Chapter 312

2003 EDITION

Foreclosure of Property Tax Liens

312.005 "District attorney" described
312.010 When real property subject to tax foreclosure; listing other charges with taxes
312.020 Supervision by Department of Revenue; enforcement
312.030 Annual foreclosure list; interest on taxes in list
312.040 Notice of proceeding; service
312.050 Instituting foreclosure proceedings
312.060 Application for judgment foreclosing lien; effect and correction of irregularity, informality, omission or other error
312.070 Answer and defense to application by person interested
312.080 Summary hearing
312.090 Judgment; lien; interest
312.100 Order for sale of properties to county; certified copy of judgment as certificate of sale
312.110 Removal of property from foreclosure proceedings
312.120 Period during which property held by county; redemption; assessment during redemption period; redemption of part of property
312.122 Reduced redemption period when property subjected to waste or abandonment; hearing; notice; reasonable inquiry
312.125 Notice to owner or lienholder of expiration of period of redemption; contents; mailing
312.130 Release of claims of county by redemption; entries by tax collector; certificate of redemption
312.140 Notice of foreclosure list to lienholder
312.150 Effect of failure to give notice to lienholder when requested
312.160 Lienholder paying taxes or redeeming gets additional lien for amount paid
312.170 Municipal or other public corporation removing property from foreclosure list or proceeding or redeeming; additional lien
312.180 Possession during redemption period; forfeiture for waste
312.190 General notice of expiration of redemption period
312.200 Deed to county
312.210 Appeal
312.214 Public policy relating to title obtained by county by tax foreclosure
312.216 Conclusive presumptions of notice resulting from tax foreclosure
312.218 Constructive possession by county; notice; remedy of ejectment
312.220 Judgment as evidence and estoppel
312.230 Limitations on proceedings affecting foreclosure sale; payments required with first pleading; effect as statute of prescription
312.240 Vacation of judgment; determining value of improvements by purchaser and rendering judgment therefor
312.250 Certain rights of municipal corporations not affected by ORS 312.010 to 312.120 and 312.130 to 312.240
312.260 Lands acquired by county by tax foreclosure where title fraudulently concealed from owner
312.270 Title of county purchasing property; title of purchaser on resale
312.290 Sale of property on which there are unpaid assessments applicable to defaulted bonds of a city or town
312.300 Effect of irregularities and omissions on sales made pursuant to ORS 312.270 or 312.290
312.310 Accepting deed where timber fire reduces value of property; sale of timber or property acquired
312.360 Tax sales to counties or other public corporations validated; effect of omissions or defects
312.370 Certain tax sales validated
312.380 Effect of failure to issue certificate of sale prior to 1939
312.390 Request by lienholder for notice of proposed sale for delinquent city assessments or liens
312.400 Giving notice to lienholder
312.410 Effect of failure to give notice when requested
312.420 Application of ORS 312.390 to 312.410 to other than treasurer of city
312.990 Penalties

312.005 "District attorney" described. As used in this chapter, unless the context requires otherwise, "district attorney" shall include county counsel appointed pursuant to ORS 203.145. [1971 c.245 §2]

312.010 When real property subject to tax foreclosure; listing other charges with taxes. (1) Except as otherwise provided by law, real property within this state is subject to foreclosure for delinquent taxes whenever three years have elapsed from the earliest date of delinquency of taxes levied and charged thereon.

(2) All special assessments, fees or other charges charged against the property subject to foreclosure which are due and unpaid for any year or years for which ad valorem taxes are delinquent and for which there is no other provision of law for their payment out of the foreclosure proceeding, shall be listed with the delinquent ad valorem taxes in the foreclosure proceedings and foreclosed and collected as a part of such proceedings in the same manner as the delinquent ad valorem taxes. In any event, if three years have elapsed since the special assessment, fee or charge has been placed on the tax roll for collection and the assessment, fee or charge remains unpaid, it may be included in the next foreclosure proceeding and foreclosed and collected as part of such proceeding. [Amended by 1965 c.344 §41]

312.020 Supervision by Department of Revenue; enforcement. (1) The Department of Revenue shall have general supervision and control over tax foreclosure proceedings under ORS 312.010 to 312.120 and 312.130 to 312.240 to the end that such proceedings shall be conducted in a uniform and orderly manner in all counties of the state.

(2) Whenever any district attorney fails to institute or complete foreclosure proceedings in the manner required by this chapter, the department may call upon the Attorney General to institute or complete such proceedings. For this purpose, the Attorney General shall have the same powers and authority as a district attorney under this chapter. All costs incurred by the Attorney General shall be borne by the county in which the foreclosure proceedings are undertaken. Upon presentation by the Attorney General to the county governing body of a certified, itemized statement of costs, the governing body shall order payment to the Attorney General out of any available funds of the county. If no payment is made within 30 days thereafter, the Attorney General shall submit to the Secretary of State a certified, itemized statement of such costs and the Attorney General shall be reimbursed upon the order of the Secretary of State to the State Treasurer, from the county's share of the state's cigarette and liquor revenues. [Amended by 1971 c.245 §3]

312.030 Annual foreclosure list; interest on taxes in list. (1) Within two months after the day of delinquency of taxes of each year the tax collector shall prepare a list of all real properties then subject to foreclosure. The list shall be known as the foreclosure list and shall contain:

(a) The names of the several persons appearing in the latest tax roll as the respective owners of tax-delinquent properties.

(b) A description of each such property as it appears in the latest tax roll.

