

House Bill 2875

Sponsored by Representative C EDWARDS; Representative GREENLICK, Senator WALKER

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**.

Allows taxpayer to elect to defer payment of increased property taxes attributable to annexation of property by city. Allows deferral for 10-year period after effective date of annexation. Requires payment of deferred property taxes if property is sold. Prescribes procedures for claiming deferral and collection of deferred taxes.

A BILL FOR AN ACT

1
2 Relating to annexation; creating new provisions; and amending ORS 311.701.

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

4 **SECTION 1. Sections 2 to 15 of this 2009 Act are added to and made a part of ORS**
5 **chapter 311.**

6 **SECTION 2. As used in sections 2 to 15 of this 2009 Act:**

7 (1) "Annexation-related property tax increase" means the difference between the prop-
8 erty taxes that are payable on property after a property is annexed by a city and the prop-
9 erty taxes that would be payable on the property if the property had not been annexed.

10 (2) "Taxpayer" means an individual who has filed a claim for deferral under section 3 of
11 this 2009 Act, or individuals who have jointly filed a claim for deferral under section 3 of this
12 2009 Act.

13 (3) "Tax-deferred property" means the property upon which annexation-related property
14 tax increases are deferred under sections 2 to 15 of this 2009 Act.

15 **SECTION 3. (1) Subject to section 4 of this 2009 Act, an individual, or two or more indi-**
16 **viduals jointly, may elect to defer annexation-related property tax increases for a residential**
17 **property that has been annexed by a city. A claim for deferral under this section must be**
18 **filed with the county assessor not more than two years after the annexation of the property.**
19 **A claim must be filed on or after January 1, and before April 15, of the year in which the**
20 **deferral will first take effect.**

21 (2) The county assessor shall forward each claim filed under this section to the Depart-
22 ment of Revenue which shall determine if the property is eligible for deferral.

23 (3) The filing of a claim under this section:

24 (a) Defers payment of the annexation-related increase in property taxes levied on the
25 property for the fiscal year beginning on July 1 of the year.

26 (b) Continues the deferral of the payment by the taxpayer of the increase in property tax
27 resulting from the annexation until the expiration of 10 years from the effective date of the
28 annexation or for as long as the provisions of section 4 of this 2009 Act are met, whichever
29 comes first.

30 (4) A claim may not be filed under this section for a manufactured home or floating

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 structure.

2 **SECTION 4.** In order to qualify for tax deferral of annexation-related property tax in-
 3 creases under sections 2 to 15 of this 2009 Act, the property must meet all of the following
 4 requirements when the claim is filed and must continue to meet all of the following re-
 5 quirements so long as the payment of taxes is deferred:

6 (1) The individual or individuals claiming the deferral must own the fee simple estate or
 7 be purchasing the fee simple estate under a recorded instrument of sale, or two or more
 8 individuals must together own or be purchasing the fee simple estate with rights of
 9 survivorship under a recorded instrument of sale if all owners or purchasers of the property
 10 apply for the deferral jointly.

11 (2) There must be no prohibition to the deferral of property taxes contained in any pro-
 12 vision of federal law, rule or regulation applicable to a mortgage, trust deed, land sale con-
 13 tract or conditional sale contract for which the property is security.

14 **SECTION 5.** (1) A claim for deferral under section 3 of this 2009 Act must be in writing
 15 on a form supplied by the Department of Revenue and must:

16 (a) Describe the property.

17 (b) Recite facts establishing the eligibility for the deferral under the provisions of
 18 sections 2 to 15 of this 2009 Act.

19 (c) Have attached any documentary proof required by the department to show that the
 20 requirements of sections 2 to 15 of this 2009 Act have been met.

21 (2) An individual filing a claim for deferral must attach to the claim a statement verified
 22 by a written declaration of the applicant to the effect that the statements contained in the
 23 claim are true.

24 **SECTION 6.** (1) The Department of Revenue has a lien against property for which deferral
 25 of taxes has been allowed under sections 2 to 15 of this 2009 Act. The lien is for the
 26 payment of the deferred annexation-related property tax increases plus interest as provided
 27 in section 7 of this 2009 Act, and any fees paid to the county clerk by the department in
 28 connection with the recording, release or satisfaction of the lien. The lien for deferred taxes
 29 attaches to the property on July 1 of the year in which the taxes were assessed. The deferred
 30 property tax lien has the same priority as other real property tax liens except that the lien
 31 of mortgages, trust deeds or security interests that are recorded or noted on any certificate
 32 of title prior in time to the attachment of the lien for deferred taxes have priority over liens
 33 for deferred taxes.

