

SENATE AMENDMENTS TO SENATE BILL 920

By COMMITTEE ON JUDICIARY

April 25

1 On page 1 of the printed bill, line 2, after “18.398,” insert “18.406,”.

2 On page 3, delete lines 30 and 31 and insert:

3 “(f) A statement indicating whether any property to be levied on is residential property as de-
4 fined by section 15 of this 2005 Act;”.

5 In line 45, after “sale” insert “, or a copy of the judgment directing sale or foreclosure of the
6 property,”.

7 On page 4, line 12, after “writ” insert “, or if residential property as described in section 15 (2),
8 (3) or (4) of this 2005 Act is to be sold under the writ”.

9 In line 19, delete “real” in both places.

10 On page 5, delete lines 24 through 32 and insert:

11 **“SECTION 13. Notice of levy. (1) After levying on property, a sheriff shall mail or deliver**
12 **a copy of the writ of execution to each judgment debtor. If the writ is issued pursuant to**
13 **an in rem judgment against personal property, the sheriff shall mail or deliver a copy of the**
14 **writ to the person from whom the property was seized. If the writ is issued pursuant to an**
15 **in rem judgment against real property, the sheriff shall mail or deliver a copy of the writ to**
16 **the occupants of the property. The sheriff shall mail the copy of the writ to the addresses**
17 **included in the instructions to the sheriff. If the judgment debtor has not provided an ad-**
18 **dress for a person, the sheriff need not mail a copy of the writ to the person.**

19 **“(2) If the sheriff has levied on intangible property, in addition to the copy of the writ**
20 **required under subsection (1) of this section, the sheriff shall mail or deliver to the persons**
21 **described in subsection (1) of this section a copy of the notice of levy filed with the court**
22 **pursuant to section 8 (4) of this 2005 Act.**

23 **“(3) In addition to the copy of the writ required under subsection (1) of this section, the**
24 **sheriff shall mail or deliver to each judgment debtor a challenge to execution form as pro-**
25 **vided by ORS 18.512 unless the writ directs the sheriff to sell or deliver specific real or per-**
26 **sonal property pursuant to the terms of the judgment.”.**

27 In line 34, after “sale” insert “or by securing the property under section 9 of this 2005 Act for
28 later sale”.

29 In line 35, after “custody” insert “and use”.

30 On page 8, delete lines 28 and 29 and insert “of specific real property identified in a judgment
31 of foreclosure or any other judgment directing the sale of”.

32 On page 11, after line 1, insert:

33 **“(5) A person who purchases real property at an execution sale must provide the sheriff with**
34 **an address to which a redemption notice may be sent and must notify the sheriff of any change in**
35 **address until the purchaser transfers the purchaser’s interest in the property, the property is re-**

1 deemed or the time allowed for redemption expires, whichever occurs first. Any person who there-
2 after acquires the purchaser's interest in the property must notify the sheriff of the transfer, provide
3 the sheriff with an address to which a redemption notice may be sent and notify the sheriff of any
4 change in address until there is a another transfer, the property is redeemed or the time allowed for
5 redemption expires, whichever occurs first.”.

6 In line 9, after the period insert “The sheriff may not postpone the execution sale to a date later
7 than the final date for return on the writ of execution under section 6 of this 2005 Act.”.

8 In line 17, after “Act” insert “, and the return on the writ is due on the next business day after
9 the date specified by the judgment creditor for the sale”.

10 On page 12, delete lines 12 through 19 and insert:

11 “(3) If any part of the purchase price at an execution sale is paid with a cashier's check or
12 teller's check, the sheriff shall give the purchaser a receipt for the funds in lieu of a certificate of
13 sale under section 31 of this 2005 Act. The receipt must state that the purchaser is the successful
14 bidder and must describe the property sold.”.

