

D R A F T

SUMMARY

For purposes of eligibility of property for homestead property tax deferral program, creates \$250,000 minimum cap on allowable real market value of homestead. Directs Department of Revenue to adjust minimum cap on allowable real market value annually according to change in Consumer Price Index.

Allows claim for deferral to be filed late, with payment of fee. Modifies procedure for allowing claims for deferral in excess of maximum allowable for property tax year.

Extends sunset for deferral program.

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 pro-
3 visions; amending ORS 311.666, 311.668, 311.670, 311.672 and 311.694 and
4 section 24, chapter 723, Oregon Laws 2011; and prescribing an effective
5 date.

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

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

7
8 311.670. (1) Property is not eligible for tax deferral under ORS 311.666 to
9 311.701 unless, at the time a claim is filed and during the period for which
10 deferral is claimed, the property meets the requirements of this section.

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

1 (b) The five-year requirement under paragraph (a) of this subsection does
2 not apply to a homestead that meets all other requirements of this section,
3 if the individual or individuals filing the claim for deferral:

4 (A) Moved to the homestead for which the claim is filed from a homestead
5 that was granted deferral under ORS 311.666 to 311.701 and was of greater
6 real market value than the homestead for which the claim is filed;

7 (B) Sell the prior homestead within one year of purchasing the homestead
8 for which the claim is filed;

9 (C) Satisfy any lien created under ORS 311.673 or 311.679 and attached to
10 the prior homestead; and

11 (D) Provide a written attestation that the individual or individuals in-
12 curred debt for not more than 80 percent of the purchase price of the home-
13 stead for which the claim is filed.

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

19 (4)(a) The homestead must be insured for fire and other casualty.

20 (b) If the homestead meets all other requirements of this section and is
21 insurable for fire and other casualty but not insured, the Department of
22 Revenue may purchase insurance for the homestead and add the cost of the
23 insurance coverage to a lien created under ORS 311.679.

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

28 (6) A homestead is not eligible for deferral under ORS 311.666 to 311.701
29 [if] **unless** the real market value of the homestead entered on the last cer-
30 tified assessment and tax roll is [equal to or greater] **less than the greater**
31 **of \$250,000 or:**

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

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

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

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

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

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

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

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

25 (i) 200 percent of county median RMV if, as of April 15 of the year in
26 which a claim is filed, the taxpayers have continuously owned and [*lived*
27 *in*] **occupied** the homestead at least 21 years but less than 23 years.

28 (j) 225 percent of county median RMV if, as of April 15 of the year in
29 which a claim is filed, the taxpayers have continuously owned and [*lived*
30 *in*] **occupied** the homestead at least 23 years but less than 25 years.

31 (k) 250 percent of county median RMV if, as of April 15 of the year in

1 which a claim is filed, the taxpayers have continuously owned and [*lived*
2 *in*] **occupied** the homestead for 25 years or more.

3 **(7)(a) For each tax year beginning on or after July 1, 2022, the De-**
4 **partment of Revenue shall recompute the \$250,000 minimum cap on**
5 **allowable real market value provided under subsection (6) of this sec-**
6 **tion as follows:**

7 **(A) Divide the average Consumer Price Index for All Urban Con-**
8 **sumers, West Region (All Items), for the first six months of the cur-**
9 **rent calendar year by the average Consumer Price Index for All Urban**
10 **Consumers, West Region (All Items), for the first six months of 2021.**

11 **(B) Recompute the minimum cap on allowable real market value**
12 **by multiplying \$250,000 by the appropriate indexing factor determined**
13 **under subparagraph (A) of this paragraph.**

14 **(b) Any change in the minimum cap on allowable real market value**
15 **determined under paragraph (a) of this subsection shall be rounded to**
16 **the nearest multiple of \$500.**

17 **SECTION 2.** ORS 311.666 is amended to read:

18 311.666. As used in ORS 311.666 to 311.701:

19 **(1) “Consumer Price Index for All Urban Consumers, West Region**
20 **(All Items)” means the Consumer Price Index for All Urban Consum-**
21 **ers, West Region (All Items), as published by the Bureau of Labor**
22 **Statistics of the United States Department of Labor.**

23 **[(1)] (2) “County median RMV” means the median real market value en-**
24 **tered on the last certified assessment and tax roll for all residential improved**
25 **properties in the county in which a homestead is located that are classified**
26 **as 1-0-1 pursuant to the rule adopted by the Department of Revenue under**
27 **ORS 308.215.**

28 **[(2)] (3) “Homestead” means the owner occupied principal dwelling, either**
29 **real or personal property, owned by the taxpayer and the tax lot upon which**
30 **it is located. If the homestead is located in a multiunit building, the home-**
31 **stead is the portion of the building actually used as the principal dwelling**

1 and its percentage of the value of the common elements and of the value of
2 the tax lot upon which it is built. The percentage is the value of the unit
3 consisting of the homestead compared to the total value of the building ex-
4 clusive of the common elements, if any.

