

**PROPOSED AMENDMENTS TO  
HOUSE BILL 2489**

1 On page 1 of the printed bill, line 2, after “amending” insert “ORS 311.668,  
2 311.672, 311.689 and 311.695 and”.

3 On page 2, after line 5, insert:

4 **“SECTION 2.** ORS 311.668 is amended to read:

5 “311.668. (1)(a) A claim to defer the property taxes on a homestead that  
6 is eligible for deferral under ORS 311.670 may be filed with the county  
7 assessor in the manner prescribed under ORS 311.672 by:

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

12 “(B) An individual who is a person with a disability as of April 15 of the  
13 [*year for which deferral is claimed*] **calendar year in which the claim is**  
14 **filed,** regardless of the age or disability of other individuals occupying the  
15 homestead.

16 “(b) If a guardian or conservator has been appointed for an individual  
17 otherwise eligible to claim deferral of taxes under this section, the guardian  
18 or conservator may act for the individual in complying with the provisions  
19 of ORS 311.666 to 311.701.

20 “(c) If a trustee of an inter vivos trust that was created by and is  
21 revocable by an individual, who is both the trustor and a beneficiary of the  
22 trust and who is otherwise eligible to claim deferral of taxes under this

1 section, owns the fee simple estate under a recorded instrument of sale, the  
2 trustee may act for the individual in complying with the provisions of ORS  
3 311.666 to 311.701.

4 “(d) This section may not be construed to require the spouse of an indi-  
5 vidual to file a claim jointly with the individual even though the spouse may  
6 be eligible to claim the deferral jointly with the individual.

7 “(2)(a) Notwithstanding subsection (1) of this section, deferral may not  
8 be granted under ORS 311.666 to 311.701 with respect to a claim filed by in-  
9 dividuals who together have, for the calendar year immediately preceding the  
10 calendar year in which the claim for deferral is filed:

11 “(A) Household income of \$32,000 or more; or

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

13 “(b) For each tax year beginning on or after July 1, 2002, the Department  
14 of Revenue shall recompute the maximum household income under this sub-  
15 section as follows:

16 “(A) Divide the average U.S. City Average Consumer Price Index for the  
17 first six months of the current calendar year by the average U.S. City Av-  
18 erage Consumer Price Index for the first six months of 2001.

19 “(B) Recompute the maximum household income by multiplying \$32,000  
20 by the appropriate indexing factor determined under subparagraph (A) of this  
21 paragraph.

22 “(c) Any change in the maximum household income determined under  
23 paragraph (b) of this subsection shall be rounded to the nearest multiple of  
24 \$500.

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

29 **“SECTION 3.** ORS 311.672 is amended to read:

30 “311.672. (1)(a) A taxpayer’s claim for deferral under ORS 311.666 to

1 311.701 must:

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

3 “(B) Describe the homestead;

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

6 “(D) Have attached:

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

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

11 “(b) The claim for deferral must be filed with the assessor of the county  
12 in which the homestead is located, after January 1 and on or before April  
13 15 [of the] **immediately preceding the property tax** year for which deferral  
14 is claimed.

15 “(2) The county assessor shall forward each claim filed under this section  
16 to the department, and the department shall determine whether the property  
17 is eligible for the deferral.

18 “(3) If the taxpayers and the homestead are determined to be eligible un-  
19 der ORS 311.668 and 311.670, respectively, a timely claim for deferral has the  
20 effect of:

21 “(a) Deferring the payment of the property taxes levied on the homestead  
22 for the property tax year beginning on July 1 of the year in which the claim  
23 is filed.

24 “(b) Continuing the deferral of the payment by the taxpayers of any  
25 property taxes deferred under ORS 311.666 to 311.701 for previous years that  
26 have not become delinquent under ORS 311.686.

27 “(c) Continuing the deferral of the payment by the taxpayers of any future  
28 property taxes for as long as the homestead remains eligible for, and the  
29 taxpayers remain eligible to claim, the deferral.

30 “(4)(a) Notwithstanding subsection (3) of this section:

1       “(A) For the property tax year beginning on July 1, 2012, the maximum  
2 number of claims for deferral under ORS 311.666 to 311.701 that may be  
3 granted to taxpayers who have not previously been granted deferral is the  
4 number of such claims granted for the property tax year beginning on July  
5 1, 2011, multiplied by 105 percent.