15 Delete lines 24 through 32 and insert:

16 “(5) If the sheriff receives verification from a financial institution within 15 days after the date
17 of the execution sale that all cashier's checks and teller's checks delivered to the sheriff for a pur-
18 chase have received final settlement, the sale is effective as of the date and hour of the sale, and
19 the purchaser has priority over any interest acquired in the real property after that time. The sheriff
20 shall thereafter:

21 “(a) Mail to the purchaser by first class mail a certificate of sale as provided under ORS 18.562
22 for all real property purchased; and

23 “(b) Deliver the net proceeds of the sale to the court administrator or other official as provided
24 by law.”.

25 In line 33, delete “subsections 8 and 9” and insert “subsection 8”.

26 On page 13, line 3, delete “to the next” and insert “three”.

27 In line 4, delete “day” and insert “days”.

28 Delete lines 5 through 12.

29 In line 13, delete “(10)” and insert “(9)”.

30 In line 17, delete “Except as provided in section 29 of this”.

31 In line 18, delete “2005 Act,”.

32 In line 19, after “any” insert “intangible property or other”.

33 On page 15, delete lines 13 through 42 and insert:

34 **“SECTION 35. Delivery and distribution of proceeds. (1) After the deduction of all sher-**
35 **iff's fees and costs allowed by law that have not been paid by the judgment creditor, the**
36 **sheriff shall deliver all net proceeds from an execution sale to the court administrator with**
37 **the sheriff's return on the writ. The court shall enter an order of distribution for the pro-**
38 **ceeds.**

39 **“(2) A judgment creditor is entitled to recover from the proceeds of the sale all of the**
40 **following costs of sale paid by the judgment creditor:**

41 **“(a) Sheriff's fees;**

42 **“(b) The cost of any title report required to determine persons entitled to notice under**
43 **section 20 (2) of this 2005 Act;**

44 **“(c) The cost of any indemnity bond required by section 12 of this 2005 Act;**

45 **“(d) Services fees that may be recovered as costs under section 19 of this 2005 Act; and**

1 “(e) Recording fees incurred pursuant to section 5 of this 2005 Act.

2 “(3) The court shall order that the costs specified in subsection (2) of this section be paid
3 before application of the remaining proceeds to satisfaction of the judgment.

4 “(4) If any proceeds from an execution sale remain after the payment of costs under
5 subsection (3) of this section and satisfaction of the judgment, the court administrator shall
6 pay the remaining proceeds as directed by the court in the order of distribution.

7 “SECTION 36. Effect of sale on judgment debtor’s or mortgagor’s title; effect of re-
8 demption by judgment debtor or mortgagor. (1) The title of a judgment debtor or mortgagor
9 to real property that is subject to redemption under sections 37a to 48 of this 2005 Act is not
10 transferred by the sale of the property at an execution sale. If a judgment debtor or
11 mortgagor, or a successor in interest to a judgment debtor or mortgagor, redeems property
12 sold at an execution sale, the right to possession of the property is restored subject to all
13 liens of record, whether arising before, on or after the sale, as though the sale had never
14 occurred.

15 “(2) If a judgment debtor or mortgagor, or a successor in interest to a judgment debtor
16 or mortgagor, redeems property sold at an execution sale, the property may not be redeemed
17 by any other person. The sheriff shall provide the redemptioner with a certificate of re-
18 demption. A certificate of redemption may be recorded in the County Clerk Lien Record for
19 the county in which the property is located.”.

20 On page 16, delete lines 7 through 45 and delete pages 17 through 21.

21 On page 22, delete lines 1 through 16 and insert:

22 “SECTION 37a. Definitions. As used in sections 37a to 48 of this 2005 Act:

23 “(1) ‘Certificate holder’ means a person who holds a certificate of sale issued under sec-
24 tion 31 of this 2005 Act or who holds a certificate of redemption issued under section 44e of
25 this 2005 Act.

26 “(2) ‘Claimant’ means a person who claims to have a right to redeem under sections 37a
27 to 48 of this 2005 Act.

28 “(3) ‘Land sale contract’ means a contract for the transfer or conveyance of an interest
29 in real property. ‘Land sale contract’ does not include earnest money agreements, prelimi-
30 nary sales agreements, options or rights of first refusal.

