records of federal tax liens and other liens, instruments or other documents or writings
23 reflecting an interest in real property described in ORS 205.246, if those records are kept separately
24 from the records described in paragraph (b) of this subsection.

25 (E) Records of statutory liens on real property described in ORS 87.372.

26 (F) Any other records of interests in real property required to be kept by the county clerk, if
27 the records contain a legal description of the property and an address specifically designated as
28 indicated on the instrument, document or other memorandum or writing for purposes of mailing the
29 notice required by this section.

30 (b) For purposes of this section [*only*], “records of the county” includes:

31 (A) The appropriate records of the courts described in ORS 7.010 in the custody of the clerk of
32 the appropriate court or court administrator under ORS 7.110; and

33 (B) Probate records in the custody of the clerk of the appropriate court or court administrator
34 under ORS 7.230 and 7.240. Notwithstanding any provision to the contrary in ORS chapter 7 or other
35 law, the clerk of the appropriate court or the court administrator shall make available to and assist
36 the tax collector in the examination of the records described in this paragraph for purposes of car-
37 rying out the obligations of the tax collector under this section without charge.

38 **SECTION 3. Notice of surplus.** (1) **Within 60 days after the date on which a claim for a**
39 **surplus could arise under section 7 of this 2025 Act, the county shall deliver notice of a**
40 **surplus to:**

41 (a) **The claimant at the claimant’s last known address;**

42 (b) **The Estates Administration Program of the State Treasury;**

43 (c) **The Department of Revenue;**

44 (d) **The Department of Justice; and**

45 (e) **The municipality, if any, in which the property to which the surplus relates is located.**

1 (2) Each notice shall be made in English and the five other most commonly spoken lan-
2 guages in this state listed by the Secretary of State pursuant to ORS 251.167.

3 (3) Each notice shall include:

4 (a) At the top of the notice in capital letters, in at least 20-point type, the following lan-
5 guage:

6 _____
7
8 NOTICE: YOU ARE ENTITLED TO A REFUND OF MONEY HELD BY THE COUNTY.
9 TO RECEIVE MORE INFORMATION AND ASSISTANCE, CONTACT THE OREGON STATE
10 TREASURY AT (ADDRESS) (PHONE NUMBER). THERE ARE GOVERNMENT AGENCIES
11 AND NONPROFIT ORGANIZATIONS THAT CAN GIVE YOU INFORMATION ABOUT
12 FORECLOSURE AND HELP YOU DECIDE WHAT TO DO. FOR GENERAL INFORMATION
13 AT NO COST TO YOU, CONTACT A CERTIFIED HOUSING COUNSELOR. YOU CAN FIND
14 A HOUSING COUNSELOR NEAR YOU AT
15 HTTPS://WWW.HUD.GOV/STATES/OREGON#HOMEOWNERSHIP. YOU MAY ALSO WANT
16 TO TALK TO A LAWYER. YOU CAN REACH THE OREGON STATE BAR'S LAWYER RE-
17 FERRAL SERVICE AT 800-452-7636 (TOLL-FREE IN OREGON) OR VISIT THE WEBSITE
18 AT WWW.OSBAR.ORG. FREE LEGAL ASSISTANCE MAY ALSO BE AVAILABLE. FOR
19 MORE INFORMATION AND A DIRECTORY OF LEGAL AID PROGRAMS, GO TO
20 WWW.OREGONLAWHELP.ORG.

21 _____
22
23 (b) The following information in clear and understandable terms:

24 (A) The amount of the surplus that the county has determined is owed to the claimant;

25 (B) An explanation of who may be a claimant;

26 (C) An explanation of the process by which a claimant may file a claim under section 8
27 of this 2025 Act; and

28 (D) The claimant's right to seek a writ of review of the surplus from the county circuit
29 court under ORS 34.010 to 34.100 and the deadline for filing for the writ.

30 (4) Publication of an available surplus, a description of the property to which the surplus
31 relates, the names of the claimants and information about the process by which a claimant
32 may file a claim under section 8 of this 2025 Act shall be made available on the websites of
33 the state and the county in which the property is located.

34 SECTION 4. Additional notices. A county shall provide notice to the Department of Re-
35 venue, the Department of Justice and the municipality, if any, in which the property is lo-
36 cated:

37 (1) That proceedings to foreclose liens for delinquent taxes on the property have been
38 instituted under ORS 312.050, to be provided on the date on which the proceedings are insti-
39 tuted; and

40 (2) That one year remains before the period of redemption for the property expires under
41 ORS 312.120, to be provided not less than one year prior to the expiration of the period of
42 redemption.