5 [(3)] (4) "Household income" means the aggregate income of the taxpayer
6 and the spouse of the taxpayer who occupy the homestead, that was received
7 during the calendar year for which the claim is filed. "Household income"
8 includes payments received by the taxpayer or the spouse of the taxpayer
9 under the federal Social Security Act for the benefit of a minor child or
10 minor children who occupy the homestead.

11 [(4)] (5) "Income" means "adjusted gross income" as defined in the federal
12 Internal Revenue Code, as defined in ORS 305.842, relating to the measure-
13 ment of taxable income of individuals, estates and trusts, with the following
14 modifications:

15 (a) There shall be added to adjusted gross income the following items of
16 otherwise exempt income:

17 (A) The gross amount of any otherwise exempt pension less return of in-
18 vestment, if any.

19 (B) Child support received by the taxpayer.

20 (C) Inheritances.

21 (D) Gifts and grants, the sum of which are in excess of \$500 per year.

22 (E) Amounts received by a taxpayer or spouse of a taxpayer for support
23 from a parent who is not a member of the taxpayer's household.

24 (F) Life insurance proceeds.

25 (G) Accident and health insurance proceeds, except reimbursement of in-
26 curred medical expenses.

27 (H) Personal injury damages.

28 (I) Sick pay that is not included in federal adjusted gross income.

29 (J) Strike benefits excluded from federal gross income.

30 (K) Worker's compensation, except for reimbursement of medical expense.

31 (L) Military pay and benefits.

1 (M) Veteran's benefits.

2 (N) Payments received under the federal Social Security Act that are ex-
3 cluded from federal gross income.

4 (O) Welfare payments, except as follows:

5 (i) Payments for medical care, drugs and medical supplies, if the payments
6 are not made directly to the welfare recipient;

7 (ii) In-home services authorized and approved by the Department of Hu-
8 man Services; and

9 (iii) Direct or indirect reimbursement of expenses paid or incurred for
10 participation in work or training programs.

11 (P) Nontaxable dividends.

12 (Q) Nontaxable interest not included in federal adjusted gross income.

13 (R) Rental allowance paid to a minister that is excluded from federal
14 gross income.

15 (S) Income from sources without the United States that is excluded from
16 federal gross income.

17 (b) Adjusted gross income shall be increased due to the disallowance of
18 the following deductions:

19 (A) The amount of the net loss, in excess of \$1,000, from all dispositions
20 of tangible or intangible properties.

21 (B) The amount of the net loss, in excess of \$1,000, from the operation of
22 a farm or farms.

23 (C) The amount of the net loss, in excess of \$1,000, from all operations
24 of a trade or business, profession or other activity entered into for the pro-
25 duction or collection of income.

26 (D) The amount of the net loss, in excess of \$1,000, from tangible or in-
27 tangible property held for the production of rents, royalties or other income.

28 (E) The amount of any net operating loss carryovers or carrybacks in-
29 cluded in federal adjusted gross income.

30 (F) The amount, in excess of \$5,000, of the combined deductions or other
31 allowances for depreciation, amortization or depletion.

1 (G) The amount added or subtracted, as required within the context of
2 this section, for adjustments made under ORS 316.680 (2)(d) and 316.707 to
3 316.737.

4 (c) “Income” does not include the following:

5 (A) Any governmental grant that must be used by the taxpayer for reha-
6 bilitation of the homestead of the taxpayer.

7 (B) Any refund of Oregon personal income taxes that were imposed under
8 ORS chapter 316.

9 [(5)(a)] **(6)(a)** “Net worth” means the sum of the current market value of
10 all assets, including real property, cash, savings accounts, bonds and other
11 investments, after deducting outstanding liabilities.

12 (b) “Net worth” does not include the value of a homestead for which
13 deferral is claimed under ORS 311.666 to 311.701, the cash value of life in-
14 surance policies on the life of a taxpayer or tangible personal property
15 owned by a taxpayer.

16 [(6)] **(7)** “Person with a disability” means an individual who has been
17 determined to be eligible to receive or who is receiving federal Social Secu-
18 rity benefits due to disability or blindness, including an individual who is
19 receiving Social Security survivor benefits in lieu of Social Security benefits
20 due to disability or blindness.

21 [(7)] **(8)** “Tax-deferred property” means the property upon which taxes are
22 deferred under ORS 311.666 to 311.701.

23 [(8)] **(9)** “Taxes” or “property taxes” means ad valorem taxes, assessments,
24 fees and charges entered on the assessment and tax roll.

25 [(9)] **(10)** “Taxpayer” means an individual who has filed, as an individual
26 or jointly, a claim for deferral under ORS 311.666 to 311.701.