31 “(4) ‘Redemptioner’ means a person other than a judgment debtor who has redeemed
32 property under sections 37a to 48 of this 2005 Act.

33 “(5) ‘Redemption notice’ means a notice described under section 44a of this 2005 Act.

34 “SECTION 38. Property that may be redeemed. (1) All real property sold at an execution
35 sale may be redeemed except for a leasehold interest with an unexpired term of less than two
36 years.

37 “(2) A manufactured dwelling, as defined by ORS 446.003, may be redeemed only if the
38 manufactured dwelling is sold together with the real property on which the manufactured
39 dwelling is located.

40 “(3) The right of a seller to receive payments under a land sale contract that is sold with
41 the real property may be redeemed.

42 “(4) Except as provided in section 50 (3) of this 2005 Act, a purchaser’s interest in a land
43 sale contract may be redeemed.

44 “SECTION 39. Who may redeem. (1) Subject to subsection (3) of this section, property
45 that is described in section 38 of this 2005 Act and that is sold at an execution sale may be

1 redeemed by:

2 “(a) The judgment debtor;

3 “(b) A mortgagor whose interest in the property was sold at the execution sale;

4 “(c) Any person with a lien against the property that has a priority that is inferior to the
5 claim of the judgment creditor; or

6 “(d) The successor in interest of any person described in paragraph (a), (b) or (c) of this
7 subsection.

8 “(2) Subject to subsection (3) of this section, for the purposes of sections 37a to 48 of this
9 2005 Act:

10 “(a) All references to a judgment debtor include a mortgagor whose interest in the
11 property that was sold at the execution sale and any successor in interest to such a
12 mortgagor;

13 “(b) All references to a judgment debtor include a successor in interest to a judgment
14 debtor; and

15 “(c) A person described in subsection (1)(c) of this section, and any successor in interest
16 of that person, is a lien claimant.

17 “(3) Any person described in subsection (1) of this section who conveys all of the person’s
18 interest in property sold on execution to a successor in interest may not redeem the prop-
19 erty.

20 “SECTION 40. Time for redemption. (1) Except as otherwise provided in sections 37a to
21 48 of this 2005 Act, the ability of a judgment debtor to redeem property sold at an execution
22 sale expires unless the judgment debtor redeems the property within 180 days after the date
23 of sale.

24 “(2) Except as provided in subsection (3) of this section, the ability of a lien claimant to
25 redeem property sold at an execution sale expires unless the lien claimant redeems the
26 property within 60 days after the date of sale.

27 “(3) If any lien claimant redeems property within the time provided by subsection (2) of
28 this section, any other lien claimant may redeem the property from the redemptioner. The
29 subsequent redemption must be made within 60 days after the redemption amount specified
30 in section 41 or 42 of this 2005 Act is paid to the sheriff. Other lien claimants may thereafter
31 redeem from a preceding redemptioner, in the same manner, as long as each redemption is
32 made within 60 days after the previous redemption.

33 “SECTION 41. Redemption amount payable to purchaser. Subject to section 43 of this
34 2005 Act, a claimant may redeem property from the purchaser at an execution sale by paying
35 to the sheriff:

36 “(1) The amount paid by the purchaser at the execution sale, with interest on that
37 amount at the rate of nine percent per annum from the date of sale;

38 “(2) The amount of any taxes the purchaser has paid on the property, with interest at
39 the rate of nine percent per annum from the date of payment;

40 “(3) Any amounts necessarily expended by the purchaser to prevent waste, with interest
41 at the rate of nine percent per annum from the date of payment; and

42 “(4) Any amounts that the purchaser has paid on liens superior to the interest of the
43 purchaser, with interest at the rate of nine percent per annum from the date of payment.