43
44 **DEFINITIONS**

SECTION 5. Definitions. As used in sections 3 to 9 of this 2025 Act:

(1)(a) "Claimant" means:

(A) The owner of real property at the time the property was sold to the county on foreclosure for delinquent taxes under ORS 312.100; or

(B) The former owner's estate, heirs, devisees, power of attorney, trustee, guardian, custodian or bankruptcy estate or a successor in interest that has acquired substantially all of the former owner's assets by intestate succession, probate, merger, acquisition, dissolution or takeover.

(b) "Claimant" does not include:

(A) The creditors or garnishor of a claimant;

(B) Other persons holding an interest in the property that was sold to the county; or

(C) Voluntary or involuntary assignees of a claimant's interest in a surplus.

(2) "Fair market value" has the meaning given that term in ORS 195.332.

(3) "Former owner" means an owner described in subsection (1)(a)(A) of this section.

(4) "Surplus" means an amount equal to the value of real property sold to a county on foreclosure under this chapter and disposed of by the county in accordance with section 6 of this 2025 Act less the allowable costs to the county as determined under section 7 of this 2025 Act.

DISPOSITION OF FORECLOSED PROPERTY

SECTION 6. Sale, retention or transfer of foreclosed property; deposit of sale proceeds.

(1) Except as provided in subsection (4) of this section, after the expiration of the statutory redemption period under ORS 312.120 or 312.122, the county shall sell the property by listing the property for sale, with a real estate broker or agent who does not hold an elected or appointed office and is not employed by any government entity, at the highest price at which the property is reasonably expected to sell.

(2)(a) If, after three attempts, a county is unable to enter into an agreement with a real estate broker or agent for the sale of the property or the real estate broker or agent is unable to sell the property within 12 months after listing the property for sale, the county shall conduct a public, high-bid auction for sale of the property.

(b) The property shall be sold to the highest bidder at auction, provided the bid exceeds the outstanding taxes and allowable costs owing on the property.

(c) The auction shall include the following:

(A) An online bidding process in which bids are received electronically over the Internet in real time.

(B) Advertisements in a multiple listing service for at least 30 days prior to the date of the auction.

(C) If a private party is engaged to operate and advertise the auction, a limited fee to the private party in an amount equal to three percent of the surplus related to the property.

(D) A minimum starting bid of two-thirds of the property's fair market value, which shall be the higher of a current appraisal or current assessment conducted within 60 days after the expiration of the redemption period. The appraisal shall be conducted by a licensed appraiser that is unaffiliated with the county.

(3) Upon sale of real property foreclosed under this chapter, the county treasurer shall

1 deposit the gross amount of the sales proceeds in a separate, interest-bearing account until
 2 the amount of the surplus has been determined. Interest earned on the proceeds in the ac-
 3 count shall be included in the amount to be distributed.

4 (4)(a) After the expiration of the statutory redemption period, the county may retain the
 5 property for public purposes or transfer title to the property to a nonprofit organization for
 6 purposes of public benefit.

7 (b) If the county retains the property or transfers title to a nonprofit organization, the
 8 county shall determine the fair market value of the property with a current, third-party
 9 appraisal or current assessment, whichever is greater, conducted within 60 days after the
 10 expiration of the redemption period.

11
 12 **SURPLUSES**
 13

14 **SECTION 7. Determination of surplus.** (1) The amount of a surplus shall be determined
 15 within 60 days after the date on which the gross sales proceeds from the sale of the property
 16 are deposited in a separate, interest-bearing account under section 6 (3) of this 2025 Act or
 17 the value has otherwise been determined under subsection (2) of this section.

18 (2)(a)(A) In determining a surplus, the value of the property is the stated consideration
 19 on a deed from the county to a bona fide purchaser, as defined in ORS 275.088, if any.

20 (B) If the county has not sold the property to a bona fide purchaser, the value of the
 21 property is the fair market value of the property as of the date on which it is deeded to the
 22 county.

23 (C) In the absence of a sale or an appraisal or other reliable indication of fair market
 24 value, the value of the property is the real market value of the property as shown on the tax
 25 statement for the property tax year in which the claim arose.

26 (b)(A) For purposes of this subsection, the fair market value of the property shall be the
 27 higher of a current appraisal of the property, conducted within 60 days after the expiration
 28 of the redemption period, by a licensed appraiser that is unaffiliated with the county, or the
 29 current assessment of the property for ad valorem property tax purposes.

30 (B) The county shall procure an appraisal if the real market value or assessed value of
 31 the property exceeds \$10,000 for the property tax year in which the claim arose.

