

House Bill 2510

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 **as introduced**.

Eliminates requirement for homestead property tax deferral program that claimant live in homestead for at least five years and prohibition against homestead being pledged as security for reverse mortgage. Allows month after claim due date for individual to present proof of insurance on homestead.

Requires Department of Revenue to make determination of whether equity in homestead is sufficient to repay deferred taxes and if not authorizes department to offer partial deferral. Changes annual rate on deferred amounts to six percent simple interest.

Requires department to contact individuals whose homesteads were deactivated from program for certain reasons related to recent changes in law and to complete recertification claims for individuals. Requires deferral of amounts owing by individuals due to deactivation.

Requires department to transfer responsibility for all aspects of program involving contact with individuals served by program to Housing and Community Services Department.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to the homestead property tax deferral program; creating new provisions; amending ORS
3 311.668, 311.670, 311.672, 311.674 and 311.700; and prescribing an effective date.

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

5 **SECTION 1.** ORS 311.668 is amended to read:

6 311.668. (1)(a) A claim to defer the property taxes on a homestead that is eligible for deferral
7 under ORS 311.670 may be filed with the county assessor in the manner prescribed under ORS
8 311.672 by:

9 (A) An individual who is, or two or more individuals filing a claim jointly each of whom is, 62
10 years of age or older on or before April 15 of the year for which deferral is claimed; or

11 (B) An individual who is a person with a disability as of April 15 of the year for which deferral
12 is claimed, regardless of the age or disability of other individuals occupying the homestead.

13 (b) If a guardian or conservator has been appointed for an individual otherwise eligible to claim
14 deferral of taxes under this section, the guardian or conservator may act for the individual in com-
15 plying with the provisions of ORS 311.666 to 311.701.

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

20 (d) This section may not be construed to require the spouse of an individual to file a claim
21 jointly with the individual even though the spouse may be eligible to claim the deferral jointly with
22 the individual.

23 (2)(a) Notwithstanding subsection (1) of this section, deferral may not be granted under ORS
24 311.666 to 311.701 with respect to a claim filed by individuals who together have, for the calendar

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 year immediately preceding the calendar year in which the claim for deferral is filed:

2 (A) Household income of [\$32,000] \$_____ or more; or

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

4 (b) For each tax year beginning on or after July 1, 2002, the Department of Revenue shall re-
5 compute the maximum household income under this subsection as follows:

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

9 (B) Recompute the maximum household income by multiplying [\$32,000] \$_____ by the appro-
10 priate indexing factor determined under subparagraph (A) of this paragraph.

11 (c) Any change in the maximum household income determined under paragraph (b) of this sub-
12 section shall be rounded to the nearest multiple of \$500.

13 (3) Notwithstanding subsection (1) of this section, deferral may not be granted under ORS
14 311.666 to 311.701 with respect to a claim if, at the time the claim is filed, property taxes imposed
15 on the homestead of any individual filing the claim have been deferred and are delinquent or have
16 been canceled.

17 **SECTION 2. The amendments to ORS 311.668 by section 1 of this 2013 Act apply to**
18 **property tax years beginning on or after July 1, 2013.**

19 **SECTION 3.** ORS 311.670 is amended to read:

20 311.670. (1) Property is not eligible for tax deferral under ORS 311.666 to 311.701 unless, at the
21 time a claim is filed and during the period for which deferral is claimed:

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

25 (b) The individual claiming the deferral, individually or jointly, owns the fee simple estate under
26 a recorded instrument of sale, or two or more individuals together own the fee simple estate with
27 rights of survivorship under a recorded instrument of sale if all owners live in the property and if
28 all owners apply for the deferral jointly.

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

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

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

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

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

42 (c) 120 percent of county median RMV if, as of April 15 of the year in which a claim is filed,
43 the taxpayers have continuously owned and lived in the homestead at least nine years but less than
44 11 years.

45 (d) 130 percent of county median RMV if, as of April 15 of the year in which a claim is filed,

1 the taxpayers have continuously owned and lived in the homestead at least 11 years but less than
 2 13 years.

3 (e) 140 percent of county median RMV if, as of April 15 of the year in which a claim is filed,
 4 the taxpayers have continuously owned and lived in the homestead at least 13 years but less than
 5 15 years.

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

9 (g) 160 percent of county median RMV if, as of April 15 of the year in which a claim is filed,
 10 the taxpayers have continuously owned and lived in the homestead at least 17 years but less than
 11 19 years.

12 (h) 170 percent of county median RMV if, as of April 15 of the year in which a claim is filed,
 13 the taxpayers have continuously owned and lived in the homestead at least 19 years but less than
 14 21 years.

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

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

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

23 **SECTION 4. The amendments to ORS 311.670 by section 3 of this 2013 Act apply to**
 24 **property tax years beginning on or after July 1, 2011.**

25 **SECTION 5.** ORS 311.672 is amended to read:

26 311.672. (1)(a) A taxpayer's claim for deferral under ORS 311.666 to 311.701 must:

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

28 (B) Describe the homestead;

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

31 (D) Have attached:

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

33 (ii) A statement verified by a written declaration of all taxpayers claiming deferral to the effect
 34 that the statements contained in the claim are true.

