

House Bill 3175

Sponsored by Representative LEIF, Senator HEARD

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**.

Requires county treasurer to distribute excess proceeds from sale of real property acquired by foreclosure of delinquent tax liens, or by exchange for land originally acquired by foreclosure of delinquent tax liens, to holders of liens unsatisfied at time of foreclosure and to property owner at time of foreclosure or any transferee or successor in interest of owner. Requires county treasurer to provide notice of distribution requirements and process to lienholders and owners. Requires circuit court to determine priority of liens. Provides that total amount distributed may not exceed amount of unsatisfied liens and equity interest of owner at time property was deeded to county.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to tax lien foreclosure proceeds; creating new provisions; amending ORS 275.130 and
3 275.275; and prescribing an effective date.

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

5 **SECTION 1.** ORS 275.275 is amended to read:

6 275.275. (1)(a) The proceeds arising under ORS 275.090 to 275.290 and 275.296 to 275.310 must
7 be applied:

8 (A) First, to refund the county general fund for the full amount advanced by the county to pay
9 the state tax upon all properties upon which the county has foreclosed liens for delinquent taxes;

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

12 (C) Third, to refund the county general fund for all the costs and expenses incurred by the
13 county in the maintenance and supervision of the properties and in any suits or proceedings by the
14 county to quiet title to or to defend the county's title to property sold, including suits or land use
15 proceedings to ascertain and determine the actual boundaries of the properties.

16 (b) The proceeds applied as refunds under paragraph (a)(A) and (C) of this subsection may not
17 amount to more than the tax actually paid and the costs and expenses actually incurred by the
18 county.

19 **(2)(a) After the refunds authorized under subsection (1) of this section are made, the**
20 **county treasurer shall distribute any excess proceeds arising under ORS 275.090 from the**
21 **sale of real property acquired by foreclosure of delinquent tax liens, or by exchange for land**
22 **originally acquired by foreclosure of delinquent tax liens, to all holders of liens on the prop-**
23 **erty that were not fully satisfied on or before the date on which the property was deeded to**
24 **the county, in order of priority as determined under paragraph (d) of this subsection. The**
25 **county treasurer shall then distribute any remaining proceeds to the owner of the property**
26 **immediately before the property was deeded to the county, or any transferee or successor**
27 **in interest of that owner.**

28 (b) Upon determining that there are excess proceeds for distribution under this sub-

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 section, the county treasurer shall provide to the persons described in paragraph (a) of this
 2 subsection as having an interest in the property a notice that:

3 (A) Describes the property to which the excess proceeds relate;

4 (B) Sets forth the amount of excess proceeds available for distribution, including a gen-
 5 eral explanation of the respective maximum amounts described in paragraph (e) of this sub-
 6 section that may be distributed to lienholders and owners;

7 (C) Sets forth the order in which excess proceeds shall be distributed;

8 (D) Explains that the priority of liens shall be determined by the circuit court; and

9 (E) Advises the persons of the requirement under paragraph (c) of this subsection to file
 10 a claim to be eligible for a distribution and the manner in which a claim must be filed, in-
 11 cluding the filing deadline.

12 (c) Persons seeking a distribution under this subsection must file a claim, within 60 days
 13 after receiving the notice required under paragraph (b) of this subsection, in a manner pre-
 14 scribed by the county treasurer. The county treasurer shall reject any claim that is not
 15 timely filed.

16 (d) Before making distributions under this subsection, the county treasurer shall submit
 17 the question of the priority of the liens described in paragraph (a) of this subsection to the
 18 circuit court for the county in which the property is located. The court shall issue an order
 19 determining the priority and the county treasurer shall make the distributions in accordance
 20 with the order.

21 (e) The excess proceeds distributed under this subsection may not exceed:

22 (A) For a lienholder, the unsatisfied amount of the lien as of the date on which the
 23 property was deeded to the county or the date on which the county treasurer determines the
 24 amount of excess proceeds available for distribution, whichever is less.

25 (B) For the owner of the property immediately before the property was deeded to the
 26 county, or any transferee or successor in interest of that owner, the owner's equity interest
 27 in the property, determined as of the date on which the property was deeded to the county.

28 [(c)] (3)(a) Except as provided in paragraph [(d)] (b) of this subsection, after the refunds **and**
 29 **distributions** authorized under [paragraph (a) of this subsection] **subsections (1) and (2) of this**
 30 **section, respectively**, are made, the county treasurer shall credit to the county general fund pro-
 31 ceeds arising under ORS 275.090 to 275.290 and 275.296 to 275.310 from the sale of real property
 32 acquired by the county in a manner other than by foreclosure of delinquent tax liens or by exchange
 33 for land originally acquired by foreclosure of delinquent tax liens. The proceeds described in this
 34 paragraph include payments for the real property sold under a purchase agreement pursuant to ORS
 35 275.190 or 275.200.

36 [(d)] (b) In a county with a population of 650,000 or more, after the refunds **and distributions**
 37 authorized under [paragraph (a) of this subsection] **subsections (1) and (2) of this section, re-**
 38 **spectively**, are made, the county treasurer shall credit:

39 (A) The proceeds arising under ORS 275.090 from the sale of real property acquired by foreclo-
 40 sure of delinquent tax liens, or by exchange for land originally acquired by foreclosure of delinquent
 41 tax liens, to an account or fund, created in the discretion of the county treasurer in or outside the
 42 county general fund, for use under ORS 271.330 to provide:

43 (i) Funds for housing placement and retention support services for youth and families with
 44 children;

45 (ii) Flexible rental assistance to place youth and families with children into housing; or

1 (iii) Funds to develop new low income housing that is affordable to youth and families with
 2 children with 30 percent or lower median family income.

