

Enrolled 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)

CHAPTER

AN ACT

Relating to surpluses from the disposition of foreclosed property; creating new provisions; amending ORS 98.352, 279A.025, 312.040 and 312.125; and prescribing an effective date.

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

FORECLOSURE NOTICES

SECTION 1. ORS 312.040 is amended to read:

312.040. (1)(a) Notice of *[each]* **the** foreclosure proceeding shall be given by *[publication and by both certified and regular first class mail as provided in this section]* **both of the following means:**

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

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

(b)(A) **Notwithstanding paragraph (a) of this subsection, if it is deemed expedient, notice of the institution of a foreclosure proceeding may instead be given by personal service, delivered either orally or in writing, and confirmed by an affidavit.**

(B) **The names of the owners that receive notification pursuant to this paragraph, and the descriptions and other matters relating to their respective properties, may be excluded from the foreclosure list.**

(2) **For all notices of foreclosure proceedings, counties shall conduct due diligence to locate property owners by means including, but not limited to, searches of land, court and other records, online databases and other resources.**

(3) **Each notice of a foreclosure proceeding shall include:**

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

(b) **The following language, in capital letters, in at least 14-point type:**

WARNING: THERE ARE UNPAID TAXES AND FEES IN THE AMOUNT OF \$_____ ON PROPERTY AT (ADDRESS) WHICH YOU MAY OWN OR HAVE A LEGAL INTEREST IN. THE PROPERTY WILL BE DEEDED TO THE COUNTY AND YOUR INTEREST WILL BE TERMINATED UNLESS THE BACK TAXES AND FEES ARE PAID. TO MAKE PAYMENT, OR TO RECEIVE FURTHER INFORMATION ABOUT PAYMENT, CONTACT (TAX COLLECTOR) IMMEDIATELY AT (ADDRESS), (TELEPHONE NUMBER).

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

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

(c) At a minimum, the name, requirements and application process of any existing property tax deferral program operated by this state or by any county or municipal government within this state.

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

(e) A referral, in the five most commonly spoken languages in this state other than English listed by the Secretary of State pursuant to ORS 251.167, to the website of the Unclaimed Property program of the State Treasury at <https://unclaimed.oregon.gov> for a translation of the notice into those languages. The translated referral shall include the statement, "This is a notice about important rights related to your property."

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

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

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

SECTION 2. ORS 312.125 is amended to read:

312.125. (1)(a) Not less than one year prior to the expiration of the period of redemption of any real property ordered sold to the county under a judgment under ORS 312.100, the tax collector shall provide notice of the expiration of the period of redemption to any person or entity entitled

to redeem the property under ORS 312.120 (2) whose interest appears in the records of the county as of the date foreclosure proceedings were instituted.

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

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

[(2) The notice shall contain:]

(2) **Each notice of the expiration of the period of redemption shall include:**

(a) **The exact amount of unpaid taxes owed, including interest and fees;**

(b) **The following language, in capital letters, in at least 14-point type:**

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

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

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

[(a)] (c) The date of the judgment;

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

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

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

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

(h) **Information regarding an owner's right to claim a surplus, if any, under sections 3 to 6 and 8 to 10 of this 2025 Act;**

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

(j) Information regarding any relief programs including but not limited to exemptions, grants or payment plans that are available to the owner; and

(k) A referral, in the five most commonly spoken languages in this state other than English listed by the Secretary of State pursuant to ORS 251.167, to the website of the Unclaimed Property program of the State Treasury at <https://unclaimed.oregon.gov> for a translation of the notice into those languages. The translated referral shall include the statement, “This is a notice about important rights related to your property.”

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

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

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

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

(A) The address of the person or entity holding lien or other interest created by the instrument or other document, memorandum or writing; and

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

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

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

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

(A) The grantor-grantee indexes.

