

HB 2089 -2 STAFF MEASURE SUMMARY

House Committee On Revenue

Prepared By: Beau Olen, Economist

Meeting Dates: 1/30, 4/8

WHAT THE MEASURE DOES:

Provides a claims process for the surplus proceeds of real property deeded to the county and sold to repay delinquent property taxes. Defines a “claimant”. Allows a “person other than a claimant” to file a claim based on a valid lien or debt. Establishes a tiered system to sell property by listing with a real estate agent, then placing in a high-bid auction. Sets minimum auction bid at two-thirds of fair market value, determined by higher of third-party appraisal or current assessment. Requires online bidding process. Clarifies county allowable costs. Requires county to provide certain notices in additional languages, provide a notice of surplus, provide certain notices to more parties and the public, include additional information on certain notices, and search public records and online databases to locate owners and heirs. Applies to claims for which the claimant received the notice of one-year redemption period expiration on or after May 25, 2023.

ISSUES DISCUSSED:

- Look-forward and look-back periods
- Oregon State Treasury Unclaimed Property Program
- Administrative requirements

EFFECT OF AMENDMENT:

-2 Deletes requirement for county to deliver notice of a foreclosure proceeding to heirs of deceased owners and to search public records and online databases to locate them. Deletes requirement for county to provide certain notices in additional languages. Bifurcates the tiered system to sell property by requiring residential or occupied property to initially be listed with a real estate broker or agent, and then be listed in a public, high-bid auction if certain conditions are met. Increases property value which triggers requirement for county to procure a property appraisal, from \$10,000, to \$50,000. Requires county to file a report of abandoned property and deliver the surplus to the Unclaimed Property Program at Oregon State Treasury within 30 days after the date on which the surplus is determined. Immunizes Oregon State Treasury from certain legal actions which relate to the surplus proceeds of property tax foreclosure sales.

BACKGROUND:

On May 25, 2023, *Tyler v. Hennepin County* was a unanimous U.S. Supreme Court decision in favor of Tyler (598 U.S. 631). The Court decided counties which foreclose on property to repay delinquent property taxes can’t take more property than what is owed (Takings Clause of U.S. Constitution’s 5th amendment).

Under current Oregon law, counties are not required to pay former owners the surplus proceeds of property tax foreclosure sales. After a county is reimbursed for delinquent property taxes and other allowable costs, it may elect to distribute surplus proceeds to taxing districts. County allowable costs include the redemption penalty and fee, property maintenance and supervision, and legal costs.

HB 4056 (2024) required counties to establish a process to comply with *Tyler v. Hennepin County*, suspended the deeding of property to counties before January 1, 2026, required the Department of Revenue to coordinate a work group with county tax officers and interested parties, and submit a report to the Legislature by September 15, 2024, which sets forth recommendations for legislation.

On April 23, 2024, Linn County Circuit Court dismissed the case *Western States Land Reliance Trust vs. Linn County*. The court held that since Oregon's statute is silent on the disposition of surplus proceeds and the plaintiff did not redeem the property or file an answer to the 2008 foreclosure judgement, the County's retention of surplus proceeds was not a violation of the Takings Clause. An appeal was filed in the Oregon Court of Appeals on May 1, 2024. On January 24, 2025, Linn County motioned for the case to be certified to the Oregon Supreme Court, and Western States Land Reliance Trust joined in the motion on January 27.