

A-Engrossed
House Bill 3545

Ordered by the House April 15
Including House Amendments dated April 15

Sponsored by Representatives JAVADI, EDWARDS, PHAM H; Representatives GAMBA, MANNIX, NELSON, SCHARF, Senators PATTERSON, THATCHER

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act would establish when charges made by HOAs and condo associations start to accrue on property deeded to the county in a tax foreclosure. The Act would create a lien for the amount of the charges on the property. The Act would bar certain costs from inclusion in the amount of the charges secured by the lien. The Act would say who is liable for the charges and the date on which the lien must be satisfied. (Flesch Readability Score: 69.9).

[Digest: The Act would exempt property that has been deeded to a county for unpaid taxes from the association fees charged on a home or condo for no more than 6 months. (Flesch Readability Score: 60.7).]

[Provides a temporary exemption from assessments imposed by a homeowners association or by an association of condominium unit owners on foreclosed property that has been deeded to a county.]

Establishes when homeowners and condominium association assessments accrue on property deeded to the county in the tax foreclosure process. Creates a lien for the amount of the assessments against the property. Excludes certain costs from the amount of assessments secured by the lien. Establishes the liability for the assessments and the date on which the lien must be satisfied.

Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to acquisitions of real property by foreclosure for delinquent taxes; creating new pro-
3 visions; amending ORS 94.709 and 100.450; and prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Section 2 of this 2025 Act is added to and made a part of ORS chapter 312.**

6 **SECTION 2. (1) As used in this section:**

7 (a) "Assessment" has the meaning given that term in ORS 94.550 or 100.005, as applicable.

8 (b) "Association" means a homeowners association as defined in ORS 94.550 or an asso-
9 ciation of unit owners as defined in ORS 100.005.

10 (c) "Subject property" means property that is subject to assessment by an association.

11 (2)(a) Assessments shall accrue on subject property that has been deeded to a county
12 under ORS 312.200 for the period beginning on the date on which the subject property is so
13 deeded and ending on the earliest of the date on which:

14 (A) The county transfers title to the subject property to another owner by sale or under
15 ORS 271.330;

16 (B) The county enters into a lease agreement for the subject property; or

17 (C) The county determines that it will permanently retain title to the subject property.

18 (b) Assessments that accrue as described in this subsection give rise to a lien against the
19 subject property.

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (c) The amount of assessments secured by the lien shall not include costs or fee in-
2 creases for payment of a fine, penalty, settlement or attorney fees that are the result of a
3 violation of local, state or federal law by the association that imposes the assessments.

4 (3)(a) Assessments that accrue during the period described in subsection (2) of this sec-
5 tion are the liability of:

6 (A) The owner that receives title to the subject property as described in subsection
7 (2)(a)(A) of this section; or

8 (B) The county if:

9 (i) The county enters into a lease agreement for the subject property; or

10 (ii) The county determines that it will permanently retain title to the subject property.

11 (b) The lien must be satisfied by:

12 (A) An owner described in paragraph (a)(A) of this subsection no later than the date on
13 which the title to the subject property is received.

14 (B) The county no later than thirty days following the date on which it enters into a lease
15 agreement or determines that it will permanently retain title to the subject property.

16 (4) The association that imposes the assessments on subject property:

17 (a) May record any lien that arises under this section; and

18 (b) Shall provide the county with notice of the assessments in accordance with the
19 association's dues schedule.

20 **SECTION 3.** ORS 94.709 is amended to read:

21 94.709. (1) Whenever a homeowners association levies any assessment against a lot, the associ-
22 ation shall have a lien upon the individual lot for any unpaid assessments. The lien includes interest,
23 late charges, attorney fees, costs or other amounts imposed under the declaration or bylaws or other
24 recorded governing document. The lien is prior to a homestead exemption and all other liens or
25 encumbrances upon the lot except:

26 (a) Tax and assessment liens; and

27 (b) A first mortgage or trust deed of record.

28 (2) Recording of the declaration constitutes record notice and perfection of the lien for assess-
29 ments. No further recording of a claim of lien for assessments or notice of a claim of lien under this
30 section is required to perfect the association's lien. The association shall record a notice of claim
31 of lien for assessments under this section in the deed records of the county in which a lot is located
32 before any suit to foreclose may proceed under subsection (4) of this section. The notice shall con-
33 tain:

34 (a) A true statement of the amount due for the unpaid assessments after deducting all just
35 credits and offsets;

36 (b) The name of the owner of the lot, or reputed owner, if known;

37 (c) The name of the association;

38 (d) The description of the lot as provided in ORS 93.600; and

39 (e) A statement that if the owner of the lot thereafter fails to pay any assessments when due,
40 as long as the original or any subsequent unpaid assessment remains unpaid, the unpaid amount of
41 assessments automatically continue to accumulate with interest without the necessity of further re-
42 cording.