(c) The year or years for which taxes are delinquent on each property.

(d) The principal amount of the delinquent taxes of each year and the amount of accrued and accruing interest thereon to the day of publication.

(2) Thereafter, and until judgment is obtained pursuant to ORS 312.090, interest shall be charged and collected on each of the several amounts of taxes included in the foreclosure list at the rate provided in ORS 311.505 (2). [Amended by 1975 c.704 §5; 1979 c.703 §11; 1987 c.311 §3]

312.040 Notice of proceeding; service. (1) Notice of each foreclosure proceeding shall be given by publication and by both certified and regular first class mail as provided in this section:

(a) Notice shall be given by one publication of the foreclosure list in a newspaper of general circulation in the county, to be designated by the county court or board of county commissioners. The price charged by the newspaper shall be at the legal rate as provided by law. A copy of the newspaper notice shall be mailed by the county to each incorporated city in the county.

(b) In addition, notice of the foreclosure proceeding shall be sent by certified and regular first class mail to the owner or owners, as shown in the county deed records, of each property included on the foreclosure list at the address or addresses as reflected in the county records under ORS 93.260, 311.555 or 311.560.

(2) Each notice given under subsection (1) or (4) of this section shall identify the particular property or properties that is the subject of the notice.

(3) All persons owning or claiming to own, or having or claiming to have, any interest in any property included in the foreclosure list are required to take notice of such proceeding and of all steps thereunder.

(4) If it is deemed expedient to do so, notice of the institution of the foreclosure proceeding may be given by personal service.

Notice by personal service shall be in lieu of service by publication and certified and regular first class mail required by subsection (1) of this section as to the defendant or defendants so served, and it shall not be necessary to include in the publication of the foreclosure list the names of such defendants or the descriptions or other matters relating to their respective properties. [Amended by 1957 c.68 §1; 1983 c.657 §9; 1985 c.613 §29; 1987 c.311 §4]

312.050 Instituting foreclosure proceedings. (1) On the day which is three months after the day of delinquency of taxes of the latest year, the tax collector, with the assistance of the district attorney, shall institute proceedings to foreclose the liens for all the delinquent taxes against each of the several properties included in the foreclosure list.

(2) One general proceeding shall be brought on the part of the county to foreclose the tax liens against each of the properties included in the foreclosure list. The person whose name appears in the latest tax roll as the owner of any property therein described shall be considered and treated as the owner of the property. Each such proceeding shall be a proceeding in rem against the property itself. If in any tax roll it appears that the owner of any property is unknown, then such property shall be proceeded against as belonging to an unknown owner. [Amended by 1979 c.703 §12; 1987 c.311 §5]

312.060 Application for judgment foreclosing lien; effect and correction of irregularity, informality, omission or other error. (1) Application for judgment foreclosing any tax lien shall be in writing, shall be verified, and shall contain a succinct statement of the cause of suit. All amendments may be made that are permissible in any civil action. The application for judgment, together with a certified copy of the foreclosure list, shall be filed with the clerk of the court on the day of the first publication of the foreclosure list.

(2) No assessment of property or charge for taxes shall be considered invalid because of:

(a) An irregularity in an assessment roll.

(b) An assessment roll not having been made, completed or certified within the time prescribed by law.

(c) The property having been listed or charged in an assessment or tax roll without any name, or with a name other than that of the owner.

(3) No error or informality on the part of any officer in connection with assessment, equalization, levy or collection shall vitiate or affect the assessment of the property or the taxes thereon.

(4) Any such irregularity, informality, omission or other error may, in the discretion of the court, be corrected to conform to law. [Amended by 1979 c.284 §137; 1989 c.411 §1; 2003 c.46 §28; 2003 c.576 §414]

312.070 Answer and defense to application by person interested. Any person interested in any real property included in the foreclosure list may file an answer and defense to the application for judgment within 30 days after the date of the first publication of the foreclosure list, exclusive of the day of the first publication. The answer and defense shall be in writing under oath and shall specify the particular cause of objection. [Amended by 2003 c.576 §415]

312.080 Summary hearing. The court shall examine the application for judgment. If answer and defense is filed by any defendant or other interested person, the matter shall be heard in a summary manner without other pleading. [Amended by 2003 c.576 §416]

312.090 Judgment; lien; interest. The court shall give judgment for the delinquent taxes and interest appearing to be due on the several parcels of real property described in the application, and shall enter a judgment requiring that the several liens of such taxes be foreclosed. The judgment shall be a several judgment against and a lien on each parcel of property included therein. The several judgment shall bear interest at the legal rate from the date of entry thereof. [Amended by 2003 c.576 §417]

312.100 Order for sale of properties to county; certified copy of judgment as certificate of sale. The court shall order that the several properties, against which the judgment is entered, shall be sold directly to the county for the respective amounts of taxes and interest for which the properties severally are liable. The clerk of the court shall deliver to the tax collector a certified copy of the judgment, included in which shall be a list of the properties so ordered sold, with the several amounts due thereon. The certified copy shall constitute a certificate of sale to the county of the several properties described in the judgment and no other certificate need be issued. [Amended by 1989 c.411 §2; 2003 c.576 §418]

