

Senate Bill 709

Sponsored by Senator GELSER

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**.

Allows surviving spouse or disabled heir of individual whose homestead was granted deferral under homestead property tax deferral program to continue deferral without having owned or occupied homestead for five years.

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, 311.670, 311.672 and 311.688 and section 24, chapter 723, Oregon Laws 2011; and
4 prescribing an effective date.

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

6 **SECTION 1.** ORS 311.666 is amended to read:

7 311.666. As used in ORS 311.666 to 311.701:

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

12 (2) "Disabled heir" means a person with a disability who is:

13 (a) An heir, legatee, devisee or distributee of a deceased individual whose homestead has
14 been granted deferral under ORS 311.666 to 311.701;

15 (b) A grantee of the homestead under a transfer on death deed granted by the deceased
16 individual; or

17 (c) A grantee of the homestead under a deed granted by the trustee of a trust established
18 by the deceased individual.

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

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

30 [(4)] (5) "Income" means "adjusted gross income" as defined in the federal Internal Revenue

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 Code, as defined in ORS 305.842, relating to the measurement of taxable income of individuals, es-
2 tates and trusts, with the following modifications:

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

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

6 (B) Child support received by the taxpayer.

7 (C) Inheritances.

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

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

11 (F) Life insurance proceeds.

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

13 (H) Personal injury damages.

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

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

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

17 (L) Military pay and benefits.

18 (M) Veteran's benefits.

19 (N) Payments received under the federal Social Security Act that are excluded from federal
20 gross income.

21 (O) Welfare payments, except as follows:

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

24 (ii) In-home services authorized and approved by the Department of Human Services; and

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

27 (P) Nontaxable dividends.

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

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

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

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

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

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

35 (C) The amount of the net loss, in excess of \$1,000, from all operations of a trade or business,
36 profession or other activity entered into for the production or collection of income.

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

39 (E) The amount of any net operating loss carryovers or carrybacks included in federal adjusted
40 gross income.

41 (F) The amount, in excess of \$5,000, of the combined deductions or other allowances for depre-
42 ciation, amortization or depletion.

43 (G) The amount added or subtracted, as required within the context of this section, for adjust-
44 ments made under ORS 316.680 (2)(d) and 316.707 to 316.737.

45 (c) "Income" does not include the following:

1 (A) Any governmental grant that must be used by the taxpayer for rehabilitation of the home-
2 stead of the taxpayer.

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

4 [(5)(a)] (6)(a) “Net worth” means the sum of the current market value of all assets, including
5 real property, cash, savings accounts, bonds and other investments, after deducting outstanding li-
6 abilities.

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

10 [(6)] (7) “Person with a disability” means an individual who has been determined to be eligible
11 to receive or who is receiving federal Social Security benefits due to disability or blindness, in-
12 cluding an individual who is receiving Social Security survivor benefits in lieu of Social Security
13 benefits due to disability or blindness.

14 [(7)] (8) “Tax-deferred property” means the property upon which taxes are deferred under ORS
15 311.666 to 311.701.

16 [(8)] (9) “Taxes” or “property taxes” means ad valorem taxes, assessments, fees and charges
17 entered on the assessment and tax roll.

18 [(9)] (10) “Taxpayer” means an individual who has filed, as an individual or jointly, a claim for
19 deferral under ORS 311.666 to 311.701.

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

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

24 [(11)] (12) “U.S. City Average Consumer Price Index” means the U.S. City Average Consumer
25 Price Index for All Urban Consumers (All Items) as published by the Bureau of Labor Statistics of
26 the United States Department of Labor.

27 **SECTION 2.** ORS 311.668 is amended to read:

28 311.668. (1)(a) A claim to defer the property taxes on a homestead that is eligible for deferral
29 under ORS 311.670 may be filed with the county assessor in the manner prescribed under ORS
30 311.672 by:

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

33 (B) An individual who is a person with a disability as of April 15 of the calendar year in which
34 the claim is filed, regardless of **the age of the individual or** the age or disability of other individ-
35 uals occupying the homestead.

