

Requested by Representative CONRAD

**PROPOSED AMENDMENTS TO
HOUSE BILL 4056**

1 On page 1 of the printed bill, delete lines 5 through 28 and delete pages
2 2 through 4.

3 On page 5, delete line 1 and insert:

4 **“SECTION 1. Sections 2 to 5 of this 2024 Act are added to and made**
5 **a part of ORS chapter 312.**

6 **“SECTION 2. Definitions. As used in sections 2 to 5 of this 2024 Act:**

7 **“(1)(a) ‘Claimant’ means:**

8 **“(A) The owner of real property at the time the property was sold**
9 **to the county on foreclosure for delinquent taxes under ORS 312.100;**
10 **or**

11 **“(B) The former owner’s estate, heirs, devisees, power of attorney,**
12 **trustee, guardian, custodian, bankruptcy estate or a successor in in-**
13 **terest that has acquired substantially all of the former owner’s assets**
14 **by merger, acquisition, dissolution or takeover.**

15 **“(b) ‘Claimant’ does not include:**

16 **“(A) The creditors or garnishor of a claimant;**

17 **“(B) Other persons holding an interest in the property that was**
18 **foreclosed by the county; or**

19 **“(C) Voluntary or involuntary assignees of a claim against a surplus**
20 **by a claimant.**

21 **“(2) ‘Surplus’ means the value of real property foreclosed under this**

1 chapter less the allowable costs to the county as calculated under
2 section 4 of this 2024 Act.

3 **“SECTION 3. Claim of surplus. (1) A claimant is entitled to a return**
4 **of the amount of a surplus from the county for the claimant’s for-**
5 **merly owned property, if any, as calculated under section 4 of this 2024**
6 **Act, upon the earliest of:**

7 **“(a) The county selling, transferring, exchanging, leasing for a pe-**
8 **riod of more than one year, or otherwise disposing of the property**
9 **under ORS chapter 275;**

10 **“(b) The county making a determination that the county will retain**
11 **the property for public purposes; or**

12 **“(c) The date two years after the property is deeded to the county**
13 **following tax foreclosure under ORS 312.122 or 312.200.**

14 **“(2)(a) A claim for a surplus must be made by delivering the claim**
15 **in the form and format prescribed by the county and must include:**

16 **“(A) The basis for the claim;**

17 **“(B) Sufficient proof of identity of the claimant, including but not**
18 **limited to government issued identification, documents filed with the**
19 **Secretary of State showing proof of a business identity or letters**
20 **testamentary issued by a court; and**

21 **“(C) Such other identification and proof of claim as may be required**
22 **by the county.**

23 **“(b) A county may require that a claim made under this section be**
24 **made as a sworn affidavit or upon declaration under penalty of per-**
25 **jury.**

26 **“(3) If the estate of a deceased former owner will not be probated,**
27 **a county shall allow a claim to be made by heirs, devisees or a person**
28 **named as a personal representative in the deceased former owner’s**
29 **will or an estate administrator appointed by the State Treasurer. A**
30 **claim made under this subsection must include:**

- 1 “(a) A copy of the former owner’s death certificate;
- 2 “(b) A copy of the former owner’s will, if any;
- 3 “(c) A statement that the estate is not being probated and that a
- 4 small estate affidavit is not being filed for the estate;
- 5 “(d) The identity of each beneficiary of the claim;
- 6 “(e) The proportion of the surplus distributable to each beneficiary;
- 7 and
- 8 “(f) Signatures of all beneficiaries of the claim acknowledging their
- 9 participation in the claim.
- 10 “(4) A claimant does not have any interest in a surplus during the
- 11 period of redemption or any other time prior to the date the claim
- 12 arises under subsection (1) of this section.
- 13 “(5) A person other than a claimant may not claim the surplus
- 14 under this section and does not have a claim against the county based
- 15 upon the surplus or a valid lien against the proceeds before their de-
- 16 livery to the claimant. Any purported assignment of a claim of pro-
- 17 ceeds is void except for an assignment made for the protection of the
- 18 interests of the claimant, including an assignment via a bankruptcy
- 19 proceeding, power of attorney or custodianship or guardianship pro-
- 20 ceedings.
- 21 “(6) The statute of limitations for a claim under sections 2 to 5 of
- 22 this 2024 Act is two years after the date that the claim arises under
- 23 subsection (1) of this section.
- 24 “(7) Funds issued to a claimant that remain outstanding must be
- 25 treated as abandoned property under ORS 98.342.
- 26 “SECTION 4. Calculation of surplus. (1)(a) In calculating a surplus,
- 27 the value of the real property foreclosed under this chapter is the
- 28 stated consideration on a deed from the county to a bona fide pur-
- 29 chaser, as defined in ORS 275.088, if any.
- 30 “(b) If the county has not sold the property to a bona fide pur-

1 chaser, the value of the property is the fair market value of the
2 property at the time that it is deeded to the county. The fair market
3 value may be based on a reliable appraisal. The county shall procure
4 an appraisal if the real market value of the property exceeds \$250,000
5 in the property tax year in which the claim accrued under section 3
6 (1) of this 2024 Act.

