

# House Bill 2083

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**.

Creates exception to five-year ownership requirement for homestead if claimant for deferral moved to homestead from homestead that met five-year ownership requirement. Allows deferral for homestead that is insurable for fire and other casualty. Authorizes Department of Revenue to purchase insurance for homestead and add cost to lien for deferred taxes. Repeals prohibition against pledging homestead on which property taxes are deferred as security for reverse mortgage.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to the homestead property tax deferral program; amending ORS 311.666, 311.670, 311.672,  
3 311.679, 311.688 and 311.700; repealing ORS 86A.196; and prescribing an effective date.

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

5 **SECTION 1.** ORS 311.670 is amended to read:

6 311.670. (1) Property is not eligible for tax deferral under ORS 311.666 to 311.701 unless, at the  
7 time a claim is filed and during the period for which deferral is claimed[:], **the property meets the**  
8 **requirements of this section.**

9 [(a)] (2)(a) The property [has] **must have** been the homestead of the individual or individuals  
10 who file the claim for deferral for at least five years preceding April 15 of the year in which the  
11 claim is filed, except for an individual required to be absent from the homestead by reason of health.

12 **(b) The five-year requirement under paragraph (a) of this subsection does not apply to a**  
13 **homestead that meets all other requirements of this section, if the individual or individuals**  
14 **filing the claim for deferral moved to the homestead from a homestead that met all the re-**  
15 **quirements of this section.**

16 [(b)] (3) The individual claiming the deferral, individually or jointly, [owns] **must own** the fee  
17 simple estate under a recorded instrument of sale, or two or more individuals together **must own**  
18 the fee simple estate with rights of survivorship under a recorded instrument of sale if all owners  
19 live in the property and if all owners apply for the deferral jointly.

20 [(c)] (4)(a) The homestead [is] **must be** insured, **or insurable**, for fire and other casualty.

21 **(b) If the homestead is insurable for fire and other casualty but not insured, the De-**  
22 **partment of Revenue may purchase insurance for the homestead and add the cost of the**  
23 **insurance coverage to the lien created under ORS 311.673.**

24 [(d)] (5) There [is] **may be** no prohibition to the deferral of property taxes contained in any  
25 provision of federal law, rule or regulation applicable to a mortgage, trust deed, land sale contract  
26 or conditional sale contract for which the homestead is security.

27 [(2) *Notwithstanding subsection (1) of this section, a homestead is not eligible for deferral under*  
28 *ORS 311.666 to 311.701 if the real market value of the homestead entered on the last certified assess-*

**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 *ment and tax roll is equal to or greater than:]*

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

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

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

11 *[(d) 130 percent of county median RMV if, as of April 15 of the year in which a claim is filed, the*  
 12 *taxpayers have continuously owned and lived in the homestead at least 11 years but less than 13*  
 13 *years.]*

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

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

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

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

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

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

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

34 **SECTION 2.** ORS 311.679 is amended to read:

35 311.679. (1)(a) At the time that property taxes are deferred under ORS 311.666 to 311.701, or if  
 36 property taxes were deferred prior to July 1, 1990, the Department of Revenue shall estimate the  
 37 amount of property taxes deferred for tax years beginning on or after July 1, 1990, interest on the  
 38 deferred taxes, **the cost of insurance purchased pursuant to ORS 311.670 (4)(b)** and any fees  
 39 paid by the department in connection with lien filing, recording, release or satisfaction.

40 (b) The department shall have a lien in the amount of the estimate.

41 (2) If during the period of deferral the amount of taxes, interest, **insurance** and fees exceeds the  
 42 estimate under subsection (1) of this section, the department shall have a lien for the amount of the  
 43 excess.

44 (3)(a) A lien created under subsection (1) of this section attaches to the homestead to which the  
 45 deferral relates on July 1 of the first tax year of deferral or on July 1, 1990, as applicable.

1 (b) A lien for the excess created under subsection (2) of this section attaches to the homestead  
 2 on July 1 of the tax year in which the excess occurs.

3 (4) A lien created under subsection (1) or (2) of this section has the same priority as other real  
 4 property tax liens except that liens of mortgages, trust deeds or security interests that are filed,  
 5 recorded or noted on a certificate of title or in any record maintained by the Department of Con-  
 6 sumer and Business Services pursuant to ORS 446.566 to 446.646 prior in time to the attachment of  
 7 a lien [*for deferred taxes*] **created under subsection (1) or (2) of this section** are prior to the lien  
 8 [*for deferred taxes*] **created under subsection (1) or (2) of this section**.

