

COUNTY RECOMMENDATIONS FOR THE HB 4056 DOR WORKGROUP

- 1) Define who is entitled to the surplus proceeds (i.e., the “claimant”) and the method by which a claimant can establish “ownership” status. Counties do not want to be involved in claim litigation or prioritization, and we therefore ask that the term “claimant” not include creditors, garnishors, lienholders, or assignees. However, counties would support a separate “policy” bill that addresses the rights of these groups in relation to the former owner.
- 2) Foreclosed properties will continue to be sold via public auction as we feel that it is the most appropriate manner of selling as-is properties. Counties may opt into using a real estate agent at their own discretion, but they will be under no statutory obligation to do so.
- 3) Allow for all county expenses in administering the surplus proceeds to be deducted from the surplus proceeds prior to distribution (in addition to all other fees/expenses already deductible under ORS 275.275).
- 4) Establish deadlines for a claimant to file for surplus proceeds per the following:
 - a. One year from the date the property is sold or conveyed to a third-party;
 - b. One year from the date the county makes a determination that the county will retain the property for public purposes; or
 - c. If no action is otherwise taken by the county, two years from date the property is deeded to the county under ORS 312.122 or 312.200.
- 5) Clarify what notices are required, to whom they are to be sent to, and when they must be sent. The counties do not support a “due diligence” requirement wherein a county would be obligated to locate all potential claimants. Accordingly, we recommend the following notice requirements:
 - a. Include notification of the potential surplus in the one-year redemption notice already required under ORS 312.125.
 - b. Require written notice be sent to the former owner at their last known address no less than 180 days before the filing deadline.
 - c. County website must publicly post all available surplus proceeds, along with an adequate property description and the respective former owner’s name.
 - d. Annual newspaper posting of expiring surplus claims no later than 60 days before the filing deadline.
- 6) Counties prefer to allow the current lookback litigation to run its/their course before enacting legislation dictating procedures. Alternatively, the counties fully support the State’s takeover of all lookback claims. If requested, the counties prefer a six-year lookback period to align with ORS 12.080.