43 (3) The notice shall be verified by the oath of some person having knowledge of the facts and
44 shall be recorded by the county recording officer. The record shall be indexed as other liens are
45 required by law to be indexed.

1 (4)(a) The proceedings to foreclose liens created by this section shall conform as nearly as possible to the proceedings to foreclose liens created by ORS 87.010 except, notwithstanding ORS 2 87.055, a lien may be continued in force for a period of time not to exceed six years from the date 3 the assessment is due. For the purpose of determining the date the assessment is due in those cases 4 when subsequent unpaid assessments have accumulated under a notice recorded as provided in 5 subsection (2) of this section, the assessment and claim regarding each unpaid assessment shall be 6 deemed to have been levied at the time the unpaid assessment became due. 7

8 (b) The lien may be enforced by the board of directors acting on behalf of the association.

9 (5) Unless the declaration or bylaws provide otherwise, fees, late charges, fines and interest 10 imposed pursuant to ORS 94.630 (1)(L), (n) and (o) are enforceable as assessments under this section.

11 (6) This section does not prohibit an association from pursuing an action to recover sums for 12 which subsection (1) of this section creates a lien or from taking a deed in lieu of foreclosure in 13 satisfaction of the lien.

14 (7) An action to recover a money judgment for unpaid assessments may be maintained without 15 foreclosing or waiving the lien for unpaid assessments. A judgment entered on the action does not 16 extinguish the lien. Payment of the judgment operates to satisfy the lien, or a portion of the lien, 17 to the extent of the payment received.

18 **(8) Notwithstanding any provision of this section to the contrary, a lien against a lot**
19 **deeded to a county by tax foreclosure under ORS 312.200 shall arise and be recorded, enforced**
20 **or foreclosed in accordance with section 2 of this 2025 Act.**

21 **SECTION 4.** ORS 100.450 is amended to read:

22 100.450. (1) Whenever an association of unit owners levies any assessment against a unit, the 23 association of unit owners shall have a lien upon the individual unit and the undivided interest in 24 the common elements appertaining to such unit for any unpaid assessments. The lien includes interest, 25 late charges, attorney fees, costs or other amounts levied under the declaration or bylaws. 26 The lien is prior to a homestead exemption and all other liens or encumbrances upon the unit except: 27

28 (a) Tax and assessment liens; and

29 (b) A first mortgage or trust deed of record unless:

30 (A) The condominium consists of fewer than seven units, all of which are to be used for non- 31 residential purposes;

32 (B) The declaration provides that the lien of any mortgage or trust deed of record affecting the 33 property shall be subordinate to the lien of the association provided under subsection (1) of this 34 section; and

35 (C) The holder of any mortgage or trust deed of record affecting the property when the declaration 36 is recorded executes a separate subordination of the holder's interest to the declaration 37 which is attached as an exhibit and which states that the holder understands that the declaration 38 subordinates the holder's lien to the assessment lien of the association provided under subsection 39 (1) of this section.

40 (2) Recording of the declaration constitutes record notice and perfection of the lien for assessments. 41 No further recording of a claim of lien for assessments or notice of a claim of lien under this 42 section is required to perfect the association's lien. The association shall record a notice of claim 43 of lien for assessments under this section in the deed records of the county in which the unit is located 44 before any suit to foreclose may proceed under subsection (4) of this section. The notice shall 45 contain:

1 (a) A true statement of the amount due for the unpaid assessments after deducting all just
2 credits and offsets;

3 (b) The name of the owner of the unit, or reputed owner, if known;

4 (c) The name of the condominium and the designation of the unit as stated in the declaration
5 or applicable supplemental declaration; and

6 (d) A statement that if the owner of the unit thereafter fails to pay any assessments when due,
7 as long as the original or any subsequent unpaid assessment remains unpaid, the unpaid amount of
8 assessments automatically continue to accumulate with interest without the necessity of further re-
9 cording.

10 (3) The notice shall be verified by the oath of some person having knowledge of the facts and
11 shall be recorded by the county recording officer. The record shall be indexed as other liens are
12 required by law to be indexed.