6       “(B) For each property tax year beginning after July 1, 2012, the maxi-  
7 mum number of claims for deferral that may be granted to taxpayers who  
8 have not previously been granted deferral is the maximum number deter-  
9 mined under this subsection for the property tax year immediately preceding  
10 multiplied by 105 percent.

11       “(b) For purposes of paragraph (a) of this subsection, spouses who con-  
12 tinue deferral under ORS 311.688 are not considered taxpayers who have not  
13 previously been granted deferral.

14       “(c) If the number of eligible claims described in paragraph (a) of this  
15 subsection exceeds the maximum number determined under paragraph (a) of  
16 this subsection, claims shall be granted in ascending order based on the ratio  
17 that is equal to the real market value of the homestead entered on the last  
18 certified assessment and tax roll divided by the applicable percentage of  
19 county median RMV of the homestead determined under ORS 311.670 (2),  
20 until the maximum number determined under paragraph (a) of this subsection  
21 is reached.

22       “(5) Any taxpayer aggrieved by the denial of a claim for, or discontinua-  
23 tion of, deferral under ORS 311.666 to 311.701 may appeal in the manner  
24 provided by ORS 305.404 to 305.560.

25       “**SECTION 4.** ORS 311.689, as amended by section 4, chapter 13, Oregon  
26 Laws 2012, is amended to read:

27       “311.689. (1)[(a)] The Department of Revenue shall certify the eligibility  
28 of each homestead granted, and the respective taxpayers claiming, deferral  
29 under ORS 311.666 to 311.701, not less than once every three years.

30       “[(b)] (2) The department shall notify the taxpayers in writing of the ob-

1 ligation to certify eligibility under this [subsection] **section** and the taxpay-  
2 ers shall respond, by the means prescribed by the department, within 65 days  
3 after the department sends the notification.

4 “[~~(c)~~] **(3)** Failure to respond as required under [paragraph (b) of this]  
5 subsection **(2) of this section** renders the homestead ineligible for deferral  
6 for the next following property tax year. **This subsection does not pre-**  
7 **clude the grant of deferral to an eligible homestead in any subsequent**  
8 **property tax year for which an eligible claimant files a timely appli-**  
9 **cation under ORS 311.672.**

10 “[~~(2)(a)~~] *For any year in which the household income of the taxpayers ex-*  
11 *ceeds the amounts allowable under ORS 311.668, the property taxes deferred*  
12 *under ORS 311.666 to 311.701 for that year, including accrued interest, become*  
13 *payable by the applicable due date prescribed in ORS 311.686 (1)(b) or (2).]*

14 “[~~(b)~~] *The provisions of ORS chapters 305 and 314 apply to this subsection*  
15 *in the same manner as those provisions are applicable to an income tax defi-*  
16 *ciency.]*

17 “[~~(c)~~] *The amount of deferred taxes payable under this subsection shall bear*  
18 *interest from the date paid by the department until paid at the rate established*  
19 *under ORS 305.220 for deficiencies.]*

20 “[~~(d)~~] *A deficiency may not be assessed under this subsection if notice is not*  
21 *given to the taxpayer or spouse within three years after the date that the de-*  
22 *partment has paid the deferred taxes to the county.]*

23 “[~~(e)~~] *Upon payment of the amount assessed as a deficiency under this sub-*  
24 *section and any interest, the department shall execute a release in the amount*  
25 *of the payment. The release shall be conclusive evidence of the removal and*  
26 *extinguishment of the lien under ORS 311.666 to 311.701 to the extent of the*  
27 *payment.]*

28 “[~~(3)~~] *Subsection (2) of this section does not affect the continued deferral of*  
29 *taxes that have been deferred for tax years beginning before a tax year to*  
30 *which subsection (2) of this section applies or the deferral of taxes for tax years*

1 *beginning after a tax year to which subsection (2) of this section applies, pro-*  
2 *vided subsection (2) of this section does not apply to those tax years.]*

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

5 **“SECTION 5.** ORS 311.695 is amended to read:

6 **“311.695. (1)** A transferee of a homestead who is ineligible to claim, or  
7 does not claim, deferral under ORS 311.666 to 311.701, or that is not an in-  
8 dividual, is jointly and severally liable for amounts payable under ORS  
9 311.686 to the extent of **the positive amount, if any, remaining after**  
10 **subtracting the amount of all liens prior to the Department of**  
11 **Revenue’s liens for deferred taxes arising under ORS 311.673 or 311.679**  
12 **from** the real market value of the homestead entered on the last certified  
13 assessment and tax roll prior to the date of the transfer.