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

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

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

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

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

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

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

8 (A) Divide the average U.S. City Average Consumer Price Index for the first six months of the
 9 [current] calendar year **immediately preceding the calendar year in which the tax year begins**
 10 by the average U.S. City Average Consumer Price Index for the first six months of 2001.

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

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

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

19 **(b) This subsection does not apply to the claim by a surviving spouse or disabled heir to**
 20 **continue deferral under ORS 311.688.**

21 **SECTION 3.** ORS 311.670 is amended to read:

22 311.670. (1) Property is not eligible for tax deferral under ORS 311.666 to 311.701 unless, at the
 23 time a claim is filed and during the period for which deferral is claimed, the property meets the
 24 requirements of this section.

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

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

32 **(A) Are required to be absent from the homestead by reason of health;**

33 [(A)] **(B)(i)** Moved to the homestead for which the claim is filed from a homestead that was
 34 granted deferral under ORS 311.666 to 311.701 and was of greater real market value than the
 35 homestead for which the claim is filed;

36 [(B)] **(ii)** Sell the prior homestead within (B) year of purchasing the homestead for which the
 37 claim is filed;

38 [(C)] **(iii)** Satisfy any lien created under ORS 311.673 or 311.679 and attached to the prior
 39 homestead; and

40 [(D)] **(iv)** Provide a written attestation that the individual or individuals incurred debt for not
 41 more than 80 percent of the purchase price of the homestead for which the claim is filed[.]; **or**

42 **(C) Are a surviving spouse or disabled heir claiming continuation of deferral under ORS**
 43 **311.688.**

44 (3) The individual claiming the deferral, individually or jointly, must own the fee simple estate
 45 under a recorded instrument of sale, or two or more individuals together must own the fee simple

1 estate with rights of survivorship under a recorded instrument of sale if all owners live in the
2 property and if all owners apply for the deferral jointly.

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

4 (b) If the homestead meets all other requirements of this section and is insurable for fire and
5 other casualty but not insured, the Department of Revenue may purchase insurance for the home-
6 stead and add the cost of the insurance coverage to a lien created under ORS 311.679.

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

10 (6) A homestead is not eligible for deferral under ORS 311.666 to 311.701 if the real market value
11 of the homestead entered on the *[last]* certified assessment and tax roll **for the property tax year**
12 **immediately preceding the property tax year for which the taxes will be deferred** is equal to
13 or greater than:

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

16 (b) 110 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]* **occupied** the homestead at least seven years
18 but less than nine years.

19 (c) 120 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]* **occupied** the homestead at least nine years
21 but less than 11 years.

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

25 (e) 140 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]* **occupied** the homestead at least 13 years but
27 less than 15 years.

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

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

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

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

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

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

45 **(7) For purposes of subsection (6) of this section, a surviving spouse or disabled heir who**

1 **is eligible to claim continuation of deferral under ORS 311.688 is considered to have owned**
2 **and occupied the homestead from the date on which the deceased individual or individuals**
3 **who filed the claim for deferral first owned and occupied the homestead.**

4 **SECTION 4.** ORS 311.672 is amended to read:

5 311.672. (1)(a) A taxpayer's claim for deferral under ORS 311.666 to 311.701 must:

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

7 (B) Describe the homestead;

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

10 (D) Have attached:

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

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

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

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

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

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

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

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

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

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

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

37 (b) For purposes of paragraph (a) of this subsection, **surviving spouses and disabled heirs** who
38 continue deferral under ORS 311.688 are not considered taxpayers who have not previously been
39 granted deferral.

40 (c) If the number of eligible claims described in paragraph (a) of this subsection exceeds the
41 maximum number determined under paragraph (a) of this subsection, claims shall be granted in as-
42 cending order based on the ratio that is equal to the real market value of the homestead entered
43 on the last certified assessment and tax roll divided by the county median RMV of the homestead
44 determined under ORS 311.670 (6), until the maximum number determined under paragraph (a) of this
45 subsection is reached.

