

Enrolled
House Bill 2460

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary for Oregon State Bar Elder Law Section)

CHAPTER

AN ACT

Relating to the liability of transferees for deferred homestead property taxes; creating new provisions; amending ORS 311.695; and prescribing an effective date.

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

SECTION 1. ORS 311.695 is amended to read:

311.695. (1) A transferee of a homestead who is ineligible to claim, or does not claim, deferral under ORS 311.666 to 311.701, or that is not an individual, is jointly and severally liable for amounts payable under ORS 311.686 to the extent of the positive amount, if any, remaining after subtracting the amount of all liens prior to the Department of Revenue's liens for deferred taxes arising under ORS 311.673 or 311.679 from the real market value of the homestead entered on the last certified assessment and tax roll prior to the date of the transfer[.] **if the transferee:**

(a) Is occupying, leasing out or otherwise using the tax-deferred property more than 90 days following the taxpayer's date of death and is a potential recipient of the property under intestate succession or by devise;

(b) Received the tax-deferred property from the estate of a deceased taxpayer; or

(c) Received a right to the tax-deferred property by gift or assignment from an insolvent taxpayer.

(2) The department shall issue by mail a notice of liability to a transferee after deferred amounts for which the transferee is liable under this section become payable under ORS 311.686.

(3)(a) Within 30 days after the department mails the notice of liability required under subsection (2) of this section, the transferee:

(A) Shall pay the deferred amounts, plus interest, the cost of insurance purchased pursuant to ORS 311.670 (4)(b) and fees; or

(B)(i) Shall notify the department in writing of objections to the notice of liability; and

(ii) May request a conference. The provisions of ORS 305.265 governing a conference requested relating to a notice of deficiency apply to a conference requested under this sub-subparagraph.

(b) If the department does not receive payment or written objection to the notice of liability within 30 days after the notice has been mailed, the notice of liability becomes final.

(c) A transferee may appeal the notice of liability to the tax court in the manner provided for an appeal from a notice of assessment within 90 days after the notice becomes final under this subsection.

(4)(a) After a conference, or, if no conference is requested, a determination of the issues raised by the written objections, the department shall mail to the transferee a conference letter affirming, canceling or adjusting the notice of liability.

(b) Within 90 days after the date on which the conference letter is mailed to the transferee, the transferee shall pay the deferred amounts, plus interest, the cost of insurance purchased pursuant to ORS 311.670 (4)(b) and fees, or appeal to the tax court in the manner provided for an appeal from a notice of assessment.

(5)(a) If more than one transferee may be held jointly and severally liable for payment of deferred amounts under this section, the department may require any or all of the transferees who may be held liable to appear before the department for a joint determination of liability. The department shall notify each transferee of the time and place set for the determination of liability.

(b) Each transferee notified of a joint determination under this subsection shall appear and present such information as is necessary to establish that person's liability or nonliability for payment of deferred amounts to the department. If any person notified fails to appear, the department shall make its determination on the basis of all the information and evidence presented. The department's determination shall be binding on all persons notified and required to appear under this subsection.

(c)(A) If an appeal is taken to the Oregon Tax Court pursuant to ORS 305.404 to 305.560 by any transferee determined to be liable for deferred amounts under this subsection, each person required to appear before the department under this subsection shall be impleaded by the plaintiff. The department may implead any transferee who may be held jointly and severally liable for the payment of deferred amounts. Each person impleaded under this paragraph shall be made a party to the action before the tax court and shall make available to the tax court such information as was presented before the department, as well as such other information as may be presented to the court.

(B) The court may determine that one or more persons impleaded under this paragraph are liable for deferred amounts without regard to any earlier determination by the department that an impleaded person was not liable for deferred amounts.

(C) If any person required to appear before the court under this subsection fails or refuses to appear or bring such information in part or in whole, or is outside the jurisdiction of the tax court, the court shall make its determination on the basis of all the evidence introduced. All such evidence shall constitute a public record and shall be available to the parties and the court. The determination of the tax court shall be binding on all persons made parties to the action under this subsection.

(d) Nothing in this section shall be construed to preclude a determination by the department or the Oregon Tax Court that more than one transferee is jointly and severally liable for deferred amounts.

SECTION 2. The amendments to ORS 311.695 by section 1 of this 2019 Act apply to:

(1) A transfer occurring on or after the effective date of this 2019 Act.

(2) A transfer occurring before the effective date of this 2019 Act if the circumstances described in ORS 311.695 (1)(a), (b) and (c) do not apply to the transferee and the amounts payable under ORS 311.686 with respect to the transfer have not been paid as of the effective date of this 2019 Act. Any remaining outstanding balance that has been charged to a transferee with respect to a transfer described in this subsection shall be canceled.

SECTION 3. This 2019 Act takes effect on the 91st day after the date on which the 2019 regular session of the Eightieth Legislative Assembly adjourns sine die.

Passed by House May 15, 2019

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate June 18, 2019

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2019

Approved:

.....M,....., 2019

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2019

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Bev Clarno, Secretary of State