

House Bill 3190

Sponsored by Representative SCOTT (at the request of Joseph Gagnier)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Modifies eligibility for homestead property tax deferral. Increases maximum household income of person or persons making claim for deferral to \$40,000. Provides for recomputation of maximum household income based on U.S. City Average Consumer Price Index.

A BILL FOR AN ACT

1
2 Relating to deferral of property taxes; creating new provisions; and amending ORS 311.668 and
3 311.689.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 311.668 is amended to read:

6 311.668. (1)(a) Subject to ORS 311.670, an individual, or two or more individuals jointly, may
7 elect to defer the property taxes on their homestead by filing a claim for deferral with the county
8 assessor after January 1 and on or before April 15 of the first year in which deferral is claimed if:

9 (A) The individual, or, in the case of two or more individuals filing a claim jointly, each indi-
10 vidual, is 62 years of age or older on April 15 of the year in which the claim is filed; or

11 (B) The individual is a disabled person on April 15 of the year in which the claim is filed. In the
12 case of individuals filing a claim jointly, only one individual need be a disabled person in order to
13 make the election.

14 (b) In order to make the election described in paragraph (a) of this subsection, the individual
15 must have, or in the case of two or more individuals filing a claim jointly, all of the individuals to-
16 gether must have household income, as defined in ORS 310.630, for the calendar year immediately
17 preceding the calendar year in which the claim is filed of less than [*\$32,000*] **\$40,000**.

18 (c) The county assessor shall forward each claim filed under this subsection to the Department
19 of Revenue which shall determine if the property is eligible for deferral.

20 (2) When the taxpayer elects to defer property taxes for any year by filing a claim for deferral
21 under subsection (1) of this section, it shall have the effect of:

22 (a) Deferring the payment of the property taxes levied on the homestead for the fiscal year be-
23 ginning on July 1 of such year.

24 (b) Continuing the deferral of the payment by the taxpayer of any property taxes deferred under
25 ORS 311.666 to 311.701 for previous years which have not become delinquent under ORS 311.686.

26 (c) Continuing the deferral of the payment by the taxpayer of any future property taxes for as
27 long as the provisions of ORS 311.670 are met.

28 (3) If a guardian or conservator has been appointed for an individual otherwise qualified to ob-
29 tain deferral of taxes under ORS 311.666 to 311.701, the guardian or conservator may act for such
30 individual in complying with the provisions of ORS 311.666 to 311.701.

31 (4) If a trustee of an inter vivos trust which was created by and is revocable by an individual,

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 who is both the trustor and a beneficiary of the trust and who is otherwise qualified to obtain a
 2 deferral of taxes under ORS 311.666 to 311.701, owns the fee simple estate under a recorded instru-
 3 ment of sale, the trustee may act for the individual in complying with the provisions of ORS 311.666
 4 to 311.701.

5 (5) Nothing in this section shall be construed to require a spouse of an individual to file a claim
 6 jointly with the individual even though the spouse may be eligible to claim the deferral jointly with
 7 the individual.

8 (6) Any person aggrieved by the denial of a claim for deferral of homestead property taxes or
 9 disqualification from deferral of homestead property taxes may appeal in the manner provided by
 10 ORS 305.404 to 305.560.

11 (7)(a) For each tax year beginning on or after July 1, [2002] **2009**, the Department of Revenue
 12 shall recompute the maximum household income that may be incurred under an allowable claim for
 13 deferral under subsection (1)(b) of this section. The computation shall be as follows:

14 (A) Divide the average U.S. City Average Consumer Price Index for the first six months of the
 15 current calendar year by the average U.S. City Average Consumer Price Index for the first six
 16 months of [2001] **2007**.

17 (B) Recompute the maximum household income by multiplying [32,000] **\$40,000** by the appro-
 18 priate indexing factor determined as provided in subparagraph (A) of this paragraph.

19 (b) As used in this subsection, "U.S. City Average Consumer Price Index" means the U.S. City
 20 Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of
 21 Labor Statistics of the United States Department of Labor.

22 (c) If any change in the maximum household income determined under paragraph (a) of this
 23 subsection is not a multiple of \$500, the increase shall be rounded to the nearest multiple of \$500.

24 **SECTION 2.** ORS 311.689 is amended to read:

25 311.689. (1) Notwithstanding ORS 311.668 or any other provision of ORS 311.666 to 311.701, if
 26 the individual or, in the case of two or more individuals electing to defer property taxes jointly, all
 27 of the individuals together, or the spouse who has filed a claim under ORS 311.688, has federal ad-
 28 justed gross income that exceeds [32,000] **\$40,000** for the tax year that began in the previous cal-
 29 endar year, then for the tax year next beginning, the amount of taxes for which deferral is allowed
 30 shall be reduced by \$0.50 for each dollar of federal adjusted gross income in excess of [32,000]
 31 **\$40,000**.

