

A-Engrossed
House Bill 4039

Ordered by the House February 7
Including House Amendments dated February 7

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

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.

Requires [*financial institution*] **lender** to notify potential borrower of prohibition against pledging tax-deferred homestead as security for reverse mortgage. [*Makes failure to comply unlawful trade practice.*]

Allows taxpayer to elect to credit payments to deferred taxes payable as result of determination of ineligibility.

Specifies classification of homesteads for purposes of determining county median RMV.

Requires Department of Revenue to certify eligibility for deferral not less than once every three years.

Requires department to report to interim committee regarding claim form for homestead property tax deferral program for property tax year beginning on July 1, 2012.

Requires department to develop data gathering instrument to gather certain data related to taxpayers participating in homestead property tax deferral program.

Delays, until property tax years beginning on or after July 1, 2013, prohibition on deferral of homestead property taxes for certain homesteads pledged as security for reverse mortgage.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to tax deferral programs; creating new provisions; amending ORS 311.356, 311.666 and
3 311.689; and prescribing an effective date.

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

5 **SECTION 1. Before entering into an agreement with a borrower for a reverse mortgage,**
6 **the lender shall notify the borrower in writing of the provisions of ORS 311.700 (2).**

7 **SECTION 2.** ORS 311.356 is amended to read:

8 311.356. (1) After receipt of the tax roll each year the tax collector shall receive and receipt for
9 all moneys received for taxes and other amounts charged on such roll, and for each payment, shall
10 note on the tax roll at the appropriate property assessment the following:

11 (a) The date payment was received.

12 (b) The amount of the payment.

13 (c) The discount allowed, if any.

14 (d) The interest charged, if any.

15 (e) The number of the receipt issued for such payment.

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

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

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

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

5 (b) At the election of the taxpayer, payments of property taxes made by the taxpayer on behalf
6 of tax-deferred homestead property under ORS 311.666 to 311.701 shall be credited as provided in
7 subsection (2) of this section, except that the payments shall be credited first to the payment of
8 taxes that are not qualified to be deferred under ORS 311.688 (1) **or as a result of a determination**
9 **of ineligibility made pursuant to ORS 311.689 (1)**, paying first the earliest of such taxes due on
10 that property.

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

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

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

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

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

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

30 **SECTION 3.** ORS 311.666 is amended to read:

31 311.666. As used in ORS 311.666 to 311.701:

32 (1) "County median RMV" means the median real market value entered on the last certified
33 assessment and tax roll for all residential improved properties in the county in which a homestead
34 is located **that are classified as 1-0-1 pursuant to the rule adopted by the Department of Re-**
35 **venue under ORS 308.215.**

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

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

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

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

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

8 (6) "Tax-deferred property" means the property upon which taxes are deferred under ORS
9 311.666 to 311.701.

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

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

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

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

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

21 **SECTION 4.** ORS 311.689 is amended to read:

22 311.689. (1)(a) *[On or before April 15 of the third year for which deferral under ORS 311.666 to*
23 *311.701 is claimed and every two years thereafter, all taxpayers claiming the deferral must certify to*
24 *the county assessor that the homestead remains eligible for, and the taxpayers remain eligible to claim,*
25 *the deferral.]* **The Department of Revenue shall certify the eligibility of each homestead**
26 **granted, and the respective taxpayers claiming, deferral under ORS 311.666 to 311.701, not**
27 **less than once every three years.**

28 **(b) The department shall notify the taxpayers in writing of the obligation to certify el-**
29 **igibility under this subsection and the taxpayers shall respond, by the means prescribed by**
30 **the department, within 60 days of receipt of the request.**

31 **(c) Failure to respond as required under paragraph (b) of this subsection disqualifies the**
32 **homestead for deferral for the next following property tax year.**

33 (2)(a) For any year in which the household income of the taxpayers exceeds the amounts al-
34 lowable under ORS 311.668, the property taxes deferred under ORS 311.666 to 311.701 for that year,
35 including accrued interest, become payable by the applicable due date prescribed in ORS 311.686
36 (1)(b) or (2).

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

39 (c) The amount of deferred taxes payable under this subsection shall bear interest from the date
40 paid by the department *[of Revenue]* until paid at the rate established under ORS 305.220 for defi-
41 ciencies.

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

45 (e) Upon payment of the amount assessed as a deficiency under this subsection and any interest,

1 the department shall execute a release in the amount of the payment. The release shall be conclu-
2 sive evidence of the removal and extinguishment of the lien under ORS 311.666 to 311.701 to the
3 extent of the payment.