44 “SECTION 42. Redemption amount payable to redemptioner. Subject to section 43 of this
45 2005 Act, a claimant may redeem property from a redemptioner by paying to the sheriff:

1 “(1) The amount paid by the redemptioner, with interest on that amount at the rate of
2 nine percent per annum from the date of payment;

3 “(2) The amount owing on the lien of the redemptioner, unless the payment is made by
4 a lien claimant and the lien claimant has a lien that has a priority that is superior to the lien
5 of the redemptioner;

6 “(3) The amount of any taxes the redemptioner has paid on the property, with interest
7 at the rate of nine percent per annum from the date of payment;

8 “(4) Any amounts necessarily expended by the redemptioner to prevent waste, with in-
9 terest at the rate of nine percent per annum from the date of payment; and

10 “(5) Any amounts that the redemptioner has paid on liens superior to the lien of the
11 redemptioner, with interest at the rate of nine percent per annum from the date of payment.

12 “SECTION 43. Setoff for rents, income and profits realized by certificate holder; certif-
13 icate holder’s lien for crops and amounts expended to prevent waste. (1) A judgment debtor
14 is entitled to a setoff against the amounts required to redeem property sold at an execution
15 sale for all rents, income and profits realized by the certificate holder from the property.

16 “(2) If the real property sold at an execution sale is farmland, the certificate holder has
17 a lien on the first crops sown or grown after the sale and for all sums reasonably expended
18 by the certificate holder in plowing, cultivating or seeding the property. The lien of the cer-
19 tificate holder is superior to all other liens except the liens provided by law for payment of
20 wages for work in cultivating the land or harvesting the crops grown on the property. If the
21 real property is not farmland, the certificate holder has a lien on the profits accruing from
22 the property during the period that the certificate holder held the land for sums necessarily
23 expended by the certificate holder to prevent waste.

24 “NOTE: Section 44 was deleted by amendment. Subsequent sections were not renumbered.

25 “SECTION 44a. Redemption notice. (1) A claimant who wishes to redeem property must
26 serve the certificate holder with a redemption notice. The notice must specify a date and
27 approximate time when the claimant will make payment to the sheriff, the redemption
28 amount calculated by the claimant and the manner in which the redemption amount was
29 calculated. The notice must include a mailing address for the claimant. The date of the re-
30 demption must be a weekday that is not a legal holiday. The time of the redemption must
31 be between the hours of 9 a.m. and 4 p.m. The notice must inform the certificate holder if
32 an accounting under section 45 of this 2005 Act is required.

33 “(2) If the claimant is a lien claimant, the notice must reflect the nature of the lien
34 claimant’s interest and the claimant shall attach to the notice copies of any documents
35 necessary to establish that interest. If the claimant is a successor in interest to another
36 person with redemption rights under section 39 of this 2005 Act, the claimant shall attach
37 to the notice copies of any documents necessary to establish how the person acquired the
38 interest. If the claimant claims to have an interest with a priority that is superior to the
39 interest of the certificate holder, the claimant shall attach to the notice copies of any docu-
40 ments necessary to establish that priority.

41 “(3) A redemption notice must be served by personal service or by first class mail. If the
42 notice is served by first class mail, service is effective on mailing. A copy of the notice may
43 be filed with the sheriff before the notice is given to the certificate holder, but must be filed
44 with the sheriff no later than seven days before the redemption date specified in the notice.
45 The notice must be served on the certificate holder not more than 30 days before the pay-

1 ment date specified in the redemption notice, and:

2 “(a) Not less than 14 days before the payment date specified in the notice, if service is
3 made by first class mail; or

4 “(b) Not less than seven days before the payment date specified in the notice, if personal
5 service is made.

6 “(4) A claimant shall submit proof of service of the notice required by this section at the
7 time the claimant pays the sheriff under section 44e of this 2005 Act.

8 “(5) If a certificate holder fails to comply with the requirements of section 25 (5) or 46a
9 of this 2005 Act, the certificate holder may not object to a redemption by reason of failure
10 to receive a redemption notice.