9 (5)(a) The notice of lien for deferred taxes recorded as provided in ORS 311.675 (1) and (2)  
 10 arising on or after October 3, 1989, shall list the amount of the estimate of deferred taxes,  
 11 interest, **insurance** and fees made by the department under subsection (1) of this section. Any  
 12 amendment to the notice of lien to reflect a lien for excess, as described under subsection (2) of this  
 13 section, shall list the amount of the excess that the department claims as a lien.

14 (b) If notice of lien with respect to any homestead has been filed or recorded as provided under  
 15 ORS 311.675 (1) to (3) prior to January 1, 1990, and the lien has not been released or satisfied, the  
 16 department shall cause a further notice of lien to be recorded in the mortgage records of the county.  
 17 The further notice of lien shall list the amount of the estimate of deferred taxes and interest made  
 18 by the department under subsection (1) of this section and any amendment to the notice to reflect  
 19 a lien for excess, described under subsection (2) of this section, and shall list the amount of the  
 20 excess that the department claims as lien.

21 (6)(a) A lien created under this section may be foreclosed by the department as if it were a  
 22 purchase money mortgage under ORS chapter 88.

23 (b) In a foreclosure action under this section, a court may award:

24 (A) Reasonable attorney fees to the prevailing party.

25 (B) All costs associated with foreclosure of the lien to the department if the department prevails.

26 (7) Receipts from foreclosure proceedings shall be credited in the same manner as other repay-  
 27 ments of deferred property taxes under ORS 311.701.

28 (8)(a) By means of voluntary payment made as provided under ORS 311.690, the taxpayer may  
 29 limit the amount of the lien [*for deferred taxes*] created under this section.

30 (b) If the taxpayer desires that the limit be reflected in the records of the county, the taxpayer  
 31 must request, subject to any rules adopted by the department, that the department cause a partial  
 32 satisfaction of the lien to be recorded in the county.

33 (c) Upon receipt of such a request, the department shall cause a partial satisfaction, in the  
 34 amount of the voluntary payment, to be recorded.

35 (d) Nothing in this subsection affects the priority of the liens of the department, as originally  
 36 created under subsections (1) and (2) of this section.

37 (9)(a) Nothing in this section affects any lien arising under ORS 311.666 to 311.701 for taxes  
 38 assessed before January 1, 1990.

39 (b) A lien for taxes does not arise under ORS 311.666 to 311.701 for taxes assessed after De-  
 40 cember 31, 1989, except as provided under this section.

41 (10) This section first applies to liens [*for deferred taxes arising*] **created** on or after October  
 42 3, 1989.

43 **SECTION 3.** ORS 311.700 is amended to read:

44 311.700. [(1)] A clause or statement in a mortgage trust deed or land sale contract executed after  
 45 September 9, 1971, that prohibits the owner from applying for deferral of homestead property taxes

1 provided in ORS 311.666 to 311.701 is void.

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

4 **SECTION 4.** ORS 311.666 is amended to read:

5 311.666. As used in ORS 311.666 to 311.701:

6 [(1) “County median RMV” means the median real market value entered on the last certified as-  
7 sessment and tax roll for all residential improved properties in the county in which a homestead is  
8 located that are classified as 1-0-1 pursuant to the rule adopted by the Department of Revenue under  
9 ORS 308.215.]

10 [(2)] (1) “Homestead” means the owner occupied principal dwelling, either real or personal  
11 property, owned by the taxpayer and the tax lot upon which it is located. If the homestead is located  
12 in a multiunit building, the homestead is the portion of the building actually used as the principal  
13 dwelling and its percentage of the value of the common elements and of the value of the tax lot upon  
14 which it is built. The percentage is the value of the unit consisting of the homestead compared to  
15 the total value of the building exclusive of the common elements, if any.

16 [(3)] (2) “Household income” has the meaning given that term in ORS 310.630.

17 [(4)(a)] (3)(a) “Net worth” means the sum of the current market value of all assets, including  
18 real property, cash, savings accounts, bonds and other investments, after deducting outstanding li-  
19 abilities.

20 (b) “Net worth” does not include the value of a homestead for which deferral is claimed under  
21 ORS 311.666 to 311.701, the cash value of life insurance policies on the life of a taxpayer or tangible  
22 personal property owned by a taxpayer.

23 [(5)] (4) “Person with a disability” means an individual who has been determined to be eligible  
24 to receive or who is receiving federal Social Security benefits due to disability or blindness, in-  
25 cluding an individual who is receiving Social Security survivor benefits in lieu of Social Security  
26 benefits due to disability or blindness.

27 [(6)] (5) “Tax-deferred property” means the property upon which taxes are deferred under ORS  
28 311.666 to 311.701.

