Summary of Workgroup Suggestions

The suggestions below encompass feedback from workgroup participants including counties, Oregon State Treasury, Department of Justice, AARP Oregon, Cascade Policy Institute, Oregon Law Center, Oregon Trial Lawyers Association, and the Pacific Legal Foundation. Due to the diversity of participants, there may be multiple differing suggestions related to one particular topic or process.

General

- Statutory changes should address any additional administrative burdens placed upon counties to avoid creating unfunded mandates.
- Expand statute to allow for reimbursement of property taxes that would have been assessed on the property during the period following foreclosure while the county holds the deed and all expenses related to administering the surplus process, in addition to the expenses already deductible under ORS 275.275.
- Expand statutory requirements to provide transparency and accountability for any reimbursable expenses, such as an itemized accounting of all charges and expenses subtracted from the surplus.
- Utilize the existing Unclaimed Property process at Oregon State Treasury for surplus proceed claims and establish statutory guidelines for treatment of surplus from counties. This may require policy, statutory, and fiscal changes to the current Unclaimed Policy program to accommodate the surplus proceed process.
- Codify in statute that the sale price of a property at auction is considered the market value of the property for the purposes of surplus proceeds.
- Utilize a tiered system to sell the property, starting with a requirement to list the property with a real estate agent for a set amount of time and if it cannot be listed or sold in that time, then the county can conduct a high-bid auction with a minimum bid of 2/3 of the fair market value of the property to be determined with a current, third-party appraisal or current assessment, whichever is greater.
- Do not impose a duty for counties to maximize the value of a surplus.
- There should be an obligation to maximize the value of the surplus and provide just compensation to former homeowners and heirs of deceased former homeowners.
- Statutory changes will need to address county-retained properties or properties transferred to a non-profit for public interest purposes.

Look-Forward and Look-Back Periods

- Two bills will be needed to address the tax foreclosure issue: one bill addressing adjustments to the process for future sales (the look-forward period); and one bill addressing policy for sales prior to implementation of any legislative changes to the process (the look-back period).
- A state funded account should be established to cover any surplus refunds required for sales during the look-back period.
- The definition of a claimant may differ between the look-back and look-forward periods.
- The definition of claimants should include former homeowners and heirs of deceased former homeowners for both periods.
- Previously extinguished liens cannot be resurrected for the look-back period.
- A six-year statute of limitations should be utilized for the look-back period.
- A ten year statute of limitations should be utilized for the look-back period.
- Legislation addressing the look-back period should be postponed pending a final decision in *Western States Land Reliance Trust vs. Linn County*.

Pre-Sale Notices

- All notices should include information about where to find legal assistance and about property tax deferral programs.
- For all notices, counties should use due diligence to find property owners, including heirs of deceased owners, through searching online resources and databases and notifying adjacent property owners of notices after foreclosure.
- Make tax foreclosure related notices available in the five most commonly used languages in the county, other than English, similar to the requirements of ORS 251.167.
- Do not require all notices be published in multiple languages in all instances, but add language, to all notices that the information can be made available in other languages or formats by contacting the County.
- Include notification of the potential for surplus in the one-year redemption notice already required under ORS 312.125.

Pre-Sale Publication Requirements

- Allow publications to be made on a public website, such as the main county or Assessor or Tax Collector website.
- Develop a centralized state website that counties can post information and publications to accordingly.
- Adjust print publication requirements to address increasing difficulty in finding print publications that meet statutory requirements.

Tax Sale Process

- Utilize the public auction process; do not require the use of an appraiser or real estate agent.
- Utilize an appraiser and real estate agent to provide just compensation to former homeowners and heirs of deceased former homeowners

County Retained Properties and Deed Transfers

- Acquire an appraisal for properties the County wishes to retain or transfer title to, and pay the market value of the property.
- Offer properties for sale with an agent or at auction; non-profits interested in these properties can purchase through these means. If the property sells for less than the taxes, penalties, and fees due, there would be no surplus to distribute.
- Do not change the process for county retained properties or deed transfers. These properties are used for public benefit.

Land Sale Agreements

- Allow counties to continue offering land sale contract agreements for tax foreclosed properties.
- 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.

Post Sale Process

- County holds sale funds in an internal interest-bearing account for a maximum of 60 days to allow time to complete all post-sale administrative processes.
- County deducts amounts appropriate to pay all taxes, fees, administrative, and other allowable costs within this timeframe.
- The county notifies the Department of Justice of excess proceeds available on individual properties.
- No later than 60 days post-sale, and after deducting all allowable costs, the county forwards remaining funds and all accounting, property, and owner and party of interest information to the Oregon State Treasury for handling through the existing Unclaimed Property process.
- The Department of Justice may assert claims and issue garnishments to the county or Oregon State Treasury for any relevant child support and restitution liens against individual property owners; the Oregon State Treasury will process these claims and garnishments upon receipt of funds and information if they are handling the surplus proceeds claims process.
- Claimants must file claims with Oregon State Treasury within the timelines set forth in statute:
  - One year from the date the property is sold or conveyed to a third-party up to a maximum of two years from the date the property is deeded to the county under ORS 312.122 or 312.200;
  - One year from the date the county makes a determination that the county will retain the property for public purposes up to a maximum of two years from the date the property is deeded to the county under ORS 312.122 or 312.200; or
  - If no action is otherwise taken by the county, two years from date the property is deeded to the county under ORS 312.122 or 312.200.
- Surplus proceeds not claimed within the statutorily required timeline must be returned to the originating county to be disbursed to taxing districts.
- If utilizing the unclaimed property process, treat surplus proceeds as any other unclaimed property; do not impose a timeline for filing claims. Proceeds should remain with treasury in perpetuity until a valid claim is filed and can be paid.

Post-Sale Noticing

- Publication of available surplus proceeds, property description, and owner names will be made available on appropriate county and/or state centralized website(s).
- If utilizing the Oregon State Treasury Unclaimed Property program, information regarding this program and how to access the claims process should be made available on county websites and in written communications.
- Require written notice be sent to the former owner at their last known address no less than 180 days before the filing deadline (notice to be sent by the Oregon State Treasury, if they are handling the claims process).Require written notice be sent to any heirs of a deceased former owner at their last known address no less than 180 days before the filing deadline (notice to be sent by the Oregon State Treasury, if they are handling the claims process).
- Annual publication of expiring surplus claims no later than 60 days before the filing deadline (to be published by the Oregon State Treasury, if they are handling the claims process).