

House Bill 3319

Sponsored by COMMITTEE ON CONSUMER PROTECTION AND GOVERNMENT EFFICIENCY

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**.

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 revenue raising that
3 requires approval by a three-fifths majority.

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

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 described in a real estate
7 loan agreement, as of the date of origination or as of the date of the last modification of the
8 agreement, without any reduction for payments of principal made by the borrower.

9 (2) **"Borrower"** means an individual who, either individually or together with another
10 person, is obligated on a real estate loan agreement, including but not limited to a mortgagor
11 or grantor.

12 (3) **"Lender"** means a person that holds a real estate loan agreement such that the per-
13 son has:

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

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

17 (A) The residential property that secures the loan that is the subject of the real estate
18 loan agreement; or

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

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

25 (5) **"Residential property"** means a single-family owner-occupied dwelling and
26 appurtenances.

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

29 (a) **The borrower has filed a report with the Department of Revenue on which is reported**

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 a real market value as determined by the county assessor of the county in which the prop-
 2 erty is located that is at least 10 percent less than the amount of the loan that is the subject
 3 of the real estate loan agreement;

4 (b) The real market value determined by the county assessor and reported by the bor-
 5 rower was determined as of a date that is no more than 24 months preceding the date of the
 6 borrower's report under this section;

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

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

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

13 (2) The tax shall equal 50 percent of the interest due on that portion of the loan that
 14 represents the difference in value between the real market value of the property as reported
 15 on the borrower's report filed under subsection (1) of this section and the amount of the
 16 loan.

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

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

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

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

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

29 **SECTION 5.** (1) The tax imposed under section 2 of this 2013 Act is due and payable each
 30 month, beginning on the first month following the expiration of the six month period fol-
 31 lowing the date of the notice described in section 3 of this 2013 Act.

32 (2) Every lender responsible for the payment of the tax imposed by section 2 of this 2013
 33 Act shall keep records, render statements, make returns and comply with rules adopted by
 34 the Department of Revenue with respect to the tax. Whenever in the judgment of the de-
 35 partment it is necessary, the department may require the lender, by notice served upon that
 36 person by first-class mail, to make returns, render statements or keep records sufficient to
 37 show whether there is tax liability under sections 1 to 8 of this 2013 Act.

38 (3) When a return of the tax is required under section 2 of this 2013 Act and this section,
 39 the lender required to make the return shall remit the tax due to the department at the time
 40 fixed for filing the return.

41 **SECTION 6.** If the amount paid by the lender to the Department of Revenue under sec-
 42 tion 5 of this 2013 Act exceeds the amount of tax payable, the department shall refund the
 43 amount of the excess with interest thereon at the rate established under ORS 305.220 for
 44 each month or fraction of a month from the date of payment of the excess until the date of
 45 the refund. The department may not make a refund to a lender that fails to claim the refund

1 within two years after the due date for filing of the return with respect to which the claim
2 for refund relates.

3 **SECTION 7.** (1) Unless the context requires otherwise, the provisions of ORS chapters
4 305, 314 and 316 as to the audit and examination of reports and returns, determination of
5 deficiencies, assessments, claims for refunds, penalties, interest, jeopardy assessments,
6 warrants, conferences and appeals to the Oregon Tax Court, and procedures relating thereto,
7 apply to sections 1 to 8 of this 2013 Act the same as if the tax were a tax imposed upon or
8 measured by net income.

9 (2) The Department of Revenue may enforce collection by the issuance of a distraint
10 warrant for the collection of the delinquent amount and all penalties, interest and collection
11 charges accrued thereon. The warrant is issued and proceeded upon in the same manner and
12 has the same force and effect as is prescribed with respect to warrants for the collection of
13 delinquent income taxes.

14 **SECTION 8.** (1) The Mortgage Principal Reduction Incentives Account is established in
15 the General Fund. All moneys received by the Department of Revenue from the tax imposed
16 under section 2 of this 2013 Act shall be paid to the State Treasurer to be held in a suspense
17 account established under ORS 293.445. After the payment of refunds, the balance of the
18 moneys received must be paid into the General Fund and credited to the Mortgage Principal
19 Reduction Incentives Account.

20 (2) All moneys in the Mortgage Principal Reduction Incentives Account are continuously
21 appropriated to the Department of Revenue for the following purposes:

22 (a) To reimburse the department for all costs incurred in administering sections 1 to 8
23 of this 2013 Act; and

24 (b) For transfer to the Senior Property Tax Deferral Revolving Account as described in
25 subsection (3) of this section.

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

28