

Enrolled House Bill 2543

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Revenue)

CHAPTER

AN ACT

Relating to tax deferral programs; creating new provisions; amending ORS 305.612, 305.895, 311.356, 311.666, 311.668, 311.670, 311.672, 311.674, 311.676, 311.679, 311.681, 311.684, 311.686, 311.688, 311.689, 311.691, 311.693, 311.695, 311.700, 311.701, 311.704, 314.430 and 410.422 and section 28, chapter 7, Oregon Laws 2011 (Enrolled Senate Bill 301); repealing section 20, chapter 7, Oregon Laws 2011 (Enrolled Senate Bill 301), and section 2, chapter ___, Oregon Laws 2011 (Enrolled House Bill 2693); and prescribing an effective date.

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

SECTION 1. ORS 311.666 is amended to read:
311.666. As used in ORS 311.666 to 311.701:

[(1) "Department" means the Department of Revenue.]

(1) "County median RMV" means the median real market value entered on the last certified assessment and tax roll for all residential improved properties in the county in which a homestead is located.

(2) "Homestead" means the owner occupied principal dwelling, either real or personal property, owned by the taxpayer and the tax lot upon which it is located. If the homestead is located in a multiunit building, the homestead is the portion of the building actually used as the principal dwelling and its percentage of the value of the common elements and of the value of the tax lot upon which it is built. The percentage is the value of the unit consisting of the homestead compared to the total value of the building exclusive of the common elements, if any.

(3) "Household income" has the meaning given that term in ORS 310.630.

(4)(a) "Net worth" means the sum of the current market value of all assets, including real property, cash, savings accounts, bonds and other investments, after deducting outstanding liabilities.

(b) "Net worth" does not include the value of a homestead for which deferral is claimed under ORS 311.666 to 311.701, the cash value of life insurance policies on the life of a taxpayer or tangible personal property owned by a taxpayer.

[(3)] **(5) "Person with a disability" means [a person] an individual who has been determined to be eligible to receive or who is receiving federal Social Security benefits due to disability or blindness, including [a person] an individual who is receiving Social Security survivor benefits in lieu of Social Security benefits due to disability or blindness.**

[(4) "Taxpayer" means an individual who has filed a claim for deferral under ORS 311.668 or individuals who have jointly filed a claim for deferral under ORS 311.668.]

[5] (6) "Tax-deferred property" means the property upon which taxes are deferred under ORS 311.666 to 311.701.

[6] (7) "Taxes" or "property taxes" means ad valorem taxes, assessments, fees and charges entered on the assessment and tax roll.

(8) "Taxpayer" means an individual who has filed, as an individual or jointly, a claim for deferral under ORS 311.666 to 311.701.

(9)(a) "Transferee" means, without limitation, an heir, legatee, devisee, distributee of an estate of a deceased individual, the assignee or donee of an insolvent individual or a person acting in a fiduciary capacity on behalf of a transferee.

(b) "Transferee" does not mean a bona fide purchaser for value.

(10) "U.S. City Average Consumer Price Index" means the U.S. City Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of Labor Statistics of the United States Department of Labor.

SECTION 2. ORS 311.668 is amended to read:

311.668. (1)(a) *[Subject to ORS 311.670, an individual, or two or more individuals jointly, may elect]* **A claim** to defer the property taxes on *[their]* a homestead *[by filing a claim for deferral]* **that is eligible for deferral under ORS 311.670 may be filed** with the county assessor *[after January 1 and on or before April 15 of the first year in which deferral is claimed if]* **in the manner prescribed under ORS 311.672 by:**

(A) *[The]* **An individual who is**, or *[in the case of]* two or more individuals filing a claim jointly *[,]* each *[individual,]* **of whom is**, 62 years of age or older on **or before** April 15 of the year *[in which the claim is filed]* **for which deferral is claimed;** or

(B) *[The]* **An individual who is** a person with a disability *[on]* **as of** April 15 of the year *[in which the claim is filed]* **for which deferral is claimed, regardless of the age or disability of other individuals occupying the homestead.** *[In the case of individuals filing a claim jointly, only one individual need be a person with a disability in order to make the election.]*

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

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

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

[(a) Deferring the payment of the property taxes levied on the homestead for the fiscal year beginning on July 1 of such year.]

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

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

[3] (b) If a guardian or conservator has been appointed for an individual otherwise *[qualified to obtain]* **eligible to claim** deferral of taxes under *[ORS 311.666 to 311.701]* **this section**, the guardian or conservator may act for *[such]* **the** individual in complying with the provisions of ORS 311.666 to 311.701.

[4] (c) If a trustee of an inter vivos trust *[which]* **that** was created by and is revocable by an individual, who is both the trustor and a beneficiary of the trust and who is otherwise *[qualified to obtain a]* **eligible to claim** deferral of taxes under *[ORS 311.666 to 311.701]* **this section**, owns the fee simple estate under a recorded instrument of sale, the trustee may act for the individual in complying with the provisions of ORS 311.666 to 311.701.

[5] (d) *[Nothing in]* This section *[shall]* **may not** be construed to require *[a]* **the** spouse of an individual to file a claim jointly with the individual even though the spouse may be eligible to claim the deferral jointly with the individual.

[6] *Any person aggrieved by the denial of a claim for deferral of homestead property taxes or disqualification from deferral of homestead property taxes may appeal in the manner provided by ORS 305.404 to 305.560.*

(2)(a) Notwithstanding subsection (1) of this section, deferral may not be granted under ORS 311.666 to 311.701 with respect to a claim filed by individuals who together have, for the calendar year immediately preceding the calendar year in which the claim for deferral is filed:

(A) Household income of \$32,000 or more; or

(B) Net worth of \$500,000 or more.

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

(A) Divide the average U.S. City Average Consumer Price Index for the first six months of the current calendar year by the average U.S. City Average Consumer Price Index for the first six months of 2001.

(B) Recompute the maximum household income by multiplying \$32,000 by the appropriate indexing factor determined *[as provided in]* **under** subparagraph (A) of this paragraph.

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

(c) *[If]* Any change in the maximum household income determined under paragraph *[(a)]* **(b)** of this subsection *[is not a multiple of \$500, the increase]* shall be rounded to the nearest multiple of \$500.

(3) Notwithstanding subsection (1) of this section, deferral may not be granted under ORS 311.666 to 311.701 with respect to a claim if, at the time the claim is filed, property taxes imposed on the homestead of any individual filing the claim have been deferred and are delinquent or have been canceled.

SECTION 3. ORS 311.670 is amended to read:

311.670. (1) *[In order to qualify]* **Property is not eligible** for tax deferral under ORS 311.666 to 311.701, *the property must meet all of the following requirements when the* **unless, at the time a claim is filed and [thereafter so long as the payment of taxes by the taxpayer is deferred] during the period for which deferral is claimed:**

[(1)] **(a)** The property *[must be]* **has been** the homestead of the individual or individuals who file the claim for deferral **for at least five years preceding April 15 of the year in which the claim is filed**, except for an individual required to be absent from the homestead by reason of health.

[(2)] **(b)** The *[person]* **individual** claiming the deferral *[must, by himself or herself or together with his or her spouse, own], individually or jointly, owns* the fee simple estate *[or be purchasing the fee simple estate]* under a recorded instrument of sale, or two or more *[persons must]* **individuals** together own *[or be purchasing]* the fee simple estate with rights of survivorship under a recorded instrument of sale if all owners live in the *[homestead]* **property** and if all owners apply for the deferral jointly.

(c) The homestead is insured for fire and other casualty.