27 [(10)(a)] **(11)(a)** “Transferee” means, without limitation, an heir, legatee,
28 devisee, distributee of an estate of a deceased individual, the assignee or
29 donee of an insolvent individual or a person acting in a fiduciary capacity
30 on behalf of a transferee.

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

1 [(11)] (12) “U.S. City Average Consumer Price Index” means the U.S. City
2 Average Consumer Price Index for All Urban Consumers (All Items) as pub-
3 lished by the Bureau of Labor Statistics of the United States Department of
4 Labor.

5 **SECTION 3.** ORS 311.668 is amended to read:

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

9 (A) An individual who is, or two or more individuals filing a claim jointly
10 each of whom is, 62 years of age or older on or before April 15 of the cal-
11 endar year in which the claim is filed; or

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

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

19 (c) If a trustee of an inter vivos trust that was created by and is revocable
20 by an individual, who is both the trustor and a beneficiary of the trust and
21 who is otherwise eligible to claim deferral of taxes under this section, owns
22 the fee simple estate under a recorded instrument of sale, the trustee may
23 act for the individual in complying with the provisions of ORS 311.666 to
24 311.701.

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

28 (2)(a) Notwithstanding subsection (1) of this section, deferral may not be
29 granted under ORS 311.666 to 311.701 with respect to a claim filed by indi-
30 viduals who together have, for the calendar year immediately preceding the
31 calendar year in which the claim for deferral is filed:

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

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

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

6 (A) Divide the average [*U.S. City Average Consumer Price Index*] **Con-**
7 **sumer Price Index for All Urban Consumers, West Region (All Items)**,
8 for the first six months of the current calendar year by the average U.S. City
9 Average Consumer Price Index for the first six months of 2001.

10 (B) Recompute the maximum household income by multiplying \$32,000 by
11 the appropriate indexing factor determined under subparagraph (A) of this
12 paragraph.

13 (c) Any change in the maximum household income determined under par-
14 agraph (b) of this subsection shall be rounded to the nearest multiple of \$500.

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

19 **SECTION 4. (1) The amendments to ORS 311.670 by section 1 of this**
20 **2021 Act apply to claims for deferral under ORS 311.666 to 311.701 filed**
21 **on or after the effective date of this 2021 Act for property tax years**
22 **beginning on or after July 1, 2021.**

23 **(2) An individual whose claim was denied before the effective date**
24 **of this 2021 Act solely because the real market value of the individual's**
25 **property exceeded the applicable minimum cap on allowable real mar-**
26 **ket value under ORS 311.670 (6) is not barred from filing a new claim**
27 **for deferral on or after the effective date of this 2021 Act for property**
28 **tax years beginning on or after July 1, 2021.**

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

30 311.672. (1)(a) A taxpayer's claim for deferral under ORS 311.666 to 311.701
31 must:

- 1 (A) Be in writing on a form supplied by the Department of Revenue;
- 2 (B) Describe the homestead;
- 3 (C) Recite all facts establishing the eligibility, **as of April 15 of the year**
- 4 **in which the claim is filed**, of the homestead for, and of the taxpayers to
- 5 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 claiming
- 9 deferral to the effect that the statements contained in the claim are true.
- 10 (b) The claim for deferral must be filed with the assessor of the county
- 11 in which the homestead is located, after January 1 and on or before April
- 12 15 immediately preceding the property tax year for which deferral is claimed.
- 13 **(c) Notwithstanding paragraph (b) of this subsection, a claim for**
- 14 **deferral may be filed with the county assessor after April 15 imme-**
- 15 **diately preceding the property tax year for which deferral is claimed**
- 16 **and on or before December 1 of the same property tax year. A claim**
- 17 **filed under this paragraph must be accompanied by a fee in an amount**
- 18 **equal to 10 percent of the property taxes assessed on the homestead**
- 19 **on the last certified assessment and tax roll, but in no event less than**
- 20 **\$20 or greater than \$150.**
- 21 (2) The county assessor shall forward each claim filed under this section
- 22 to the department, and the department shall determine whether the property
- 23 is eligible for the deferral.
- 24 (3) If the taxpayers and the homestead are determined to be eligible under
- 25 ORS 311.668 and 311.670, respectively, a timely claim for deferral has the
- 26 effect of:
- 27 (a) Deferring the payment of the property taxes levied on the homestead
- 28 for the property tax year beginning on July 1 of the year in which the claim
- 29 is filed.
- 30 (b) Continuing the deferral of the payment by the taxpayers of any prop-
- 31 erty taxes deferred under ORS 311.666 to 311.701 for previous years that have

1 not become delinquent under ORS 311.686.

2 (c) Except as otherwise provided in ORS 311.689, continuing the deferral
3 of the payment by the taxpayers of any future property taxes for as long as
4 the homestead remains eligible for, and the taxpayers remain eligible to
5 claim, the deferral.