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

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

4 311.688. (1) Notwithstanding ORS 311.684, when [*one of the circumstances listed in ORS 311.684*
5 (*1 to 3 occurs, the spouse*)] **a taxpayer dies, the surviving spouse or disabled heir of the tax-**
6 **payer** who was not eligible to or did not file a claim jointly with the taxpayer may continue the
7 property in its deferred tax status by filing a claim in the manner prescribed under ORS 311.672 if:

8 (a)(A) The **surviving** spouse of the taxpayer is or will be 60 years of age or older not later than
9 six months [*from the day the circumstance listed in ORS 311.684 (1) to (3) occurs*] **following the date**
10 **on which the taxpayer died; [and] or**

11 **(B) The disabled heir of the taxpayer is otherwise eligible to claim deferral under ORS**
12 **311.668 (1)(a)(B); and**

13 (b) **Within two years following the date on which the taxpayer died,** the property is **or be-**
14 **comes** the homestead of the **surviving** spouse **or disabled heir** of the taxpayer and **otherwise**
15 meets the requirements of ORS 311.670.

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

20 (b) If a **surviving** spouse eligible for and continuing the deferral of taxes previously deferred
21 under this subsection becomes 62 years of age prior to April 15 of any year, the **surviving** spouse
22 may continue the deferral of previous years' taxes deferred under this subsection and may elect to
23 defer the current assessment year's taxes on the homestead by filing a claim in the manner pre-
24 scribed under ORS 311.672.

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

28 (3)(a) **Initial claims made pursuant to this section may not be filed late under ORS**
29 **311.672.**

30 (b) Notwithstanding [*ORS 311.672*] **paragraph (a) of this subsection,** if the Department of Re-
31 venue determines that good and sufficient cause exists for the failure of a **surviving** spouse **or**
32 **disabled heir** to file a claim under this section on or before April 15, the claim may be filed within
33 180 days after notice of taxes due and payable under ORS 311.686 is [*mailed or delivered*] **sent** by
34 the department to the taxpayer or [*spouse*] **surviving spouse or disabled heir.**

35 **SECTION 6. The amendments to ORS 311.666, 311.668, 311.670, 311.672 and 311.688 by**
36 **sections 1 to 5 of this 2021 Act apply to claims for deferral filed on or after the effective date**
37 **of this 2021 Act for property tax years beginning on or after July 1, 2022.**

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

40 **Sec. 24.** (1) The amendments to ORS 305.612, 311.356, 311.666, 311.668, 311.670, 311.672, 311.676,
41 311.679, 311.681, 311.684, 311.686, 311.688, 311.689, 311.691, 311.693, 311.695, 311.700, 311.701, 314.430
42 and 410.422 by sections 1 to 4, 6 to 18, 20, 21 and 29, **chapter 723, Oregon Laws 2011,** [*of this 2011*
43 *Act*] apply to property tax years beginning on or after July 1, 2011.

44 (2) The amendments to ORS 311.674 by section 5, **chapter 723, Oregon Laws 2011,** [*of this 2011*
45 *Act*] apply to interest that accrues on taxes advanced to counties for tax-deferred property for

1 property tax years beginning on or after July 1, 2011.

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

5 **SECTION 8. Section 9 of this 2021 Act is added to and made a part of ORS 311.666 to**
6 **311.701.**

7 **SECTION 9. A claim for an initial year of deferral, or for continued deferral, under ORS**
8 **311.666 to 311.701 may not be filed on or after December 2, 2032, and deferral may not be**
9 **granted for property tax years beginning after July 1, 2032.**

10 **SECTION 10. This 2021 Act takes effect on the 91st day after the date on which the 2021**
11 **regular session of the Eighty-first Legislative Assembly adjourns sine die.**

12