



House Committee on Revenue

Testimony in Support of HB 2096

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AARP is dedicated to empowering Americans 50 and older to choose how they live as they age. With 500,000 members in Oregon, AARP works to strengthen communities and advocate for what matters most to families, with a focus on health security, financial resilience, and livable communities.

HB 2096 is the result of the US Supreme Court 2023 ruling in *Tyler v. Hennepin* where the Court unanimously held that a statutory scheme, similar to one used in Oregon, depriving a property owner of her home's surplus equity in excess of her tax debt, was an unconstitutional taking under the 5th Amendment of the U.S. Constitution. AARP Foundation, along with the National Consumer Law Center, filed an amicus brief in the United States Supreme Court support of Ms. Tyler. We applaud the court's decision in protecting the equity of homeowners.

As of 2020, approximately 80% of older adults over the age of 65 own their own homes. Older, low-income, particularly BIPOC homeowners, face a myriad of threats and financial pressures that jeopardize their ability to preserve the lifetime of equity they have built up in their homes. And for many that is often their most valuable financial asset, representing a lifetime of hard work.

The consequences for older Oregonians cannot be overstated, especially as they have higher rates of physical and cognitive disabilities and are more likely to live on modest, fixed incomes, which can make it more difficult to afford the costs of maintaining their home including paying property taxes and utilities. Ultimately this puts them at risk of tax foreclosure. When property is forfeited, it can result in the loss of hard-earned equity and accumulated intergenerational wealth, putting some families back at the starting line financially.

To be clear, we support the government's need to secure and collect unpaid taxes. At the same time, we want laws in place that provide real and meaningful protections to the owner. We believe that HB 2096 balances both interests.

I want to express our appreciation for Rep. Nathanson for developing the short-term solution last year that was HB 4056 and to former Rep. Conrad, Rep. Emerson Levy and the many staff at the Department of Revenue for all the work that was done during the interim. It was no easy task to convene the many stakeholders and adequately process the information but they provided an opportunity for robust conversations allowing us to fully discuss the many complicated issues.

HB 2096, introduced at the behest of AARP Oregon, the Cascade Policy Institute, the Pacific Legal Foundation, OTLA, Oregon Consumer Justice, Oregon Law Center and DevNW, is informed by that effort and those discussions.

In drafting HB 2096, our focus was on ensuring meaningful notice and *just* compensation. Not only is that principle expressed in the 5th Amendment of the U.S. Constitution but Article I, section 18 of the Oregon Constitution states, in part, that “Private property shall not be taken for public use . . . without just compensation.”

I want to highlight a few critical features in HB 2096.

Clear & Meaningful Notice

Sections 1, 2 and 3 of HB 2096 include best practices to ensure that property owners receive meaningful notice that they can understand. It requires that notices be written in clear and plain language, in the most common used languages, in large font, and to include key details, the immediate action required and the resources available. It also requires the county to use due diligence to identify owners or claimants and to send and post in a conspicuous manner.

Disposition of the Property

Section 6 establishes a clear and fair process for disposition of the property, be it a final sale or transfer of the property to the county or a nonprofit as well as the final disposition of the proceeds.

We recognize that for counties, their primary interest may be to sell or deed the property as quickly as possible and to recoup any moneys owed. But when the government exercises its power to take ownership of the property to pay off moneys owed, it cannot lose sight of the interests of the previous owner and must endeavor to obtain the fair market value of the property, especially when in some cases it significantly exceeds the moneys owed.

That is why HB 2096 approaches the sale with a tiered process, starting from an approach that maximizes the equity while recognizing that in some cases, this approach may not work.

Like Maine and Massachusetts, Section 6(1) provides that the county shall list the property with a real estate broker or agent at the highest price at which the property is reasonably expected to sell. If the county, after three attempts, cannot secure a real estate broker or a real estate broker cannot sell the property within 12 months after listing, the county is authorized to conduct a public high-bid auction.

In an auction process, it is important to include protections again, to maximize the sale price. Section 6(2)(c) requires that the auction including a minimum bid threshold, an online bidding process, be advertised for at least 30 days and limit the fee of the auctioneer to 3% of the surplus value once sold.

If the county chooses to retain the property or transfer title to a nonprofit, Section 6(4) sets for the process to determine a fair market value.

Ultimately, the county will not bear any of the costs related to these steps to assure the highest value possible. Section 7 allows for the county to be reimbursed for all reasonable fees associated with the foreclosure and sale of the property including legal fees, delivering notices, county staff time, court filing fees, appraisals, professional real estate commissions and auction fees.

Finally, once all the costs have been deducted, any remaining surplus is transferred to the State Treasurer, thus allowing the owner or any heir to file a claim for the surplus. Not only does this remove any further obligation by the county to administer the surplus, under the Unclaimed Property Program there is no timeline and even if it takes years for the rightful owner or heirs to trace the funds, they will be able to secure the equity owed them.

We appreciate all the work that has been done to get us to a point where we can put thoughtful and carefully crafted language into Oregon law, to ensure fair and proper handling of property tax forfeitures that provides a clear process for the counties and a just compensation to the owner and heirs.