

Enrolled
House Bill 2510

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 the homestead property tax deferral program; creating new provisions; amending ORS 311.672 and 311.691; and prescribing an effective date.

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

SECTION 1. (1) Notwithstanding section 24 (1), chapter 723, Oregon Laws 2011, the amendments to ORS 311.670 by section 3, chapter 723, Oregon Laws 2011, relating to the five-year minimum requirement and the amendments to ORS 311.700 by section 16, chapter 723, Oregon Laws 2011, relating to reverse mortgages do not apply to a homestead that had been granted deferral under ORS 311.666 to 311.701 for any property tax years beginning before July 1, 2011.

(2) The Department of Revenue shall provide notice to all individuals with inactive deferral accounts of the following:

(a) The provisions of this section;

(b) That the individuals may be eligible to claim deferral under ORS 311.666 to 311.701 for their homesteads for property tax years beginning on or after July 1, 2014; and

(c) That reactivating the homestead for deferral pursuant to this section requires the individuals to file a claim for deferral in the manner prescribed in ORS 311.672.

(3) The department shall create and maintain a list of homesteads determined to be eligible under this section for reactivation for deferral under ORS 311.666 to 311.701. Homesteads shall appear on the list in the order in which the individuals who own the homesteads file a claim for deferral in the manner prescribed in ORS 311.672 on or after the effective date of this 2013 Act.

(4) A determination of eligibility under this section has the effect of reactivating the homestead for deferral under ORS 311.666 to 311.701 beginning with the first property tax year that begins after the date on which the determination of eligibility is made and continuing for all subsequent property tax years for which the homestead and the individuals who own the homestead remain eligible for the deferral.

(5)(a) Notwithstanding subsection (4) of this section, for the property tax year beginning on July 1, 2014, the maximum number of homesteads appearing on the list created pursuant to subsection (3) of this section that may be reactivated for deferral under this section is 700.

(b) For the property tax year that begins on July 1, 2015, the cumulative maximum number of homesteads appearing on the list that may be reactivated for deferral shall increase by five percent of the maximum number allowable for the property tax year beginning on July 1, 2014, for a cumulative maximum total of 735.

(c) For each property tax year beginning on or after July 1, 2016, the cumulative maximum number of homesteads appearing on the list that may be reactivated for deferral shall increase by five percent of the maximum number allowable for the immediately preceding property tax year, in the manner prescribed in paragraph (b) of this subsection.

(6) ORS 311.670 (2)(a) applies to a homestead reactivated for deferral under this section if, as of April 15 of the year in which a claim for deferral is filed, the taxpayers have continuously owned and lived in the homestead less than seven years.

SECTION 2. ORS 311.672 is amended to read:

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

(A) Be in writing on a form supplied by the Department of Revenue;

(B) Describe the homestead;

(C) Recite all facts establishing the eligibility of the homestead for, and of the taxpayers to claim, the deferral; and

(D) Have attached:

(i) Any documentary proof required by the department; and

(ii) A statement verified by a written declaration of 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 **immediately preceding** 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 3. 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 are not subject to foreclosure under ORS chapter 312 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) 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, that exceeds the amounts allowable 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, a penalty may not be imposed under ORS 312.110 or 312.120.

(b) 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 4. (1) The amendments to ORS 311.672 by section 2 of this 2013 Act apply to property tax years beginning on or after July 1, 2012.

(2) The amendments to ORS 311.691 by section 3 of this 2013 Act apply to unpaid taxes assessed against a tax-deferred homestead for property tax years beginning on or after July 1, 2011.

SECTION 5. This 2013 Act takes effect on the 91st day after the date on which the 2013 regular session of the Seventy-seventh Legislative Assembly adjourns sine die.

Passed by House May 28, 2013

Repassed by House June 17, 2013

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Ramona J. Line, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate June 13, 2013

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2013

Approved:

.....M,....., 2013

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2013

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Kate Brown, Secretary of State