

Josephine County  
Administrative Policies & Procedures

Adopted: November 29, 2023  
Effective: November 29, 2023

Chapter F  
Legal  
Policy 06

**SUBJECT: Disposition of Tax Foreclosed Real Property**

- 1.0 Purpose:** To establish County policy and procedures regarding the County’s disposition of tax foreclosed real property.
- 2.0 General Policy:** It is the policy of the Board of County Commissioners to make a timely decision regarding the disposition of real property acquired through tax foreclosure and to ensure that proceeds from such disposition are properly distributed.
- 3.0 Policy Guidelines/Procedures**
- A. Definitions**
1. “Acquisition Date” means the date on which a TFRP is deeded to the County following foreclosure proceedings.
  2. “Board” means the Josephine County Board of Commissioners.
  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 Josephine County, Oregon.
  5. “Heir(s)” means a person or entity who succeeds to the rights and occupies the place of, or who is entitled to succeed to the estate of a decedent, whether by act of the decedent or by operation of law.
  6. “Prior Owner” means the Record Owner, or their Heir(s) or Successor(s), as demonstrated through court order and/or other legal document(s) establishing succession.
  7. “Property Costs” means any/all taxes, interest, penalties, fees; a 10% of sale price property management fee; other actual property maintenance and supervision expenses incurred by County, pursuant to ORS 275.275(1)(a)-(c); any municipal corporation local improvement lien, plus interest and penalties as of the Sale Date, pursuant to ORS 275.275(3)(a)(A); and any administrative fees paid by purchaser pursuant to a land sale contract.
  8. “Real Market Value” (“RMV”) means the lower of RMV established by the tax assessor for the year in which the TFRP was acquired or the year of the Sale Date.
  9. “Record Owner” means the individual(s) and/or entity(ies) identified as the owner in tax records at the time of foreclosure.
  10. “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 Board Order retaining the property for public use.

11. "Successor(s)" means a person or entity that acquires the assets and liabilities of a business entity by merger, takeover, or dissolution.
12. "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. Such offer shall be sent via certified mail to the last known mailing address of Record Owner, or through any other known and documentable means of communication. 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 Board shall issue an Order determining whether to retain or sell the TFRP. If applicable, Board 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 Board 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 Board's discretion.
  - i. The sale price shall be not less than the total Property Costs at the time of the sale, unless the Board determines it is in the best interest of the County to set a lower minimum price.
5. The Board 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.

## **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 Board Office a completed claim form (Appendix A) and W-9 within the Claim Period.
    - (1) Surplus Proceeds paid to Prior Owner shall not exceed the lower of:
      - a. The sale price less any Property Costs; or
      - b. The RMV of the property less any Property Costs.Any remaining funds shall be distributed pursuant to paragraph (iii) below.
    - (2) The burden of demonstrating entitlement to surplus proceeds shall be on the claimed Prior Owner. Where it is not clear to County that the claimant meets the definition of Prior Owner and is entitled to receive surplus proceeds, a court order as to the status of the claimant shall be required to demonstrate entitlement.
    - (3) 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.
    - (4) Upon distribution of proceeds to one or more Prior Owners any future claim for proceeds shall be barred.
    - (5) Prior Owners who purchased the property from County shall not be entitled to surplus proceeds.
    - (6) 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)(a)(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.

## **F. Payment on Claims for Retained TFRP**

1. Where TFRP is retained by County pursuant to Board Order, the County shall place funds in the designated fund equal to the RMV, or an appraisal, less any Property Costs. If a claim is submitted, the funds shall be distributed pursuant to E.1(1)-(ii). If there is no claim submitted within the Claim Period, the funds shall be returned to the County fund from which they were provided.

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

If you believe you are entitled to surplus proceeds from tax foreclosed real property, complete this form and mail or otherwise deliver it, along with the required attachments and documentation outlined below, to the following address:

Board of County Commissioners  
500 NW Sixth St., Dept. 6  
Grants Pass, OR 97526

Surplus Proceeds shall only be distributed to the Prior Owner of the property. **“Prior Owner”** means the Record Owner, or their Heir(s) or Successor(s) as demonstrated through court order and/or other legal document(s) establishing succession. **“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. 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: Josephine County requires probate on claims for surplus funds valued at \$5,000 or more.
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. Sign the completed form in the presence of a notary public.

**REQUEST FOR SURPLUS PROCEEDS**

**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 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 surplus funds described herein and agree to indemnify Josephine County and hold it harmless for and from all claims, loss, costs, damages,

and expenses that Josephine 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 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 surplus funds described herein and agree to indemnify Josephine County and hold it harmless for and from all claims, loss, costs, damages, and expenses that Josephine 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 \_\_\_\_\_ )

) 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: \_\_\_\_\_