7 “(c) In the absence of a sale or an appraisal or other reliable indi-
8 cation of fair market value of the property, the value of the property
9 is the real market value of the property as shown on the tax statement
10 for the property tax year in which the claim accrued.

11 “(2) In calculating a surplus, the allowable costs that the county
12 may elect to deduct include:

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

15 “(b) The amount of taxes and interest thereon that would have been
16 due following the judgment during the redemption period and through
17 the earlier of:

18 “(A) The date that the county sold or conveyed the property to a
19 third-party; or

20 “(B) The date that the claim is made;

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

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

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

29 “(f) In lieu of the penalty and fee under ORS 312.120, the reasonable
30 fees of the foreclosure and sale of the property, including the costs of

1 legal fees, delivering notices, county staff time, court filing fees, ap-
2 praisals, professional real estate activity and auction fees.

3 **“SECTION 5. Notice and payment of surplus. (1) Within 60 days af-**
4 **ter a claim for a surplus could arise under section 3 (1) of this 2024**
5 **Act, the county shall deliver a notice of a surplus to the claimant at**
6 **the claimant’s last known address, to any person who received a notice**
7 **under ORS 312.125 and to the State Treasurer’s estates administration**
8 **program.**

9 **“(2) The notice must include at the top of the notice in capital let-**
10 **ters and at least 20 point type: ‘NOTICE - YOU MAY BE ENTITLED**
11 **TO A REFUND OF MONEY HELD BY THE COUNTY - READ**
12 **BELOW’ and the following information in clear and understandable**
13 **terms:**

14 **“(a) That a surplus may exist;**

15 **“(b) An explanation of who may be a claimant, as defined in section**
16 **2 of this 2024 Act; and**

17 **“(c) An explanation of the process by which a claimant may file a**
18 **claim under section 3 of this 2024 Act.**

19 **“(3) If a claimant makes a claim under section 3 of this 2024 Act,**
20 **along with payment of the claim the county shall deliver notice to the**
21 **claimant and to every person who received a notice under subsection**
22 **(1) of this section that provides:**

23 **“(a) The amount of the surplus that the county has determined is**
24 **owed the claimant; and**

25 **“(b) The claimant’s right to seek a writ of review of the award from**
26 **the county circuit court under ORS 34.010 to 34.100 and the deadline**
27 **for filing such a claim.**

28 **“SECTION 6. Claims barred by statute of limitations. Claims for a**
29 **surplus that arose before the date six years prior to the effective date**
30 **of this 2024 Act are considered barred under ORS 12.080 (4).**

1 **“SECTION 7. Applicability to new foreclosures. Sections 2 to 5 of**
2 **this 2024 Act apply to claims for which the claimant received the no-**
3 **tice described in ORS 312.125 on or after January 1, 2025.**

4 **“SECTION 8. Applicability to existing claims. For claims that arose**
5 **on or after the date 6 years before the effective date of this 2024 Act**
6 **and for which a claimant received the notice described in ORS 312.125**
7 **before January 1, 2025, sections 2 to 5 of this 2024 Act apply except**
8 **that:**

9 **“(1) A county is not required to process a claim filed under section**
10 **3 (3) of this 2024 Act.**

11 **“(2) Notwithstanding section 3 (6) of this 2024 Act, the statute of**
12 **limitations for a claim is the latter of:**

13 **“(a) Six years after the claim arose; or**

14 **“(b) January 1, 2026.**

15 **“(3) The notice under section 5 (1) of this 2024 Act must be delivered**
16 **no later than January 1, 2025.**

17 **“(4) For each claimant for whom the county is not able to deliver**
18 **notice under subsection (3) of this section, including if the notice is**
19 **returned undeliverable, the county shall make reasonable efforts to**
20 **contact the claimant concerning the surplus, which must include:**

21 **“(a) Making a reasonable inquiry of the records of the county, as**
22 **defined in ORS 312.125 (7).**