312.110 Removal of property from foreclosure proceedings. At any time prior to judgment, any parcel of real property may be removed from the foreclosure proceeding by payments such as would have prevented inclusion of the property in the foreclosure list, plus any additional interest or penalty accrued; except that after the first publication of the foreclosure list any person seeking to remove any property from the

foreclosure proceeding shall pay, in addition to the particular amounts of taxes and interest otherwise required, a penalty of five percent of the total amount of taxes and interest charged against the property. The penalty and fee shall be in lieu of all publication costs and other charges in connection with the foreclosure proceeding. On receipt of the payments as to a particular property, prior to the filing of the application for judgment, the tax collector shall make the proper entries in the tax roll and shall remove the property from the foreclosure list and proceeding. Subsequent to filing of the application for judgment, no property may be removed from the foreclosure list and proceeding except on order entered by the court. The removal of any property from the foreclosure list and proceeding, as provided in this section, does not release the property from the lien of any unpaid tax thereon, but the unpaid taxes shall remain valid and subsisting liens as though the foreclosure proceeding had not been instituted. [Amended by 1983 c.472 §1; 1987 c.311 §6; 2003 c.576 §419]

312.120 Period during which property held by county; redemption; assessment during redemption period; redemption of part of property. (1) Except as provided in ORS 312.122, all real properties sold to the county under ORS 312.100, shall be held by the county for the period of two years from and after the date of the judgment of foreclosure, unless sooner redeemed.

(2) During the two-year period any person having an interest in the property at the date of the judgment of foreclosure, or any heir or devisee of such person, or any person holding a lien of record on the property, or any municipal corporation having a lien on the property, may redeem the property by payment of the full amount applicable to the property under the judgment, with interest thereon as provided by law, plus a penalty of five percent of the total amount applicable to the property under the judgment and a fee as specified under subsection (5) of this section. The penalty of five percent and fee shall be in lieu of all costs chargeable against the property in connection with the foreclosure proceeding. The fee shall be used to defray the costs, among other costs, incurred by the county to provide the notices of redemption period expiration to lienholders and others required under ORS 312.125.

(3) Property so redeemed shall be subject to assessment for taxation during the period of redemption, as though it had continued in private ownership.

(4) Any person holding a mortgage or other lien of record covering a part only of a particular parcel of real property included in the judgment of foreclosure may redeem such part by payment of the proportionate amount applicable thereto under the judgment.

(5) The fee specified by this subsection is as follows:

(a) If the property is redeemed before the date the notice by certified mail required by ORS 312.125 is given, $50.

(b) If the property is redeemed on or after the date the notice by certified mail required by ORS 312.125 is given, the greater of $50 or the actual cost to the county for a title search and other expenses related to obtaining a title search. [Amended by 1983 c.472 §2; 1987 c.311 §7; 1989 c.687 §2; 1999 c.22 §1; 2003 c.576 §420]

312.122 Reduced redemption period when property subjected to waste or abandonment; hearing; notice; reasonable inquiry. (1) A county may by ordinance provide the means to require the tax collector of the county to deed to the county pursuant to ORS 312.200 any real property sold to the county under ORS 312.100 after the expiration of the 30-day period provided in subsection (2) of this section if:

(a) The property is subjected to waste which results in a forfeiture to the county of the right to possession of the property under ORS 312.180; or

(b) The property is not occupied by the owner or any person or entity that appears in the records of the county to have a lien or other interest in the property for a period of six consecutive months, and the property has suffered a substantial depreciation in value or will suffer a substantial depreciation in value if not occupied.

(2)(a) Upon determining that real property sold to the county under ORS 312.100 may be subject to waste or abandonment as provided in subsection (1) of this section, the county shall set a date, time and place within the county for a hearing for the purpose of determining whether the property should be deeded to the county pursuant to subsection (1) of this section.

(b) The owner and any person or entity that appears in the records of the county to have a lien or other interest in the property shall be given an opportunity to be heard at the hearing provided in paragraph (a) of this subsection.

(c) If the county determines after the hearing provided in paragraph (a) of this subsection that the property is subject to waste or abandonment as provided in subsection (1) of this section, the county governing body shall provide that any rights of possession the owner may have in the property are forfeited and direct the property be deeded to the county by the tax collector of the county after expiration of a period of 30

days from the date of the action of the county governing body determining property subject to forfeiture unless it is sooner redeemed by the owner or any person or entity that then appears in the records of the county to have a lien or other interest in the property. All rights of redemption with respect to the real property described in that deed shall terminate on the execution of the deed to the county.

(d) The county shall, in its ordinance, provide for procedures for the hearing required under this subsection that are compatible with the requirements of due process of law.

(3) Not less than 30 days prior to the hearing provided in subsection (2) of this section, the county shall notify the owner and any person or entity that then appears in the records of the county to have a lien or other interest in the property of the hearing. The notice shall contain:

(a) The date, time and place of the hearing provided for in subsection (2) of this section;

(b) The date of the judgment;

(c) The normal date of expiration of the period of redemption under ORS 312.120;

(d) Warning to the effect that if the county determines that the property is subject to waste or abandonment as provided in subsection (1) of this section, the property will be deeded to the county immediately after the expiration of 30 days from the date of the county governing body action so determining and that every right or interest of any person in the property will be forfeited forever to the county unless the property is redeemed within that 30-day period;

(e) A legal description of the property and a tax account number; and

(f) The name of the owner as it appears on the latest tax roll.

(4) The notice required to be given under subsection (3) of this section shall be given by both certified mail and by regular first class mail.

(5)(a) If the notice required under subsection (3) of this section is to be given to an owner, the notice shall be addressed to the owner or owners, as reflected in the county records of deeds, at the true and correct address of the owner as appearing on the instrument of conveyance under ORS 93.260 or as furnished under ORS 311.555 or as otherwise ascertained by the tax collector of the county pursuant to ORS 311.560.

