

OREGON STATE BAR LEGISLATIVE PROPOSAL

Re: HB 2460-2 – Senior Property Tax Deferral Program

Submitted by: Oregon State Bar Elder Law Section

Legislative Contact(s): Susan Grabe

Phone: 503-431-6380

E-mail: sgrabe@osbar.org

1. PROBLEM PRESENTED:

Oregon's Senior Property Tax Deferral Program allows a senior to defer payment of their property taxes until he or she passes away or leaves the home. The taxes are then generally paid from the property owner's estate, usually from the proceeds of the sale of the home. This is an important program for many seniors living on fixed incomes.

However, in some cases, when a homeowner participating in the Senior Property Tax Deferral Program passes away, the home is encumbered by debts in excess of its value. When that happens, current law allows the Department of Revenue to require the heirs of the homeowner (usually family members) to repay the deferred taxes from their own assets, even if they do not receive any value from the estate nor are responsible for, or connected to, the debt.

Generally, when someone dies, that person's remaining assets (money in their savings accounts, the proceeds of the sale of a home or car are just a few examples) are used to pay off any of his or her outstanding debts. If a decedent's assets are insufficient to pay all of their debts, the remaining debts are never passed on to heirs. Family members and other heirs are not responsible for a deceased person's debt.

Recently the Oregon Department of Revenue, in response to these concerns, has put into place administrative rules that limit the department's ability to demand payment from heirs of the taxpayer to situations where the heir has received specific financial benefits from the property. However, many taxpayers are unfamiliar with the Oregon Administrative Rules and would be better served by having this restriction in statute.

2. SOLUTION:

Amend ORS 311.695(1) to codify these administrative rules that limit the Department of Revenue's ability to seek payment from heirs of deceased participants in the Senior Property Tax Deferral Program. Placing these rules into statute is important for three main reasons:

- It would make clear that the debts from the Senior Property Tax Deferral Program of a deceased person are not passed on to an heir.
- It would provide taxpayers and their families clear and easy to find guidance for repaying the program.
- It would ensure that any changes made to the collections process would go through the legislative process.