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

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

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

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

(F) Any other records of interests in real property required to be kept by the county clerk, if the records contain a legal description of the property and an address specifically designated as

indicated on the instrument, document or other memorandum or writing for purposes of mailing the notice required by this section.

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

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

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

SECTION 3. Notice of surplus. (1) Within 60 days after the date on which a claim for a surplus could arise under section 9 of this 2025 Act, the county shall deliver notice of a surplus to:

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

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

(c) The Department of Revenue;

(d) The Department of Justice; and

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

(2) Each notice shall include:

(a) At the top of the notice in capital letters, in at least 14-point type, the following language:

NOTICE: YOU ARE ENTITLED TO A REFUND OF MONEY HELD BY THE COUNTY. TO RECEIVE MORE INFORMATION AND ASSISTANCE, CONTACT THE OREGON STATE TREASURY AT (ADDRESS) (PHONE NUMBER). THERE ARE GOVERNMENT AGENCIES AND NONPROFIT ORGANIZATIONS THAT CAN GIVE YOU INFORMATION ABOUT FORECLOSURE AND HELP YOU DECIDE WHAT TO DO. FOR GENERAL INFORMATION AT NO COST TO YOU, CONTACT A CERTIFIED HOUSING COUNSELOR. YOU CAN FIND A HOUSING COUNSELOR NEAR YOU AT [HTTPS://WWW.HUD.GOV/STATES/OREGON#HOMEOWNERSHIP](https://www.hud.gov/states/oregon#homeownership). YOU MAY ALSO WANT TO TALK TO A LAWYER. YOU CAN REACH THE OREGON STATE BAR’S LAWYER REFERRAL SERVICE AT 800-452-7636 (TOLL-FREE IN OREGON) OR VISIT THE WEBSITE AT WWW.OSBAR.ORG. FREE LEGAL ASSISTANCE MAY ALSO BE AVAILABLE TO INDIVIDUALS WITH LOW INCOMES. FOR MORE INFORMATION AND A DIRECTORY OF LEGAL AID PROGRAMS, GO TO WWW.OREGONLAWHELP.ORG.

(b) The following information in clear and understandable terms:

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

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

(C) An explanation of the process by which a claimant may file a claim under section 9 of this 2025 Act;

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

(E) A referral, in the five most commonly spoken languages in this state other than English listed by the Secretary of State pursuant to ORS 251.167, to the website of the Unclaimed Property program of the State Treasury at <https://unclaimed.oregon.gov> for a translation of the notice into those languages. The translated referral shall include the statement, “This is a notice about important rights related to your property.”

(3) Publication of an available surplus, a description of the property to which the surplus relates, the names of the claimants and information about the process by which a claimant

may file a claim under section 9 of this 2025 Act shall be made available on the websites of the state and the county in which the property is located.

SECTION 3a. The State Treasury shall make the notices required under ORS 312.040 and 312.125 and section 3 of this 2025 Act available to the public on the State Treasury's Internet website.

SECTION 4. Additional notices. A county shall provide notice to the Department of Revenue, the Department of Justice and the municipality, if any, in which the property is located:

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

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

DEFINITIONS

SECTION 5. Definitions. As used in sections 3 to 6 and 8 to 10 of this 2025 Act:

(1)(a) "Claimant" means:

(A) The owner of real property as of the date on which 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) "Former owner" means an owner described in subsection (1)(a)(A) of this section.

(3) "Surplus" has the meaning given that term by section 8 of this 2025 Act.

DISPOSITION OF FORECLOSED PROPERTY

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

(1)(a)(A) After the expiration of the statutory redemption period under ORS 312.120 or 312.122, the county may elect to retain the property for public purposes or transfer title to the property to a nonprofit organization for purposes of public benefit.

(B) The county shall procure an appraisal from a licensed appraiser that is unaffiliated with the county for property described in this paragraph.

(b) Property that the county does not retain or transfer under paragraph (a) of this subsection shall be sold in accordance with subsections (2) and (3) of this section.