13 (4)(a) The proceedings to foreclose liens created by this section shall conform as nearly as pos-
14 sible to the proceedings to foreclose liens created by ORS 87.010 except, notwithstanding ORS
15 87.055, a lien may be continued in force for a period of time not to exceed six years from the date
16 the assessment is due. For the purpose of determining the date the assessment is due in those cases
17 when subsequent unpaid assessments have accumulated under a notice recorded as provided in
18 subsection (2) of this section, the assessment and claim regarding each unpaid assessment shall be
19 deemed to have been levied at the time the unpaid assessment became due.

20 (b) The lien may be enforced by the board of directors acting on behalf of the association of unit
21 owners.

22 (c) An action to recover a money judgment for unpaid assessments may be maintained without
23 foreclosing or waiving the lien securing the claim for unpaid assessments. A judgment entered on
24 the action does not extinguish the lien. Payment on the judgment operates to satisfy the lien, or a
25 portion of the lien, to the extent of the payment received.

26 (d) An action to foreclose a lien under this section or recover a money judgment for unpaid
27 assessments may not be maintained unless the Condominium Information Report and the Annual
28 Report described in ORS 100.250 are designated current as provided in ORS 100.255.

29 (5) Unless the declaration or bylaws provides otherwise, fees, late charges, fines and interest
30 imposed pursuant to ORS 100.405 (4)(j), (k), (L) and (m) are enforceable as assessments under this
31 section.

32 (6) With respect to condominium units also constituting timeshare property as defined by ORS
33 94.803, liens created by this section shall be assessed to the timeshare owners in the timeshare
34 property according to the method for determining each owner's liability for common expenses under
35 the timeshare instrument and shall be enforced individually against each timeshare owner in the
36 condominium unit.

37 (7) Notwithstanding the priority established for a lien for unpaid assessments and interest under
38 subsection (1) of this section, the lien shall also be prior to the lien of a first mortgage or trust deed
39 of record for the unit and the undivided interest in the common elements, if:

40 (a) The association of unit owners for the condominium in which the unit is located has given
41 the lender under the mortgage or trust deed 90 days prior written notice that the owner of the unit
42 is in default in payment of an assessment. The notice shall contain:

43 (A) Name of borrower;

44 (B) Recording date of trust deed or mortgage;

45 (C) Recording information;

1 (D) Name of condominium, unit owner and unit designation stated in the declaration or appli-
2 cable supplemental declaration; and

3 (E) Amount of unpaid assessment.

4 (b) The notice under paragraph (a) of this subsection shall set forth the following in 10-point
5 type:

6 _____
7
8 NOTICE: The lien of the association may become prior to that of the lender pursuant to ORS
9 100.450.

10 _____
11
12 (c) The lender has not initiated judicial action to foreclose the mortgage or requested issuance
13 of a trustee's notice of sale under the trust deed or accepted a deed in lieu of foreclosure in the
14 circumstances described in ORS 100.465 prior to the expiration of 90 days following the notice by
15 the unit owners' association.

16 (d) The unit owners' association has provided the lender, upon request, with copies of any liens
17 filed on the unit, a statement of the assessments and interest remaining unpaid on the unit and other
18 documents which the lender may reasonably request.

19 (e) The borrower is in default under the terms of the mortgage or trust deed as to principal and
20 interest.

21 (f) A copy of the notice described in paragraph (a) of this subsection, together with an affidavit
22 of notice by a person having knowledge of the facts, has been recorded in the manner prescribed in
23 subsection (3) of this section. The affidavit shall recite the date and the person to whom the notice
24 was given.

25 **(8) Notwithstanding any provision of this section to the contrary, a lien against a unit**
26 **deeded to a county by tax foreclosure under ORS 312.200 shall arise and be recorded, enforced**
27 **or foreclosed in accordance with section 2 of this 2025 Act.**

28 **SECTION 5. (1) Section 2 of this 2025 Act applies to subject property deeded to a county**
29 **under ORS 312.200 on or after the effective date of this 2025 Act.**

30 **(2) Notwithstanding subsection (1) of this section, for subject property to which a county**
31 **holds title by operation of ORS 312.200 as of the effective date of this 2025 Act, the assess-**
32 **ment accrual period under section 2 (2) of this 2025 Act shall begin on the effective date of**
33 **this 2025 Act unless, before the effective date of this 2025 Act:**

34 **(a) The county has determined to permanently retain title to the subject property; or**

35 **(b) The county has entered into a lease agreement for the subject property.**

36 **SECTION 6. This 2025 Act takes effect on the 91st day after the date on which the 2025**
37 **regular session of the Eighty-third Legislative Assembly adjourns sine die.**

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