23 **“(b) Issuing a press release, no later than January 1, 2025, to local**
24 **news media containing information about the ability of claimants to**
25 **claim surplus under this section and sections 2 to 5 of this 2024 Act.**

26 **“(c) Displaying a copy of the press release under paragraph (b) of**
27 **this subsection on the county’s website.**

28 **“(d) Making reasonable attempts to contact the claimant at any**
29 **address, phone number or electronic mail address known or discovered**
30 **by the county.**

1 **“SECTION 9. Applicability to filed claims. Sections 2 to 5 and 8 of**
2 **this 2024 Act apply to claims that were filed before, on or after the**
3 **effective date of this 2024 Act except for those claims which, before the**
4 **effective date of this 2024 Act, were paid, settled or adjudicated.**

5 **“SECTION 10. ORS 312.125 is amended to read:**

6 “312.125. (1) Not less than one year prior to the expiration of the period
7 of redemption of any real property ordered sold to the county under a judg-
8 ment under ORS 312.100, the tax collector shall provide notice of the expi-
9 ration of the period of redemption to any person or entity entitled to redeem
10 the property under ORS 312.120 (2) whose interest appears in the records of
11 the county as of the date foreclosure proceedings were instituted. Any person
12 or entity whose interest has terminated by any means other than a judgment
13 of foreclosure under ORS 312.120 shall not be entitled to such notice.

14 “(2) The notice [*shall contain*] **must contain:**

15 **“(a) In capital letters and at least 20 point type, substantially the**
16 **following:**

17 “ _____
18 **IF THE COUNTY FORECLOSES UPON YOUR PROPERTY, YOU MAY**
19 **BE ENTITLED TO A RETURN OF MONEY FROM THE COUNTY. IN**
20 **ORDER TO RECEIVE A NOTICE OF A POTENTIAL SURPLUS FROM**
21 **THE COUNTY, PLEASE PROVIDE THE COUNTY NOTICE OF A**
22 **CURRENT ADDRESS, AND UPDATE THAT ADDRESS SHOULD YOU**
23 **MOVE.**

24 “ _____

25 “[(a)] **(b)** The date of the judgment;

26 “[(b)] **(c)** The date of expiration of the period of redemption;

27 “[(c)] **(d)** A warning to the effect that the property ordered sold under the
28 judgment, unless sooner redeemed, will be deeded to the county immediately
29 on expiration of the period of redemption and that **upon the expiration of**
30 **the period for claiming a surplus** every right or interest of any person in

1 the property will be forfeited forever to the county;

2 “[(d)] (e) A legal description of the property and a tax account number;
3 [and]

4 “[(e)] (f) The name of the owner as it appears on the latest tax roll[.];

5 **“(g) Information regarding an owner’s right to claim a surplus, if
6 any, under sections 2 to 5 of this 2024 Act; and**

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

12 “(3) The notice required to be given under subsections (1) and (2) of this
13 section shall be given by both certified mail and by regular first class mail
14 and subsections (4) and (5) of this section shall apply to both mailings.
15 **Copies of notices must be publicly posted to the county’s website.**

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

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

1 which notice is required to be given under this paragraph, shall contain:

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

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

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

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

22 “(7)(a) As used in this section, ‘records of the county’ means the follow-
23 ing:

24 “(A) The grantor-grantee indexes.

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

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

29 “(D) Records of federal tax liens and other liens, instruments or other
30 documents or writings reflecting an interest in real property described in

1 ORS 205.246, if those records are kept separately from the records described
2 in paragraph (b) of this subsection.

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

4 “(F) Any other records of interests in real property required to be kept
5 by the county clerk, if the records contain a legal description of the property
6 and an address specifically designated as indicated on the instrument, docu-
7 ment or other memorandum or writing for purposes of mailing the notice
8 required by this section.

9 “(b) For purposes of this section only, ‘records of the county’ includes:

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

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

20 In line 2, delete “7” and insert “11”.

21 In line 15, delete “4” and insert “5”.

22 Delete lines 22 and 23 and insert:

23 **“SECTION 12. Applicability. The amendments to ORS 312.125 and**
24 **312.190 by sections 10 and 11 of this 2024 Act apply to notices given on**
25 **or after January 1, 2025.”.**

26 In line 24, delete “9” and insert “13”.

27 In line 25, delete “4” and insert “5”.

28 On page 7, line 18, delete “4” and insert “5”.

29 In line 21, delete “10” and insert “14”.

30 In line 24, delete “11” and insert “15”.

