

House Bill 4064

Sponsored by Representative JAVADI (Presession filed.)

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 establish when charges made by HOAs and condo associations start to accrue on property deeded to the county in a tax foreclosure. The Act would create a lien for the amount of the charges on the property. The Act would bar certain costs from inclusion in the amount of the charges secured by the lien. The Act would say who is liable for the charges and the date on which the lien must be satisfied. (Flesch Readability Score: 69.9).

Establishes when homeowners and condominium association assessments accrue on property deeded to the county in the tax foreclosure process. Creates a lien for the amount of the assessments against the property. Excludes certain costs from the amount of assessments secured by the lien. Establishes the liability for the assessments and the date on which the lien must be satisfied.

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

A BILL FOR AN ACT

Relating to acquisitions of real property by foreclosure for delinquent taxes; creating new provisions; amending ORS 94.709 and 100.450; and prescribing an effective date.

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

SECTION 1. Section 2 of this 2026 Act is added to and made a part of ORS chapter 312.

SECTION 2. (1) As used in this section:

(a) "Assessment" has the meaning given that term in ORS 94.550 or 100.005, as applicable.

(b) "Association" means a homeowners association as defined in ORS 94.550 or an association of unit owners as defined in ORS 100.005.

(c) "Subject property" means property that is subject to assessment by an association.

(2)(a) Assessments shall accrue on subject property that has been deeded to a county under ORS 312.200 for the period beginning on the date on which the subject property is so deeded and ending on the earliest of the date on which:

(A) The county transfers title to the subject property to another owner by sale or under ORS 271.330;

(B) The county enters into a lease agreement for the subject property; or

(C) The county determines that it will permanently retain title to the subject property.

(b) Assessments that accrue as described in this subsection give rise to a lien against the subject property.

(c) The amount of assessments secured by the lien shall not include costs or fee increases for payment of a fine, penalty, settlement or attorney fees that are the result of a violation of local, state or federal law by the association that imposes the assessments.

(3)(a) Assessments that accrue during the period described in subsection (2) of this section are the liability of:

(A) The owner that receives title to the subject property as described in subsection (2)(a)(A) of this section; or

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.

(B) The county if:

(i) The county enters into a lease agreement for the subject property; or

(ii) The county determines that it will permanently retain title to the subject property.

(b) The lien must be satisfied by:

(A) An owner described in paragraph (a)(A) of this subsection no later than the date on which the title to the subject property is received.

(B) The county no later than 30 days following the date on which it enters into a lease agreement or determines that it will permanently retain title to the subject property.

(4) The association that imposes the assessments on subject property:

(a) May record any lien that arises under this section; and

(b) Shall provide the county with notice of the assessments in accordance with the association's dues schedule.

SECTION 3. ORS 94.709 is amended to read:

94.709. (1) Whenever a homeowners association levies any assessment against a lot, the association shall have a lien upon the individual lot for any unpaid assessments. The lien includes interest, late charges, attorney fees, costs or other amounts imposed under the declaration or bylaws or other recorded governing document. The lien is prior to a homestead exemption and all other liens or encumbrances upon the lot except:

(a) Tax and assessment liens; and

(b) A first mortgage or trust deed of record.

(2) Recording of the declaration constitutes record notice and perfection of the lien for assessments. No further recording of a claim of lien for assessments or notice of a claim of lien under this section is required to perfect the association's lien. The association shall record a notice of claim of lien for assessments under this section in the deed records of the county in which a lot is located before any suit to foreclose may proceed under subsection (4) of this section. The notice shall contain:

(a) A true statement of the amount due for the unpaid assessments after deducting all just credits and offsets;

(b) The name of the owner of the lot, or reputed owner, if known;

(c) The name of the association;

(d) The description of the lot as provided in ORS 93.600; and

(e) A statement that if the owner of the lot thereafter fails to pay any assessments when due, as long as the original or any subsequent unpaid assessment remains unpaid, the unpaid amount of assessments automatically continue to accumulate with interest without the necessity of further recording.

(3) The notice shall be verified by the oath of some person having knowledge of the facts and shall be recorded by the county recording officer. The record shall be indexed as other liens are required by law to be indexed.