14 **“(2) The department shall issue by mail a notice of liability to a**  
15 **transferee after deferred amounts for which the transferee is liable**  
16 **under this section become payable under ORS 311.686.**

17 **“(3)(a) Within 30 days after the department mails the notice of li-**  
18 **ability required under subsection (2) of this section, the transferee:**

19 **“(A) Shall pay the deferred amounts, plus interest and fees; or**

20 **“(B)(i) Shall notify the department in writing of objections to the**  
21 **notice of liability; and**

22 **“(ii) May request a conference. The provisions of ORS 305.265 gov-**  
23 **erning a conference requested relating to a notice of deficiency apply**  
24 **to a conference requested under this sub-subparagraph.**

25 **“(b) If the department does not receive payment or written ob-**  
26 **jection to the notice of liability within 30 days after the notice has**  
27 **been mailed, the notice of liability becomes final.**

28 **“(c) A transferee may appeal the notice of liability to the tax court**  
29 **in the manner provided for an appeal from a notice of assessment**  
30 **within 90 days after the notice becomes final under this subsection.**

1       “(4)(a) After a conference, or, if no conference is requested, a de-  
2 termination of the issues raised by the written objections, the depart-  
3 ment shall mail to the transferee a conference letter affirming,  
4 canceling or adjusting the notice of liability.

5       “(b) Within 90 days after the date on which the conference letter  
6 is mailed to the transferee, the transferee shall pay the deferred  
7 amounts, plus interest and fees, or appeal to the tax court in the  
8 manner provided for an appeal from a notice of assessment.

9       “(5)(a) If more than one transferee may be held jointly and severally  
10 liable for payment of deferred amounts under this section, the de-  
11 partment may require any or all of the transferees who may be held  
12 liable to appear before the department for a joint determination of li-  
13 ability. The department shall notify each transferee of the time and  
14 place set for the determination of liability.

15       “(b) Each transferee notified of a joint determination under this  
16 subsection shall appear and present such information as is necessary  
17 to establish that person’s liability or nonliability for payment of de-  
18 ferred amounts to the department. If any person notified fails to ap-  
19 pear, the department shall make its determination on the basis of all  
20 the information and evidence presented. The department’s determi-  
21 nation shall be binding on all persons notified and required to appear  
22 under this subsection.

23       “(c)(A) If an appeal is taken to the Oregon Tax Court pursuant to  
24 ORS 305.404 to 305.560 by any transferee determined to be liable for  
25 unpaid withholding taxes under this subsection, each person required  
26 to appear before the department under this subsection shall be  
27 impleaded by the plaintiff. The department may implead any  
28 transferee who may be held jointly and severally liable for the pay-  
29 ment of deferred amounts. Each person impleaded under this para-  
30 graph shall be made a party to the action before the tax court and

1 shall make available to the tax court such information as was pre-  
2 sented before the department, as well as such other information as  
3 may be presented to the court.

4 “(B) The court may determine that one or more persons impleaded  
5 under this paragraph are liable for unpaid withholding taxes without  
6 regard to any earlier determination by the department that an  
7 impleaded person was not liable for unpaid withholding taxes.

8 “(C) If any person required to appear before the court under this  
9 subsection fails or refuses to appear or bring such information in part  
10 or in whole, or is outside the jurisdiction of the tax court, the court  
11 shall make its determination on the basis of all the evidence intro-  
12 duced. All such evidence shall constitute a public record and shall be  
13 available to the parties and the court. The determination of the tax  
14 court shall be binding on all persons made parties to the action under  
15 this subsection.

16 “(d) Nothing in this section shall be construed to preclude a deter-  
17 mination by the department or the Oregon Tax Court that more than  
18 one transferee is jointly and severally liable for deferred amounts.”.

19 In line 6, delete “2” and insert “6”.

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