

House Bill 2452

Sponsored by Representative FINDLEY (Presession filed.)

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**.

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

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
3 311.666, 311.668 and 311.670; 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 (2)(a) The property for which the claim is filed must have been the homestead of the individual
10 or individuals who file the claim for deferral for at least five years preceding April 15 of the year
11 in which the claim is filed, except for an individual required to be absent from the homestead by
12 reason of health.

13 (b) The five-year requirement under paragraph (a) of this subsection does not apply to a home-
14 stead that meets all other requirements of this section, if the individual or individuals filing the
15 claim for deferral:

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

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

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

23 (D) Provide a written attestation that the individual or individuals incurred debt for not more
24 than 80 percent of the purchase price of the homestead for which the claim is filed.

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

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

30 (b) If the homestead meets all other requirements of this section and is insurable for fire and

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 other casualty but not insured, the Department of Revenue may purchase insurance for the home-
 2 stead and add the cost of the insurance coverage to a lien created under ORS 311.679.

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

6 (6) A homestead is not eligible for deferral under ORS 311.666 to 311.701 if the real market value
 7 of the homestead entered on the last certified assessment and tax roll is equal to or greater than:

8 (a) 100 percent of county median RMV if, as of April 15 of the year in which a claim is filed,
 9 the taxpayers have continuously owned and lived in the homestead less than seven years.

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

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

16 (d) 130 percent of county median RMV if, as of April 15 of the year in which a claim is filed,
 17 the taxpayers have continuously owned and lived in the homestead at least 11 years but less than
 18 13 years.

19 (e) 140 percent of county median RMV if, as of April 15 of the year in which a claim is filed,
 20 the taxpayers have continuously owned and lived in the homestead at least 13 years but less than
 21 15 years.

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

25 (g) 160 percent of county median RMV if, as of April 15 of the year in which a claim is filed,
 26 the taxpayers have continuously owned and lived in the homestead at least 17 years but less than
 27 19 years.

28 (h) 170 percent of county median RMV if, as of April 15 of the year in which a claim is filed,
 29 the taxpayers have continuously owned and lived in the homestead at least 19 years but less than
 30 21 years.

31 (i) 200 percent of county median RMV if, as of April 15 of the year in which a claim is filed, the
 32 taxpayers have continuously owned and lived in the homestead at least 21 years but less than 23
 33 years.

34 (j) 225 percent of county median RMV if, as of April 15 of the year in which a claim is filed, the
 35 taxpayers have continuously owned and lived in the homestead at least 23 years but less than 25
 36 years.

37 (k) 250 percent of county median RMV if, as of April 15 of the year in which a claim is filed,
 38 the taxpayers have continuously owned and lived in the homestead for 25 years or more.

39 **(7)(a) Notwithstanding subsection (6) of this section, if the maximum allowable real**
 40 **market value of a homestead, as determined under subsection (6) of this section, is less than**
 41 **\$250,000, for purposes of determining the eligibility of the homestead for deferral under ORS**
 42 **311.666 to 311.701, the maximum allowable real market value of the homestead shall be**
 43 **\$250,000.**

44 **(b) For each tax year beginning on or after July 1, 2020, the Department of Revenue shall**
 45 **recompute the maximum allowable real market value floor provided under paragraph (a) of**

1 **this subsection as follows:**

2 **(A) Divide the average Consumer Price Index for All Urban Consumers, West Region, for**
 3 **the first six months of the current calendar year by the average Consumer Price Index for**
 4 **All Urban Consumers, West Region, for the first six months of 2019.**

5 **(B) Recompute the maximum allowable real market value floor by multiplying \$250,000**
 6 **by the appropriate indexing factor determined under subparagraph (A) of this paragraph.**

7 **(c) Any change in the maximum allowable real market value floor determined under**
 8 **paragraph (b) of this subsection shall be rounded to the nearest multiple of \$500.**

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

10 311.666. As used in ORS 311.666 to 311.701:

11 **(1) “Consumer Price Index for All Urban Consumers, West Region” means the Consumer**
 12 **Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau**
 13 **of Labor Statistics of the United States Department of Labor.**

14 *[(1)]* **(2) “County median RMV” means the median real market value entered on the last certified**
 15 **assessment and tax roll for all residential improved properties in the county in which a homestead**
 16 **is located that are classified as 1-0-1 pursuant to the rule adopted by the Department of Revenue**
 17 **under ORS 308.215.**

18 *[(2)]* **(3) “Homestead” means the owner occupied principal dwelling, either real or personal**
 19 **property, owned by the taxpayer and the tax lot upon which it is located. If the homestead is located**
 20 **in a multiunit building, the homestead is the portion of the building actually used as the principal**
 21 **dwelling and its percentage of the value of the common elements and of the value of the tax lot upon**
 22 **which it is built. The percentage is the value of the unit consisting of the homestead compared to**
 23 **the total value of the building exclusive of the common elements, if any.**

24 *[(3)]* **(4) “Household income” means the aggregate income of the taxpayer and the spouse of the**
 25 **taxpayer who occupy the homestead, that was received during the calendar year for which the claim**
 26 **is filed. “Household income” includes payments received by the taxpayer or the spouse of the tax-**
 27 **payer under the federal Social Security Act for the benefit of a minor child or minor children who**
 28 **occupy the homestead.**

29 *[(4)]* **(5) “Income” means “adjusted gross income” as defined in the federal Internal Revenue**
 30 **Code, as defined in ORS 305.842, relating to the measurement of taxable income of individuals, es-**
 31 **tates and trusts, with the following modifications:**

32 **(a) There shall be added to adjusted gross income the following items of otherwise exempt in-**
 33 **come:**

34 **(A) The gross amount of any otherwise exempt pension less return of investment, if any.**

35 **(B) Child support received by the taxpayer.**

36 **(C) Inheritances.**

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

38 **(E) Amounts received by a taxpayer or spouse of a taxpayer for support from a parent who is**
 39 **not a member of the taxpayer’s household.**

40 **(F) Life insurance proceeds.**

41 **(G) Accident and health insurance proceeds, except reimbursement of incurred medical expenses.**

42 **(H) Personal injury damages.**

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

44 **(J) Strike benefits excluded from federal gross income.**

45 **(K) Worker’s compensation, except for reimbursement of medical expense.**

- 1 (L) Military pay and benefits.
- 2 (M) Veteran's benefits.
- 3 (N) Payments received under the federal Social Security Act that are excluded from federal
- 4 gross income.
- 5 (O) Welfare payments, except as follows:
- 6 (i) Payments for medical care, drugs and medical supplies, if the payments are not made directly
- 7 to the welfare recipient;
- 8 (ii) In-home services authorized and approved by the Department of Human Services; and
- 9 (iii) Direct or indirect reimbursement of expenses paid or incurred for participation in work or
- 10 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 gross income.
- 14 (S) Income from sources without the United States that is excluded from federal gross income.
- 15 (b) Adjusted gross income shall be increased due to the disallowance of the following deductions:
- 16 (A) The amount of the net loss, in excess of \$1,000, from all dispositions of tangible or intangible
- 17 properties.
- 18 (B) The amount of the net loss, in excess of \$1,000, from the operation of a farm or farms.
- 19 (C) The amount of the net loss, in excess of \$1,000, from all operations of a trade or business,
- 20 profession or other activity entered into for the production or collection of income.
- 21 (D) The amount of the net loss, in excess of \$1,000, from tangible or intangible property held for
- 22 the production of rents, royalties or other income.
- 23 (E) The amount of any net operating loss carryovers or carrybacks included in federal adjusted
- 24 gross income.
- 25 (F) The amount, in excess of \$5,000, of the combined deductions or other allowances for depre-
- 26 ciation, amortization or depletion.
- 27 (G) The amount added or subtracted, as required within the context of this section, for adjust-
- 28 ments made under ORS 316.680 (2)(d) and 316.707 to 316.737.
- 29 (c) "Income" does not include the following:
- 30 (A) Any governmental grant that must be used by the taxpayer for rehabilitation of the home-
- 31 stead of the taxpayer.
- 32 (B) Any refund of Oregon personal income taxes that were imposed under ORS chapter 316.
- 33 [(5)(a)] **(6)(a)** "Net worth" means the sum of the current market value of all assets, including
- 34 real property, cash, savings accounts, bonds and other investments, after deducting outstanding li-
- 35 abilities.
- 36 (b) "Net worth" does not include the value of a homestead for which deferral is claimed under
- 37 ORS 311.666 to 311.701, the cash value of life insurance policies on the life of a taxpayer or tangible
- 38 personal property owned by a taxpayer.
- 39 [(6)] **(7)** "Person with a disability" means an individual who has been determined to be eligible
- 40 to receive or who is receiving federal Social Security benefits due to disability or blindness, in-
- 41 cluding an individual who is receiving Social Security survivor benefits in lieu of Social Security
- 42 benefits due to disability or blindness.
- 43 [(7)] **(8)** "Tax-deferred property" means the property upon which taxes are deferred under ORS
- 44 311.666 to 311.701.
- 45 [(8)] **(9)** "Taxes" or "property taxes" means ad valorem taxes, assessments, fees and charges