34 (2) A lien under this section may be foreclosed by the department under ORS chapter 88
 35 as if the lien were a purchase money mortgage. The court may award reasonable attorney
 36 fees to the department if the department prevails in a foreclosure action under this section.
 37 The court may award reasonable attorney fees to a defendant who prevails in a foreclosure
 38 action under this section if the court determines that the department had no objectively
 39 reasonable basis for asserting the claim or no objectively reasonable basis for appealing an
 40 adverse decision of the trial court.

41 (3) Receipts from foreclosure proceedings shall be credited in the same manner as other
 42 repayments of deferred property taxes under ORS 311.701.

43 **SECTION 7.** (1) If a taxpayer is eligible for deferral of annexation-related property tax
 44 increases, the Department of Revenue shall notify the county assessor and the county
 45 assessor shall show on the current ad valorem assessment and tax roll the property that is

1 subject to the deferral.

2 (2) When requested by the department, the tax collector shall send to the department the
 3 tax statement for each tax-deferred property that reflects the amount of the annexation-
 4 related property tax increases.

5 (3) A taxpayer who defers annexation-related property tax increases under sections 2 to
 6 15 of this 2009 Act must pay interest on the amount of taxes paid to the county under this
 7 section at the rate of six percent per year.

8 **SECTION 8.** (1) In each county in which there is tax-deferred property, the Department
 9 of Revenue shall cause to be recorded in the mortgage records of the county a list of tax-
 10 deferred properties of that county. The list shall contain a description of the property as
 11 listed on the assessment roll together with the name of the owner listed on the assessment
 12 roll.

13 (2) The recording of the tax-deferred properties under subsection (1) of this section is
 14 notice that the department claims a lien against those properties in the amount of the de-
 15 ferred taxes plus interest together with any fees paid to the county clerk in connection with
 16 the recording, release or satisfaction of the lien, even though the amount of taxes, interest
 17 or fees is not listed.

18 (3) Notwithstanding the provisions of ORS 182.040 to 182.060 and 205.320 relating to the
 19 time and manner of payment of fees to the county clerk, the department is not required to
 20 pay any filing, indexing or recording fees to the county in connection with the recording,
 21 release or satisfaction of liens against tax-deferred properties of that county in advance or
 22 at the time entry is made. The manner of payment of the fees shall be as provided in ORS
 23 205.395 for recording and making entry of warrants or orders in the County Clerk Lien Re-
 24 cord.

25 **SECTION 9.** Upon determining the amount of annexation-related property tax increases
 26 deferred in a county under sections 2 to 15 of this 2009 Act for the tax year, the Department
 27 of Revenue shall pay to the respective county tax collectors an amount equivalent to the
 28 deferred taxes less than three percent thereof. The department shall make the payment from
 29 the Property Tax Deferral Revolving Account.

30 **SECTION 10.** (1) On or before December 15 of each year, the Department of Revenue
 31 shall send a notice to each taxpayer who has claimed deferral of annexation-related property
 32 tax increases under sections 2 to 15 of this 2009 Act for the current tax year. The notice
 33 must:

34 (a) Inform the taxpayer that the annexation-related property tax increases have or have
 35 not been deferred in the current year.

36 (b) Show the total amount of deferred annexation-related property tax increases re-
 37 maining unpaid since initial application for deferral and the interest on the deferred taxes
 38 through November 15 of the current year.

39 (c) Inform the taxpayer that voluntary payment of the deferred annexation-related
 40 property tax increases may be made at any time to the department.

41 (d) Contain any other information that the department considers necessary to facilitate
 42 administration of the deferral program.

43 (2) The department shall give the notice required under subsection (1) of this section by
 44 an unsealed postcard or other form of mail sent to the residence address of the taxpayer as
 45 shown in the claim for deferral or as otherwise determined by the department to be the

1 correct address of the taxpayer.

2 **SECTION 11.** All deferred annexation-related property tax increases, including accrued
 3 interest, become payable as provided in section 12 of this 2009 Act:

4 (1) When the property for which deferment of property taxes is claimed is sold, or a
 5 contract to sell the property is entered into, or some person other than the taxpayer who
 6 claimed the deferment becomes the owner of the property; or

7 (2) At the expiration of 10 years from the effective date of the annexation.