11 “SECTION 44b. Objection to redemption notice. (1) A certificate holder may object to a
12 redemption notice if the certificate holder asserts that the claimant is not eligible to redeem.
13 An objection under this section must be filed with the court administrator, filed with the
14 sheriff and mailed by first class mail to the claimant before the payment date specified in
15 the notice.

16 “(2) The filing of an objection under this section does not affect the requirement of pay-
17 ment of the redemption amount specified in the redemption notice under section 44e of this
18 2005 Act.

19 “SECTION 44c. Response to redemption notice. (1) A certificate holder shall respond to
20 a redemption notice if:

21 “(a) The notice requests an accounting under section 45 of this 2005 Act; or

22 “(b) The certificate holder objects to the redemption amount specified in the notice.

23 “(2) A response to a redemption notice must be served by personal service or by first
24 class mail. If the response is served by first class mail, service is effective on mailing. A copy
25 of the response may be filed with the sheriff before the response is given to the claimant,
26 but must be filed with the sheriff before the payment date specified in the notice. The re-
27 sponse must be served on the claimant before the payment date specified in the notice.

28 “(3) If the redemption notice requests an accounting, the accounting must be attached
29 to the response given under this section.

30 “(4) If the certificate holder objects to the redemption amount specified in the notice
31 because the certificate holder claims additional amounts are owing under section 41 or 42
32 of this 2005 Act, the response must include all information specified in section 45 (1)(a) to (c)
33 of this 2005 Act.

34 “(5) A response filed under this section must include a statement of the amount claimed
35 as the proper redemption amount after deductions or additions by reason of any accounting
36 provided with the response or by reason of additional amounts claimed under subsection (4)
37 of this section.

38 “(6) If a claimant does not object to the amount claimed as the proper redemption
39 amount in the response, the claimant may pay the additional amounts to the sheriff within
40 seven days after the response is served on the claimant. If the additional amounts are paid
41 to the sheriff as provided in this subsection, the sheriff shall issue a certificate of redemption
42 to the claimant. If the additional amounts are not paid on the payment date specified in the
43 redemption notice, the sheriff shall issue a certificate of redemption to the claimant dated
44 as of the date that the receipt was issued under section 44e of this 2005 Act.

45 “SECTION 44d. Objection to response. (1) A claimant may object to the amount claimed

1 in the response as the proper redemption amount. An objection under this section must be
2 filed with the court administrator and mailed by first class mail to the certificate holder
3 within seven days after the response is served under section 44c of this 2005 Act.

4 “(2) The filing of an objection under this section does not affect the requirement of pay-
5 ment of the redemption amount specified in the redemption notice under section 44e of this
6 2005 Act. Payment of the amount claimed in the response waives any objection filed under
7 this section unless the claimant delivers a copy of the objection to the sheriff with the pay-
8 ment.

9 “SECTION 44e. Payment of redemption amount. (1) Except as provided in section 45 (2)
10 and (4) of this 2005 Act, unless a certificate holder has indicated a lower redemption amount
11 in the certificate holder’s response under section 44c of this 2005 Act, a claimant shall pay
12 the sheriff at least the redemption amount specified in the notice on or before the payment
13 date specified in the redemption notice. If the calculations or other documentation provided
14 to the sheriff appear irregular to the sheriff, the sheriff shall transmit the payment to the
15 court administrator with copies of all records relating to the sale that are within the sher-
16 iff’s possession.

17 “(2) The sheriff shall issue to the claimant who makes payment under this section a
18 certificate of redemption on the payment date specified in the redemption notice unless:

19 “(a) Before the payment date specified in the notice, an objection is filed with the sheriff
20 in the manner required by section 44b of this 2005 Act;

21 “(b) Before the payment date specified in the notice, a response is filed with the sheriff
22 in the manner required by section 44c of this 2005 Act, and the claimant fails to pay addi-
23 tional amounts claimed in the response on the payment date specified in the notice;

24 “(c) An objection to a response is delivered to the sheriff with the payment in the manner
25 required by section 44d of this 2005 Act; or

26 “(d) The sheriff has transmitted the payment to the court administrator under sub-
27 section (1) of this section.