[(3)] **(d)** There *[must be]* **is** no prohibition to the deferral of property taxes contained in any provision of federal law, rule or regulation applicable to a mortgage, trust deed, land sale contract or conditional sale contract for which the homestead is security.

(2) Notwithstanding subsection (1) of this section, a homestead is not eligible for deferral under ORS 311.666 to 311.701 if the real market value of the homestead entered on the last certified assessment and tax roll is equal to or greater than:

(a) 100 percent of county median RMV if, as of April 15 of the year in which a claim is filed, the taxpayers have continuously owned and lived in the homestead at least five years but less than seven years.

(b) 110 percent of county median RMV if, as of April 15 of the year in which a claim is filed, the taxpayers have continuously owned and lived in the homestead at least seven years but less than nine years.

(c) 120 percent of county median RMV if, as of April 15 of the year in which a claim is filed, the taxpayers have continuously owned and lived in the homestead at least nine years but less than 11 years.

(d) 130 percent of county median RMV if, as of April 15 of the year in which a claim is filed, the taxpayers have continuously owned and lived in the homestead at least 11 years but less than 13 years.

(e) 140 percent of county median RMV if, as of April 15 of the year in which a claim is filed, the taxpayers have continuously owned and lived in the homestead at least 13 years but less than 15 years.

(f) 150 percent of county median RMV if, as of April 15 of the year in which a claim is filed, the taxpayers have continuously owned and lived in the homestead at least 15 years but less than 17 years.

(g) 160 percent of county median RMV if, as of April 15 of the year in which a claim is filed, the taxpayers have continuously owned and lived in the homestead at least 17 years but less than 19 years.

(h) 170 percent of county median RMV if, as of April 15 of the year in which a claim is filed, the taxpayers have continuously owned and lived in the homestead at least 19 years but less than 21 years.

(i) 180 percent of county median RMV if, as of April 15 of the year in which a claim is filed, the taxpayers have continuously owned and lived in the homestead at least 21 years but less than 23 years.

(j) 190 percent of county median RMV if, as of April 15 of the year in which a claim is filed, the taxpayers have continuously owned and lived in the homestead at least 23 years but less than 25 years.

(k) 200 percent of county median RMV if, as of April 15 of the year in which a claim is filed, the taxpayers have continuously owned and lived in the homestead for 25 years or more.

SECTION 4. ORS 311.672 is amended to read:

311.672. (1)(a) A taxpayer's claim for deferral under ORS [311.668 shall] **311.666 to 311.701 must:**

(A) Be in writing on a form supplied by the Department of Revenue [and shall:];

[(a)] (B) Describe the homestead[.];

[(b)] (C) Recite **all** facts establishing the eligibility **of the homestead for, and of the taxpayers to claim**, the deferral [under the provisions of ORS 311.666 to 311.701, including facts that establish that the household income as defined in ORS 310.630 of the individual, or in the case of two or more individuals claiming the deferral jointly, of all of the individuals together was, for the calendar year immediately preceding the calendar year in which the claim is filed, less than or equal to the maximum household income that may be incurred under an allowable claim for deferral, as provided in ORS 311.668.]; **and**

[(c)] (D) Have attached:

(i) Any documentary proof required by the department [to show that the requirements of ORS 311.666 to 311.701 have been met.]; **and**

[(2)] (ii) [There shall be annexed to the claim] A statement verified by a written declaration of [the applicant making the claim] **all taxpayers claiming deferral** to the effect that the statements contained in the claim are true.

(b) **The claim for deferral must be filed with the assessor of the county in which the homestead is located, after January 1 and on or before April 15 of the year for which deferral is claimed.**

(2) The county assessor shall forward each claim filed under this section to the department, and the department shall determine whether the property is eligible for the deferral.

(3) If the taxpayers and the homestead are determined to be eligible under ORS 311.668 and 311.670, respectively, a timely claim for deferral has the effect of:

(a) Deferring the payment of the property taxes levied on the homestead for the property tax year beginning on July 1 of the year in which the claim is filed.

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

(c) Continuing the deferral of the payment by the taxpayers of any future property taxes for as long as the homestead remains eligible for, and the taxpayers remain eligible to claim, the deferral.

(4)(a) Notwithstanding subsection (3) of this section:

(A) For the property tax year beginning on July 1, 2012, the maximum number of claims for deferral under ORS 311.666 to 311.701 that may be granted to taxpayers who have not previously been granted deferral is the number of such claims granted for the property tax year beginning on July 1, 2011, multiplied by 105 percent.

(B) For each property tax year beginning after July 1, 2012, the maximum number of claims for deferral that may be granted to taxpayers who have not previously been granted deferral is the maximum number determined under this subsection for the property tax year immediately preceding multiplied by 105 percent.

(b) For purposes of paragraph (a) of this subsection, spouses who continue deferral under ORS 311.688 are not considered taxpayers who have not previously been granted deferral.

(c) If the number of eligible claims described in paragraph (a) of this subsection exceeds the maximum number determined under paragraph (a) of this subsection, claims shall be granted in ascending order based on the ratio that is equal to the real market value of the homestead entered on the last certified assessment and tax roll divided by the applicable percentage of county median RMV of the homestead determined under ORS 311.670 (2), until the maximum number determined under paragraph (a) of this subsection is reached.

(5) Any taxpayer aggrieved by the denial of a claim for, or discontinuation of, deferral under ORS 311.666 to 311.701 may appeal in the manner provided by ORS 305.404 to 305.560.

SECTION 5. ORS 311.674 is amended to read:

311.674. (1) If eligibility for deferral of homestead property is established as provided in ORS 311.666 to 311.701, the Department of Revenue shall notify the county assessor and the county assessor shall show on the current ad valorem assessment and tax roll [*which*] **that the** property is tax-deferred property by an entry clearly designating [*such*] **the** property as tax-deferred property.

(2) When requested by the department, the tax collector shall send to the department [*as soon as the taxes are extended upon the roll*] the tax statement for each tax-deferred property **as soon as the taxes are extended upon the roll.**

(3) Interest shall accrue on the actual amount of taxes advanced to the county for the tax-deferred property at the rate of six percent [*per annum*] **compounded annually.**

(4)(a) For property taxes deferred after October 3, 1979, the state liens provided by ORS 311.673 and 311.679 and recorded under ORS 311.675 shall be for the actual amount of taxes advanced to the counties and not for the gross amount of taxes for which the property would be liable as shown on the tax statement for each tax-deferred property.

(b) For taxes deferred prior to October 3, 1979, the lien under ORS 311.673 is for the gross amount of taxes extended upon the tax roll against each tax-deferred property and interest shall continue to accrue on the gross amount of taxes rather than on the actual amount of taxes paid to the county.

SECTION 6. ORS 311.676 is amended to read:

311.676. (1) Upon determining the amount of deferred taxes on tax-deferred property for the tax year, **subject to available funds**, the Department of Revenue shall pay to the respective county tax

collectors an amount equivalent to the deferred taxes, less three percent, *[thereof. Payment shall be made]* from the revolving account established under ORS 311.701.

(2) The department shall maintain accounts for each deferred property and shall accrue interest only on the actual amount of taxes advanced to the county.

[(3)(a) If only a portion of taxes are deferred under ORS 311.689, the department shall pay the portion that is eligible for deferral to the tax collector and shall provide a separate notice to the county assessor stating the amount of property taxes that the department is paying.]

[(b) The notice stating the amount of property taxes paid by the department and any other county records indicating those amounts are not subject to the prohibitions against disclosure set forth in ORS 314.835.]

