



Clatsop County

Assessment and Taxation

820 Exchange St., Suite 210
Astoria, OR 97103
(503) 325-8522 phone (503) 338-3638 fax
www.co.clatsop.or.us

Comments for HB 4056

Clatsop County is committed to thorough examination and inspection of properties that end up in a foreclosure action. Our goal has always been to find a solution where the property owner, especially a residential inhabited property, remains the owner.

The following are comments and questions that we have identified in implementing HB 4056.

In the case where a solution cannot be found and a county is required to commence foreclosure proceedings, the **ORS accommodates the property owner with several notifications regarding redemption** as noted below.

ORS 312.120 (2) provides that *during the two-year period any person having an interest in the property at the date of the judgment of foreclosure, or any heir or devisee of such person, or any person holding a lien of record on the property, or any municipal corporation having a lien on the property, may redeem the property by payment of the full amount applicable to the property under the judgment, with interest thereon as provided by law, plus a penalty of five percent of the total amount applicable to the property under the judgment and a fee as specified under subsection (5) of this section.*

ORS 312.125 provides for (1) *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. 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.*

(5) *Failure of a lien, instrument or other document, memorandum or other writing to contain the*

(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. [1987 c.311 §2; 1989 c.628 §1; 2003 c.576 §422; 2009 c.33 §11]

ORS 312.140 provides that (1) *A mortgagee or other holder of a recorded lien on real property may file with the tax collector a request that notice of any foreclosure list including the real property be given to the mortgagee or other lienholder. The request shall contain the name and address of the person filing it, the description of the property and the name of the owner or reputed owner thereof, and the date of expiration of the mortgage or lien. Notice need not be given after expiration of the mortgage or lien, unless a further request therefor is filed. If the mortgagee or lienholder furnishes a duplicate form of request for the notice, the tax collector shall certify thereon to the filing and return the duplicate to the person making the request.*

(2) *Whenever any property described in the request for notice is included in a foreclosure list, the tax collector shall send by registered mail or by certified mail with return receipt written notice thereof to the mortgagee or other lienholder. At the time of mailing the notice the tax collector shall note that fact in the latest tax roll opposite the description of the property. The notation in the tax roll is prima facie evidence that the notice was mailed. Where the same mortgagee or lienholder has filed requests for notices on two or more properties included in a foreclosure list, one general notice may be issued covering all such properties. [Amended by 1991 c.249 §24; 1997 c.170 §50; 2001 c.753 §2]*

Finally, an additional notice of the exemption period is published as noted in ORS 312.190.

The statutory requirements above ensure adequate notification is provided to those property owners and lienholders that may be eligible for surplus.

Once the property deemed surplus is sold at public auction or private sale, **ORS 275.275** requires the following reimbursement from the proceeds.

(a) *First, applied to refund the county general fund for the full amount actually paid by the county to advance the state tax upon all properties upon which the county has foreclosed liens for delinquent taxes;*

(b) *Second, applied to the county general fund in an amount equal to the penalty and fee described in ORS 312.120 for each property upon which the county has foreclosed a lien for delinquent taxes;*

(c) *Third, applied to refund the county general fund for all the costs and expenses actually incurred by the county in the maintenance and supervision of the properties and in any suits or proceedings by the county to quiet title to or to defend the county's title to property sold, including suits or land use proceedings to ascertain and determine the actual boundaries of the properties;*

For counties with populations less than 650,000:

(3)(a) *After a portion of the proceeds arising under ORS 275.090 to 275.290 and 275.296 to 275.310 and a portion of the proceeds arising under ORS 275.294 are applied as provided in subsections (1) and (2) of this section, the balance of the proceeds arising under ORS 275.090 to 275.290 and 275.296 to 275.310 and the balance of the proceeds arising under ORS 275.294, including the payments for land sold under contract pursuant to ORS 275.190 or 275.200, must be distributed by the county treasurer as follows:*

(A) *First, to a municipal corporation that has filed a notice, in accordance with ORS 275.130, relating to a local improvement lien against the property from which the sale proceeds are derived. The*

amount of the distribution to each municipal corporation must be in the principal amount of the lien, plus the interest and any penalties that accrued to the date of sale of the property.

(B) Second, to governmental units in accordance with the formula provided in ORS 311.390 for the distribution of tax collections. The amount distributed to governmental units must be the amount remaining after the distribution, if any, under subparagraph (A) of this paragraph.

(b) Notwithstanding ORS 294.080, as used in this subsection, "balance of the proceeds" includes all accumulated interest earned on the proceeds arising under ORS 275.294 that are segregated pursuant to subsection (2)(b) of this section, unless a court of competent jurisdiction rules otherwise.

(4) Distribution of moneys under subsections (2) and (3) of this section must be made on or before June 30 in each year.

If HB 4056 will be retroactive for 6 years, would all of those taxing districts that received proceeds from surplus land sales need to pay back the revenues received on those properties that are deemed to have a lienholder surplus?
