

Chapter 3:

Judgment and Decree/Redemption

Granting Judgment and Decree— ORS 312.090

The court orders the delinquent taxes and the liens be foreclosed by the judgment and decree. Granting of judgment and decree occurs not less than 30 days after publication of the foreclosure list. If an objection has been filed, judgment and decree is granted after the summary hearing is held. The judgment covers each property on the application unless the court determines otherwise. The judgment bears the legal rate of simple daily interest of nine (9) percent per annum (ORS 82.010) on the judgment amount from the date the judgment and decree is entered.

Upon the issuing of the judgment and decree, the property is “sold” to the county and the two-year redemption period begins. The “sale” is validated by the certified copy of the judgment and decree.

Properties “sold” to the county under ORS 312.100 are held by the county for a period of two years, unless redeemed sooner. Any property held by the county during this redemption period is subject to assessment and taxation as if it had continued in private ownership.

During the two-year redemption period no name changes should occur. Value changes should not be made on the account for the years in foreclosure. The owner listed in the judgment and decree cannot sell the property; it has been sold to the county. The owner has the right of redemption.

The owner listed in the judgment and decree has the right of possession during the redemption period. If any waste against the property is committed the right of possession is forfeited to the county (ORS 312.180).

Payment During Redemption Period— ORS 312.120

During the two-year redemption period the property can be redeemed by:

- Any person having an interest in the property as of the date of the judgment and decree;
- An heir of a person with an interest in the property;
- A holder of a lien of record on the property, such as a mortgage company; or
- A municipal corporation with a lien on the property, such as a city or sewer district.

Redemption occurs when the full amount under judgment and decree is paid. That full amount is the delinquent taxes as shown in the published foreclosure list

and the accrued interest on those taxes, plus a penalty of five percent of that total, the accrued judgment interest of nine percent (ORS 82.010) per year calculated daily from the date judgment and decree is issued and a fee. The fee is \$50 if the property is redeemed prior to the mailing of the certified letter giving notice of the end of the redemption period under ORS 312.125. If the property is redeemed after the mailing of the certified notice, the fee is the greater of \$50 or the actual cost to the county for a title search and other expenses related to obtaining a title search. See page 23 for an example of the redemption calculation.

Any taxes on property assessed after the judgment and decree would not have to be paid to redeem the property; they would still be owed and be a lien outstanding against the account.

There is no provision for partial payment during the redemption period. There is nothing in the law that allows the tax collector to accept “installment payments” to redeem the property from judgment and decree (Attorney General letter of advice, August 12, 1964).

Payment by a lienholder to remove the property from the foreclosure process gives the lienholder an additional lien; the lienholder does not acquire title to the property. The lienholder may then initiate a separate foreclosure action.

Redemption—ORS 312.130

If, at the time of judgment and decree, a lienholder has a mortgage or lien covering a part of the real property included in the judgment and decree, the lienholder may redeem that part by paying the proportionate amount applicable under the judgment and decree and having the property segregated (Attorney General letter of advice, August 1, 1990).

A payment redeeming property in full releases all claims of the county under the judgment and decree. Upon receipt of money, the tax collector must make entries on the records showing that the delinquent taxes, interest and penalties have been paid.

Redemption Certificate—ORS 312.130

The tax collector provides a certificate of redemption to the person redeeming the property. The certificate must contain:

1. A description of the property;
2. The total amount of taxes, interest, and penalties paid;

3. The date of entry of the judgment and decree; and
4. Signature of tax collector or deputy.

The person who redeems the property is responsible for filing the certificate with the clerk of the court that issued the judgment and decree. The clerk enters the filing of the certificate of redemption in the court register and files the certificate of redemption as part of the case file in the foreclosure proceeding. No separate fee is to be charged for the issuance of a certificate of redemption. The certificate of redemption is the satisfaction of the recorded judgment. No separate satisfaction need be filed to clear the judgment.