SECTION 7. ORS 311.679 is amended to read:

311.679. (1)(a) At the time that *[the taxpayer elects to defer]* property taxes **are deferred** under ORS 311.666 to 311.701, or if *[the taxpayer has elected to defer]* property taxes **were deferred** prior to July 1, 1990, the Department of Revenue shall estimate the amount of property taxes *[that will be]* deferred for tax years beginning on or after July 1, 1990, interest on the deferred taxes and any fees paid by the department in connection with lien filing, recording, release or satisfaction.

(b) *[Thereafter,]* The department shall have a lien in the amount of the estimate.

(2) *[The lien created under subsection (1) of this section shall attach to the property to which the election to defer relates on July 1 of the tax year of initial deferral or on July 1, 1990, whichever is applicable.]* **If during the period of deferral the amount of taxes, interest and fees exceeds the estimate under subsection (1) of this section, the department shall have a lien for the amount of the excess.**

(3)(a) **A lien created under subsection (1) of this section attaches to the homestead to which the deferral relates on July 1 of the first tax year of deferral or on July 1, 1990, as applicable.**

(b) **A lien for the excess created under subsection (2) of this section attaches to the homestead on July 1 of the tax year in which the excess occurs.**

[(3)] (4) *[The]* **A lien created under subsection (1) or (2) of this section** *[in the amount of the estimate shall have]* **has** the same priority as other real property tax liens except that *[the lien]* **liens** of mortgages, trust deeds or security interests that *[is]* **are** filed, recorded or noted on a certificate of title or in any record maintained by the Department of Consumer and Business Services pursuant to ORS 446.566 to 446.646 prior in time to the attachment of *[the]* **a** lien for deferred taxes *[shall be]* **are** prior to the *[liens]* **lien** for deferred taxes.

[(4) If during the period of tax deferment, the amount of taxes, interest and fees exceeds the estimate, the Department of Revenue shall have a lien for the amount of the excess. The liens for the excess shall attach to the property on July 1 of the tax year in which the excess occurs. The lien for the excess shall have the same priority as other real property tax liens, except that the lien of mortgages, trust deeds or security interests that is filed, recorded or noted on any certificate of title or in any record maintained by the Department of Consumer and Business Services pursuant to ORS 446.566 to 446.646 prior in time to the date that the Department of Revenue records an amendment to its estimate to reflect its lien for the excess shall be prior to the lien for the excess.]

(5)(a) The notice of lien for deferred taxes recorded as provided in ORS 311.675 (1) and (2) arising on or after October 3, 1989, shall list the amount of the estimate of deferred taxes, interest and fees made by the department under subsection (1) of this section. Any amendment to the notice of lien to reflect a lien for excess, as described under subsection *[(4)]* **(2)** of this section, shall list the amount of the excess that the department claims as **a** lien.

(b) If notice of lien with respect to any homestead has been filed or recorded as provided under ORS 311.675 (1) to (3) prior to January 1, 1990, and the lien has not been released or satisfied, the department shall cause a further notice of lien to be recorded in the mortgage records of the county. The further notice of lien shall list the amount of the estimate of deferred taxes and interest made by the department under subsection (1) of this section and any amendment to the notice to reflect

a lien for excess, described under subsection [(4)] (2) of this section, and shall list the amount of the excess that the department claims as lien.

(6)(a) A lien created under this section may be foreclosed by the department as if it were a purchase money mortgage under ORS chapter 88.

(b) [The] **In a foreclosure action under this section, a court may award:**

(A) Reasonable attorney fees to the prevailing party [in a foreclosure action under this section].

(B) **All costs associated with foreclosure of the lien to the department if the department prevails.**

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

(8)(a) By means of voluntary payment made as provided under ORS 311.690, the taxpayer may limit the amount of the lien for deferred taxes created under this section.

(b) If the taxpayer desires that the limit be reflected in the records of the county, the taxpayer must request, subject to any rules adopted by the department, that the department cause a partial satisfaction of the lien to be recorded in the county.

(c) Upon receipt of such a request, the department shall cause a partial satisfaction, in the amount of the voluntary payment, to be recorded.

(d) Nothing in this subsection [shall affect] **affects** the priority of the liens of the department, as originally created under subsections (1) and [(4)] (2) of this section.

(9)(a) Nothing in this section [shall affect] **affects** any lien arising under ORS 311.666 to 311.701 for taxes assessed before January 1, 1990.

(b) [However, except as provided under this section, no] **A** lien for taxes [shall] **does not** arise under ORS 311.666 to 311.701 for taxes assessed after December 31, 1989, **except as provided under this section.**

[(10)(a) Notwithstanding any other provision of this section, a lien arising under this section as the result of a deferral of property taxes on the homestead of a person with a disability who is younger than 62 years of age during the tax year may not exceed 90 percent of the real market value of the homestead.]

[(b) Property may continue to qualify for property tax deferral under ORS 311.666 to 311.701 even though the amount of property taxes being paid by the department may not increase the amount of the lien arising under this section.]

[(11)] (10) This section first applies to liens for deferred taxes arising on or after October 3, 1989.

SECTION 8. ORS 311.684 is amended to read:

311.684. [Subject to ORS 311.688,] All deferred property taxes, including accrued interest, become payable as provided in ORS 311.686 when:

(1) The taxpayer who claimed [deferral of collection] **deferral** of property taxes on the homestead dies or, if there was more than one claimant, the survivor of the [taxpayers] **taxpayer** who originally claimed [deferral of collection] **deferral** of property taxes under ORS 311.668 dies.

(2) Except as provided in ORS 311.683, the property with respect to which [deferral of collection] **deferral** of taxes is claimed is sold, or a contract to sell is entered into, or some person other than the taxpayer who claimed the [deferral] **deferral, including a transferee**, becomes the owner of the property.

(3) The tax-deferred property is no longer the homestead of the taxpayer who claimed the deferral, except in the case of a taxpayer required to be absent from such tax-deferred property by reason of health.

(4) The tax-deferred property, a manufactured structure or floating home, is moved out of the state.

SECTION 9. ORS 311.686 is amended to read:

311.686. (1) Whenever any of the circumstances listed in ORS 311.684 occurs:

[(1)] (a) The deferral of taxes for the assessment year in which the circumstance occurs:

(A) Shall continue for [such] the assessment year[; and] if the circumstance occurs on or after September 1.

(B) Shall be discontinued for the assessment year if the circumstance occurs before September 1.

[2] (b) Except as provided in subsection (2) of this section and ORS 311.688, the amounts of deferred property taxes, including accrued interest, for all years shall be due and payable to the Department of Revenue on or before August 15 of the year following the calendar year in which the circumstance occurs[, except as provided in subsection (3) of this section, ORS 311.688 and 311.695].

[3] (2) [Notwithstanding the provisions of subsection (2) of this section and ORS 311.695, when the circumstances occur] If the circumstance listed in ORS 311.684 (4) occurs, the amount of deferred taxes [shall be] is due and payable five days before the date of removal of the property from the state.

[4] (3) If the amounts falling due as provided in this section are not paid on [the indicated] or before the due date, [or as extended under ORS 311.695 such] the amounts shall be deemed delinquent as of that date and the property shall be subject to foreclosure as provided in ORS 311.673 or 311.679.

SECTION 10. ORS 311.688 is amended to read:

311.688. (1) Notwithstanding ORS 311.684, when one of the circumstances listed in ORS 311.684 (1) to (3) occurs, the spouse who was not eligible to or did not file a claim jointly with the taxpayer may continue the property in its deferred tax status by filing a claim [within the time and] in the manner [provided under ORS 311.668] prescribed under ORS 311.672 if:

(a) The spouse of the taxpayer is or will be 60 years of age or older not later than six months from the day the circumstance listed in ORS 311.684 (1) to (3) occurs; and

(b) The property is the homestead of the spouse of the taxpayer and meets the requirements of ORS 311.670 [(2)] (1).