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

37 **(c) Notwithstanding paragraph (b) of this subsection, proof that the homestead is insured**
 38 **for fire and other casualty may be filed on or before May 15.**

39 (2) The county assessor shall forward each claim filed under this section to the department, and
 40 the department shall determine:

41 (a) Whether the [*property is eligible for the deferral.*] **taxpayers and the homestead are eligible**
 42 **under ORS 311.668 and 311.670, respectively; and**

43 (b) **Whether the equity in the homestead, in consideration of all other interests in the**
 44 **equity, is likely to be sufficient to satisfy the payment of deferred property taxes and accrued**
 45 **interest under ORS 311.684.**

1 (3)(a) If the [*taxpayers and the homestead are determined to be eligible under ORS 311.668 and*
2 *311.670, respectively*] **determinations under subsection (2) of this section are positive, and once**
3 **proof of insurance for fire and other casualty is received by the department,** a timely claim
4 for deferral has the effect of:

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

7 [(b)] (B) Continuing the deferral of the payment by the taxpayers of any property taxes deferred
8 under ORS 311.666 to 311.701 for previous years that have not become delinquent under ORS
9 311.686.

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

13 **(b) If the determination under subsection (2)(b) alone is negative, the department may**
14 **offer partial deferral under paragraph (a)(A) of this subsection.**

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

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

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

24 (b) For purposes of paragraph (a) of this subsection, spouses who continue deferral under ORS
25 311.688 are not considered taxpayers who have not previously been granted deferral.

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

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

34 **SECTION 6.** ORS 311.674 is amended to read:

35 311.674. (1) If eligibility for deferral of homestead property is established as provided in ORS
36 311.666 to 311.701, the Department of Revenue shall notify the county assessor and the county
37 assessor shall show on the current ad valorem assessment and tax roll that the property is tax-
38 deferred property by an entry clearly designating the property as tax-deferred property.

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

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

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

1 the tax statement for each tax-deferred property.

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

6 **SECTION 7. The amendments to ORS 311.672 and 311.674 by sections 5 and 6 of this 2013
 7 Act apply to property tax years beginning on or after July 1, 2013.**

8 **SECTION 8.** ORS 311.700 is amended to read:

9 311.700. [(1)] A clause or statement in a mortgage trust deed or land sale contract executed after
 10 September 9, 1971, that prohibits the owner from applying for deferral of homestead property taxes
 11 provided in ORS 311.666 to 311.701 is void.

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

14 **SECTION 9. (1) The amendments to ORS 311.700 by section 8 of this 2013 Act apply to
 15 property tax years beginning before, on or after the effective date of this 2013 Act.**

16 **SECTION 10. (1) This section applies to a homestead that was determined to be ineligible
 17 for deferral under ORS 311.666 to 311.701 for any of the following reasons, singly or in com-
 18 bination with each other:**

19 (a) **The homestead was pledged as security for a reverse mortgage.**

20 (b) **The property had not been the homestead of the individuals claiming deferral for at
 21 least five years at the time the property was determined to be ineligible.**

22 (c) **The claim for deferral did not include proof that the homestead is insured for fire and
 23 other casualty.**

24 (d) **A claim for recertification of deferral was not filed on or after September 29, 2011.**

25 (2)(a) **The Department of Revenue shall contact individuals to whose homestead sub-
 26 section (1) of this section applies to determine whether, pursuant to the amendments to ORS
 27 311.670, 311.672 and 311.700 by sections 3, 5 and 8 of this 2013 Act, the homestead is eligible
 28 for deferral under ORS 311.666 to 311.701.**

29 (b) **If the determination under paragraph (a) of this subsection is positive, the depart-
 30 ment shall, in consultation with the individuals, complete claims for recertification for the
 31 homestead, including proof that the homestead is insured for fire and other casualty.**

32 (3) **The Department of Revenue shall, as soon as practicable after the effective date of
 33 this 2013 Act:**

34 (a) **Notify the respective tax collectors of homesteads determined to be eligible under
 35 subsection (2) of this section for which claims for recertification are completed; and**

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

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

40 (5)(a) **The tax collector of the county in which a homestead determined to be eligible for
 41 deferral pursuant to subsection (2) of this section is located shall notify the governing body
 42 of the county of any refund required by operation of this section.**

43 (b) **Upon receipt of notice from the tax collector under paragraph (a) of this subsection,
 44 the governing body shall cause a refund of any amount of property taxes and interest on the
 45 taxes that have been paid to be made from the refund reserve account, if the county has**

1 established a refund reserve account under ORS 311.807, or from the unsegregated tax col-
2 lections account described in ORS 311.385.

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

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

6 **SECTION 11.** (1) As soon as practicable, the Department of Revenue shall, in consultation
7 with the Housing and Community Services Department, transfer responsibility for all aspects
8 of the homestead property tax deferral program involving contact with the individuals served
9 by the program to the Housing and Community Services Department.

10 (2) The Department of Revenue shall retain responsibility for all aspects of the program
11 involving payments to counties, liens, computation of deferred amounts owing, collections
12 and confidential financial records.

13 **SECTION 12.** This 2013 Act takes effect on the 91st day after the date on which the 2013
14 regular session of the Seventy-seventh Legislative Assembly adjourns sine die.

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