

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 **“(B) With respect to claims that arose on or after a date that is**
11 **more than six years but not more than 10 years before the effective**
12 **date of this 2024 Act and for which a claimant received the notice de-**
13 **scribed in ORS 312.125 before January 1, 2025, only the owner of record**
14 **of the property as of the date on which the property was sold to the**
15 **county on foreclosure for delinquent taxes under ORS 312.100; or**

16 **“(C) The former owner’s estate, heirs, devisees, power of attorney,**
17 **trustee, guardian, custodian, bankruptcy estate or a successor in in-**
18 **terest that has acquired substantially all of the former owner’s assets**
19 **by merger, acquisition, dissolution or takeover.**

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

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

1 “(B) Other persons holding an interest in the property that was
2 foreclosed by the county; or

3 “(C) Voluntary or involuntary assignees of a claim against a surplus
4 by a claimant.

5 “(2) ‘Surplus’ means the value of real property foreclosed under this
6 chapter less the allowable costs to the county as calculated under
7 section 4 of this 2024 Act.

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

12 “(a) The date on which the county sells, transfers, exchanges, leases
13 for a period of more than one year, or otherwise disposes of the prop-
14 erty under ORS chapter 275;

15 “(b) The date on which the county makes a determination that the
16 county will retain the property for public purposes; or

17 “(c) The date that is two years after the date on which the property
18 is deeded to the county following tax foreclosure under ORS 312.122
19 or 312.200.

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

22 “(A) The basis for the claim;

23 “(B) Sufficient proof of identity of the claimant, including but not
24 limited to government issued identification, documents filed with the
25 Secretary of State showing proof of a business identity or letters
26 testamentary issued by a court; and

27 “(C) Such other identification and proof of claim as may be required
28 by the county.

29 “(b) A county may require that a claim made under this section be
30 made as a sworn affidavit or upon declaration under penalty of per-

1 jury.

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

7 “(a) A copy of the former owner’s death certificate;

8 “(b) A copy of the former owner’s will, if any;

9 “(c) A statement that the estate is not being probated and that a
10 small estate affidavit is not being filed for the estate;

11 “(d) The identity of each beneficiary of the claim;

12 “(e) The proportion of the surplus distributable to each beneficiary;
13 and

14 “(f) Signatures of all beneficiaries of the claim acknowledging their
15 participation in the claim.

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

19 “(5) A person other than a claimant may not claim the surplus
20 under this section and does not have a claim against the county based
21 upon the surplus or a valid lien against the proceeds before the deliv-
22 ery of the proceeds to the claimant. Any purported assignment of a
23 claim of proceeds is void except for an assignment made for the pro-
24 tection of the interests of the claimant, including an assignment via
25 a bankruptcy proceeding, power of attorney or custodianship or
26 guardianship proceedings.

27 “(6) The statute of limitations for a claim under sections 2 to 5 of
28 this 2024 Act expires two years after the date on which the claim arises
29 under subsection (1) of this section.

30 “(7) Funds issued to a claimant that remain outstanding must be

1 treated as abandoned property under ORS 98.342.

2 “(8) Nothing in sections 2 to 5 of this 2024 Act extinguishes any debt
3 obligation of a former property owner that is outstanding as of the
4 date on which title to the property is conveyed to the county under
5 ORS 312.270, other than the property tax amounts that were extin-
6 guished by the conveyance to the county.

7 “SECTION 4. Deposit of sale proceeds; calculation of surplus. (1)
8 Upon sale of real property foreclosed under this chapter, the county
9 treasurer shall deposit the gross amount of the sales proceeds in a
10 separate, interest-bearing account until the amount and the distrib-
11 ution of the surplus have been determined. Interest earned on the
12 proceeds in the account shall be included in the amount to be distrib-
13 uted.

14 “(2)(a) In calculating a surplus, the value of the real property is the
15 stated consideration on a deed from the county to a bona fide pur-
16 chaser, as defined in ORS 275.088, if any.

17 “(b) If the county has not sold the property to a bona fide pur-
18 chaser, the value of the property is the fair market value of the
19 property as of the date on which it is deeded to the county. The fair
20 market value may be based on a reliable appraisal. The county shall
21 procure an appraisal if the real market value of the property exceeds
22 \$250,000 for the property tax year in which the claim arose under sec-
23 tion 3 (1) of this 2024 Act.

24 “(c) In the absence of a sale or an appraisal or other reliable indi-
25 cation of fair market value of the property, the value of the property
26 is the real market value of the property as shown on the tax statement
27 for the property tax year in which the claim arose.

28 “(3) In calculating a surplus, the allowable costs that the county
29 may elect to deduct include:

30 “(a) The amount of the judgment under ORS 312.090 and accruing

1 post-judgment interest;

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

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

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

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

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

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

16 “(f) In lieu of the penalty and fee under ORS 312.120, the reasonable
17 fees of the foreclosure and sale of the property, including the costs of
18 legal fees, delivering notices, county staff time, court filing fees, ap-
19 praisals, professional real estate activity and auction fees.

20 “SECTION 5. Notices and payment of surplus. (1) A county shall
21 provide notice to the Department of Revenue, the Department of Jus-
22 tice and the city, if any, in which property is located:

23 “(a) That proceedings to foreclose liens for delinquent taxes on the
24 property have been instituted, to be given on the date on which the
25 proceedings are instituted; and

26 “(b) That one year remains before the period of redemption of the
27 property expires, to be given on or before the date of expiration.