28 “(3) If a claimant pays the sheriff the redemption amount specified in the redemption
29 notice, but the sheriff does not issue a certificate of redemption pursuant to subsection (2)
30 of this section, the sheriff shall give the claimant a receipt for the funds in lieu of a certifi-
31 cate of redemption.

32 “(4) If a claimant does not make payment as required by subsection (1) of this section,
33 the redemption notice is of no effect.

34 “SECTION 44f. Court proceedings on objections. (1) If an objection is filed under section
35 44b or 44d of this 2005 Act, the sheriff shall transmit to the court administrator copies of
36 all records relating to the sale that are within the sheriff’s possession.

37 “(2) The court shall schedule a hearing on an objection filed under section 44b or 44d of
38 this 2005 Act as soon as possible.

39 “(3) If a certificate holder files an objection under section 44b of this 2005 Act, and the
40 court determines that the claimant is eligible to redeem, the court shall direct the sheriff
41 to issue a certificate of redemption to the claimant, dated as of the date that the receipt was
42 issued under section 44e of this 2005 Act. If the court determines that the claimant is not
43 eligible to redeem, the court shall direct the sheriff to refund all amounts paid by the
44 claimant to the sheriff.

45 “(4) If an objection is filed by a claimant under section 44d of this 2005 Act, the court

1 shall determine the proper redemption amount. If the court determines that the proper re-
2 demption amount is greater than the amount paid under section 44e of this 2005 Act, the
3 court shall direct the sheriff to issue a certificate of redemption to the claimant upon pay-
4 ment of the additional amounts plus interest within 10 days after entry of the court's order,
5 dated as of the date that the receipt was issued under section 44e of this 2005 Act. If the
6 additional amounts and interest are not paid within the time allowed, the redemption is void
7 and the sheriff shall refund to the claimant all amounts paid to the sheriff. If the court de-
8 termines that the proper redemption amount is less than the amount paid under section 44e
9 of this 2005 Act, the court shall direct the sheriff to issue a certificate of redemption to the
10 claimant, dated as of the date that the receipt was issued under section 44e of this 2005 Act,
11 and order a refund to the claimant of the amounts determined by the court to be in excess
12 of the proper redemption amount.

13 “(5) Upon issuance of a certificate of redemption under this section, the sheriff shall de-
14 liver to the certificate holder the amount determined to be the proper redemption amount.

15 “(6) If the court determines under subsection (4) of this section that the proper re-
16 demption amount is greater than the amount paid under section 44e of this 2005 Act, and
17 determines that the amount specified in the redemption notice does not represent a good
18 faith attempt to determine the proper redemption amount, the court shall enter judgment
19 against the claimant for all attorney fees incurred by the certificate holder in the pro-
20 ceedings.

21 “SECTION 45. Accounting. (1) A judgment debtor may require that a certificate holder
22 provide an accounting under this section by including a request for an accounting in the re-
23 demption notice. If a redemption notice includes a request for an accounting, the certificate
24 holder shall attach an accounting to the response given under section 44c of this 2005 Act.
25 The accounting must reflect:

26 “(a) The amount of any taxes the certificate holder has paid on the property, with in-
27 terest at the rate of nine percent per annum from the date of payment.

28 “(b) Any amounts necessarily expended by the certificate holder to prevent waste, with
29 interest at the rate of nine percent per annum from the date of payment.

30 “(c) Any amounts that the certificate holder has paid on liens superior to the lien of the
31 certificate holder, with interest at the rate of nine percent per annum from the date of
32 payment.

33 “(d) The net proceeds of rents, income or profits from the property by the certificate
34 holder while the certificate holder has been in possession of the property.

35 “(2) If a redemption notice includes a request for an accounting and the certificate holder
36 fails to respond as required by section 44c of this 2005 Act, the time for paying the redemp-
37 tion amount is automatically extended to 30 days after the redemption date specified in the
38 redemption notice or until the time specified by subsection (4) of this section if a claimant
39 files a motion under subsection (3) of this section.