(2)(a) A spouse who does not meet the age requirements of subsection (1)(a) of this section but is otherwise qualified to continue the property in its tax-deferred status under subsection (1) of this section may continue the deferral of property taxes deferred for previous years by filing a claim [within the time and] in the manner [provided under ORS 311.668] prescribed under ORS 311.672.

(b) If a spouse eligible for and continuing the deferral of taxes previously deferred under this subsection becomes 62 years of age prior to April 15 of any year, the spouse may [elect to] continue the deferral of previous years' taxes deferred under this subsection and may elect to defer the current assessment year's taxes on the homestead by filing a claim [within the time and] in the manner [provided under ORS 311.668] prescribed under ORS 311.672.

(c) [Thereafter] After a claim is filed under paragraph (b) of this subsection, payment of the taxes levied on the homestead and deferred under this subsection and payment of taxes levied on the homestead in the current assessment year and in future years may be deferred [in the manner provided in and subject to] under ORS 311.666 to 311.701.

(3) Notwithstanding [that ORS 311.668 requires that a claim be filed no later than April 15] ORS 311.672, if the Department of Revenue determines that good and sufficient cause exists for the failure of a spouse to file a claim under this section on or before April 15, the claim may be filed within 180 days after notice of taxes due and payable under ORS 311.686 is mailed or delivered by the department to the taxpayer or spouse.

SECTION 11. ORS 311.689, as amended by section 20, chapter 82, Oregon Laws 2010, is amended to read:

311.689. (1) [Notwithstanding ORS 311.668 or any other provision of ORS 311.666 to 311.701, if the individual or, in the case of two or more individuals electing to defer property taxes jointly, all of the individuals together, or the spouse who has filed a claim under ORS 311.688, has federal adjusted gross income that exceeds \$32,000 for the tax year that began in the previous calendar year, then for the tax year next beginning, the amount of taxes for which deferral is allowed shall be reduced by \$0.50 for each dollar of federal adjusted gross income in excess of \$32,000.] On or before April 15 of the

third year for which deferral under ORS 311.666 to 311.701 is claimed and every two years thereafter, all taxpayers claiming the deferral must certify to the county assessor that the homestead remains eligible for, and the taxpayers remain eligible to claim, the deferral.

(2)(a) *[Prior to June 1 of each year, and notwithstanding ORS 314.835, the Department of Revenue shall review returns filed under ORS chapter 314 and 316 to determine if subsection (1) of this section is applicable for a homestead for the tax year next beginning. If subsection (1) of this section is applicable, the department shall notify by mail the taxpayer or spouse electing deferral, and the taxes otherwise to be deferred for the tax year next beginning shall be reduced as provided in subsection (1) of this section or, if federal adjusted gross income in excess of \$32,000 exceeds the amount of property taxes by a factor of two, the property taxes shall not be deferred.]* **For any year in which the household income of the taxpayers exceeds the amounts allowable under ORS 311.668, the property taxes deferred under ORS 311.666 to 311.701 for that year, including accrued interest, become payable by the applicable due date prescribed in ORS 311.686 (1)(b) or (2).**

(b) **The provisions of ORS chapters 305 and 314 apply to this subsection in the same manner as those provisions are applicable to an income tax deficiency.**

(c) **The amount of deferred taxes payable under this subsection shall bear interest from the date paid by the Department of Revenue until paid at the rate established under ORS 305.220 for deficiencies.**

(d) **A deficiency may not be assessed under this subsection if notice is not given to the taxpayer or spouse within three years after the date that the department has paid the deferred taxes to the county.**

(e) **Upon payment of the amount assessed as a deficiency under this subsection and any interest, the department shall execute a release in the amount of the payment. The release shall be conclusive evidence of the removal and extinguishment of the lien under ORS 311.666 to 311.701 to the extent of the payment.**

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

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

[(5)] **(3) [Nothing in this section shall] Subsection (2) of this section does not affect the continued deferral of taxes that have been deferred for tax years beginning [prior to the tax year next beginning or the right to deferral of taxes for a tax year beginning after the tax year next beginning if subsection (1) is not applicable for that tax year for the homestead] before a tax year to which subsection (2) of this section applies or the deferral of taxes for tax years beginning after a tax year to which subsection (2) of this section applies, provided subsection (2) of this section does not apply to those tax years.**

[(6) As used in this section, "federal adjusted gross income" means federal adjusted gross income of the individual or, in the case of two or more individuals electing to defer property tax jointly, the combined federal adjusted gross income of the individuals, or the federal adjusted gross income of the spouse who has filed a claim under ORS 311.688, all as determined for the tax year beginning in the calendar year prior to which a determination is required under subsection (2) of this section. "Federal adjusted gross income" shall be determined under the Internal Revenue Code, as amended and in effect on December 31, 2009, without any of the additions, subtractions or other modifications or adjustments required under ORS chapter 314 or 316.]

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

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

*[(8)] (4) This section applies to all tax-deferred property, [notwithstanding that election to defer taxes is made] **whether the deferral** under ORS 311.666 to 311.701 **is claimed** before or after October 3, 1989.*

SECTION 12. ORS 311.691 is amended to read:

311.691. (1) Notwithstanding any provision of ORS chapter 312 to the contrary and ORS 311.696 (1), upon compliance with ORS 311.693, taxes assessed against a tax-deferred homestead for any tax year that were unpaid as of July 1 of the tax year for which homestead property tax deferral was initially granted under ORS 311.666 to 311.701, and that remain unpaid, shall remain a lien and shall become delinquent as otherwise provided by law, but *[shall not be]* **are not** subject to foreclosure under ORS chapter 312 *[until]* **before** August 15 of the calendar year following the calendar year in which one of the circumstances listed in ORS 311.684 occurs.

(2) This section does not apply if:

(a) The tax-deferred homestead property is a manufactured structure or floating home and is moved out of state;

(b) *[Except in the case of a manufactured structure or floating home,]* The tax-deferred homestead property is personal property, **other than a manufactured structure or floating home;** or

(c) The owner of the tax-deferred homestead property has household income, for the calendar year immediately preceding the calendar year in which application is filed under ORS 311.693, *[of more than the maximum household income that may be incurred under an]* **that exceeds the amounts** allowable *[claim for deferral, as provided in]* **under** ORS 311.668.

(3) If the property to which subsection (1) of this section applies has been included on a foreclosure list, or a judgment of foreclosure entered, the property shall be removed from the foreclosure list, or judgment vacated, unless the proceeding against the property involves delinquent taxes other than those described in subsection (1) of this section.

(4)(a) Upon removal from the foreclosure list, or upon vacation of the judgment, *[no penalty shall]* **a penalty may not** be imposed under ORS 312.110 or 312.120.

(b) *[In lieu thereof]* **If the penalty has been imposed**, the penalty is abated, or if the penalty has been paid, upon application made to the county assessor on or before July 1 of the year immediately following the year of vacation or removal, the penalty shall be refunded out of the unsegregated tax collections account in the manner provided in ORS 311.806.

(5) Within 60 days after approval of an application under ORS 311.693, with respect to any property to which this section applies, the tax collector shall make the proper entries on the tax roll and shall remove the property from the foreclosure list and proceeding.

(6) If a judgment has been entered foreclosing liens for delinquent taxes against any property which is the subject of an application filed under ORS 311.693, and the delinquent taxes include only those taxes described in subsection (1) of this section, or taxes in excess of those described in subsection (1) of this section are paid, the judgment shall be null and void and of no effect and the tax collector shall make the proper entries on the assessment and tax rolls to reflect the vacation of the judgment and to acknowledge the subsisting liens.