29 [(7)] (6) “Taxes” or “property taxes” means ad valorem taxes, assessments, fees and charges  
30 entered on the assessment and tax roll.

31 [(8)] (7) “Taxpayer” means an individual who has filed, as an individual or jointly, a claim for  
32 deferral under ORS 311.666 to 311.701.

33 [(9)(a)] (8)(a) “Transferee” means, without limitation, an heir, legatee, devisee, distributee of an  
34 estate of a deceased individual, the assignee or donee of an insolvent individual or a person acting  
35 in a fiduciary capacity on behalf of a transferee.

36 (b) “Transferee” does not mean a bona fide purchaser for value.

37 [(10)] (9) “U.S. City Average Consumer Price Index” means the U.S. City Average Consumer  
38 Price Index for All Urban Consumers (All Items) as published by the Bureau of Labor Statistics of  
39 the United States Department of Labor.

40 **SECTION 5.** ORS 311.688 is amended to read:

41 311.688. (1) Notwithstanding ORS 311.684, when one of the circumstances listed in ORS 311.684  
42 (1) to (3) occurs, the spouse who was not eligible to or did not file a claim jointly with the taxpayer  
43 may continue the property in its deferred tax status by filing a claim in the manner prescribed under  
44 ORS 311.672 if:

45 (a) The spouse of the taxpayer is or will be 60 years of age or older not later than six months

1 from the day the circumstance listed in ORS 311.684 (1) to (3) occurs; and

2 (b) The property is the homestead of the spouse of the taxpayer and meets the requirements of  
 3 ORS 311.670 [(1)].

4 (2)(a) A spouse who does not meet the age requirements of subsection (1)(a) of this section but  
 5 is otherwise qualified to continue the property in its tax-deferred status under subsection (1) of this  
 6 section may continue the deferral of property taxes deferred for previous years by filing a claim in  
 7 the manner prescribed under ORS 311.672.

8 (b) If a spouse eligible for and continuing the deferral of taxes previously deferred under this  
 9 subsection becomes 62 years of age prior to April 15 of any year, the spouse may continue the  
 10 deferral of previous years' taxes deferred under this subsection and may elect to defer the current  
 11 assessment year's taxes on the homestead by filing a claim in the manner prescribed under ORS  
 12 311.672.

13 (c) After a claim is filed under paragraph (b) of this subsection, payment of the taxes levied on  
 14 the homestead and deferred under this subsection and payment of taxes levied on the homestead in  
 15 the current assessment year and in future years may be deferred under ORS 311.666 to 311.701.

16 (3) Notwithstanding ORS 311.672, if the Department of Revenue determines that good and suffi-  
 17 cient cause exists for the failure of a spouse to file a claim under this section on or before April  
 18 15, the claim may be filed within 180 days after notice of taxes due and payable under ORS 311.686  
 19 is mailed or delivered by the department to the taxpayer or spouse.

20 **SECTION 6.** ORS 311.672 is amended to read:

21 311.672. (1)(a) A taxpayer's claim for deferral under ORS 311.666 to 311.701 must:

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

23 (B) Describe the homestead;

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

26 (D) Have attached:

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

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

30 (b) The claim for deferral must be filed with the assessor of the county in which the homestead  
 31 is located, after January 1 and on or before April 15 immediately preceding the property tax year  
 32 for which deferral is claimed.

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

35 (3) If the taxpayers and the homestead are determined to be eligible under ORS 311.668 and  
 36 311.670, respectively, a timely claim for deferral has the effect of:

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

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

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

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

44 (A) For the property tax year beginning on July 1, 2012, the maximum number of claims for  
 45 deferral under ORS 311.666 to 311.701 that may be granted to taxpayers who have not previously

1 been granted deferral is the number of such claims granted for the property tax year beginning on  
2 July 1, 2011, multiplied by 105 percent.

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

7 (b) For purposes of paragraph (a) of this subsection, spouses who continue deferral under ORS  
8 311.688 are not considered taxpayers who have not previously been granted deferral.

9 (c) If the number of eligible claims described in paragraph (a) of this subsection exceeds the  
10 maximum number determined under paragraph (a) of this subsection, claims shall be granted in [*as-*  
11 *cending order based on the ratio that is equal to the real market value of the homestead entered on the*  
12 *last certified assessment and tax roll divided by the county median RMV of the homestead determined*  
13 *under ORS 311.670 (2),*] **the order received** until the maximum number determined under paragraph  
14 (a) of this subsection is reached.

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

17 **SECTION 7. ORS 86A.196 is repealed.**

18 **SECTION 8. This 2015 Act takes effect on the 91st day after the date on which the 2015**  
19 **regular session of the Seventy-eighth Legislative Assembly adjourns sine die.**

20