(b) If the person or entity to whom the notice is required under subsection (3) of this section to be given is a lienholder, or person or entity other than the owner, having or appearing to have a lien or other interest in the property, the notice shall be addressed to the lienholder, person or entity at the address which the county knows or after reasonable inquiry, has reason to believe to be the address at which the lienholder, person or entity will most likely receive actual notice.

(6) For purposes of subsection (5)(b) of this section, if the lienholder is a corporation or a limited partnership, the county shall be considered to have made reasonable inquiry if the notice is mailed to the registered agent or last registered office of the corporation or limited partnership, if any, as shown by the records on file in the office of the Corporation Commissioner, or if the corporation or limited partnership is not authorized to transact business in this state, to the principal office or place of business of the corporation or limited partnership.

(7) As used in this section, "records of the county" has that meaning given in ORS 312.125 (7). [1989 c.687 §1; 2003 c.576 §421]

Note: 312.122 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 312 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

312.125 Notice to owner or lienholder of expiration of period of redemption; contents; mailing. (1) Not less than one year prior to the expiration of the period of redemption of any real property ordered sold to the county under a judgment under ORS 312.100, the tax collector shall provide notice of the expiration of the period of redemption to any person or entity entitled to redeem the property under ORS 312.120 (2) whose interest appears in the records of the county as of the date foreclosure proceedings were instituted. Any person or entity whose interest has terminated by any means other than a judgment of foreclosure under ORS 312.120 shall not be entitled to such notice.

(2) The notice shall contain:

(a) The date of the judgment;

(b) The date of expiration of the period of redemption;

(c) Warning to the effect that the property ordered sold under the judgment, unless sooner redeemed, will be deeded to the county immediately on expiration of the period of redemption and that every right or interest of any person in the property will be forfeited forever to the county;

(d) A legal description of the property and a tax account number; and

(e) The name of the owner as it appears on the latest tax roll.

(3) The notice required to be given under subsections (1) and (2) of this section shall

be given by both certified mail and by regular first class mail and subsections (4) and (5) of this section shall apply to both mailings.

(4)(a) If the notice required under subsections (1) and (2) of this section is to be given to an owner, the notice shall be addressed to the owner or owners, as reflected in the county records of deeds, at the true and correct address of the owner as appearing on the instrument of conveyance under ORS 93.260 or as furnished under ORS 311.555 or as otherwise ascertained by the tax collector pursuant to ORS 311.560.

(b) If the person or entity to whom the notice is required under subsection (1) of this section to be given is a lienholder, or person or entity other than the owner, having or appearing to have a lien or other interest in the property, the notice shall be addressed to the lienholder, person or entity at the address which the tax collector knows or after reasonable inquiry, has reason to believe to be the address at which the lienholder, person or entity will most likely receive actual notice. For the convenience of the county, any lien, instrument or other document, memorandum or writing, filed on or after September 27, 1987, that creates an interest with respect to which notice is required to be given under this paragraph, shall contain:

(A) The address of the person or entity holding lien or other interest created by the instrument or other document, memorandum or writing; and

(B) The tax account number, if any, and if known, of the property subject to the lien or in which the interest is created.

(5) Failure of a lien, instrument or other document, memorandum or other writing to contain the address and tax account number information required under subsection (4)(b) of this section does not invalidate the lien, instrument or other document, memorandum or writing, nor shall the failure of the writing to contain the information relieve the tax collector of the duty to obtain and mail the notice required under subsection (4)(b) of this section to the address that the tax collector believes to be the address at which the lienholder, person or entity is most likely to receive actual notice.

(6) For purposes of subsection (4)(b) of this section, if the lienholder is a corporation or a limited partnership, the tax collector shall be considered to have made reasonable inquiry if the notice is mailed to the registered agent or last registered office of the corporation or limited partnership, if any, as shown by the records on file in the office of the Corporation Commissioner, or if the corporation or limited partnership is not authorized to transact business in this state, to the principal office or place of business of the corporation or limited partnership.

(7)(a) As used in this section, "records of the county" means the following:

(A) The grantor-grantee indexes.

(B) Other records of deeds, mortgages, powers of attorney, contracts and other instruments, documents or memorandum of conveyance or otherwise of real property that are described in ORS 205.130 (1) and (2).

(C) The County Clerk Lien Record described in ORS 205.130 (3).

(D) Records of federal tax liens and other liens, instruments or other documents or writings reflecting an interest in real property described in ORS 205.246, if those records are kept separately from the records described in paragraph (b) of this subsection.

(E) Records of statutory liens on real property described in ORS 87.372.

(F) Any other records of interests in real property required to be kept by the county clerk, if the records contain a legal description of the property and an address specifically designated as indicated on the instrument, document or other memorandum or writing for purposes of mailing the notice required by this section.

