

Enrolled
House Bill 4039

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

CHAPTER

AN ACT

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

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

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

SECTION 2. 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 as a result of a determination of ineligibility made pursuant to ORS 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 3. ORS 311.666 is amended to read:

311.666. As used in ORS 311.666 to 311.701:

(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 **that are classified as 1-0-1 pursuant to the rule adopted by the Department of Revenue under ORS 308.215.**

(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.

(5) "Person with a disability" means 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 an individual who is receiving Social Security survivor benefits in lieu of Social Security benefits due to disability or blindness.

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

(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 4. ORS 311.689 is amended to read:

311.689. (1)(a) *[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.]* **The Department of Revenue shall certify the eligibility of each homestead granted, and the respective taxpayers claiming, deferral under ORS 311.666 to 311.701, not less than once every three years.**

(b) The department shall notify the taxpayers in writing of the obligation to certify eligibility under this subsection and the taxpayers shall respond, by the means prescribed by the department, within 65 days after the department sends the notification.

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

(2)(a) 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) Subsection (2) of this section does not affect the continued deferral of taxes that have been deferred for tax years beginning 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.

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

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

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

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

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

(c) Deliver the data gathering instrument, as approved by the interim committees described in paragraph (b) of this subsection, as a separate mailing to the participating taxpayers.

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

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

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

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

(b) That had been granted deferral under ORS 311.666 to 311.701 at the time of the determination of ineligibility; and

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

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

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

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

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

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

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

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

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

SECTION 8. The amendments to ORS 311.356 by section 2 of this 2012 Act apply to determinations of ineligibility made on or after September 29, 2011.

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

Passed by House February 9, 2012

Repassed by House February 22, 2012

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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 February 20, 2012

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2012

Approved:

.....M,....., 2012

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2012

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Kate Brown, Secretary of State