40 “(3) If a redemption notice includes a request for an accounting, and the certificate
41 holder fails to respond as required by section 44c of this 2005 Act, the claimant may file a
42 motion with the court requesting an order requiring the certificate holder to show cause why
43 the certificate holder should not be held in contempt. A motion under this subsection must
44 be made not more than 28 days after the redemption notice is served on the certificate
45 holder. The claimant must deliver a copy of the motion to the sheriff.

1 “(4) If a motion is filed under subsection (3) of this section:

2 “(a) The time for redemption of the property is automatically extended to 30 days after
3 the accounting is provided by the certificate holder; and

4 “(b) The time for paying the redemption amount is automatically extended to 30 days
5 after the accounting is provided by the certificate holder.

6 “SECTION 46. Manner of payment. (1) Except as provided in this section, a sheriff shall
7 accept as payment from a claimant a cashier’s check, a teller’s check or cash. Except as
8 provided in this section, a sheriff shall accept any combination of cashier’s checks, teller’s
9 checks or cash that is adequate to pay the redemption amount.

10 “(2) A sheriff shall accept a cashier’s check or teller’s check as payment only if the
11 cashier’s check or teller’s check is made payable to the sheriff and is drawn on a financial
12 institution that is authorized to do business under the laws of Oregon or the United States.
13 If any part of the purchase price at an execution sale is paid with a cashier’s check or
14 teller’s check, the sheriff shall give the purchaser a receipt for the funds in lieu of a certif-
15 icate of redemption under section 31 of this 2005 Act.

16 “(3) If any part of the redemption amount is paid with a cashier’s check or teller’s check,
17 the sheriff shall deposit the check in a financial institution not later than the end of the first
18 business day after the day on which the check is received. The check must be deposited in
19 a separate account.

20 “(4) If the sheriff receives verification from a financial institution within 15 days after
21 the date of the sale that all cashier’s checks and teller’s checks delivered to the sheriff for
22 the redemption have received final settlement, and the sheriff is required to give a certificate
23 of redemption under section 44e of this 2005 Act, the sheriff shall mail to the claimant by
24 first class mail a certificate of redemption and deliver to the certificate holder all amounts
25 paid to the sheriff. If the sheriff is not required to give a certificate of redemption under
26 section 44e of this 2005 Act, the sheriff shall give the person tendering the amounts a receipt
27 for the funds in lieu of a certificate of redemption, and shall deliver a certificate of redemp-
28 tion and the amounts paid to the sheriff only as provided in section 44f of this 2005 Act after
29 a final decision by the court.

30 “(5) If the sheriff does not receive verification from a financial institution within 15 days
31 after the checks are deposited that all cashier’s checks and teller’s checks delivered to the
32 sheriff have received final settlement, the redemption is void and the sheriff shall return to
33 the claimant any cash tendered by the claimant and any amounts received for cashier’s
34 checks and teller’s checks for which final settlement was received, less any bank charges
35 incurred for cashier’s checks or teller’s checks and any other amount allowed by law.

36 “(6) As used in this section:

37 “(a) ‘Cashier’s check’ has the meaning given that term in ORS 73.0104.

38 “(b) ‘Financial institution’ has the meaning given that term in ORS 706.008.

39 “(c) ‘Teller’s check’ has the meaning given that term in ORS 73.0104.

40 “SECTION 46a. A redemptioner must provide the sheriff with an address to which a re-
41 demption notice may be sent and must notify the sheriff of any change in address until the
42 redemptioner transfers the redemptioner’s interest in the property, the property is redeemed
43 or the expiration of the time allowed for another redemption, whichever occurs first. Any
44 person who acquires the redemptioner’s interest in the property must notify the sheriff of
45 the transfer, provide the sheriff with an address to which a redemption notice may be sent,

1 and notify the sheriff of any change in address until there is a another transfer, the property
2 is redeemed or the expiration of the time allowed for another redemption, whichever occurs
3 first.