(b) For purposes of this section only, "records of the county" includes:

(A) The appropriate records of the courts described in ORS 7.010 in the custody of the clerk of the appropriate court or court administrator under ORS 7.110; and

(B) Probate records in the custody of the clerk of the appropriate court or court administrator under ORS 7.230 and 7.240. Notwithstanding any provision to the contrary in ORS chapter 7 or other law, the clerk of the appropriate court or the court administrator shall make available to and assist the tax collector in the examination of the records described in this paragraph for purposes of carrying out the obligations of the tax collector under this section without charge. [1987 c.311 §2; 1989 c.628 §1; 2003 c.576 §422]

312.130 Release of claims of county by redemption; entries by tax collector; certificate of redemption. The receipt of redemption money by the tax collector shall operate to release all claims of the county, under the judgment of foreclosure, to the property so redeemed. The tax collector, on receipt of the redemption money, immediately shall make the proper entries in the records of the office of the tax collector showing that the delinquent taxes, interest and penalty have been paid and that the property has been redeemed from the sale to the county, and the tax collector shall deliver to the person redeeming the property a

certificate of redemption. The certificate shall contain a description of the property so redeemed, the total amount of taxes, interest and penalty paid, and the date of entry of the judgment of foreclosure. The certificate shall be signed by the tax collector or deputy and shall be filed by the redemptioner with the clerk of the court that issued the judgment of foreclosure. The clerk then shall enter the filing of the certificate of redemption in the court register and thereafter file the certificate of redemption as part of the case file in the foreclosure proceeding. No fee shall be charged for the issuance of a certificate of redemption. [Amended by 1989 c.411 §3; 1991 c.111 §18; 2003 c.576 §423]

312.140 Notice of foreclosure list to lienholder. (1) A mortgagee or other holder of a recorded lien on real property may file with the tax collector a request that notice of any foreclosure list including the real property be given to the mortgagee or other lienholder. The request shall contain the name and address of the person filing it, the description of the property and the name of the owner or reputed owner thereof, and the date of expiration of the mortgage or lien. Notice need not be given after expiration of the mortgage or lien, unless a further request therefor is filed. If the mortgagee or lienholder furnishes a duplicate form of request for the notice, the tax collector shall certify thereon to the filing and return the duplicate to the person making the request.

(2) Whenever any property described in the request for notice is included in a foreclosure list, the tax collector shall send by registered mail or by certified mail with return receipt written notice thereof to the mortgagee or other lienholder. At the time of mailing the notice the tax collector shall note that fact in the latest tax roll opposite the description of the property. The notation in the tax roll is prima facie evidence that the notice was mailed. Where the same mortgagee or lienholder has filed requests for notices on two or more properties included in a foreclosure list, one general notice may be issued covering all such properties. [Amended by 1991 c.249 §24; 1997 c.170 §50; 2001 c.753 §2]

312.150 Effect of failure to give notice to lienholder when requested. If a tax collector, after receiving a request for notice of tax foreclosure as provided in ORS 312.140, fails to give the notice, the failure shall not invalidate the foreclosure, but the mortgagee's or lienholder's right to redeem the property shall not terminate until the expiration of 30 days after the mailing of the notice.

312.160 Lienholder paying taxes or redeeming gets additional lien for amount paid. Where any property included in a foreclosure list or proceeding is removed therefrom by payment of taxes or by redemption on the part of a mortgagee or other lienholder of record, the official receipt for payment of such taxes or redemption money shall constitute an additional lien on the property to the amount specified in the receipt. The amount so paid, with interest and other lawful charges thereon, shall be collectible with and in the same manner as the amount secured by the original mortgage or lien.

312.170 Municipal or other public corporation removing property from foreclosure list or proceeding or redeeming; additional lien. (1) The governing body of any municipal or other public corporation, having a lien on any real property included in a foreclosure list or proceeding, may use its funds to remove the property from the list or proceeding, or to redeem the property after judgment of foreclosure. Such corporation shall have the same right of redemption as the owner of the property.

(2) Where any municipal or other public corporation so removes or redeems any real property on which it claims a lien, or pays any taxes thereon, the corporation may add to its lien the amount so disbursed and cause that amount to be noted on its lien docket. The amount so disbursed shall be recoverable as part of the lien of the municipal or other public corporation. In case of foreclosure of the original lien claimed by such corporation, the amount so disbursed may be added to the original lien and recovered as part thereof.

(3) Any county and municipal or other public corporation may enter into a cooperative agreement to facilitate foreclosure sales for the collection of delinquent property taxes and municipal liens. [Amended by 1989 c.411 §4; 2003 c.576 §424]

312.180 Possession during redemption period; forfeiture for waste. The sale of property to the county on foreclosure for delinquent taxes does not affect the former owner's right to possession of the property during the period of redemption. However, any waste of the property, committed by the former owner or by anyone acting under permission or control of the former owner, shall work a forfeiture to the county of the right to such possession and, in addition, shall be punished as provided in ORS 312.990.

312.190 General notice of expiration of redemption period. Not more than 30 days nor less than 10 days prior to the expiration of the period of redemption of any real

property ordered sold to the county under a judgment under ORS 312.100, the tax collector shall publish a general notice relative to the expiration of the period of redemption. The notice shall contain the date of the judgment, the date of expiration of the period of redemption, and warning to the effect that all the properties ordered sold under the judgment, unless sooner redeemed, will be deeded to the county immediately on expiration of the period of redemption and that every right or interest of any person in the properties will be forfeited forever to the county. The notice shall be published in two weekly issues of a duly designated newspaper of general circulation in the county within the period of 20 days as specified in this section. Proof of publication shall be attached to and made a part of the deed issued to the county. The published notice may be a general notice and it shall not be necessary to include therein descriptions of the several properties or the names of the respective owners. [Amended by 1975 c.780 §13; 1987 c.311 §8; 2003 c.576 §425]

312.200 Deed to county. The properties not redeemed within the two-year period prescribed by ORS 312.120 shall be deeded to the county by the tax collector. All rights of redemption, with respect to the real properties therein described, shall terminate on the execution of the deed to the county. No return or confirmation of the sale or deed to the county is required or necessary. [Amended by 1987 c.311 §9]