32 (3) In determining a surplus, the allowable costs that the county may elect to deduct
 33 from the value of the property include:

34 (a) The amount of the judgment under ORS 312.090 and accruing post-judgment interest;

35 (b) The amount of taxes and interest on the taxes that would have been due following the
 36 judgment during the redemption period and through the earlier of:

37 (A) The date on which the county sold or conveyed the property to a third party; or

38 (B) The date on which the claim is made;

39 (c) Additional costs that the county may claim under ORS 275.275 (1)(a) to (c);

40 (d) Costs to reimburse the claim of a municipal corporation that has filed a claim notice
 41 under ORS 275.130;

42 (e) Penalties allowed under ORS 312.990, or the actual costs paid by the county to miti-
 43 gate or abate a nuisance, including as described in ORS 105.555, that was caused or permitted
 44 by the negligence or neglect of the former owner; and

45 (f) In lieu of the penalty and fee under ORS 312.120, the reasonable fees of the foreclosure

1 and sale of the property, including the costs of legal fees, delivering notices, county staff
2 time, court filing fees, appraisals, professional real estate commission and auction fees.

3 (4) The county shall provide a claimant with an itemized accounting of all allowable costs
4 deducted when determining the surplus.

5 **SECTION 8. Claim of surplus.** (1) A claimant is entitled to a return of the amount of a
6 surplus, if any, from the disposition of the claimant's property, as determined under section
7 7 of this 2025 Act, upon the earliest of the date on which the county:

8 (a) Sells, transfers, exchanges, leases for a period of more than one year or otherwise
9 disposes of the property under ORS chapter 275; or

10 (b) Determines that the county will retain the property for public purposes or transfer
11 title to a nonprofit organization for purposes of public benefit.

12 (2) A claim for a surplus must be made with the State Treasurer in the manner provided
13 by ORS 98.392 and 98.396.

14 (3)(a) If the estate of a deceased former owner will not be probated, the State Treasurer
15 shall allow a claim to be made by the heirs, devisees or a person named as a personal rep-
16 resentative in the deceased former owner's will or an estate administrator appointed by the
17 State Treasurer.

18 (b) A claim made under this subsection must include:

19 (A) A copy of the former owner's death certificate;

20 (B) A copy of the former owner's will, if any;

21 (C) A statement that the estate is not being probated and that a small estate affidavit
22 is not being filed for the estate;

23 (D) The identity of each beneficiary of the claim;

24 (E) The proportion of the surplus distributable to each beneficiary; and

25 (F) Signatures of all beneficiaries of the claim acknowledging their participation in the
26 claim.

27 (c) If there are multiple heirs, an heir who has occupied the property as a primary resi-
28 dence for more than one year is presumed to have authority to receive the surplus on behalf
29 of all heirs, in the absence of a written agreement among heirs or objection by a nonresident
30 heir.

31 (4) A claimant does not have any interest in a surplus during the period of redemption
32 or any other time prior to the date on which the claim arises under subsection (1) of this
33 section.

34 (5)(a) A person other than a claimant may claim the surplus based upon a valid lien
35 against the property or a debt of the claimant.

36 (b) Any purported assignment of a claim to the surplus is void except for an assignment
37 made for the protection of the interests of the claimant, including an assignment in a
38 bankruptcy proceeding, power of attorney or custodianship or guardianship proceedings.

39 (6) Nothing in sections 3 to 9 of this 2025 Act extinguishes any debt obligation of a former
40 owner that is outstanding as of the date on which title to the property is conveyed to the
41 county under ORS 312.270, other than the property tax amounts that were extinguished by
42 the conveyance to the county.

43 **SECTION 9. Surplus as unclaimed property.** (1) A surplus is unclaimed property under
44 ORS 98.302 to 98.436.

45 (2) The governing body of the county shall file the report and deliver a surplus in the

1 amount determined under section 7 of this 2025 Act to the State Treasurer for deposit as
2 provided in ORS 98.352.

3 (3) The report shall include an itemized accounting of all allowable costs deducted from
4 the value of the property when determining the surplus under section 7 (3) of this 2025 Act.
5

6 **PROCEDURAL SECTIONS**
7

8 **SECTION 10.** Sections 3 to 9 of this 2025 Act are added to and made a part of ORS
9 chapter 312.

10 **SECTION 11. Applicability to new foreclosures.** (1) Sections 3 to 9 of this 2025 Act and
11 the amendments to ORS 312.040 and 312.125 by sections 1 and 2 of this 2025 Act apply to
12 claims for which the claimant received notice under ORS 312.125 on or after May 25, 2023.

13 (2) For claims for a surplus that could arise under section 7 of this 2025 Act with respect
14 to which the claimant received notice under ORS 312.125 before the effective date of this 2025
15 Act, the notice of a surplus required under section 3 of this 2025 Act shall be made within
16 60 days after the effective date of this 2025 Act.

17 **SECTION 12.** The unit and section captions used in this 2025 Act are provided only for
18 the convenience of the reader and do not become part of the statutory law of this state or
19 express any legislative intent in the enactment of this 2025 Act.
20

21 **EFFECTIVE DATE**
22

23 **SECTION 13.** This 2025 Act takes effect on the 91st day after the date on which the 2025
24 regular session of the Eighty-third Legislative Assembly adjourns sine die.
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