(7) Nothing in this section shall remove or release property to which this section applies from the lien of any unpaid tax thereon, but the unpaid taxes shall remain valid and subsisting liens as though the foreclosure proceeding had not been instituted or as though the foreclosure proceeding had not been instituted and a judgment entered.

(8) Nothing in this section shall affect a foreclosure proceeding instituted, or a judgment entered, to foreclose liens for delinquent taxes against properties subject to foreclosure if the delinquent taxes include taxes other than those described under subsection (1) of this section. Such foreclosure proceedings shall be instituted or continued without regard to this section and such judgment shall be of full force and effect as if this section did not exist.

(9) Interest on taxes to which this section applies shall be determined from the same dates, in the same manner and until paid as for other property taxes remaining unpaid upon the due dates, upon preparation of the foreclosure list in accordance with ORS chapter 312 and subsection (1) of this section and upon entry and following a judgment of foreclosure.

SECTION 13. ORS 311.693 is amended to read:

311.693. (1)(a) *[The owner of tax-deferred homestead property desiring]* Delay in foreclosure on account of delinquent taxes as provided in ORS 311.691 *[shall make]* **may not be granted unless the owner of the tax-deferred homestead files an application for the delay [to] with** the county assessor prior to the date the period of redemption expires under ORS 312.120.

(b) *[The]* **An application [shall] filed under this subsection must** contain or be accompanied by a verified statement of total household income, *as defined in ORS 310.630,* of the owner for the calendar year immediately preceding the calendar year in which the application is *[made]* **filed.**

(2)(a) Upon receipt of an application under subsection (1) of this section, the county assessor shall approve or deny the application.

(b) If the application is denied, the owner may appeal to the circuit court in the county where the tax-deferred homestead property is located within 90 days after notice in writing of the denial is mailed to the owner by the county assessor.

(c) Orders of the circuit court in an appeal taken under this subsection may be appealed to the Court of Appeals within the time and in the manner provided under ORS 312.210.

SECTION 14. ORS 311.695 is amended to read:

311.695. *[(1) If the taxpayer who claimed homestead property tax deferral dies, or if a spouse who continued the deferral under ORS 311.688 dies, the Department of Revenue may extend the time for payment of the deferred taxes and interest accruing with respect to the taxes becoming due and payable under ORS 311.686 (2) if:]*

[(a) The homestead property becomes property of an individual or individuals:]

[(A) By inheritance or devise; or]

[(B) If the individual or individuals are heirs or devisees, as defined under ORS 111.005, in the course of settlement of the estate;]

[(b) The individual or individuals commence occupancy of the property as a principal residence on or before August 15 of the calendar year following the calendar year of death; and]

[(c) The individual or individuals make application to the department for an extension of time for payment of the deferred taxes and interest prior to August 15 of the calendar year following the calendar year of death.]

[(2)(a) Subject to paragraph (b) of this subsection, an extension granted under this section shall be for a period not to exceed five years after August 15 of the calendar year following the calendar year of death. The terms and conditions under which the extension is granted shall be in accordance with a written agreement entered into by the department and the individual or individuals.]

[(b) An extension granted under this section shall terminate immediately if:]

[(A) The homestead property is sold or otherwise transferred by any party to the extension agreement;]

[(B) All of the heirs or devisees who are parties to the extension agreement cease to occupy the property as a principal residence; or]

[(C) The homestead property, a manufactured structure or floating home, is moved out of the state.]

[(3) If the department has reason to believe that the homestead property is not sufficient security for the deferred taxes and interest, the department may require the individual or individuals to furnish a bond conditioned upon payment of the amount extended in accordance with the terms of the extension. The bond shall not exceed in amount double the taxes with respect to which tax extension is granted.]

[(4) During the period of extension, and until paid, the deferred taxes shall continue to accrue interest in the same manner and at the same rate as provided under ORS 311.674 (3). No interest shall accrue upon interest.] **A transferee of a homestead who is ineligible to claim, or does not claim, deferral under ORS 311.666 to 311.701, or that is not an individual, is jointly and severally liable for amounts payable under ORS 311.686 to the extent of the real market value of the homestead entered on the last certified assessment and tax roll prior to the date of the transfer.**

SECTION 15. ORS 305.612 is amended to read:

305.612. (1) The Director of the Department of Revenue may enter into an intergovernmental agreement with the United States Financial Management Service and the Internal Revenue Service for the purpose of engaging in the reciprocal offset of federal tax refunds in payment of liquidated state tax obligations **or of amounts payable by a transferee under ORS 311.695** and the offset of state tax refunds in payment of liquidated federal tax obligations.

(2) The director may pay a fee charged by the federal government for the processing of an offset request. The fee may be deducted from amounts remitted to the state by the federal government pursuant to an intergovernmental agreement. The amount of the fee charged by the federal government shall be added to the taxes, interest and penalties **or to the amounts payable under ORS 311.695, as applicable,** owed by the taxpayer to the state.

(3) The Department of Revenue may by rule establish a fee to be charged to the federal government for the provision of state offset services.

(4) All moneys received by the department in payment of charges made pursuant to subsection (3) of this section shall be deposited in a department miscellaneous receipts account established under ORS 279A.290.

SECTION 16. ORS 311.700 is amended to read:

311.700. (1) *[After September 9, 1971, it shall be unlawful for any mortgage trust deed or land sale contract to contain] A clause or statement [which] in a mortgage trust deed or land sale contract executed after September 9, 1971, that prohibits the owner from applying for [the benefits of the] deferral of homestead property taxes provided in ORS 311.666 to 311.701[. Any such clause or statement in a mortgage trust deed or land sale contract executed after September 9, 1971, shall be] is void.*

(2) A homestead on which amounts deferred under ORS 311.666 to 311.701 remain outstanding may not be pledged as security for a reverse mortgage by any person.

SECTION 17. ORS 311.701 is amended to read:

311.701. (1) There is established in the State Treasury the Senior Property Tax Deferral Revolving Account to be used by the Department of Revenue for the purpose of making the payments to:

(a) County tax collectors of property taxes deferred for tax years beginning on or after January 1, 1983, as required by ORS 311.676.

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

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

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

(3) All sums of money received by the Department of Revenue under ORS 311.666 to 311.701 as repayments of deferred property taxes or under ORS 311.702 to 311.735 as repayments of deferred special assessment improvement amounts, including the interest accrued under ORS 311.674 (3) or 311.711 (3) shall, upon receipt, be credited to the revolving account and are continuously appropriated to the department for the purposes of subsection (1) of this section.

(4)(a) If there are not sufficient moneys in the revolving account to make the payments required by subsection (1) of this section, and the amount appropriated from the General Fund is not sufficient when added together with the moneys in the revolving account to provide an amount sufficient to make the required payments, the State Treasurer, in the capacity of investment officer for the Oregon Investment Council, may lend to the Department of Revenue such amounts as may be necessary to make the payments.

(b) The State Treasurer may lend moneys that may be invested as provided in ORS 293.701 to 293.820.

(c) Any moneys lent under this subsection shall be repaid within five years together with interest at a rate determined by the State Treasurer and consistent with the investment standards of ORS 293.721 and 293.726.

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

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

SECTION 18. ORS 410.422 is amended to read:

410.422. (1) The Oregon Project Independence Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Oregon Project Independence Fund shall be credited to the Oregon Project Independence Fund. Moneys in the Oregon Project Independence Fund at the end of a biennium are retained in the Oregon Project Independence Fund and do not revert to the General Fund.

(2) The Oregon Project Independence Fund consists of moneys appropriated to the fund by the Legislative Assembly, interest earned by the fund[,] **and** moneys contributed to the fund by donors [*and moneys transferred to the fund under ORS 311.701*].