312.210 Appeal. Appeal from any judgment under ORS 312.010 to 312.120 and 312.130 to 312.240, or from any final order in the proceeding, may be taken to the Court of Appeals by giving notice thereof orally in open court at the time of the judgment or final order, or by giving written notice thereof at any time within 30 days after the date of the judgment or final order. The manner of perfecting appeals to the Court of Appeals and the proceedings thereon, and the determination and disposition thereof, shall be governed by the statutes on appeals in equitable cases. [Amended by 1979 c.562 §12; 2003 c.576 §426]

312.214 Public policy relating to title obtained by county by tax foreclosure. (1) Notwithstanding any other provisions of law, and for all purposes of ORS 312.214 to 312.230, it is hereby declared to have been and to be the public policy of this state that when a county has acquired or hereafter acquires real property by foreclosure for delinquent taxes, its title to such property shall have the utmost stability; and that once real property has become or hereafter shall become subject to foreclosure for taxes, there has been imposed and there hereafter shall be imposed upon all persons owning or claiming to own, or having or claiming to have, any interest in such real property, by reason of their delinquency, a continuing duty to investigate and ascertain whether such real property did become or hereafter shall become included in tax foreclosure proceedings, regardless of any defects, jurisdictional or otherwise, that may have appeared or shall hereafter appear in such foreclosure proceedings.

(2) If any subsection, sentence, clause or word of ORS 312.214 to 312.230 shall be held to be unconstitutional, the invalidity of such subsection, sentence, clause or word shall not affect the validity of any other portion of ORS 312.214 to 312.230, it being the intent of this Legislative Assembly to enact the remainder of ORS 312.214 to 312.230, notwithstanding such part so declared unconstitutional should or may be so declared. [Formerly part of 312.220; 1995 c.79 §152]

312.216 Conclusive presumptions of notice resulting from tax foreclosure. In order to accomplish and place into effect the public policy so declared in ORS 312.214 (1), and notwithstanding any other provisions of law excepting those relating to persons under disability as provided in ORS 12.160, all persons owning or claiming to own, or having or claiming to have, any interest in any real property heretofore or hereafter subject to foreclosure for delinquent taxes indisputably and conclusively shall be deemed to have taken notice of the following:

(1) That any real property which they owned or claimed to own, or in which they had or claim to have had any interest, and any real property which they hereafter may own or claim to own or in which they hereafter shall have or claim any interest has been assessed and hereafter will be assessed each year;

(2) That the tax levied against such real property became and hereafter will become due and delinquent at a fixed time;

(3) That the tax became and was, and hereafter will become and be a lien upon such real property;

(4) That if such tax was not paid or hereafter shall not be paid within the time fixed by law, the lien has been or hereafter will be enforced by foreclosure proceedings at the time and in the manner provided by law;

(5) That since the enactment of chapter 408, General Laws of Oregon 1919, and following its effective date (May 29, 1919), such foreclosure proceedings have been and hereafter will be proceedings in rem; and

(6) That by reason of their delinquency in the matter of the payment of their taxes, there has been impressed upon and there

hereafter shall be impressed upon them a continuing duty to investigate and ascertain whether or not such real property has been or hereafter shall become included in tax foreclosure proceedings, regardless of any defects, jurisdictional or otherwise, that may have appeared or hereafter shall appear in such foreclosure proceedings. [Formerly part of 312.220]

312.218 Constructive possession by county; notice; remedy of ejectment. (1) In relation to or as against the claims of all persons owning or claiming to own, or having or claiming to have, any interest in real property heretofore or hereafter subject to foreclosure for delinquent taxes, excepting only such persons who were or hereafter shall be in the actual and physical possession of any such real property at the time of the execution of a deed thereto to a county pursuant to the provisions of ORS 312.200 that was not and is not void upon its face, the following shall be presumed conclusively:

(a) That from and after the date of the execution of any such deed to a county, such county shall be deemed to have constructive possession of the real property therein described to the same extent and legal effect as if the county were in the actual, physical and exclusive possession of such property, and for all purposes such constructive possession shall be deemed the equivalent of actual and physical possession of such property that is hostile, adverse, actual, visible, notorious and exclusive.

(b) That from and after the date of the execution of any such deed to a county, such county had, and hereafter shall be deemed to have had constructive possession of the real property therein described to the same extent and legal effect as if the county were in the actual, physical and exclusive possession of such property, and for all purposes such constructive possession shall be deemed the equivalent of actual and physical possession of such property that is hostile, adverse, actual, visible, notorious and exclusive.

(c) That the recording of a deed to a county pursuant to ORS 312.200 gave and hereafter shall be deemed to give notice to the world of such county's constructive possession as provided and defined in ORS 312.214 to 312.220.