4
5 “(Waste)
6

7 “**SECTION 47. Court may restrain waste.** Upon motion of a claimant, or a certificate
8 holder who is not in possession of the property, the court may restrain waste of the real
9 property sold at an execution sale. A person in possession of the real property does not
10 commit waste of the property by continuing to use the property in the same manner in which
11 the property was used before the execution sale, by engaging in the ordinary course of
12 husbandry on the property or by making necessary repairs to buildings.

13
14 “(Sheriff’s Deed)
15

16 “**SECTION 48. Sheriff’s deed.** (1) Unless the property is redeemed by the judgment debtor,
17 upon request of the certificate holder and payment of the fee required by ORS 21.410 (1)(c),
18 the sheriff shall execute and deliver a deed for real property sold at an execution sale. The
19 deed shall convey the property to the certificate holder. The deed shall be delivered to the
20 certificate holder as soon as possible.

21 “(2) Notwithstanding subsection (1) of this section, the court may direct the sheriff to
22 execute a deed to a certificate holder before the expiration of the time allowed for redemp-
23 tion if the purchaser or redemptioner establishes that the certificate holder has acquired the
24 rights of all persons entitled to redeem.”.

25 In line 43, delete “contract for the sale of real property” and insert “land sale contract, as de-
26 fined by section 37a of this 2005 Act.”.

27 On page 23, line 2, delete “contract for the sale of real property” and insert “land sale contract,
28 as defined by section 37a of this 2005 Act.”.

29 Delete lines 6 through 24 and insert:

30 “(3) There is no right of redemption if a purchaser’s interest in a land sale contract, as defined
31 by section 37a of this 2005 Act, is sold at an execution sale pursuant to a judgment enforcing the
32 seller’s rights under the contract and if the judgment directing the sale of the purchaser’s interest
33 indicates that the purchaser’s interest is sold without redemption rights.

34 “**SECTION 51. Seller’s right to receive payments under land sale contract.** (1) Except as
35 provided by this section, the right of a seller to receive payments under a land sale contract,
36 as defined by section 37a of this 2005 Act:

37 “(a) May not be sold pursuant to a writ of garnishment;

38 “(b) May be sold only under a writ of execution in conjunction with a sale of the seller’s
39 interest in the real property; and

40 “(c) Must be levied on and sold in the same manner as provided for real property under
41 sections 1 to 54 of this 2005 Act.

42 “(2) This section does not affect the ability of a judgment creditor to garnish payments
43 owed to a seller under a land sale contract, as defined by section 37a of this 2005 Act, that
44 are due within 45 days after the writ of garnishment is delivered, as provided by ORS 18.685
45 (5).”.

1 In line 38, after “contract,” insert “as defined by section 37a of this 2005 Act.”
2 On page 26, line 21, delete “contract for the sale of real property” and insert “land sale con-
3 tract, as defined by section 37a of this 2005 Act”.
4 On page 27, after line 5, insert:
5 “**SECTION 58a.** ORS 18.406 is amended to read:
6 “18.406. ORS 18.395 to 18.422 do not apply to construction liens for work, labor or material done
7 or furnished exclusively for the improvement of the homestead property, to purchase money liens
8 [or], to mortgages lawfully executed, **or to the enforcement of a seller’s rights under a land sale**
9 **contract, as defined by section 37a of this 2005 Act.”.**
10 On page 29, delete lines 10 through 13 and insert:
11 “(5) A challenge to execution must be delivered in the manner provided by subsection (4) of this
12 section within 30 days after the property is levied on as described in section 8 of this 2005 Act or
13 before the property is sold on execution, whichever occurs first.”.
14 On page 30, delete lines 5 and 6 and insert:
15 “(e) The right of a seller under a land sale contract, as defined by section 37a of this 2005 Act,
16 to receive payments that are due more than 45 days after the writ of garnishment is delivered.”.
17 On page 37, line 37, delete “38 to 46” and insert “37a to 48”.
18