28 “(2)(a) Within 60 days after a claim for a surplus could arise under
29 section 3 (1) of this 2024 Act, the county shall deliver a notice of a
30 surplus to the claimant at the claimant’s last known address.

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

5 **“(A) That a surplus may exist;**

6 **“(B) An explanation of who may be a claimant as defined in section**
7 **2 of this 2024 Act; and**

8 **“(C) An explanation of the process by which a claimant may file a**
9 **claim under section 3 of this 2024 Act.**

10 **“(3) No later than 30 days before payment of a surplus to a claimant**
11 **under this section, the county shall provide notice of the surplus to**
12 **any person who received a notice under ORS 312.125, to the Depart-**
13 **ment of Justice, to the Department of Revenue, to the city, if any, in**
14 **which the property to which the surplus relates is located and to the**
15 **State Treasurer’s estates administration program.**

16 **“(4) If a claimant makes a claim under section 3 of this 2024 Act,**
17 **along with payment of the claim, the county shall deliver a notice to**
18 **the claimant, and to every person who received a notice under sub-**
19 **section (2) of this section, that sets forth:**

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

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

25 **“SECTION 5a. Suspension of ORS 312.200. (1) Notwithstanding any**
26 **other provision of law, and except as provided in subsection (2)(a) of**
27 **this section, the operation of ORS 312.200 shall be suspended during**
28 **the period that begins on the effective date of this 2024 Act and ends**
29 **on December 31, 2025.**

30 **“(2) The suspension of ORS 312.200 under this section does not:**

1 “(a) Apply to redemption periods that end under ORS 312.122.

2 “(b) Affect the timing of the notice requirements under ORS 312.125.

3 “SECTION 6. Claims barred by statute of limitations. Claims for a
4 surplus that arose before the date that is six years prior to the effec-
5 tive date of this 2024 Act are considered barred under ORS 12.080 (4).

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

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

14 “(1) A county is not required to process a claim filed under section
15 3 (3) of this 2024 Act.

16 “(2) Notwithstanding section 3 (6) of this 2024 Act, the statute of
17 limitations for a claim is the later of:

18 “(a) Ten years after the date on which the claim arose; or

19 “(b) January 1, 2026.

20 “(3) The notice under section 5 (2) of this 2024 Act must be delivered
21 no later than January 1, 2025.

22 “(4) For each claimant for whom the county is not able to deliver
23 notice under subsection (3) of this section, including if the notice is
24 returned undeliverable, the county shall make reasonable efforts to
25 contact the claimant concerning the surplus, such efforts to include:

26 “(a) Making a reasonable inquiry of the records of the county, as
27 defined in ORS 312.125 (7).

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

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

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

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

10 **SECTION 9a. No later than October 1, 2024, the Legislative Revenue**
11 **Officer shall submit a report, in the manner provided by ORS 192.245,**
12 **to the interim committees of the Legislative Assembly related to rev-**
13 **enue, that analyzes the policies embodied in sections 2 to 5 of this 2024**
14 **Act.**

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

16 “312.125. (1) Not less than one year prior to the expiration of the period
17 of redemption of any real property ordered sold to the county under a judg-
18 ment under ORS 312.100, the tax collector shall provide notice of the expi-
19 ration of the period of redemption to any person or entity entitled to redeem
20 the property under ORS 312.120 (2) whose interest appears in the records of
21 the county as of the date foreclosure proceedings were instituted. Any person
22 or entity whose interest has terminated by any means other than a judgment
23 of foreclosure under ORS 312.120 shall not be entitled to such notice.

24 “(2) The notice shall contain:

25 “(a) **In capital letters in at least 20 point type, substantially the**
26 **following language:**

27 “ _____
28 **IF THE COUNTY FORECLOSES UPON YOUR PROPERTY, YOU MAY**
29 **BE ENTITLED TO A RETURN OF MONEY FROM THE COUNTY. IN**
30 **ORDER TO RECEIVE A NOTICE OF A POTENTIAL SURPLUS FROM**

1 **THE COUNTY, PLEASE PROVIDE THE COUNTY NOTICE OF A**
2 **CURRENT ADDRESS, AND UPDATE THAT ADDRESS SHOULD YOU**
3 **MOVE.**

4 “ _____

5 “(b) The date of the judgment;

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

7 “[c)] (d) A warning to the effect that the property ordered sold under the
8 judgment, unless sooner redeemed, will be deeded to the county immediately
9 on expiration of the period of redemption and that **upon the expiration of**
10 **the period for claiming a surplus** every right or interest of any person in
11 the property will be forfeited forever to the county;

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

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

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

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

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

26 “(4)(a) If the notice required under subsections (1) and (2) of this section
27 is to be given to an owner, the notice shall be addressed to the owner or
28 owners, as reflected in the county records of deeds, at the true and correct
29 address of the owner as appearing on the instrument of conveyance under
30 ORS 93.260 or as furnished under ORS 311.555 or as otherwise ascertained

1 by the tax collector pursuant to ORS 311.560.

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

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

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

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

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

1 of the corporation or limited partnership.

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

4 “(A) The grantor-grantee indexes.

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

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

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

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

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

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

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

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

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

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

2 Delete lines 22 and 23 and insert:

3 **“SECTION 12. Applicability. The amendments to ORS 312.125 and**
4 **312.190 by sections 10 and 11 of this 2024 Act apply to notices required**
5 **to be given on or after January 1, 2025.”.**

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

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

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

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

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

11 _____