(2) In addition to all other remedies made available to the person by law, the remedy of ejectment is hereby made available to any person claiming to be the owner of any property as against the county which is in the constructive possession of the county as provided and defined in ORS 312.214 to 312.220. [Formerly part of 312.220]

312.220 Judgment as evidence and estoppel. Any judgment for the sale of real property to the county, on foreclosure for delinquent taxes, is conclusive evidence of its regularity and validity in all collateral proceedings, except where the taxes have been paid or the property was not liable to assessment and taxation. The judgment is prima facie evidence that the taxes have not been paid and that the property was subject to taxation at the time it was assessed. The judgment shall estop all persons raising objections thereto, or to the title based thereon, which existed at or before the date of the judgment and could have been presented as an objection or defense to the application for the judgment. [Amended by 1961 c.718 §1; part renumbered 312.214, 312.216 and 312.218; 2003 c.576 §427]

312.230 Limitations on proceedings affecting foreclosure sale; payments required with first pleading; effect as statute of prescription. (1) Every action, suit or proceeding, commenced for the purpose of determining the validity of a sale of real property on foreclosure for delinquent taxes, or to quiet title against such sale, or to remove the cloud thereof, or to recover possession of the property, shall be commenced within two years from the date of the judgment of foreclosure and sale to the county, or within six months from June 1, 1961, whichever is the later.

(2) Notwithstanding any other provisions of law, in every such action, suit or proceeding any person claiming to be the owner of the property, as against the county or grantee, shall pay into court with the first pleading the amount charged against the property in the judgment of foreclosure, plus the amount or amounts that would otherwise have been assessed and levied against said property as taxes from the date of the said judgment to the time of the filing of such action, suit or proceeding, together with any penalties and interest that would have accrued thereon as by statute provided. In every such action, suit or proceeding any person claiming to be the owner of the property as against any person holding title from the county, shall pay into court with the first pleading the amount charged against the property in the judgment of foreclosure, together with interest thereon at the rate of six percent per year from the date of the judgment to the date of filing the pleading.

(3) For all purposes this section shall be construed as a statute of prescription as well as a statute of limitation. [Amended by 1961 c.718 §2; 2003 c.576 §428]

312.240 Vacation of judgment; determining value of improvements by purchaser and rendering judgment therefor. Whenever the court vacates or sets aside a judgment of foreclosure with respect to any particular property, the court shall determine the value of any improvements placed on the property by the county or by any purchaser from the county, and shall give judgment therefor and collect the same from the claimant before putting the claimant in possession. [Amended by 2003 c.576 §429]

312.250 Certain rights of municipal corporations not affected by ORS 312.010 to 312.120 and 312.130 to 312.240. No provision of ORS 312.010 to 312.120 and 312.130 to 312.240 shall impair or annul a right conferred upon municipal corporations by ORS 311.520 or 312.270 to 312.300.

312.260 Lands acquired by county by tax foreclosure where title fraudulently concealed from owner. (1) If the title to lands acquired by any county by tax foreclosure was fraudulently concealed from the rightful owner, devisee, beneficiary, heir, creditor or other person having an interest therein, or was unlawfully obtained, held or controlled by or through fraudulent conveyance or other fraud, without knowledge on the part of such person, such person shall be entitled to a conveyance of the lands by purchase from the county for cash or by agreement provided in ORS 275.190 at a price equivalent to the delinquent taxes thereon, with interest and without personal property taxes charged against the land, including lands of which the wrongdoer is owner of record or assignee of owners of record impressed with a trust for the benefit of such person or deeded or assigned to such person by the wrongdoer pursuant to any suit, action, proceeding or settlement respecting the fraudulent concealment or unlawful holding or control.

(2) Such person may cause to be filed with the county clerk of the county at any time while the title to any such lands is held by the county, written notice of intention to purchase the lands or any part thereof under this section, describing the lands. The notice shall be acknowledged and recorded in the deed records and a copy thereof served upon the district attorney of the county. The purchase of the land shall be completed by cash or execution of the agreement within one year from the filing of the notice or the final determination of the suit, action, or proceeding.

(3) This section shall not apply to or affect the title to any such lands dedicated to public use or conveyed by the county prior to the filing of the notice, but shall apply to lands sold by the county to an innocent purchaser under contract, in which case such person succeeds to the interest of the county in the contract subject to the rights of the innocent contract purchaser.

312.270 Title of county purchasing property; title of purchaser on resale. (1) When a county acquires real property by foreclosure for delinquent taxes, the conveyance vests in the county title to the property, free from all liens and encumbrances except assessments levied by a municipal corporation for local improvements to the property.

(2) A private purchaser at resale of such property by the county acquires title free and clear of all assessments for local improvements levied by any municipal corporation. [Amended by 1997 c.805 §6]

312.280 [Repealed by 1997 c.805 §7]

312.290 Sale of property on which there are unpaid assessments applicable to defaulted bonds of a city or town. If a city or town has defaulted in payment of its outstanding bonds or interest thereon, or has refunded any such defaulted bonds, and real property on which there are unpaid special assessments applicable to the defaulted or refunded bonds, has been acquired by the county through foreclosure for delinquent taxes, the county court or board of county commissioners may sell such property, without notice of any kind, to the city or town on payment in cash of the total amount of all taxes levied by the state and applying to the property at the time of its conveyance to the county on foreclosure for delinquent taxes. Each such sale to a city or town shall be within the discretionary authority of the county court or board of county commissioners and shall be in addition to all other provisions of law for the resale of property acquired by a county on foreclosure for delinquent taxes. In making any such sale to a city or town, the county court or board of county commissioners shall have full authority to act for all municipal corporations, taxing districts or political subdivisions of the county interested in such taxes.