(2)(a) This subsection applies to property that is located in a residential zone and that was the former owner's primary residence as of the date on which the taxes for which the property was foreclosed were assessed.

(b) The county shall list such 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.

(c) The county shall procure an appraisal from a licensed appraiser that is unaffiliated with the county for property described in this subsection if the real market value of the property as shown on the most recent tax statement exceeds \$250,000.

(d) The list price shall be the highest price at which the property is reasonably expected to sell.

(3)(a) The county shall conduct a public, high-bid auction for sale of property if:

(A) After three attempts, the county is unable to enter into an agreement with a real estate broker or agent for the sale of the property in accordance with subsection (2)(b) of this section;

(B) The real estate broker or agent described in subsection (2)(b) of this section is unable to sell the property within 12 months after listing the property; or

(C) The property is not property described in subsection (1)(a)(A) or (2)(a) of this section.

(b) The property shall be sold to the highest bidder at auction, provided the bid exceeds the outstanding taxes and other allowable costs chargeable against the property as determined under section 8 (4) of this 2025 Act.

(c) The auction shall include the following:

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

(B) 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.

(C) A minimum starting bid of two-thirds of the property's fair market value as determined under paragraph (d) of this subsection.

(d) For purposes of this section, the fair market value of the property shall be, as of the date on which the property was deeded to the county under ORS 312.200:

(A) The real market value of the property for ad valorem property tax purposes as shown on the most recent tax statement; or

(B) For property required to be appraised under subsection (1)(a)(B) or (2)(c) of this section, the appraised value if greater than the real market value.

(e) The auction may include an online bidding process in which bids are received electronically over the Internet in real time.

(4) For property that fails to sell at auction under subsection (3) of this section, the county shall conduct a public high-bid auction that meets the requirements of subsection (3)(c) of this section except that the minimum starting bid shall equal the outstanding taxes and other allowable costs chargeable against the property.

(5) For property that fails to sell at auction under subsection (4) of this section, the county may forgive the amount of outstanding taxes and other allowable costs chargeable to the property and retain the property for public purposes or transfer title to the property to a nonprofit organization for purposes of public benefit.

(6) An appraisal conducted for purposes of subsection (1)(a)(B) or (2)(c) of this section does not require a redetermination of the real market value, maximum assessed value or assessed value of the property for ad valorem property tax purposes.

(7) As provided in ORS 279A.025, the Public Contracting Code does not apply to any agreement that a county enters into with a real estate broker or agent, auctioneer, appraiser or any other person for the purpose of disposing of property in accordance with this section.

(8) Upon sale of real property foreclosed under this chapter, the county treasurer shall deposit the gross amount of the sales proceeds in a separate, interest-bearing account until the amount of the surplus has been determined. Interest earned on the proceeds in the account shall be included in the amount to be distributed.

SECTION 7. ORS 279A.025 is amended to read:

279A.025. (1) Except as provided in subsections (2) to (4) of this section, the Public Contracting Code applies to all public contracting.

(2) The Public Contracting Code does not apply to:

(a) Contracts between a contracting agency and:

(A) Another contracting agency;

(B) The Oregon Health and Science University;

(C) A public university listed in ORS 352.002;

(D) The Oregon State Bar;