3 (B) Except as described in subparagraph (A) of this paragraph, the proceeds arising under ORS
 4 275.090 to 275.290 and 275.296 to 275.310 from the sale of real property acquired by the county in
 5 any manner, including payments for the real property sold under a purchase agreement pursuant to
 6 ORS 275.190 or 275.200, to the county general fund.

7 [(2)] (4) The proceeds arising under ORS 275.294:

8 (a) Must be credited to the county general fund by the county treasurer, if received from a lease
 9 or conveyance granting rights to explore, prospect for or remove biogas that is produced by de-
 10 composition of solid waste at any land disposal site or former land disposal site owned by the
 11 county. As used in this paragraph, “land disposal site” has the meaning given that term in ORS
 12 459.005.

13 (b) Must be segregated from the portion of the proceeds described in paragraph (a) of this sub-
 14 section and deposited in a separate account maintained by the county. Interest earned on the seg-
 15 regated portion of the proceeds must be credited to the account established under this paragraph.

16 (c) May be used, in an amount that does not exceed 10 percent of the proceeds, to reimburse a
 17 taxing district within the county for costs and expenses necessarily incurred by the district in pro-
 18 viding improved, additional or extraordinary services required on lands in the county as a result of
 19 exploration, drilling, mining, logging or other activities authorized under a lease or conveyance un-
 20 der ORS 275.294. As used in this paragraph, “improved, additional or extraordinary services” in-
 21 cludes, but is not limited to, fire protection and road construction and maintenance.

22 (d) May be used to reimburse the county for its actual costs and expenses incurred under this
 23 subsection and under ORS 275.294 for:

24 (A) The maintenance and supervision of a lease or conveyance granting rights to explore, pros-
 25 pect for, mine or remove valuable minerals, oil or gas from the lands;

26 (B) The maintenance and supervision of a lease or conveyance granting rights to conduct
 27 underground storage, as defined in ORS 520.005; and

28 (C) Litigation resulting from a lease or conveyance described in subparagraph (A) or (B) of this
 29 paragraph.

30 [(3)(a)] (5)(a) After a portion of the proceeds arising under ORS 275.090 to 275.290 and 275.296
 31 to 275.310 and a portion of the proceeds arising under ORS 275.294 are applied as provided in sub-
 32 sections [(1) and (2)] (1) to (4) of this section, the balance of the proceeds arising under ORS 275.090
 33 to 275.290 and 275.296 to 275.310 and the balance of the proceeds arising under ORS 275.294, in-
 34 cluding the payments for land sold under contract pursuant to ORS 275.190 or 275.200, must be
 35 distributed by the county treasurer as follows:

36 (A) First, to a municipal corporation that has filed a notice, in accordance with ORS 275.130,
 37 relating to a local improvement lien against the property from which the sale proceeds are derived.
 38 The amount of the distribution to each municipal corporation must be in the principal amount of the
 39 lien, plus the interest and any penalties that accrued to the date of sale of the property.

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

43 (b) Notwithstanding ORS 294.080, as used in this subsection, “balance of the proceeds” includes
 44 all accumulated interest earned on the proceeds arising under ORS 275.294 that are segregated
 45 pursuant to subsection [(2)(b)] (4)(b) of this section, unless a court of competent jurisdiction rules

1 otherwise.

2 [(4)] (6) Distribution of moneys under subsections [(2) and (3)] (4) and (5) of this section must
 3 be made on or before June 30 in each year.

4 [(5)] (7) The county treasurer or auditor shall verify the costs and expenses to be reimbursed
 5 under subsection [(2)] (4) of this section.

6 [(6)] (8) The county treasurer shall distribute reimbursements under subsection [(2)] (4) of this
 7 section in accordance with an order of the governing body of the county.

8 [(7)] (9) Notwithstanding [subsection (1)] subsections (1) to (3) of this section, a county with a
 9 population of 650,000 or more may convey real property acquired by foreclosure of delinquent tax
 10 liens or by exchange for land originally acquired by foreclosure of delinquent tax liens as provided
 11 in ORS 271.330.

12 **SECTION 2. The amendments to ORS 275.275 by section 1 of this 2019 Act apply to pro-**
 13 **ceedings for foreclosure of delinquent tax liens instituted under ORS 312.050 on or after the**
 14 **effective date of this 2019 Act.**

15 **SECTION 3.** ORS 275.130 is amended to read:

16 275.130. Prior to the date set for the sale of property as indicated in the notice of sale required
 17 under ORS 275.120, a municipal corporation may file with the county clerk notice that the municipal
 18 corporation has a lien arising out of an assessment for local improvement against the property de-
 19 scribed in the notice. The notice shall identify each property described in the notice to which a lien
 20 for assessment for local improvement has attached and shall state the principal amount of the lien
 21 and the interest thereon to date. Upon receipt of the notice, the county clerk shall forward a copy
 22 of the notice to the county treasurer and to the county employee responsible for the management
 23 of county-owned real property acquired by the foreclosure of delinquent property taxes. A notice
 24 filed within the time and in the manner permitted under this section shall preserve the rights of a
 25 municipal corporation to a distribution under ORS 275.275 [(3)(a)(A)] (5)(a)(A).

26 **SECTION 4. This 2019 Act takes effect on the 91st day after the date on which the 2019**
 27 **regular session of the Eightieth Legislative Assembly adjourns sine die.**

28