Document 7: Example of Redemption Certificate (page 22)

Reduced Redemption Period— ORS 312.122

The redemption period on specific parcels of real property may be shortened if the property is subject to waste or abandonment. A county wanting to use this method must pass an ordinance requiring the tax collector to deed the parcels to the county and providing the collector the means to accomplish the deed transaction.

At least one of two conditions must exist to activate this process:

1. The property is subjected to waste which results in the forfeiture to the county of the right to possess the property under ORS 312.180, or
2. The property is not occupied by anyone named in the county's records as having a lien or interest in the property for a period of six consecutive months and the property is suffering substantial depreciation or will suffer substantial depreciation if it is not occupied.

The county determines if the property may be subject to waste or abandonment and sets a hearing to determine if the property should be deeded to the county for either of the two reasons listed. Procedures for the hearing must be compatible with due process requirements and must be stated in the county's ordinance.

The owner and any person with a recorded interest are notified of the hearing and are provided an opportunity to be heard. The county decides whether the property is subject to waste or abandonment. A period of 30 days is allowed after the hearing for anyone with a legal interest in the property to redeem it.

If the property is not redeemed and the county has determined that the property is subject to waste or abandonment, the county governing body directs the tax collector to deed the property to the county. All rights of redemption terminate when the property is deeded to the county.

Notice of Redemption Expiration— ORS 312.125

The tax collector must send a notice of the end of the redemption period to anyone who has an interest in the property. The notice must be sent at least one year prior to the end of the redemption period. The notice must be sent to any person or entity with an interest showing in the "records of the county" as of the date the foreclosure was instituted.

The notice must contain the following:

- The date of the judgment and decree;
- The date the period of redemption expires;
- A warning that the property ordered sold under the judgment and decree, unless sooner redeemed, will be deeded to the county immediately when the period of redemption expires and that every right or interest of any person in the property will be forfeited forever to the county;
- A legal description of the property and tax account number; and
- The name of the owner as it appears on the latest tax roll.

The notice must be sent by both regular first class mail and by certified mail. Note that once the certified letter has been sent, the redemption fee changes from \$50 to the **greater** of \$50 or the actual cost to the county for a title search and other expenses related to obtaining the title search (ORS 312.120(5)). These notices must be sent to the best address that the tax collector can find.

Document 8: Example of Notice to Record Owner Regarding Expiration of Redemption Period (page 24)

The term "records of the county" is defined in ORS 312.125 (7). These records include the records of interests in real property required to be kept by the county clerk. Some examples are:

- Grantor-grantee indexes.
- Deeds and mortgages.
- Plats, contracts, powers of attorney.
- Records of federal tax liens.
- Records of statutory tax liens.
- Assignments, certificates of sale, death certificates.
- County Clerk Lien Record.

Also included in records of the county for purposes of owner/lienholder notification are records of the circuit, district and county courts and probate and juvenile court records.

Oregon statutes do not require that a lienholder title search be done on properties during the redemption period. Some counties contract with various title companies to provide a title search on those parcels of

property remaining on the foreclosure list before deeding to ensure that the requirements of ORS 312.125 have been met. These costs can now be recovered if the property is redeemed after the mailing of the certified letter under this subsection.

Published Notice of Expiration— ORS 312.190

The county must publish a general notice that tells when the redemption period expires. This notice must be published in two weekly issues of a designated newspaper. It cannot be published more than 30 days nor less than 10 days before the redemption period expires. The notice must include:

- The date of judgment and decree;
- The date the redemption period expires; and
- A warning that all the properties ordered sold under the judgment and decree, unless sooner redeemed, will be deeded to the county immediately

when the redemption period expires and that every right or interest of any person in the properties will be forfeited forever to the county.

It is **not** necessary to include a description of the properties or the names of the respective owners.

Proof of publication must be attached to and made a part of the deed issued to the county.

Document 9: Example of the Public Notice of Expiration of Redemption Period (page 25)

Deed—ORS 312.200

The properties not redeemed in the two-year redemption period must be deeded to the county by the tax collector. The deed conveys the title on the properties to the county. Once title to the properties is granted to the county all rights of redemption are terminated.