

**POLICY ON SURPLUS PROCEEDS FROM THE SALE OF TAX FORECLOSED  
REAL PROPERTY**

**A. Definitions**

1. "Acquisition Date" means the date on which a TFRP is deeded to the County following foreclosure proceedings.
2. "Governing Body" means the governing body of Crook County, whether entitled County Court, Board of County Commissioners, or such other name.
3. "Claim Period" means the period from the Acquisition Date to 180 days after the Sale Date, except as provided in sections B.2. and B.3., below.
4. "County" means Crook County, Oregon.
5. "Prior Owner" means the Record Owner, or their heirs, assigns, or successors as demonstrated through court order and/or other legal document(s).
6. "Property Costs" means any/all taxes, interest, penalties, fees, a 10% of sale price property management fee, and other actual property maintenance and supervision expenses incurred by County, pursuant to ORS 275.275(1)(a)-(c). Property Costs shall also include any administrative fees paid by purchaser pursuant to a land sale contract.
7. "Record Owner" means the individual(s) and/or entity(ies) identified as the owner in tax records at the time of foreclosure.
8. "Sale Date" means the earlier of the date on which title to property is conveyed from County to a purchaser or the date on which a memorandum of land sale contract is recorded. Sale Date shall also include the date on which the County issues a Governing Body Order retaining the property for public use.
9. "Tax Foreclosed Real Property" ("TFRP") means real property acquired by County as a result of tax foreclosure following expiration of the period of redemption.

**B. Eligible Property.**

1. This policy shall apply to all TFRP acquired on or after the date the policy is enacted.
2. For TFRP acquired on or after May 25, 2017, and sold on or after the date the policy is enacted, the claim period shall be 180 days from the Sale Date.
3. For TFRP acquired on or after May 25, 2017, and sold prior to the date the policy is enacted, the claim period shall be 180 days from the date the policy is enacted.
4. TFRP acquired by County prior to May 25, 2017, shall be excluded from this policy.

**C. Process for Selling or Retaining Tax Foreclosed Real Property**

1. Within sixty (60) days of Acquisition Date, County shall extend an offer to sell the TFRP to the Record Owner, pursuant to ORS 275.180. Record Owner shall have thirty (30) days to enter into an agreement with County to purchase the property.
2. If no agreement is reached with Record Owner, within one (1) year of the Acquisition Date, the Governing Body shall issue an Order determining whether to retain or sell the TFRP. If applicable, the Governing Body may determine whether to designate the property to Parks or Forestry.
3. TFRP to be sold shall be placed on a Sheriff's Sale, except those with a real market value less than \$15,000 and unsuited for development pursuant to ORS 275.225(1).

- i. The minimum bid shall be set at not less than the total Property Costs at the time of the sale, unless the Governing Body determines it is in the best interest of the County to set a lower minimum bid.
4. TFRP not sold at auction or otherwise exempt from the auction requirement shall be available for private sale, placed on a Sheriff's Sale, and/or retained by County at the Governing Body's discretion.
  - i. The sale price shall be not less than the total Property Costs at the time of the sale, unless the Governing Body determines it is in the best interest of the County to set a lower minimum price.
5. The Governing Body Order authorizing sale of TFRP shall distribute amounts for any known Property Costs at the time of sale to the appropriate account(s). Any remaining proceeds shall be placed in a designated fund for further distribution pursuant to this policy.

**D. Notice of Right to Claim Proceeds from Sale of TFRP**

1. General notice of the right to submit a claim for proceeds from Sale of TFRP shall be provided as follows:
  - i. As part of any notice to any person or entity entitled to redeem the property pursuant to ORS 312.125.
  - ii. As part of the general notice of expiration of redemption period pursuant to ORS 312.190.
  - iii. Included in the Sheriff's notice of sale pursuant to ORS 275.120.
2. County staff may undertake any additional or supplementary notices as may be necessary or useful to cure any defect or error.

**E. Distribution of Proceeds from Sale of TFRP**

1. Proceeds from the sale of TFRP shall be distributed in the following order:
  - i. To County in the amount of Property Costs.
  - ii. To Prior Owner(s) who have submitted to the Governing Body Office a completed claim form (Appendix A) and W-9 within the Claim Period. Where there is a dispute among Prior Owners, a court order or arbitration shall be required to define apportionment.
    - (1) The burden of demonstrating entitlement to surplus proceeds shall be on the Prior Owner.
    - (2) Where there is more than one Prior Owner, any individual Prior Owner may submit a claim form on behalf of all Prior Owners if such claim identifies all other Prior Owners entitled to claim surplus proceeds, includes proof of notice to all other Prior Owners, and includes either their approval of or court order as to distribution apportionment.
    - (3) Upon distribution of proceeds to one or more Prior Owners any future claim for proceeds shall be barred.
    - (4) Prior Owners who purchased the property from County shall not be entitled to surplus proceeds.

(5) Claim forms shall be retained for seven (7) years from the date of receipt.

iii. Any remaining proceeds shall be distributed pursuant to ORS 275.275(3)(b), or to Parks or Forestry if so designated.

2. Proceeds received pursuant to a land sale contract shall be applied in the order described in section D.1., except that any amounts paid to Prior Owner(s) or taxing districts pursuant to section D.1.iv. shall be distributed annually less any additional Property Costs incurred since the last distribution.
3. In the event a cash sale or land sale contract is not completed and title is not conveyed to the purchaser, any proceeds received shall be applied in the order described in section D.1. Any additional proceeds received from a subsequent sale shall be distributed in the same manner.
4. Upon expiration of the Claim Period any remaining proceeds from the sale of TFRP shall be distributed pursuant to this policy.