- (E) A governmental body of another state;
- (F) The federal government;
- (G) An American Indian tribe or an agency of an American Indian tribe;
- (H) A nation, or a governmental body in a nation, other than the United States; or
- (I) An intergovernmental entity formed between or among:
 - (i) Governmental bodies of this or another state;
 - (ii) The federal government;
 - (iii) An American Indian tribe or an agency of an American Indian tribe;
 - (iv) A nation other than the United States; or
 - (v) A governmental body in a nation other than the United States;
- (b) Agreements authorized by ORS chapter 190 or by a statute, charter provision, ordinance or other authority for establishing agreements between or among governmental bodies or agencies or tribal governing bodies or agencies;
- (c) Insurance and service contracts as provided for under ORS 414.115, 414.125, 414.135 and 414.145 for purposes of source selection;
- (d) Grants;
- (e) Contracts for professional or expert witnesses or consultants to provide services or testimony relating to existing or potential litigation or legal matters in which a public body is or may become interested;
- (f) Acquisitions or disposals of real property or interest in real property;
- (g) Sole-source expenditures when rates are set by law or ordinance for purposes of source selection;
- (h) Contracts for the procurement or distribution of textbooks;
- (i) Procurements by a contracting agency from an Oregon Corrections Enterprises program;
- (j) The procurement, transportation, sale or distribution of distilled liquor, as defined in ORS 471.001, or the appointment of agents under ORS 471.230 or 471.750 by the Oregon Liquor and Cannabis Commission;
- (k) Contracts entered into under ORS chapter 180 between the Attorney General and private counsel or special legal assistants;
- (L) Contracts for the sale of timber from lands that the State Board of Forestry, the State Forestry Department, the State Parks and Recreation Commission or the State Parks and Recreation Department owns or manages;
- (m) Contracts for activities necessary or convenient for the sale of timber under paragraph (L) of this subsection, either separately from or in conjunction with contracts for the sale of timber, including but not limited to activities such as timber harvesting and sorting, transporting, gravel pit development or operation, and road construction, maintenance or improvement;
- (n) Contracts for forest protection or forest related activities, as described in ORS 477.406, by the State Forester or the State Board of Forestry;
- (o) Contracts that the Housing and Community Services Department enters into in exercising the department's duties prescribed in ORS chapters 456 and 458, or procurements described in ORS 456.625 (19);
- (p) Contracts that the State Treasurer enters into in exercising the powers of that office prescribed in ORS 178.010 to 178.090 and 276A.242 and ORS chapters 286A, 287A, 289, 293, 294 and 295, including but not limited to investment contracts and agreements, banking services, clearing house services and collateralization agreements, bond documents, certificates of participation and other debt repayment agreements, and any associated contracts, agreements and documents, regardless of whether the obligations that the contracts, agreements or documents establish are general, special or limited, except that the State Treasurer's public contracting for goods and services is subject to ORS chapter 279B;
- (q) Contracts, agreements or other documents entered into, issued or established in connection with:
 - (A) The issuance of obligations, as defined in ORS 286A.100 and 287A.310, of a public body;

(B) Program loans and similar extensions or advances of funds, aid or assistance that a public body makes to a public or private body for the purpose of carrying out, promoting or sustaining activities or programs authorized by law; or

(C) The investment of funds by a public body as authorized by law, and other financial transactions of a public body that by their character cannot practically be established under the competitive contractor selection procedures of ORS 279B.050 to 279B.085;

(r) Contracts for employee benefit plans as provided in ORS 243.105 (1), 243.125 (4), 243.221, 243.275, 243.291, 243.303 and 243.565;

(s) Contracts for employee benefit plans as provided in ORS 243.860 to 243.886; [or]

(t) Any agreement that a county enters into with a real estate broker or agent, auctioneer, appraiser or any other person for the purpose of disposing of property in accordance with section 6 of this 2025 Act; or

[*(t)*] **(u)** Any other public contracting of a public body specifically exempted from the code by another provision of law.

(3) The Public Contracting Code does not apply to the contracting activities of:

(a) The Oregon State Lottery Commission;

(b) The legislative department;

(c) The judicial department;

(d) Semi-independent state agencies listed in ORS 182.454, except as provided in ORS 279.835 to 279.855 and 279A.250 to 279A.290;

(e) Oregon Corrections Enterprises;

(f) The Oregon Film and Video Office, except as provided in ORS 279A.100 and 279A.250 to 279A.290;

(g) The Travel Information Council, except as provided in ORS 279A.250 to 279A.290;

(h) The Oregon 529 Savings Network and the Oregon 529 Savings Board;

(i) The Oregon Innovation Council;

(j) The Oregon Utility Notification Center; or

(k) Any other public body specifically exempted from the code by another provision of law.

