

# D R A F T

## SUMMARY

Imposes tax on mortgage interest due lenders on residential real estate loans when loan amount exceeds real market value of residential property. Requires borrower to file report with Department of Revenue to initiate tax. Delays imposition of tax by six months to permit lender and borrower to agree to loan modification or other basis to claim exemption from tax.

Continuously appropriates revenues from tax to department to recoup costs of administering tax and for transfer to Senior Property Tax Deferral Revolving Account.

## A BILL FOR AN ACT

1  
2 Relating to real estate loan taxation; appropriating money; and providing for  
3 revenue raising that requires approval by a three-fifths majority.

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

5 **SECTION 1. As used in sections 1 to 8 of this 2013 Act:**

6 (1) **“Amount of the loan” means the total amount of the loan de-**  
7 **scribed in a real estate loan agreement, as of the date of origination**  
8 **or as of the date of the last modification of the agreement, without**  
9 **any reduction for payments of principal made by the borrower.**

10 (2) **“Borrower” means an individual who, either individually or to-**  
11 **gether with another person, is obligated on a real estate loan agree-**  
12 **ment, including but not limited to a mortgagor or grantor.**

13 (3) **“Lender” means a person that holds a real estate loan agreement**  
14 **such that the person has:**

15 (a) **A present right to a payment of principal or interest under the**  
16 **terms of the loan agreement; or**

17 (b) **A present or future right to foreclose on:**

1 (A) The residential property that secures the loan that is the sub-  
2 ject of the real estate loan agreement; or

3 (B) The trust deed that secures the loan that is the subject of the  
4 real estate loan agreement.

5 (4) "Real estate loan agreement" means an arrangement between a  
6 borrower and a lender, including but not limited to a mortgage or a  
7 trust deed, by means of which the lender agrees to loan moneys to the  
8 borrower and the borrower agrees to secure the loan in whole or part  
9 with residential property or an interest in residential property.

10 (5) "Residential property" means a single-family owner-occupied  
11 dwelling and appurtenances.

12 SECTION 2. (1) A tax is imposed on each lender doing business in  
13 this state with respect to each real estate loan agreement for which  
14 all of the following conditions apply:

15 (a) The borrower has filed a report with the Department of Revenue  
16 on which is reported a real market value as determined by the county  
17 assessor of the county in which the property is located that is at least  
18 10 percent less than the amount of the loan that is the subject of the  
19 real estate loan agreement;

20 (b) The real market value determined by the county assessor and  
21 reported by the borrower was determined as of a date that is no more  
22 than 24 months preceding the date of the borrower's report under this  
23 section;

24 (c) The department has verified the real market value and loan  
25 amounts as reported by the borrower;

26 (d) A period of six months has passed since the date notice of the  
27 filing of the borrower's report has been given to the lender under  
28 section 3 of this 2013 Act; and

29 (e) None of the grounds for claiming exemption from tax under  
30 section 4 of this 2013 Act apply.

31 (2) The tax shall equal 50 percent of the interest due on that portion

1 of the loan that represents the difference in value between the real  
2 market value of the property as reported on the borrower's report filed  
3 under subsection (1) of this section and the amount of the loan.

4 **SECTION 3.** Upon receipt of a borrower's report filed under section  
5 2 of this 2013 Act and upon verification under section 2 (1)(c) of this  
6 2013 Act, the Department of Revenue shall send a written notice to the  
7 lender that identifies the real estate loan agreement and the date on  
8 which the tax imposed under section 2 of this 2013 Act becomes due  
9 and payable. The department shall include instructions that set forth  
10 the grounds for claiming exemption under section 4 of this 2013 Act.

11 **SECTION 4.** A lender is exempt from paying the tax imposed under  
12 section 2 of this 2013 Act when:

13 (1) The real estate loan agreement has been modified so that the  
14 amount of the loan does not exceed the real market value of the  
15 property;

16 (2) The real estate loan agreement is no longer in effect; or

17 (3) The borrower has ceased to occupy the property.

18 **SECTION 5.** (1) The tax imposed under section 2 of this 2013 Act is  
19 due and payable each month, beginning on the first month following  
20 the expiration of the six month period following the date of the notice  
21 described in section 3 of this 2013 Act.

22 (2) Every lender responsible for the payment of the tax imposed by  
23 section 2 of this 2013 Act shall keep records, render statements, make  
24 returns and comply with rules adopted by the Department of Revenue  
25 with respect to the tax. Whenever in the judgment of the department  
26 it is necessary, the department may require the lender, by notice  
27 served upon that person by first-class mail, to make returns, render  
28 statements or keep records sufficient to show whether there is tax li-  
29 ability under sections 1 to 8 of this 2013 Act.

30 (3) When a return of the tax is required under section 2 of this 2013  
31 Act and this section, the lender required to make the return shall re-

1 mit the tax due to the department at the time fixed for filing the re-  
2 turn.

3 **SECTION 6.** If the amount paid by the lender to the Department  
4 of Revenue under section 5 of this 2013 Act exceeds the amount of tax  
5 payable, the department shall refund the amount of the excess with  
6 interest thereon at the rate established under ORS 305.220 for each  
7 month or fraction of a month from the date of payment of the excess  
8 until the date of the refund. The department may not make a refund  
9 to a lender that fails to claim the refund within two years after the  
10 due date for filing of the return with respect to which the claim for  
11 refund relates.

12 **SECTION 7.** (1) Unless the context requires otherwise, the pro-  
13 visions of ORS chapters 305, 314 and 316 as to the audit and examina-  
14 tion of reports and returns, determination of deficiencies, assessments,  
15 claims for refunds, penalties, interest, jeopardy assessments, warrants,  
16 conferences and appeals to the Oregon Tax Court, and procedures re-  
17 lating thereto, apply to sections 1 to 8 of this 2013 Act the same as if  
18 the tax were a tax imposed upon or measured by net income.

19 (2) The Department of Revenue may enforce collection by the issu-  
20 ance of a distraint warrant for the collection of the delinquent amount  
21 and all penalties, interest and collection charges accrued thereon. The  
22 warrant is issued and proceeded upon in the same manner and has the  
23 same force and effect as is prescribed with respect to warrants for the  
24 collection of delinquent income taxes.

25 **SECTION 8.** (1) The Mortgage Principal Reduction Incentives Ac-  
26 count is established in the General Fund. All moneys received by the  
27 Department of Revenue from the tax imposed under section 2 of this  
28 2013 Act shall be paid to the State Treasurer to be held in a suspense  
29 account established under ORS 293.445. After the payment of refunds,  
30 the balance of the moneys received must be paid into the General  
31 Fund and credited to the Mortgage Principal Reduction Incentives

1 **Account.**

2 **(2) All moneys in the Mortgage Principal Reduction Incentives Ac-**  
3 **count are continuously appropriated to the Department of Revenue for**  
4 **the following purposes:**

5 **(a) To reimburse the department for all costs incurred in adminis-**  
6 **tering sections 1 to 8 of this 2013 Act; and**

7 **(b) For transfer to the Senior Property Tax Deferral Revolving Ac-**  
8 **count as described in subsection (3) of this section.**

9 **(3) Any ending balance as of the last day of the biennium shall be**  
10 **transferred to the Senior Property Tax Deferral Revolving Account**  
11 **described in ORS 311.701.**

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