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HB 4056: *Tyler v. Hennepin County* Implementation Essential Fixes vs. Future Process Improvements

Essential Fix

The key requirement of *Tyler v. Hennepin County* is that governments create a system for property owners to claim surplus equity after property taxes, fees, and interest are paid.

HB 4056 creates that system, while relying on existing Oregon law to fill in details of how that system operates. Those other parts of Oregon law could be improved in future Sessions, but they are not essential to responding to *Tyler's* command to create a system for refunding surplus equity to property owners.

Without HB 4056:

- Counties have no statutory obligation to sell tax foreclosed property.
- No notification to property owners about the existence of surplus equity.
- No consistent process for returning surplus equity.

Property owners have no rights under the current system, except the right to file an expensive civil rights lawsuit to allege an uncompensated taking in violation of *Tyler*.

HB 4056 ensures the surplus exists by forcing the sale or valuation (if the county elects to retain the property) of foreclosed properties and allows property owners to claim the surplus by filing a simple form.

Out of scope of *Tyler*, process improvements for the future

Sale of County Property. Property subject to a tax foreclosure is sold like any other property a county sells. That process is governed by ORS 275. Improvements could be made to this process to ensure robust competition among potential buyers. But those improvements are not essential for compliance with *Tyler*.

Lienholder rights. Liens are currently extinguished when a property is subject to a tax foreclosure and nothing in *Tyler* requires lienholders to be treated any differently. However, by preserving surplus equity, lienholders can seek payment of debts out of the surplus. Existing law allows creditors to pursue these claims.

Statute of limitations. The six-year statute of limitations is typical across all manner of constitutional claims.

Heirs of small estates. Existing estate law deals with identification of heirs and is far outside the scope of *Tyler*.