1 entered on the assessment and tax roll.

2 [(9)] (10) "Taxpayer" means an individual who has filed, as an individual or jointly, a claim for
3 deferral under ORS 311.666 to 311.701.

4 [(10)(a)] (11)(a) "Transferee" means, without limitation, an heir, legatee, devisee, distributee of
5 an estate of a deceased individual, the assignee or donee of an insolvent individual or a person
6 acting in a fiduciary capacity on behalf of a transferee.

7 (b) "Transferee" does not mean a bona fide purchaser for value.

8 [(11)] (12) "U.S. City Average Consumer Price Index" means the U.S. City Average Consumer
9 Price Index for All Urban Consumers (All Items) as published by the Bureau of Labor Statistics of
10 the United States Department of Labor.

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

12 311.668. (1)(a) A claim to defer the property taxes on a homestead that is eligible for deferral
13 under ORS 311.670 may be filed with the county assessor in the manner prescribed under ORS
14 311.672 by:

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

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

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

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

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

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

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

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

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

36 (A) Divide the average [*U.S. City Average Consumer Price Index*] **Consumer Price Index for**
37 **All Urban Consumers, West Region**, for the first six months of the current calendar year by the
38 average U.S. City Average Consumer Price Index for the first six months of 2001.

39 (B) Recompute the maximum household income by multiplying \$32,000 by the appropriate in-
40 dexing factor determined under subparagraph (A) of this paragraph.

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

43 (3) Notwithstanding subsection (1) of this section, deferral may not be granted under ORS
44 311.666 to 311.701 with respect to a claim if, at the time the claim is filed, property taxes imposed
45 on the homestead of any individual filing the claim have been deferred and are delinquent or have

1 been canceled.

2 **SECTION 4.** (1) The amendments to ORS 311.670 by section 1 of this 2019 Act apply to
3 claims for deferral under ORS 311.666 to 311.701 filed on or after the effective date of this
4 2019 Act for property tax years beginning on or after July 1, 2019.

5 (2) An individual whose claim was denied before the effective date of this 2019 Act solely
6 because the real market value of the individual's property exceeded the applicable maximum
7 allowable real market value under ORS 311.670 (6) is not barred from filing a new claim for
8 deferral on or after the effective date of this 2019 Act for property tax years beginning on
9 or after July 1, 2019.

10 **SECTION 5.** This 2019 Act takes effect on the 91st day after the date on which the 2019
11 regular session of the Eightieth Legislative Assembly adjourns sine die.

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