(4)(a) The proceedings to foreclose liens created by this section shall conform as nearly as possible to the proceedings to foreclose liens created by ORS 87.010 except, notwithstanding ORS 87.055, a lien may be continued in force for a period of time not to exceed six years from the date the assessment is due. For the purpose of determining the date the assessment is due in those cases when subsequent unpaid assessments have accumulated under a notice recorded as provided in subsection (2) of this section, the assessment and claim regarding each unpaid assessment shall be deemed to have been levied at the time the unpaid assessment became due.

(b) The lien may be enforced by the board of directors acting on behalf of the association.

(5) Unless the declaration or bylaws provide otherwise, fees, late charges, fines and interest imposed pursuant to ORS 94.630 (1)(L), (n) and (o) are enforceable as assessments under this section.

(6) This section does not prohibit an association from pursuing an action to recover sums for which subsection (1) of this section creates a lien or from taking a deed in lieu of foreclosure in satisfaction of the lien.

(7) An action to recover a money judgment for unpaid assessments may be maintained without foreclosing or waiving the lien for unpaid assessments. A judgment entered on the action does not extinguish the lien. Payment of the judgment operates to satisfy the lien, or a portion of the lien, to the extent of the payment received.

(8) Notwithstanding any provision of this section to the contrary, a lien against a lot deeded to a county by tax foreclosure under ORS 312.200 shall arise and be recorded, enforced or foreclosed in accordance with section 2 of this 2026 Act.

SECTION 4. ORS 100.450 is amended to read:

100.450. (1) Whenever an association of unit owners levies any assessment against a unit, the association of unit owners shall have a lien upon the individual unit and the undivided interest in the common elements appertaining to such unit for any unpaid assessments. The lien includes interest, late charges, attorney fees, costs or other amounts levied under the declaration or bylaws. The lien is prior to a homestead exemption and all other liens or encumbrances upon the unit except:

(a) Tax and assessment liens; and

(b) A first mortgage or trust deed of record unless:

(A) The condominium consists of fewer than seven units, all of which are to be used for non-residential purposes;

(B) The declaration provides that the lien of any mortgage or trust deed of record affecting the property shall be subordinate to the lien of the association provided under subsection (1) of this section; and

(C) The holder of any mortgage or trust deed of record affecting the property when the declaration is recorded executes a separate subordination of the holder's interest to the declaration which is attached as an exhibit and which states that the holder understands that the declaration subordinates the holder's lien to the assessment lien of the association provided under subsection (1) of this section.

(2) Recording of the declaration constitutes record notice and perfection of the lien for assessments. No further recording of a claim of lien for assessments or notice of a claim of lien under this section is required to perfect the association's lien. The association shall record a notice of claim of lien for assessments under this section in the deed records of the county in which the unit is located before any suit to foreclose may proceed under subsection (4) of this section. The notice shall contain:

(a) A true statement of the amount due for the unpaid assessments after deducting all just credits and offsets;

(b) The name of the owner of the unit, or reputed owner, if known;

(c) The name of the condominium and the designation of the unit as stated in the declaration or applicable supplemental declaration; and

(d) A statement that if the owner of the unit thereafter fails to pay any assessments when due, as long as the original or any subsequent unpaid assessment remains unpaid, the unpaid amount of

1 assessments automatically continue to accumulate with interest without the necessity of further re-
2 cording.

3 (3) The notice shall be verified by the oath of some person having knowledge of the facts and
4 shall be recorded by the county recording officer. The record shall be indexed as other liens are
5 required by law to be indexed.

6 (4)(a) The proceedings to foreclose liens created by this section shall conform as nearly as pos-
7 sible to the proceedings to foreclose liens created by ORS 87.010 except, notwithstanding ORS
8 87.055, a lien may be continued in force for a period of time not to exceed six years from the date
9 the assessment is due. For the purpose of determining the date the assessment is due in those cases
10 when subsequent unpaid assessments have accumulated under a notice recorded as provided in
11 subsection (2) of this section, the assessment and claim regarding each unpaid assessment shall be
12 deemed to have been levied at the time the unpaid assessment became due.

13 (b) The lien may be enforced by the board of directors acting on behalf of the association of unit
14 owners.