8 **SECTION 12.** (1) Whenever any of the circumstances listed in section 11 of this 2009 Act
 9 occurs:

10 (a) The deferral of taxes for the assessment year in which the circumstance occurs
 11 continues for the assessment year; and

12 (b) The amounts of deferred annexation-related property tax increases, including accrued
 13 interest, for all years are due and payable to the Department of Revenue August 15 of the
 14 year following the calendar year in which the circumstance occurs.

15 (2) If the amounts due under this section are not paid when due, the amounts are delin-
 16 quent as of that date and the property is subject to foreclosure.

17 **SECTION 13.** (1) Payments of annexation-related property tax increases deferred under
 18 sections 2 to 15 of this 2009 Act must be made to the Department of Revenue.

19 (2) Subject to subsection (3) of this section, all or part of the deferred taxes and accrued
 20 interest may at any time be paid to the department by the taxpayer or the spouse of the
 21 taxpayer.

22 (3) The department shall apply a payment made under this section first against accrued
 23 interest and any remainder against the deferred taxes. The payment does not affect the de-
 24 ferred tax status of the property.

25 (4) When the deferred annexation-related property tax increases and accrued interest are
 26 paid in full and the property is no longer subject to deferral, the department shall prepare
 27 and record in the county in which the property is located a satisfaction of the lien for the
 28 deferred annexation-related property tax increases.

29 **SECTION 14.** If tax-deferred property is deeded to the county under ORS 312.200 at the
 30 conclusion of a foreclosure proceeding, the county court shall order the county treasurer to
 31 pay to the Department of Revenue from the unsegregated tax collections account the amount
 32 of deferred annexation-related property tax increases and interest owed by the taxpayer.

33 **SECTION 15.** Sections 2 to 15 of this 2009 Act do not:

34 (1) Prevent the collection by foreclosure of property taxes that become a lien against
 35 tax-deferred property.

36 (2) Defer payment of special assessments to benefited property where such assessments
 37 do not appear on the assessment and tax roll.

38 (3) Affect any provision of any mortgage or other instrument relating to land requiring
 39 a person to pay property taxes.

40 **SECTION 16.** ORS 311.701 is amended to read:

41 311.701. (1) There is established in the State Treasury the [*Senior*] Property Tax Deferral Re-
 42 volving Account to be used by the Department of Revenue for the purpose of making the payments
 43 to:

44 (a) County tax collectors of property taxes deferred for tax years beginning on or after January
 45 1, 1983, as required by ORS 311.676 and section 9 of this 2009 Act.

1 (b) The appropriate local officer of special assessment improvement amounts deferred on or after
2 October 15, 1983, as required by ORS 311.730.

3 (c) The department for its expenses in administering the property tax and special assessment
4 senior deferral programs.

5 (2) The [Senior] Property Tax Deferral Revolving Account may include a reserve for payment
6 of department administrative expenses.

7 (3) All sums of money received by the Department of Revenue under ORS 311.666 to 311.701 **or**
8 **sections 2 to 15 of this 2009 Act** as repayments of deferred property taxes or under ORS 311.702
9 to 311.735 as repayments of deferred special assessment improvement amounts, including the interest
10 accrued under ORS 311.674 (3) or 311.711 (3) **or section 7 of this 2009 Act** shall, upon receipt, be
11 credited to the revolving account and are continuously appropriated to the department for the pur-
12 poses of subsection (1) of this section.

13 (4) If there is not sufficient money in the revolving account to make the payments required by
14 subsection (1) of this section, there is appropriated from the General Fund an amount sufficient
15 which together with the money in the revolving account will provide an amount sufficient to make
16 the required payments.

17 (5)(a) On November 30 of each year, if the amount in the revolving account exceeds the greater
18 of 35 percent of the total amount needed to make the payments described in subsection (1) of this
19 section for the previous property tax year or \$5 million, the department shall calculate the differ-
20 ence between the amount in the revolving account and the greater of an amount that equals 35
21 percent of the total amount needed to make the payments described in subsection (1) of this section
22 for the previous property tax year or \$5 million.

23 (b) No later than February 1 of each year, the department shall transfer an amount equal to the
24 difference described in paragraph (a) of this subsection into the Oregon Project Independence Fund
25 established in ORS 410.422.

26 **SECTION 17. Sections 2 to 15 of this 2009 Act and the amendments to ORS 311.701 by**
27 **section 16 of this 2009 Act first apply to annexations that occur on or after the effective date**
28 **of this 2009 Act.**