32 (2) Prior to June 1 of each year, and notwithstanding ORS 314.835, the Department of Revenue
 33 shall review returns filed under ORS chapter 314 and 316 to determine if subsection (1) of this sec-
 34 tion is applicable for a homestead for the tax year next beginning. If subsection (1) of this section
 35 is applicable, the department shall notify by mail the taxpayer or spouse electing deferral, and the
 36 taxes otherwise to be deferred for the tax year next beginning shall be reduced as provided in sub-
 37 section (1) of this section or, if federal adjusted gross income in excess of [32,000] **\$40,000** exceeds
 38 the amount of property taxes by a factor of two, the property taxes shall not be deferred.

39 (3) If the taxpayer or spouse does not file a return for purposes of ORS chapters 314 and 316
 40 and the department has reason to believe that the federal adjusted gross income of the taxpayer or
 41 spouse exceeds [32,000] **\$40,000** for the tax year that began in the previous calendar year, the de-
 42 partment shall notify by mail the taxpayer or spouse electing deferral. If, within 30 days after the
 43 notice is mailed, the taxpayer or spouse does not file a return under ORS chapter 314 or 316 or
 44 otherwise satisfy the department that federal adjusted gross income does not exceed [32,000]
 45 **\$40,000**, the department shall again notify the taxpayer or spouse, and the taxes otherwise to be

1 deferred for the tax year next beginning shall not be deferred.

2 (4) For tax years beginning on or after July 1, [2002] **2009**, the federal adjusted gross income
3 limit set forth in subsections (1) to (3) of this section shall be recomputed by multiplying [~~\$32,000~~
4 **\$40,000**] by the indexing factor described in ORS 311.668 (7)(a)(A), and rounding the amount so com-
5 puted to the nearest multiple of \$500.

6 (5) Nothing in this section shall affect the continued deferral of taxes that have been deferred
7 for tax years beginning prior to the tax year next beginning or the right to deferral of taxes for a
8 tax year beginning after the tax year next beginning if subsection (1) is not applicable for that tax
9 year for the homestead.

10 (6) As used in this section, "federal adjusted gross income" means federal adjusted gross income
11 of the individual or, in the case of two or more individuals electing to defer property tax jointly, the
12 combined federal adjusted gross income of the individuals, or the federal adjusted gross income of
13 the spouse who has filed a claim under ORS 311.688, all as determined for the tax year beginning
14 in the calendar year prior to which a determination is required under subsection (2) of this section.
15 "Federal adjusted gross income" shall be determined under the Internal Revenue Code, as amended
16 and in effect on December 31, 2004, without any of the additions, subtractions or other modifications
17 or adjustments required under ORS chapter 314 or 316.

18 (7)(a) If, after an initial determination under this section has been made by the department, upon
19 audit or examination or otherwise, it is discovered that the taxpayer or spouse had federal adjusted
20 gross income in excess of the limitation provided under subsection (1) of this section, the department
21 shall determine the amount of taxes deferred that should not have been deferred and give notice to
22 the taxpayer or spouse of the amount of taxes that should not have been deferred. The provisions
23 of ORS chapters 305 and 314 shall apply to a determination of the department under this section in
24 the same manner as those provisions are applicable to an income tax deficiency. The amount of de-
25 ferred taxes that should not have been deferred shall bear interest from the date paid by the de-
26 partment until paid at the rate established under ORS 305.220 for deficiencies. A deficiency shall
27 not be assessed under this section if notice required under this section is not given to the taxpayer
28 or spouse within three years after the date that the department has paid the deferred taxes to the
29 county. Upon payment of the amount assessed as deficiency, and interest, the department shall ex-
30 ecute a release in the amount of the payment and the release shall be conclusive evidence of the
31 removal and extinguishment of the lien under ORS 311.666 to 311.701 to the extent of the payment.

32 (b) If, after an initial determination under this section has been made by the department, upon
33 claim for refund, audit or examination or otherwise, it is discovered that the taxpayer or spouse had
34 federal adjusted gross income in the amount of or less than the limitation provided under subsection
35 (1) of this section, the department shall determine the amount of taxes deferred that should have
36 been deferred and give notice to the taxpayer or spouse of the amount of taxes that should have
37 been deferred. The provisions of ORS chapters 305 and 314 shall apply to a determination of the
38 department under this section in the same manner as those provisions are applicable to an income
39 tax refund. The amount of the taxes that should have been deferred shall bear interest from the
40 date paid by the taxpayer to the county at the rate established under ORS 305.220 for refunds until
41 paid. Claim for refund under this paragraph must be filed within three years after the earliest date
42 that the taxpayer or spouse is notified by the department that the taxes are not deferred.

43 (8) This section applies to all tax-deferred property, notwithstanding that election to defer taxes
44 is made under ORS 311.666 to 311.701 before or after October 3, 1989.

45 **SECTION 3. The amendments to ORS 311.668 and 311.689 by sections 1 and 2 of this 2007**

1 **Act apply to claims for property tax deferral filed on or after January 1, 2008.**

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