**APPENDIX 1**  
**Request for Surplus Proceeds - Instructions**

If you believe you are entitled to surplus proceeds as a result of a tax foreclosure sale, complete this form and mail or otherwise deliver it, along with the required attachments and documentation outlined below, to the following address:

Crook County,  
Attn: Surplus Proceeds  
300 NE Court St.  
Prineville, OR 97754

Surplus Proceeds shall only be distributed to the Prior Owner of the property. **“Prior Owner”** means the Record Owner, or their heirs, assigns, or successors as demonstrated through court order and/or other legal document(s). **“Record Owner”** means the individual(s) and/or entity(ies) identified as the owner in tax records at the time of foreclosure. The burden of demonstrating entitlement to surplus proceeds is on the Prior Owner.

Where there is more than one Prior Owner, any single Prior Owner may submit a single claim form on behalf of all Prior Owners, if such claim identifies all other Prior Owners, includes proof of notice to all other Prior Owners, and includes either their approval of or court order as to distribution apportionment. For each additional Prior Owner an Additional Prior Owner Attachment must be included along with documentation of their entitlement to claim surplus proceeds.

A Prior Owner submitting this request must:

1. Attach a copy of the property deed or other record showing prior ownership. Only one copy is required if Prior Owner consists of multiple parties.
2. Attach a copy of the front and back of current photo identification (e.g., driver’s license). Provide proof of current mailing address if different from current photo identification.
3. If applicable, attach a copy of any court order or legal document establishing Prior Owner status for all Prior Owners.
4. If you are claiming surplus proceeds on behalf of another person, please provide documentation of legal authority to do so, such as a power of attorney, conservator, guardian, etc.
5. If you are claiming property as an heir to a deceased person, provide documentation such as a death certificate or obituary. If the probate is open, include original court-certified copies of Letters of Administration or Affidavit Claiming Successor. If the probate is closed, include an original court certified copy of the Final Decree of Distribution listing the heirs. Note: Crook County requires probate on claims for surplus funds valued at \$5,000 or more.
6. Sign the completed form in the presence of a notary public.

REQUEST FOR SURPLUS PROCEEDS OF A TAX FORECLOSURE SALE

**Section 1. Property Information**

Property ID: \_\_\_\_\_ Map/Tax Lot: \_\_\_\_\_

Property Address: \_\_\_\_\_

Prior Owner (identify all parties): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**Section 2. Prior Owner Information**

More than one Prior Owner – see Additional Prior Owner Attachment(s)

Full Legal Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

Status:  Record Owner      OR       Heir, Assign, or Successor (documentation attached)

**Section 3. Surplus Proceeds Distribution**

All proceeds should be distributed to the Prior Owner as a whole (one check issued to Prior Owner)

OR

Proceeds should be distributed to the Prior Owner parties as follows:

Name	Address	% of Proceeds

**Section 4.**

I declare under penalty of perjury and/or mail fraud:

- That I have reviewed this all sections of this Request for Surplus Proceeds.
- That to the best of my knowledge I am entitled to the excess funds described herein and agree to indemnify Crook County and hold it harmless for and from all claims, loss, costs, damages,

and expenses that Crook County may sustain by turning these funds over to me, or of its refusal to pay this claim or any part of it to any person(s).

- That I have identified any and all other Prior Owners, provided notice to them of this claim, and have either obtained their approval for the distribution described in Section 3 (as evidenced through the Additional Prior Owner Attachments) or have obtained and attached a court order for distribution.
- That all statements in this Request for Surplus Proceeds, any Additional Prior Owner Attachments, or other documents attached to this request are true and correct.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

State of \_\_\_\_\_ )

) ss

County of \_\_\_\_\_ )

This record was acknowledged before me on \_\_\_\_\_, 20\_\_ by \_\_\_\_\_

\_\_\_\_\_  
IN WITNESS WHEREOF, I have hereunto set my hand and seal.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

ADDITIONAL PRIOR OWNER ATTACHMENT

Full Legal Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

Status:  Record Owner OR  Heir, Assign, or Successor (documentation attached)

Notice of claim for surplus proceeds was provided to this Prior Owner (attach proof of notice):

On (date): \_\_\_\_\_ By (person/entity providing notice): \_\_\_\_\_

Method of Notice: \_\_\_\_\_

**Distribution of Surplus Proceeds**

A court order regarding allocation of surplus proceeds is attached.

OR

The Prior Owner identified above agrees to receive the following allocation of proceeds (identified Prior Owner must sign below in the presence of a notary):

\_\_\_\_\_% of surplus proceeds OR \$\_\_\_\_\_ lump sum from surplus proceeds

I, \_\_\_\_\_ (Prior Owner identified above) declare under penalty of perjury and/or mail fraud:

- That I have reviewed this all sections of the Request for Surplus Proceeds.
- That to the best of my knowledge I am entitled to the excess funds described herein and agree to indemnify Crook County and hold it harmless for and from all claims, loss, costs, damages, and expenses that Crook County may sustain by turning these funds over to me, or of its refusal to pay this claim or any part of it to any person(s).
- That I agree to the Distribution of Proceeds indicated herein.

\_\_\_\_\_  
Signature Date

State of \_\_\_\_\_ )

County of \_\_\_\_\_ ) ss

County of \_\_\_\_\_ )

This record was acknowledged before me on \_\_\_\_\_, 20\_\_\_\_\_

by \_\_\_\_\_.

IN WITNESS WHEREOF, I have hereunto set my hand and seal.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_