312.300 Effect of irregularities and omissions on sales made pursuant to ORS 312.270 or 312.290. No proceedings subsequent to a judgment foreclosing a tax lien or liens upon property purchased under ORS 312.270 or 312.290, whether by a private purchaser or by a municipal corporation, shall be invalidated and no deed shall be declared void or set aside for irregularities, omissions or defects, unless the record owner of the property sold actually has been misled by the irregularities, omissions or defects to the injury of the record owner. [Amended by 2003 c.576 §430]

312.310 Accepting deed where timber fire reduces value of property; sale of timber or property acquired. (1) The county court or board of county commissioners may accept deeds to any property in process of foreclosure for tax delinquencies, the chief value of which, when assessed for taxation, was in green standing timber, whenever it appears to the satisfaction of the court or board that, subsequent to any assessment of the property on which taxes are delinquent, its value has been reduced materially due to damage by fire and that it is necessary to expedite the harvesting of the fire-damaged timber.

(2) The court or board may sell the timber from lands so acquired, in the manner and for the price the court or board deems for the best interest of the county, but if any lands so acquired are sold by the county, whether before or after sale of the timber thereon, the lands shall be sold in the manner provided by law for sale by a county of real property acquired through foreclosure of liens for delinquent taxes.

(3) The proceeds from the sale of timber from the lands acquired under this section shall be distributed in the same manner as proceeds from the sale of property are distributed under ORS 275.275. All payments received after May 16, 1955, in consideration for the use of roads made in connection with the sale of such timber, and any other payments received after that date whether by gift or otherwise made in connection with the sale of such timber, shall be considered proceeds from the sale of such timber and shall be distributed as provided in this subsection.

(4) This section applies only where the damage resulted from one fire and the area involved is in excess of 10,000 acres. [Amended by 1955 c.546 §1; 1969 c.595 §14]

312.320 [Repealed by 1969 c.595 §17]

312.330 [Repealed by 1969 c.595 §17]

312.340 [Repealed by 1969 c.595 §17]

312.350 [Repealed by 1969 c.595 §17]

312.360 Tax sales to counties or other public corporations validated; effect of omissions or defects. (1) All sales of land for taxes made to counties or other public corporations are declared legal and valid and shall pass good title to the lands assessed.

(2) No proceedings subsequent to a judgment foreclosing a tax lien or liens shall be invalidated and no tax deed declared void or set aside for irregularities, omissions or defects unless the record owner of the land sold has been actually misled by the irregularities, omissions or defects to the injury of the record owner. [Amended by 2003 c.576 §431]

312.370 Certain tax sales validated. All sales of real property for delinquent taxes made before May 22, 1903, by the sheriff of any county where the notice of the sale as published or posted omitted to mention the place where the sale was to be made, shall have the same force and effect as though the notice had mentioned the place of sale.

312.380 Effect of failure to issue certificate of sale prior to 1939. The failure to issue a certificate of sale, as such, in any tax foreclosure proceeding before June 14, 1939, shall not in any manner affect such proceedings.

312.390 Request by lienholder for notice of proposed sale for delinquent city assessments or liens. Any mortgagee or other holder of a recorded lien upon real property may file with the city treasurer of the city or town in which the property is situated a request that notice of a proposed sale of the property for delinquent city assessments or liens thereon be given to such mortgagee or other lienholder. The request shall contain the name and address of the person, firm or corporation filing it, the name of the owner or reputed owner of the property, the description of the property, and the date of the expiration of the mortgage or lien. Notice need not be given after the date of the expiration of the mortgage or lien unless a further request therefor is filed. If the mortgagee or lienholder furnishes a duplicate form of request for that purpose, the city treasurer shall certify thereon to the filing of the request and deliver or mail the duplicate to the party filing it.

312.400 Giving notice to lienholder. (1) Whenever the city treasurer posts or publishes notice of sale of any property described in the request made under ORS 312.390 for any delinquent city assessment or lien thereon, the city treasurer shall give notice of the proposed sale to the mortgagee or other lienholder who filed the request by registered mail or by certified mail with return receipt addressed to the mortgagee or other lienholder at the address given in the request.

(2) At the time the notice is mailed, the city treasurer shall note the fact of the mailing in ink on the record of such assessment or lien in the possession of the city treasurer and shall make a certificate of the mailing and keep it on file in the office of the city treasurer. The certificate so filed is conclusive evidence that the notice was mailed.

(3) The notice shall be mailed not less than 21 days prior to the date fixed for the sale and shall be addressed to the mortgagee or other lienholder specified in the request.

(4) The notice shall contain:

(a) The name of the owner or reputed owner of the property.

(b) The description of the property.

(c) The date fixed for the sale.

(d) A description of the city assessment or lien and the amount unpaid thereon.

(e) The amount necessary to be paid to prevent the sale of the property. [Amended by 1991 c.249 §25]

312.410 Effect of failure to give notice when requested. If the city treasurer, after having received a request for notice as provided in ORS 312.390, fails to give the notice in the manner provided in ORS 312.400, such failure shall render void any deed of the property until the city treasurer gives the notice by registered mail or by certified mail with return receipt, addressed to the mortgagee or lienholder requesting the notice, and for 30 days thereafter, during which period the mortgagee or lienholder may redeem the property. [Amended by 1991 c.249 §26]

312.420 Application of ORS 312.390 to 312.410 to other than treasurer of city. If an officer other than the treasurer is designated by the charter or ordinances of any city to collect delinquent city assessments or liens, or both, and make sales of the property upon which the assessments or liens, or both, are delinquent, then the provisions of ORS 312.390 to 312.410 apply to such other officer.

312.990 Penalties. The commission of waste on property described in ORS 312.180 by the former owner or anyone acting under the permission or control of the former owner is punishable, upon conviction, by a fine of not less than twice the value so wasted.

CHAPTER 313

[Reserved for expansion]