










## HB 2089 - County Amendments

-  • **Page 1, Lines 18-19:** Remove “*heirs of deceased owners*”
  - The counties believe it is an unreasonable expectation to have a requirement to identify, track down, and provide notice to heirs who are not listed or named in any current documentation. This language comes with huge liability with the high likelihood that heirs would be missed in any such required notice.
-  • **Page 1, Line 22:** remove “*expedient*”
  - Ambiguous language that is not defined. This could result in many different definitions of what “*expedient*” notice may be.
-  • **Page 2, Line 5:** remove “*five*” and add in language utilizing the structure of Title VI Limited English Proficiency (LEP) guidelines
  - Using the information below, we recommend the state adopts or utilizes a form of LEP guidelines such as the ones required of federal agencies.
    - **Example:** Department of Agriculture (USDA) LEP guidance | <https://www.federalregister.gov/d/2014-27960/p-93>
    - **Reference:** US President - Ex. Ord. No. 13166, Section 1 “*Goals*” (TITLE 42—THE PUBLIC HEALTH AND WELFARE, Page 4394, §2000d–2 | <https://www.gpo.gov/fdsys/pkg/USCODE-2010-title42/pdf/USCODE-2010-title42-chap21-subchapV.pdf>)
    - **Reference:** <https://www.lep.gov/title-vi-guidance-for-recipients>
-  • **Page 2, Lines 20-21 | Page 3, Lines 42-43 | Page 6, Line 9:** change language from “*you are entitled to*” to “*you may be entitled to*”
  - Not every foreclosure sale will result in a surplus
-  • **Page 2, Lines 41-44:** cut this paragraph
  - It is duplicative of the information that is provided in mandatory notice language included from **Page 2, Lines 26-35** and is not germane to the intent of the legislation which is to address the foreclosure sale surplus issues identified in *Tyler v. Hennepin*.
-  • **Page 2, Line 45 - Page 3, Line 2:** cut this paragraph
  - The word “*conspicuous*” is too ambiguous for the purpose of this requirement, and the greater issue lies with requiring county staff or the sheriff to step on to private property without permission or warrant, as this is a notice occurring prior to the foreclosure of the property.
-  • **Page 3, Lines 22-24:** cut this paragraph
  - This is an unreasonable requirement. This would leave the county with huge liability. County governments would be continuously sued, citing a failure to do their due diligence, even if investigators were hired to hunt down heirs.
-  • **Page 4, Lines 23-28:** cut these two paragraphs
  - These two sections are duplicative and then stretch further into benign unreasonable. Proffering this type of information is outside the area of expertise of our county staff and would open up liability for a suit because certain services were not listed. The language on **Page 4, line 2-11** does more than enough to capture the intent of this would-be requirement without being unreasonable.
-  • **Page 6, Line 32 and Page 7, Lines 2-18:** redefining the word “*claimant*”

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- Change “*claimant*” to be defined as “*first party claimant*” and utilize the language currently in statute cited in [OAR 836-080-0210 \(2\)](#) and [OAR 836-080-0210 \(3\)](#) to draft additional definitions as such:
  - A “*claimant*” will be any “*first party claimant*” and the designated legal representative of a first party claimant.
  - “*First party claimant*” means a person asserting a right to surplus funds from the sale of a foreclosed property, by the county, of which they were the owner of the property at the time back taxes were incurred.



- **Page 7, Lines 24-44:** starting at “*by listing...*” on **Line 24**, remove in its entirety. Then add beginning at **Line 24** “**redemption period under [ORS 312.120](#) or [312.122](#), the county shall sell the property as provided in [ORS 275.110](#) - [ORS 275.220](#).**”
  - We wish to use the system already outlined in statute for the sale of property. This will keep legislation in step with the intent set out by *Tyler v. Hennepin* decision.



- **Page 8, Lines 7-10:** amend this section to read as follows- “**If the county retains the property or transfers title to a nonprofit organization or government agency, the county shall determine the fair market value of the property with a current, third-party appraisal or current assessment, whichever is greater, conducted within 60 days after the expiration of the redemption period. This determination of the property’s fair market value will only be triggered if the current real market value, as determined by the assessor’s tax roll, is greater than \$250,000.**”



- **Page 8, Line 28:** strike the following language- “*a licensed appraiser that is unaffiliated with the county, or*”



- **Page 8, Lines 30-31:** cut this paragraph



- **Page 8, Line 45:** remove the word “*reasonable*”

- Determining the meaning of “*reasonable*” is too ambiguous in this setting



- **Page 9, Line 45 and Page 10, Lines 1-2:** add a liability release in statute by referencing [ORS 98.366](#).



- **Addition:** Add a section that would set a holding time for the surplus dollars in OSTs unclaimed property account, say for 3 years, that, once that time has run out, would release the unclaimed surplus dollars back to the counties of origin



- **Addition:** Add statutory language to indemnify counties from responsibility for paying surplus funds for properties upon which the land sale agreement is not completed and full payment is never received.