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

7 (A) For the property tax year beginning on July 1, 2012, the maximum
8 number of claims for deferral under ORS 311.666 to 311.701 that may be
9 granted to taxpayers who have not previously been granted deferral is the
10 number of such claims granted for the property tax year beginning on July
11 1, 2011, multiplied by 105 percent.

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

17 (b) For purposes of paragraph (a) of this subsection, spouses who continue
18 deferral under ORS 311.688 are not considered taxpayers who have not pre-
19 viously been granted deferral.

20 (c) If the number of eligible claims described in paragraph (a) of this
21 subsection **that are filed on or before the deadline set forth in sub-**
22 **section (1)(b) of this section** exceeds the maximum number determined
23 under paragraph (a) of this subsection, claims shall be granted in ascending
24 order based on the ratio that is equal to the real market value of the
25 homestead, **as** entered on the [*last*] certified assessment and tax roll **for the**
26 **property tax year immediately preceding the property tax year for**
27 **which the claim is filed**, divided by the county median RMV of the home-
28 stead determined under ORS 311.670 (6), until the maximum number deter-
29 mined under paragraph (a) of this subsection is reached.

30 (d) **If the number of eligible claims described in paragraph (a) of**
31 **this subsection that have been filed on or before the deadline set forth**

1 **in subsection (1)(b) of this section do not equal or exceed the maxi-**
2 **imum number determined under paragraph (a) of this subsection, eli-**
3 **gible claims that are filed on or before the deadline set forth in**
4 **subsection (1)(c) of this section shall be granted in chronological order**
5 **based on the filing date until the maximum number is reached. If the**
6 **number of eligible claims filed on the date on which the maximum is**
7 **reached would cause the maximum number to be exceeded, all claims**
8 **filed on that date shall be denied deferral for that property tax year.**

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

12 **SECTION 6. The amendments to ORS 311.672 by section 5 of this**
13 **2021 Act apply to property tax years beginning on or after July 1, 2022.**

14 **SECTION 7. Section 24, chapter 723, Oregon Laws 2011, as amended by**
15 **section 31, chapter 723, Oregon Laws 2011, is amended to read:**

16 **Sec. 24.** (1) The amendments to ORS 305.612, 311.356, 311.666, 311.668,
17 311.670, 311.672, 311.676, 311.679, 311.681, 311.684, 311.686, 311.688, 311.689,
18 311.691, 311.693, 311.695, 311.700, 311.701, 314.430 and 410.422 by sections 1 to
19 4, 6 to 18, 20, 21 and 29, **chapter 723, Oregon Laws 2011**, [*of this 2011*
20 *Act*] apply to property tax years beginning on or after July 1, 2011.

21 (2) The amendments to ORS 311.674 by section 5, **chapter 723, Oregon**
22 **Laws 2011**, [*of this 2011 Act*] apply to interest that accrues on taxes ad-
23 vanced to counties for tax-deferred property for property tax years beginning
24 on or after July 1, 2011.

25 [*(3) A claim for an initial year of deferral, or for continued deferral, under*
26 *ORS 311.666 to 311.701 may not be filed on or after April 16, 2021, and deferral*
27 *may not be granted for a property tax year beginning after July 1, 2021.*]

28 **SECTION 8. Section 9 of this 2021 Act is added to and made a part**
29 **of ORS 311.666 to 311.701.**

30 **SECTION 9. A claim for an initial year of deferral, or for continued**
31 **deferral, under ORS 311.666 to 311.701 may not be filed on or after April**

1 **16, 2033, and deferral may not be granted for a property tax year be-**
2 **ginning after July 1, 2033.**

3 **SECTION 10.** ORS 311.694 is amended to read:

4 311.694. (1) At the time that the property is deeded over to the county at
5 the conclusion of the foreclosure proceedings pursuant to ORS 312.200 the
6 county court shall order the county treasurer to pay to the Department of
7 Revenue from the unsegregated tax collections account the amount of **un-**
8 **collected** deferred taxes [*and interest which were not*] **and any interest that**
9 **accrued prior to August 15 of the year in which the deferred taxes first**
10 **became delinquent, or that accrues after the property is deeded to the**
11 **county, and that has not been** collected.

12 (2) Immediately upon payment, the county treasurer shall notify the tax
13 collector of the amount paid to the department for the property which has
14 been deeded to the county pursuant to ORS 312.200.

15 **SECTION 11.** **The amendments to ORS 311.694 by section 10 of this**
16 **2021 Act apply to orders for payment issued on or after the effective**
17 **date of this 2021 Act.**

18 **SECTION 12.** **This 2021 Act takes effect on the 91st day after the**
19 **date on which the 2021 regular session of the Eighty-first Legislative**
20 **Assembly adjourns sine die.**

21