4 (3) Subsection (2) of this section does not affect the continued deferral of taxes that have been
5 deferred for tax years beginning before a tax year to which subsection (2) of this section applies or
6 the deferral of taxes for tax years beginning after a tax year to which subsection (2) of this section
7 applies, provided subsection (2) of this section does not apply to those tax years.

8 (4) This section applies to all tax-deferred property, whether the deferral under ORS 311.666 to
9 311.701 is claimed before or after October 3, 1989.

10 **SECTION 5. Not later than May 31, 2012, the Department of Revenue shall report to the**
11 **interim committees of the Legislative Assembly related to revenue on the claim form to be**
12 **supplied by the department to taxpayers pursuant to ORS 311.672 (1)(a)(A) for the property**
13 **tax year beginning on July 1, 2012.**

14 **SECTION 6. (1) The Department of Revenue shall:**

15 (a) In consultation with the Legislative Revenue Officer, develop a data gathering in-
16 strument to gather detailed data regarding the socioeconomic characteristics and financial
17 position relating to the tax-deferred homestead, of all taxpayers participating in the home-
18 stead property tax deferral program under ORS 311.666 to 311.701.

19 (b) As soon as practicable after the effective date of this 2012 Act, present a prototype
20 of the data gathering instrument to the interim committees of the Legislative Assembly re-
21 lated to revenue for approval.

22 (c) Deliver the data gathering instrument, as approved by the interim committees de-
23 scribed in paragraph (b) of this subsection, as a separate mailing to the participating tax-
24 payers.

25 (d) Not later than January 31, 2013, report to the interim committees of the Legislative
26 Assembly related to revenue on the data gathered pursuant to this section.

27 (2) Any costs associated with this section shall be considered administrative expenses of
28 the homestead property tax deferral program under ORS 311.666 to 311.701.

29 **SECTION 7. (1) Notwithstanding section 24 (1), chapter 723, Oregon Laws 2011, the**
30 **amendments to ORS 311.700 by section 16, chapter 723, Oregon Laws 2011, apply to property**
31 **tax years beginning on or after July 1, 2013, for homesteads:**

32 (a) That were determined, pursuant to chapter 723, Oregon Laws 2011, to be ineligible for
33 deferral under ORS 311.666 to 311.701 solely because the homestead was pledged as security
34 for a reverse mortgage;

35 (b) That had been granted deferral under ORS 311.666 to 311.701 at the time of the de-
36 termination of ineligibility; and

37 (c) For which an application for recertification of deferral under ORS 311.666 to 311.701,
38 as required pursuant to chapter 723, Oregon Laws 2011, was submitted on or before February
39 1, 2012, for the property tax year beginning on July 1, 2011.

40 (2) The Department of Revenue shall, as soon as practicable after the effective date of
41 this 2012 Act:

42 (a) Notify the respective tax collectors of homesteads to which subsection (1) of this
43 section applies; and

44 (b) Pay, in the manner prescribed under ORS 311.676, an amount equivalent to the prop-
45 erty taxes that are eligible for deferral by operation of subsection (1) of this section.

1 **(3) If property taxes that are eligible for deferral by operation of subsection (1) of this**
2 **section have not been paid, any interest on the property taxes is abated.**

3 **(4)(a) The tax collector of the county in which a homestead described in subsection (1)**
4 **of this section is located shall notify the governing body of the county of any refund required**
5 **by operation of subsection (1) of this section.**

6 **(b) Upon receipt of notice from the tax collector under paragraph (a) of this subsection,**
7 **the governing body shall cause a refund of any amount of property taxes and interest on the**
8 **taxes that have been paid to be made from the refund reserve account, if the county has**
9 **established a refund reserve account under ORS 311.807, or from the unsegregated tax col-**
10 **lections account described in ORS 311.385.**

11 **(c) A refund under this subsection shall be made without interest.**

12 **(d) The county assessor and the tax collector shall make the necessary corrections in the**
13 **records of their offices.**

14 **SECTION 8.** **The amendments to ORS 311.356 by section 2 of this 2012 Act apply to de-**
15 **terminations of ineligibility made on or after September 29, 2011.**

16 **SECTION 9.** **This 2012 Act takes effect on the 91st day after the date on which the 2012**
17 **regular session of the Seventy-sixth Legislative Assembly adjourns sine die.**

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