15 (c) An action to recover a money judgment for unpaid assessments may be maintained without
16 foreclosing or waiving the lien securing the claim for unpaid assessments. A judgment entered on
17 the action does not extinguish the lien. Payment on the judgment operates to satisfy the lien, or a
18 portion of the lien, to the extent of the payment received.

19 (d) An action to foreclose a lien under this section or recover a money judgment for unpaid
20 assessments may not be maintained unless the Condominium Information Report and the Annual
21 Report described in ORS 100.250 are designated current as provided in ORS 100.255.

22 (5) Unless the declaration or bylaws provides otherwise, fees, late charges, fines and interest
23 imposed pursuant to ORS 100.405 (4)(j), (k), (L) and (m) are enforceable as assessments under this
24 section.

25 (6) With respect to condominium units also constituting timeshare property as defined by ORS
26 94.803, liens created by this section shall be assessed to the timeshare owners in the timeshare
27 property according to the method for determining each owner's liability for common expenses under
28 the timeshare instrument and shall be enforced individually against each timeshare owner in the
29 condominium unit.

30 (7) Notwithstanding the priority established for a lien for unpaid assessments and interest under
31 subsection (1) of this section, the lien shall also be prior to the lien of a first mortgage or trust deed
32 of record for the unit and the undivided interest in the common elements, if:

33 (a) The association of unit owners for the condominium in which the unit is located has given
34 the lender under the mortgage or trust deed 90 days prior written notice that the owner of the unit
35 is in default in payment of an assessment. The notice shall contain:

36 (A) Name of borrower;

37 (B) Recording date of trust deed or mortgage;

38 (C) Recording information;

39 (D) Name of condominium, unit owner and unit designation stated in the declaration or appli-
40 cable supplemental declaration; and

41 (E) Amount of unpaid assessment.

42 (b) The notice under paragraph (a) of this subsection shall set forth the following in 10-point
43 type:

1 NOTICE: The lien of the association may become prior to that of the lender pursuant to ORS
2 100.450.

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5 (c) The lender has not initiated judicial action to foreclose the mortgage or requested issuance
6 of a trustee's notice of sale under the trust deed or accepted a deed in lieu of foreclosure in the
7 circumstances described in ORS 100.465 prior to the expiration of 90 days following the notice by
8 the unit owners' association.

9 (d) The unit owners' association has provided the lender, upon request, with copies of any liens
10 filed on the unit, a statement of the assessments and interest remaining unpaid on the unit and other
11 documents which the lender may reasonably request.

12 (e) The borrower is in default under the terms of the mortgage or trust deed as to principal and
13 interest.

14 (f) A copy of the notice described in paragraph (a) of this subsection, together with an affidavit
15 of notice by a person having knowledge of the facts, has been recorded in the manner prescribed in
16 subsection (3) of this section. The affidavit shall recite the date and the person to whom the notice
17 was given.

18 **(8) Notwithstanding any provision of this section to the contrary, a lien against a unit**
19 **deeded to a county by tax foreclosure under ORS 312.200 shall arise and be recorded, enforced**
20 **or foreclosed in accordance with section 2 of this 2026 Act.**

21 **SECTION 5. (1) Section 2 of this 2026 Act applies to subject property deeded to a county**
22 **under ORS 312.200 on or after the effective date of this 2026 Act.**

23 **(2) Notwithstanding subsection (1) of this section, for subject property to which a county**
24 **holds title by operation of ORS 312.200 as of the effective date of this 2026 Act, the assess-**
25 **ment accrual period under section 2 (2) of this 2026 Act shall begin on the effective date of**
26 **this 2026 Act unless, before the effective date of this 2026 Act:**

27 **(a) The county has determined to permanently retain title to the subject property; or**

28 **(b) The county has entered into a lease agreement for the subject property.**

29 **SECTION 6. There is appropriated to the Oregon Department of Administrative Services,**
30 **for the biennium ending June 30, 2027, out of the General Fund, the amount of \$4,300,000 for**
31 **distribution to Fishhawk Lake Reserve & Community, Inc. to be used to repay a loan taken**
32 **out to pay an outstanding fine imposed by the Department of Environmental Quality.**

33 **SECTION 7. This 2026 Act takes effect on the 91st day after the date on which the 2026**
34 **regular session of the Eighty-third Legislative Assembly adjourns sine die.**
