

DRAFT

SUMMARY

Clarifies method of collecting unpaid charges against real property if instrument conveying fee title to such real property to exempt entity is recorded without certificate issued by county assessor attesting that all charges have been paid.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to instruments conveying title to real property; amending ORS 311.411; and prescribing an effective date.

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

SECTION 1. ORS 311.411 is amended to read:

311.411. (1) As used in this section:

(a) “Authorized agent” means an agent who is responsible for closing and settlement services in a conveyance.

(b) “Charges against the real property” means all ad valorem property taxes, additional taxes and potential additional taxes, fees, interest, penalties, costs and other charges that have been or will be charged or listed during the property tax year on the assessment roll or the tax roll with respect to real property that is the subject of an instrument described in subsection (2) of this section.

(c) “Closing and settlement services” means services that are provided by:

(A) A licensed escrow agent in a real estate closing escrow within the meaning of ORS 696.505 to 696.590; or

(B) An attorney for the benefit of a transferor or a transferee in a conveyance, if, simultaneously with the conveyance, the attorney deposits

1 the unpaid purchase price into the attorney's client trust account for dis-
2 bursal pursuant to the written instructions of, or the agreement between, the
3 transferor and transferee.

4 (d) "Consideration" means the amount of cash paid for a conveyance.

5 (e) "Conveyance" means the transfer of, or a contract to transfer, fee title
6 to any real property located in this state to a transferee whose property is
7 exempt from taxation under ORS 307.040 or 307.090. "Conveyance" does not
8 include a transfer of fee title of less than an entire parcel of property for
9 state highway, county road or city street purposes.

10 (2)(a) Notwithstanding ORS 205.130, a county clerk may not record or
11 cause to be recorded an instrument conveying or contracting to convey fee
12 title to real property to an entity whose property is exempt from taxation
13 under ORS 307.040 or 307.090 unless the instrument is accompanied by a
14 certificate issued by the assessor of the county in which the real property
15 is located attesting that all charges against the real property as of the date
16 of the recording have been paid.

17 **(b) If an instrument is recorded without a certificate as required**
18 **under paragraph (a) of this subsection, any charges against the real**
19 **property as of the date of the recording that have not been paid shall**
20 **be collected in the manner provided under subsection (6) of this sec-**
21 **tion.**

22 (3)(a) On or after July 1 of any year, and before the date on which the
23 assessor makes a certificate pursuant to ORS 311.105, a person seeking to
24 record an instrument described in subsection (2) of this section shall pay to
25 the tax collector of the county:

26 (A) If the exact amount of charges against the real property can be com-
27 puted by the county assessor, the exact amount.

28 (B) If the exact amount cannot be computed, an amount equal to the
29 county assessor's estimate of the exact amount.

30 (b) The county assessor shall levy and the tax collector shall collect the
31 exact amount or the county assessor's estimate of the exact amount under

1 this subsection.

2 (c) Payment made pursuant to this subsection may be made less any dis-
3 count allowed under ORS 311.505.

4 (4)(a) Pursuant to written instructions from the transferor, an authorized
5 agent in a conveyance may withhold from the consideration payable to the
6 transferor an amount equal to the amount of charges against the real prop-
7 erty as of the date of the conveyance.

8 (b) Amounts withheld pursuant to this subsection are held in trust for the
9 taxing districts within the county in which the real property is located and
10 shall be paid to the county tax collector before the consideration, net of the
11 amounts withheld, may be paid to the transferor.

12 (5)(a) If all charges against the real property as of the date of the re-
13 cording have been paid, the county assessor shall issue the certificate de-
14 scribed in subsection (2) of this section and may not unreasonably withhold
15 delivery of the certificate.

16 (b) The certificate shall be in a form prescribed by the Department of
17 Revenue.

18 (6) Any deficiency in the amount required to be paid under this section:

19 (a) Notwithstanding ORS 311.405, is not a lien on the real property that
20 is the subject of the instrument described in subsection (2) of this section;

21 (b) Constitutes a personal debt of the person who has conveyed or con-
22 tracted to convey the real property under the instrument described in sub-
23 section (2) of this section; and

24 (c) Shall be collected as provided by law for the collection of delinquent
25 property taxes on personal property.

26 **SECTION 2. This 2023 Act takes effect on the 91st day after the date**
27 **on which the 2023 regular session of the Eighty-second Legislative**
28 **Assembly adjourns sine die.**