

**SUPPORT HB 2096 to Fairly Implement *Tyler v. Hennepin*  
(Disposition of Property Tax Foreclosure Proceeds)**

Chair Nathanson and members of the Committee:

As you likely will recall, in mid-2023 the U.S. Supreme Court, in *Tyler v. Hennepin County*, unanimously ruled that when a county exercises foreclosure against a property owner for failure to pay property taxes, it cannot just keep the surplus proceeds. Keeping such proceeds would be a Fifth Amendment “taking” under the U.S. Constitution. A county is entitled to keep what it is owed plus its costs, but any excess must be returned to the former property owner or their heirs. Oregon is one of only nine states that, prior to *Tyler*, allowed counties to keep the profits from foreclosure sales.

There is no disagreement among the stakeholders that we must bring Oregon into compliance with *Tyler*. Reviewing all three bills on this topic, it appears there are only fine differences among them, mainly the effective date.

We thank Chair Nathanson, Rep. Levy, former Rep. Conrad and the staff at the Department of Revenue for convening stakeholders for many hours of meetings on this issue during the Interim. HB 2096 reflects those discussions from the point of view of those of us who approach this from a pro-consumer point of view.

Key elements of our bill:

- Requires counties to take diligent efforts to locate and notify former property owners or their heirs, as well as lien holders, about the foreclosure sale process and possible surplus available to them.
- Requires counties to notify the Oregon Department of Justice, so it can take action to apply any surplus to court-ordered child support.
- Includes statutory notice language.
- Requires the county to maximize the sale proceeds by using a real estate agent or, if unable to do so, selling the property at auction and allows deduction of all related costs.
- Provides an easy process for all counties to transfer the surplus proceeds to the Oregon Treasury’s Unclaimed Property program, which routinely tracks down owners of unclaimed property. Counties will not have to manage distribution of surplus proceeds.
- HB 2096 would apply to all claims on or after May 25, 2023, which was the date *Tyler v. Hennepin* was decided.

We look forward to working with the committee to finalize the bill.

Tom Holt Cascade Policy Institute	Jim Manley Pacific Legal Foundation	Andrea Meyer AARP	Sybil Hebb Oregon Law Center
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