(4) ORS 279A.200 to 279A.225 and 279B.050 to 279B.085 do not apply to contracts made with qualified nonprofit agencies providing employment opportunities for individuals with disabilities under ORS 279.835 to 279.855.

SURPLUSES

SECTION 8. Determination of surplus. (1) As used in this section, “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 the county may charge against the property under subsection (4) of this section.

(2) The amount of a surplus shall be determined within 60 days after the date on which the gross sales proceeds from the sale of the property are deposited in a separate, interest-bearing account under section 6 (8) of this 2025 Act or the value of the property has otherwise been determined under subsection (3) of this section.

(3) For purposes of determining a surplus, the value of the property shall be:

(a) For property retained by the county or transferred to a nonprofit organization under section 6 (1)(a) of this 2025 Act, the fair market value of the property as determined under section 6 (3)(d) of this 2025 Act.

(b) The stated consideration on a deed from the county to a bona fide purchaser, as defined in ORS 275.088:

(A) For property sold by listing with a real estate broker or agent under section 6 (2)(b) of this 2025 Act; or

(B) For property sold at auction under section 6 (3) or (4) of this 2025 Act.

(c) For property that fails to sell at auction under section 6 (3) or (4) of this 2025 Act, the amount forgiven under section 6 (5) of this 2025 Act.

(4) In determining a surplus, the allowable costs that the county may charge against the property include:

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

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

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

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

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

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

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

(f) In lieu of the penalty and fee under ORS 312.120, the reasonable fees related to the foreclosure and the efforts to dispose of the property, including the costs of legal fees, delivering notices, county staff time, court filing fees, appraisals, professional real estate commission and auction fees.

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

SECTION 9. Claim of surplus. (1) A claimant is entitled to a return of a surplus, if any, in the amount determined under section 8 of this 2025 Act, as of the date on which the county disposes of the claimant's property as described in section 8 (3) of this 2025 Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) Nothing in sections 3 to 6 and 8 to 10 of this 2025 Act extinguishes any debt obligation of a former owner that is outstanding as of the date on which title to the property is conveyed to the county under ORS 312.270, other than the property tax amounts that were extinguished by the conveyance to the county.

SECTION 10. Surplus as unclaimed property. (1) A surplus is unclaimed property under ORS 98.302 to 98.436.

(2)(a) Except as provided in paragraph (b) of this subsection, the governing body of the county shall file the report, and deliver the surplus, in the amount determined under section 8 of this 2025 Act, to the State Treasurer for deposit, as provided in ORS 98.352.

(b) Notwithstanding ORS 98.352 (4), the governing body shall file the report and deliver the surplus within 30 days after the date on which the surplus is determined.

(3) The report shall include:

(a) The information required under ORS 98.352 (2); and

(b) An itemized accounting of all allowable costs charged against the property when determining the surplus under section 8 (4) of this 2025 Act.

(4) The State Treasurer may adopt rules governing the reports required under this section.

(5)(a) Except as provided in paragraph (b) of this subsection, no person may maintain an action for damages incurred as a result of the performance of duties or exercise of authority under sections 3 to 6 and 8 to 10 of this 2025 Act by the State Treasurer or the respective officers, employees or agents of the State Treasurer and the several counties.

(b) The immunity provided in paragraph (a) of this subsection does not apply to the liability of any person for damages resulting from gross negligence, fraud or abuse.

SECTION 11. ORS 98.352 is amended to read:

98.352. (1) A holder of property presumed abandoned under ORS 98.302 to 98.436 and 98.992 shall deliver to the State Treasurer the report described in subsection (2) of this section and shall pay or deliver to the State Treasurer, for deposit in the Unclaimed Property and Estates Fund, all property presumed abandoned, except that for the following funds the holder is not required to deliver the funds presumed abandoned to the State Treasurer:

(a) Funds transferred to the General Fund under ORS 293.455 (1)(a).

