



Memorandum

TO Representative Nancy Nathanson and members of the Revenue Committee

FROM Oregon State Treasury

RE HB 2088 – Foreclosure Surplus

DATE January 28, 2025

Oregon State Treasury is excited to partner with counties to reunite owners with their foreclosure surplus proceeds. To allow our program to succeed, we are seeking additional clarification in the following three areas:

- 1) The timing of when the county will send property to Treasury relative to the notice counties will provide to owners. The current bill directs counties to report surplus property in accordance with Oregon’s Unclaimed Property Act. That means counties will report once a year between October 1st and November 1st. Depending on when a property is sold, there could be a gap of up to 14 months until Treasury receives the surplus and can pay claims.

The bill further directs counties to notify surplus owners within 60 days of the surplus being realized that they have money to claim and to contact Treasury for additional details. Given the potential that some property could take a year or even longer to come to us, that could lead to a lot of public frustration with both Treasury and the counties.

To improve customer service to the public, Treasury is open to allowing counties to report surplus property outside the normal unclaimed property schedule; for example, within 60-90 days of when the surplus is realized, or a timeframe the Legislature deems reasonable. That way, we can reunite owners timely with their property and avoid long delays for people who may be financially vulnerable.

Treasury would also like to suggest that the notice that counties send to owners specifies the date when the county expects to send the property to Treasury. That way, we can



manage public expectations and minimize administrative workloads on us and the counties.

- 2) The need to prioritize claims. The bill lists several entities that can file a claim for surplus proceeds, including owners, heirs, lien holders and creditors. This presents the possibility of Treasury receiving competing claims and having no clear guidance on how to pay them. Our program does not currently face this level of ambiguity because we only receive claims from an owner, an heir or a debtor via a garnishment. This makes it possible for our staff to make consistent and correct financial decisions.

We are kindly asking for an amendment that specifies a priority order for claims on surplus property. This will be particularly important if the value of the claims exceeds the amount available to claim.

Treasury would also like the bill to specify that our office does not have any liability if we pay claims in good faith based on the information presented to us. We can imagine many instances where we may pay a lower-level claim, and later we will receive a higher-level claim. Our current process is to work claims in the order received. We always look to see if there are multiple claims in the queue for the same property, but we do not control when claimants decide to file claims, nor can we assume that all potential claimants will claim their funds. We can only rely on the information in front of us.

- 3) The importance of complete data. For Treasury to do a good job on these claims, we need as much information as possible on who may have the right to file a claim on a given surplus property. We would like the bill to direct counties to provide us a list of all known possible claimants and lienholders, copies of the notices they send to owners, and the title reports obtained when starting the foreclosure process.

We look forward to working with the Committee on this important legislation.