(3) Moneys in the Oregon Project Independence Fund are continuously appropriated to the Department of Human Services for the purpose of funding Oregon Project Independence as provided in ORS 410.410 to 410.480.

SECTION 19. ORS 311.704 is amended to read:

311.704. (1) [*Subject to ORS 311.706,*] **On or before the effective date of this 2011 Act,** a taxpayer may [*elect*] **file a claim** to defer payment of the amount of special assessment for local improvement assessed or reassessed to the taxpayer's homestead[. *The election shall be made by filing*

a claim for deferral] with the officer in charge of the bond lien docket or assessment lien record. The effect of filing the claim shall be to defer payment of the amount of special assessment for local improvement determined under ORS 311.702. The claim for deferral shall be effective for the calendar year for which it is filed and for each subsequent year until the occurrence of one or more of the events described in ORS 311.716.

(2) If a guardian or conservator has been appointed for a taxpayer otherwise qualified to obtain the deferral of payment of special assessment for local improvement amounts accorded under ORS 311.702 to 311.735, the guardian or conservator may act for the taxpayer in complying with ORS 311.702 to 311.735.

(3) A taxpayer who [has elected to claim] **claims** the deferral under ORS 311.702 to 311.735 [shall not be entitled to] **may not** claim a deferral or other similar assistance available under local law.

SECTION 20. ORS 311.356 is amended to read:

311.356. (1) After receipt of the tax roll each year the tax collector shall receive and receipt for all moneys received for taxes and other amounts charged on such roll, and for each payment, shall note on the tax roll at the appropriate property assessment the following:

- (a) The date payment was received.
- (b) The amount of the payment.
- (c) The discount allowed, if any.
- (d) The interest charged, if any.
- (e) The number of the receipt issued for such payment.

(2) Except as provided under subsection (3)(a) and (c) of this section, the tax collector shall credit all payments of property taxes as follows:

(a) First, to the payment of any taxes assessed against and due on the property for which the payment was made, paying first the earliest such taxes due on that property; and

(b) Second, to the payment of taxes assessed on any other property which have by any means become a lien against the property for which the payment was made.

(3)(a) Payments of property taxes made by the state on behalf of tax-deferred homestead property under ORS 311.666 to 311.701 shall be credited to the current tax year.

(b) At the election of the taxpayer, payments of property taxes made by the taxpayer on behalf of tax-deferred homestead property under ORS 311.666 to 311.701 shall be credited as provided in subsection (2) of this section, except that the payments shall be credited first to the payment of taxes that are not qualified to be deferred under ORS 311.688 (1) [or 311.689 (1)], paying first the earliest of such taxes due on that property.

(c) Notwithstanding any contrary direction from the taxpayer, the tax collector shall credit payments of property taxes to the latest year for which taxes are due on the property for which payment is made if:

(A) The payment is made by a payer who is a mortgagee, beneficiary under a deed of trust or vendor under a land sales contract and who pays taxes on behalf of any taxpayer; and

(B) The mortgagee, beneficiary or vendor directs that the payment be credited to the latest year for which taxes are due on the property; and

(C) The mortgagee, beneficiary or vendor includes in the payment submitted with the direction given under subparagraph (B) of this paragraph only the amounts for the payment of taxes on one or more properties for which delinquent taxes are owed and does not include in that payment taxes on property for which no delinquent taxes are owed.

(d) If the mortgagee, beneficiary or vendor does not direct the tax collector as to the application of taxes being paid, then the tax collector shall apply all payments as provided under subsection (2) of this section.

(4) The tax collector may, for convenience, divide the tax roll, as payments are made, into two portions, and file each separately, one portion containing the paid accounts and another portion containing the unpaid accounts. From time to time, and no later than the receipt of the next year's tax roll, the tax collector shall compute and indicate on the tax roll the unpaid balance of taxes for each property assessment.

SECTION 21. ORS 311.681 is amended to read:

311.681. (1) Notwithstanding ORS [311.668] **311.672**, if an individual (or two or more individuals jointly) who has elected to defer homestead property taxes in a prior tax year has not filed a timely claim for deferral for one or more tax years succeeding the year in which property taxes were initially deferred under ORS 311.666 to 311.701, then the individual may request that the Director of the Department of Revenue grant a retroactive deferral of property taxes on the property. A spouse who is eligible to make the election under ORS 311.688 may also request a grant of retroactive deferral under this section.

(2) The director may, in the discretion of the director, grant or deny the retroactive deferral of property taxes. No appeal from a decision of the director under this section may be made.

(3) The director shall not grant a retroactive deferral of property taxes if, in any intervening year between the year in which deferral was last granted to the property and the last year for which retroactive deferral is being requested, the property would not have been eligible for deferral had the claim for deferral been timely filed.

(4) If the director grants a retroactive deferral of property taxes under this section, the department shall pay to the county tax collector an amount equal to the deferred taxes for each year, less three percent. Interest shall accrue on the actual amount of taxes advanced to the county.

(5) The department shall have a lien against the tax-deferred property for amounts deferred under this section as provided in ORS 311.673. The lien shall attach as of July 1 of the tax year for which the payment relates. In the case of a payment representing more than one year's property taxes, the department shall have a lien in the amount of that portion of a payment related to a particular tax year, which shall attach as of July 1 of that tax year.

SECTION 22. ORS 314.430 is amended to read:

314.430. (1) If any tax imposed under ORS chapter 118, 316, 317 or 318 or any portion of the tax is not paid within 30 days after the date that the written notice and demand for payment required under ORS 305.895 is mailed (or within five days after the tax becomes due, in the case of the termination of the tax year by the Department of Revenue under the provisions of ORS 314.440), **or any amount payable by a transferee under ORS 311.695 is not paid as required under ORS 311.686**, and no provision is made to secure the payment thereof by bond, deposit or otherwise, pursuant to regulations promulgated by the department, the department may issue a warrant directed to the sheriff of any county of the state commanding the sheriff to levy upon and sell the real and personal property of the taxpayer found within that county, for the payment of the amount of the tax **or amount payable under ORS 311.695**, with the added penalties, interest, collection charge and the sheriff's cost of executing the warrant, and to return such warrant to the department and pay to it the money collected by virtue thereof by a time to be therein specified, not less than 60 days from the date of the warrant. A copy of the warrant shall be mailed or delivered to the taxpayer **or transferee** by the department at the taxpayer's **or transferee's** last-known address.

(2) The sheriff shall, within five days after the receipt of the warrant, record with the clerk of the county a copy thereof, and thereupon the clerk shall enter in the County Clerk Lien Record the name of the taxpayer **or transferee** mentioned in the warrant, and the amount of the tax **or amount payable under ORS 311.695** or portion thereof and penalties for which the warrant is issued and the date when such copy is recorded. Thereupon the amount of the warrant so recorded shall become a lien upon the title to and interest in property of the taxpayer **or transferee** against whom it is issued in the same manner as a judgment duly recorded. The sheriff thereupon shall proceed upon the same in all respects, with like effect and in the same manner prescribed by law in respect to executions issued against property upon judgment of a court of record, and shall be entitled to the same fees for services in executing the warrant, to be added to and collected as a part of the warrant liability.

(3) In the discretion of the department a warrant of like terms, force and effect may be issued and directed to any agent authorized to collect taxes, and in the execution thereof the agent shall have all the powers conferred by law upon sheriffs, but is entitled to no fee or compensation in excess of actual expenses paid in the performance of such duty.