(b) Funds in the possession of the Child Support Program described in ORS 180.345.

(c) Funds described in ORS 9.725 (3) or 98.386 (2) that are held in lawyer trust accounts or in the possession of the Oregon State Bar.

(2) A report must include:

(a) Except with respect to traveler's checks and money orders, the name, if known, and address, if known, of each person appearing from the records of the holder to be the owner of any property of value of \$50 or more presumed abandoned under ORS 98.302 to 98.436 and 98.992;

(b) In case of unclaimed funds of life insurance corporations, the full name of the insured or annuitant and last-known address according to the life insurance corporation's records;

(c) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under \$50 each may be reported in aggregate;

(d) The date when the property became payable, demandable, or returnable, and the date of the last transaction with the owner with respect to the property; and

(e) Other information that the State Treasurer prescribes by rule as necessary for the administration of ORS 98.302 to 98.436 and 98.992.

(3) If the holder of property presumed abandoned is a successor to other holders or has had a name change while holding the property, the holder shall file with the report all prior known names and addresses and effective dates of changes.

(4) **Except as otherwise provided under section 10 (2) of this 2025 Act**, the holder shall file the report after October 1, but no later than November 1, of each year for accounts dormant as of June 30. Upon written request from any person required to file a report, the State Treasurer may

postpone the reporting date. All records are exempt from public review for 12 months from the time the property is reportable and for 24 months after the property has been remitted to the State Treasurer. All lists of records or property held by a government or public authority under ORS 98.336 are exempt from public review until 24 months after the property is remitted to the State Treasurer.

(5) If the holder of property presumed abandoned under ORS 98.302 to 98.436 and 98.992 knows the whereabouts of the owner and if the owner's claim is not barred by the statute of limitations, the holder shall, before filing the report, communicate with the owner and take necessary steps to prevent abandonment from being presumed. The holder shall exercise due diligence to ascertain the whereabouts of the owner at least 60 days before filing the report.

(6) If the property presumed abandoned is a lawyer trust account established by an attorney or law firm, the report required by this section must indicate that the account is a lawyer trust account.

(7) The holder shall verify the accuracy of the information contained in the report. Verification must be executed by a partner if made by a partnership, by an officer if made by an unincorporated association or private corporation and by the chief fiscal officer if made by a public corporation.

PROCEDURAL SECTIONS

SECTION 12. Sections 3 to 6 and 8 to 10 of this 2025 Act are added to and made a part of ORS chapter 312.

SECTION 13. Applicability to new foreclosures. (1) Sections 3 to 6 and 8 to 10 of this 2025 Act and the amendments to ORS 98.352, 279A.025, 312.040 and 312.125 by sections 1, 2, 7 and 11 of this 2025 Act apply to claims for which the claimant received notice under ORS 312.125 on or after May 25, 2023.

(2) For claims for a surplus that could arise under section 9 of this 2025 Act with respect to which the claimant received notice under ORS 312.125 before the effective date of this 2025 Act, the notice of a surplus required under section 3 of this 2025 Act shall be made within 60 days after the effective date of this 2025 Act.

CAPTIONS

SECTION 14. The unit and section captions used in this 2025 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2025 Act.

EFFECTIVE DATE

SECTION 15. This 2025 Act takes effect on the 91st day after the date on which the 2025 regular session of the Eighty-third Legislative Assembly adjourns sine die.

Passed by House June 10, 2025

.....
Timothy G. Sekerak, Chief Clerk of House

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Julie Fahey, Speaker of House

Passed by Senate June 20, 2025

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Rob Wagner, President of Senate

Received by Governor:

.....M.,....., 2025

Approved:

.....M.,....., 2025

.....
Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2025

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Tobias Read, Secretary of State