(4) If a warrant is returned not satisfied in full, the department shall have the same remedies to enforce the claim for taxes against the taxpayer **or for amounts payable by the transferee** as if the people of the state had recovered judgment against the taxpayer for the amount of the tax **or against the transferee for the amount payable under ORS 311.695**, and shall balance the assessment record of the taxpayer **or transferee** by transferring the unpaid deficiency to the taxpayer's **or transferee's** delinquent record.

SECTION 23. ORS 305.895 is amended to read:

305.895. (1) Except as provided in ORS 314.440 or other jeopardy assessment procedure, the Department of Revenue shall take no action against a taxpayer's **or transferee's** real or personal property before issuing a warrant for the collection of [the] tax **or an amount payable by a transferee under ORS 311.695** as provided in ORS 314.430, 320.080, 321.570 and 324.190.

(2) Prior to issuing a warrant for collection of any tax collected by the department **or any amount payable under ORS 311.695**, the department shall send the taxpayer **or transferee** a written notice and demand for payment. The notice shall:

(a) Be sent by mail, addressed to the taxpayer **or transferee** at the taxpayer's **or transferee's** last-known address.

(b) Inform the taxpayer **or transferee** that if the tax or any portion of the tax **or the amount payable under ORS 311.695** is not paid within 30 days after the date of the notice and demand for payment, a warrant may be issued and recorded as provided in ORS 314.430, 320.080, 321.570 and 324.190.

(c) Describe in clear nontechnical terms the legal authority for the warrant.

(d) Contain the name, office mailing address and office telephone number of the person issuing the warrant and advise the taxpayer **or transferee** that questions or complaints concerning the warrant, other than liability for the underlying tax **or amount payable under ORS 311.695**, may be directed to that person.

(e) Include alternatives available to the taxpayer [which] **or transferee that** would prevent issuance of the warrant.

SECTION 24. (1) The amendments to ORS 305.612, 311.356, 311.666, 311.668, 311.670, 311.672, 311.676, 311.679, 311.681, 311.684, 311.686, 311.688, 311.689, 311.691, 311.693, 311.695, 311.700, 311.701, 314.430 and 410.422 by sections 1 to 4, 6 to 18 and 20 to 22 of this 2011 Act apply to property tax years beginning on or after July 1, 2011.

(2) The amendments to ORS 311.674 by section 5 of this 2011 Act apply to interest that accrues on taxes advanced to counties for tax-deferred property for property tax years beginning on or after July 1, 2011.

(3) A claim for an initial year of deferral, or for continued deferral, under ORS 311.666 to 311.701 may not be filed on or after April 16, 2021, and deferral may not be granted for a property tax year beginning after July 1, 2021.

SECTION 25. If House Bill 3261 becomes law, section 23 of this 2011 Act (amending ORS 305.895) is repealed and ORS 305.895, as amended by section 7, chapter 389, Oregon Laws 2011 (Enrolled House Bill 3261), is amended to read:

305.895. (1) Except as provided in ORS 314.440 or other jeopardy assessment procedure, the Department of Revenue shall take no action against a taxpayer's **or transferee's** real or personal property before issuing a warrant for the collection of [the] tax **or an amount payable by a transferee under ORS 311.695** as provided in ORS 314.430, 320.080, 321.570, 323.390, 323.610 and 324.190.

(2) At least 30 days before issuing a warrant for collection of any tax collected by the department **or any amount payable under ORS 311.695**, the department shall send the taxpayer **or transferee** a written notice and demand for payment. The notice shall:

(a) Be sent by mail, addressed to the taxpayer **or transferee** at the taxpayer's **or transferee's** last-known address.

(b) Inform the taxpayer **or transferee** that, even if the taxpayer **or transferee** is compliant with an installment agreement between the taxpayer **or transferee** and the department and is in

communication with the department, if the tax or any portion of the tax **or the amount payable under ORS 311.695** is not paid within 30 days after the date of the notice and demand for payment, a warrant may be issued and recorded as provided in ORS 314.430, 320.080, 321.570, 323.390, 323.610 and 324.190.

(c) Describe in clear nontechnical terms the legal authority for the warrant.

(d) Contain the name, office mailing address and office telephone number of the person issuing the warrant and advise the taxpayer **or transferee** that questions or complaints concerning the warrant, other than liability for the underlying tax **or amount payable under ORS 311.695**, may be directed to that person.

(e) Include alternatives available to the taxpayer [*which*] **or transferee that** would prevent issuance of the warrant.

(f) Inform the taxpayer **or transferee** of possible consequences to the taxpayer **or transferee** of noncompliance, and of issuance of a warrant, including garnishment of wages or bank accounts and seizure and sale of real or personal property.

SECTION 26. Section 20, chapter 7, Oregon Laws 2011 (Enrolled Senate Bill 301) (amending ORS 311.689), is repealed.

SECTION 27. Section 28, chapter 7, Oregon Laws 2011 (Enrolled Senate Bill 301), is amended to read:

Sec. 28. (1) Except as provided in subsections (2) and (3) of this section, the amendments to statutes by sections 1 to 19 and 21 to 27, chapter 7, Oregon Laws 2011 (Enrolled Senate Bill 301), [*of this 2011 Act*] apply to transactions or activities occurring on or after January 1, 2011, in tax years beginning on or after January 1, 2011.

(2) The effective and applicable dates, and the exceptions, special rules and coordination with the Internal Revenue Code, as amended, relative to those dates, contained in the Federal Aviation Administration Air Transportation Modernization and Safety Improvement Act (P.L. 111-226), the Patient Protection and Affordable Care Act (P.L. 111-148), the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010 (P.L. 111-192), the Health Care and Education Reconciliation Act of 2010 (P.L. 111-152), the Homebuyer Assistance and Improvement Act of 2010 (P.L. 111-198) and other federal law amending the Internal Revenue Code apply for Oregon personal income and corporate excise and income tax purposes, to the extent they can be made applicable, in the same manner as they are applied under the Internal Revenue Code and related federal law.

(3)(a) If a deficiency is assessed against any taxpayer for a tax year beginning before January 1, 2011, and the deficiency or any portion thereof is attributable to any retroactive treatment under the amendments to ORS 305.230, 305.494, 305.690, 307.130, 307.147, 308A.450, 310.140, 310.630, 310.800, [*311.689,*] 314.011, 315.004, 316.012, 317.010 and 317.097 by sections 11 to 19 and 21 to 25, chapter 7, Oregon Laws 2011 (Enrolled Senate Bill 301) [*of this 2011 Act*], then any interest or penalty assessed under ORS chapter 305, 314, 315, 316, 317 or 318 with respect to the deficiency or portion thereof shall be canceled.

(b) If a refund is due any taxpayer for a tax year beginning before January 1, 2011, and the refund or any portion thereof is due the taxpayer on account of any retroactive treatment under the amendments to ORS 305.230, 305.494, 305.690, 307.130, 307.147, 308A.450, 310.140, 310.630, 310.800, [*311.689,*] 314.011, 315.004, 316.012, 317.010 and 317.097 by sections 11 to 19 and 21 to 25, chapter 7, Oregon Laws 2011 (Enrolled Senate Bill 301) [*of this 2011 Act*], then notwithstanding ORS 305.270 or 314.415 or other law, the refund or portion thereof shall be paid without interest.

(c) Any changes required because of the amendments to ORS 305.230, 305.494, 305.690, 307.130, 307.147, 308A.450, 310.140, 310.630, 310.800, [*311.689,*] 314.011, 315.004, 316.012, 317.010 and 317.097 by sections 11 to 19 and 21 to 25, chapter 7, Oregon Laws 2011 (Enrolled Senate Bill 301), [*of this 2011 Act*] for a tax year beginning before January 1, 2011, shall be made by filing an amended return within the time prescribed by law.

(d) If a taxpayer fails to file an amended return under paragraph (c) of this subsection, the Department of Revenue shall make any changes under paragraph (c) of this subsection on the return to which the changes relate within the period specified for issuing a notice of deficiency or claiming

a refund as otherwise provided by law with respect to that return, or within one year after a return for a tax year beginning on or after January 1, 2011, and before January 1, 2012, is filed, whichever period expires later.

SECTION 28. If House Bill 2693 becomes law and House Bill 3261 does not become law, section 22 of this 2011 Act (amending ORS 314.430) is repealed and ORS 314.430, as amended by section 2, chapter __, Oregon Laws 2011 (Enrolled House Bill 2693), is amended to read:

314.430. (1) If any tax imposed under ORS chapter 118, 316, 317 or 318 or any portion of the tax is not paid within 30 days after the date that the written notice and demand for payment required under ORS 305.895 is mailed (or within five days after the tax becomes due, in the case of the termination of the tax year by the Department of Revenue under the provisions of ORS 314.440), **or any amount payable by a transferee under ORS 311.695 is not paid as required under ORS 311.686**, and no provision is made to secure the payment thereof by bond, deposit or otherwise, pursuant to regulations promulgated by the department, the department may issue a warrant for the payment of the amount of the tax **or amount payable under ORS 311.695**, with the added penalties, interest and any collection charge incurred. A copy of the warrant shall be mailed or delivered to the taxpayer **or transferee** by the department at the taxpayer's **or transferee's** last-known address.

(2) At any time after issuing a warrant under this section, the department may record the warrant in the County Clerk Lien Record of any county of this state. Recording of the warrant has the effect described in ORS 205.125. After recording a warrant, the department may direct the sheriff for the county in which the warrant is recorded to levy upon and sell the real and personal property of the taxpayer **or transferee** found within that county, and to levy upon any currency of the taxpayer **or transferee** found within that county, for the application of the proceeds or currency against the amount reflected in the warrant and the sheriff's cost of executing the warrant. The sheriff shall proceed on the warrant in the same manner prescribed by law for executions issued against property pursuant to a judgment, and is entitled to the same fees as provided for executions issued against property pursuant to a judgment. The fees of the sheriff shall be added to and collected as a part of the warrant liability.

(3) In the discretion of the department a warrant under this section may be directed to any agent authorized by the department to collect taxes, and in the execution of the warrant the agent has all of the powers conferred by law upon sheriffs, but is entitled to no fee or compensation in excess of actual expenses paid in the performance of such duty.

(4) Until a warrant issued under this section is satisfied in full, the department has the same remedies to enforce the claim for taxes against the taxpayer **or for amounts payable by the transferee** as if the state had recovered judgment against the taxpayer for the amount of the tax **or against the transferee for the amount payable under ORS 311.695**.

SECTION 29. If House Bill 3261 becomes law, section 2, chapter __, Oregon Laws 2011 (Enrolled House Bill 2693), and section 22 of this 2011 Act (both amending ORS 314.430) are repealed and ORS 314.430, as amended by section 1, chapter 389, Oregon Laws 2011 (Enrolled House Bill 3261), is amended to read:

314.430. (1) If any tax imposed under ORS chapter 118, 316, 317 or 318 or any portion of the tax is not paid within 30 days after the date that the written notice and demand for payment required under ORS 305.895 is mailed (or within five days after the tax becomes due, in the case of the termination of the tax year by the Department of Revenue under the provisions of ORS 314.440), **or any amount payable by a transferee under ORS 311.695 is not paid as required under ORS 311.686**, and no provision is made to secure the payment thereof by bond, deposit or otherwise, pursuant to regulations promulgated by the department, the department may issue a warrant for the payment of the amount of the tax **or amount payable under ORS 311.695**, with the added penalties, interest and any collection charge incurred. A copy of the warrant shall be mailed or delivered to the taxpayer **or transferee** by the department at the taxpayer's **or transferee's** last-known address.

(2) At any time after issuing a warrant under this section, the department may record the warrant in the County Clerk Lien Record of any county of this state. Recording of the warrant has the effect described in ORS 205.125. After recording a warrant, the department may direct the sheriff

for the county in which the warrant is recorded to levy upon and sell the real and personal property of the taxpayer **or transferee** found within that county, and to levy upon any currency of the taxpayer **or transferee** found within that county, for the application of the proceeds or currency against the amount reflected in the warrant and the sheriff's cost of executing the warrant. The sheriff shall proceed on the warrant in the same manner prescribed by law for executions issued against property pursuant to a judgment, and is entitled to the same fees as provided for executions issued against property pursuant to a judgment. The fees of the sheriff shall be added to and collected as a part of the warrant liability.

(3) In the discretion of the department a warrant under this section may be directed to any agent authorized by the department to collect taxes, and in the execution of the warrant the agent has all of the powers conferred by law upon sheriffs, but is entitled to no fee or compensation in excess of actual expenses paid in the performance of such duty.

(4) Until a warrant issued under this section is satisfied in full, the department has the same remedies to enforce the claim for taxes against the taxpayer **or for amounts payable by the transferee** as if the state had recovered judgment against the taxpayer for the amount of the tax **or against the transferee for the amount payable under ORS 311.695.**

SECTION 30. If House Bill 2693 becomes law and House Bill 3261 does not become law, section 24 of this 2011 Act is amended to read:

Sec. 24. (1) The amendments to ORS 305.612, 311.356, 311.666, 311.668, 311.670, 311.672, 311.676, 311.679, 311.681, 311.684, 311.686, 311.688, 311.689, 311.691, 311.693, 311.695, 311.700, 311.701, 314.430 and 410.422 by sections 1 to 4, 6 to 18 [*and 20 to 22*], **20, 21 and 28** of this 2011 Act apply to property tax years beginning on or after July 1, 2011.

(2) The amendments to ORS 311.674 by section 5 of this 2011 Act apply to interest that accrues on taxes advanced to counties for tax-deferred property for property tax years beginning on or after July 1, 2011.

(3) A claim for an initial year of deferral, or for continued deferral, under ORS 311.666 to 311.701 may not be filed on or after April 16, 2021, and deferral may not be granted for a property tax year beginning after July 1, 2021.

SECTION 31. If House Bill 3261 becomes law, section 24 of this 2011 Act is amended to read:

Sec. 24. (1) The amendments to ORS 305.612, 311.356, 311.666, 311.668, 311.670, 311.672, 311.676, 311.679, 311.681, 311.684, 311.686, 311.688, 311.689, 311.691, 311.693, 311.695, 311.700, 311.701, 314.430 and 410.422 by sections 1 to 4, 6 to 18 [*and 20 to 22*], **20, 21 and 29** of this 2011 Act apply to property tax years beginning on or after July 1, 2011.

(2) The amendments to ORS 311.674 by section 5 of this 2011 Act apply to interest that accrues on taxes advanced to counties for tax-deferred property for property tax years beginning on or after July 1, 2011.

(3) A claim for an initial year of deferral, or for continued deferral, under ORS 311.666 to 311.701 may not be filed on or after April 16, 2021, and deferral may not be granted for a property tax year beginning after July 1, 2021.

SECTION 32. This 2011 Act takes effect on the 91st day after the date on which the 2011 regular session of the Seventy-sixth Legislative Assembly adjourns sine die.

Passed by House May 12, 2011

Repassed by House June 22, 2011

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Ramona Kenady Line, Chief Clerk of House

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

Passed by Senate June 21, 2011

.....
Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2011

Approved:

.....M,....., 2011

.....
John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2011

.....
Kate Brown, Secretary of State