

Senate Bill 140

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Finance and Revenue)

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 \$250,000 minimum cap on allowable real market value of homestead. Directs Department of Revenue to adjust minimum cap on allowable real market value annually according to change in Consumer Price Index.

Allows claim for deferral to be filed late, with payment of fee. Modifies procedure for allowing claims for deferral in excess of maximum allowable for property tax year.

Extends sunset for deferral program.

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 311.694 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 311.670 is amended to read:

7 311.670. (1) Property is not eligible for tax deferral under ORS 311.666 to 311.701 unless, at the
8 time a claim is filed and during the period for which deferral is claimed, the property meets the
9 requirements of this section.

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

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

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

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

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

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

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

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 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]* **unless** the real
11 market value of the homestead entered on the last certified assessment and tax roll is *[equal to or*
12 *greater]* **less than the greater of \$250,000 or:**

13 (a) 100 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]* **occupied** the homestead less than seven years.

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

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

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

24 (e) 140 percent of county median RMV if, as of April 15 of the year in which a claim is filed,
25 the taxpayers have continuously owned and *[lived in]* **occupied** the homestead at least 13 years but
26 less than 15 years.

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

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

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

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

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

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

44 **(7)(a) For each tax year beginning on or after July 1, 2022, the Department of Revenue**
45 **shall recompute the \$250,000 minimum cap on allowable real market value provided under**

1 subsection (6) of this section as follows:

2 (A) Divide the average Consumer Price Index for All Urban Consumers, West Region (All
3 Items), for the first six months of the current calendar year by the average Consumer Price
4 Index for All Urban Consumers, West Region (All Items), for the first six months of 2021.

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

7 (b) Any change in the minimum cap on allowable real market value determined under
8 paragraph (a) 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 (All Items)” means the
12 Consumer Price Index for All Urban Consumers, West Region (All Items), as published by
13 the Bureau 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 (All Items)**, for the first six months of the current calendar
38 year by the 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 2021 Act apply to**
 3 **claims for deferral under ORS 311.666 to 311.701 filed on or after the effective date of this**
 4 **2021 Act for property tax years beginning on or after July 1, 2021.**

5 **(2) An individual whose claim was denied before the effective date of this 2021 Act solely**
 6 **because the real market value of the individual's property exceeded the applicable minimum**
 7 **cap on allowable real market value under ORS 311.670 (6) is not barred from filing a new**
 8 **claim for deferral on or after the effective date of this 2021 Act for property tax years be-**
 9 **ginning on or after July 1, 2021.**

10 **SECTION 5.** ORS 311.672 is amended to read:

11 311.672. (1)(a) A taxpayer's claim for deferral under ORS 311.666 to 311.701 must:

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

13 (B) Describe the homestead;

14 (C) Recite all facts establishing the eligibility, **as of April 15 of the year in which the claim**
 15 **is filed**, of the homestead for, and of the taxpayers to claim, the deferral; and

16 (D) Have attached:

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

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

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

23 **(c) Notwithstanding paragraph (b) of this subsection, a claim for deferral may be filed**
 24 **with the county assessor after April 15 immediately preceding the property tax year for**
 25 **which deferral is claimed and on or before December 1 of the same property tax year. A**
 26 **claim filed under this paragraph must be accompanied by a fee in an amount equal to 10**
 27 **percent of the property taxes assessed on the homestead on the last certified assessment and**
 28 **tax roll, but in no event less than \$20 or greater than \$150.**

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

31 (3) If the taxpayers and the homestead are determined to be eligible under ORS 311.668 and
 32 311.670, respectively, a timely claim for deferral has the effect of:

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

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

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

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

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

45 (B) For each property tax year beginning after July 1, 2012, the maximum number of claims for

1 deferral that may be granted to taxpayers who have not previously been granted deferral is the
 2 maximum number determined under this subsection for the immediately preceding property tax year
 3 multiplied by 105 percent.

4 (b) For purposes of paragraph (a) of this subsection, spouses who continue deferral under ORS
 5 311.688 are not considered taxpayers who have not previously been granted deferral.

6 (c) If the number of eligible claims described in paragraph (a) of this subsection **that are filed**
 7 **on or before the deadline set forth in subsection (1)(b) of this section** exceeds the maximum
 8 number determined under paragraph (a) of this subsection, claims shall be granted in ascending or-
 9 der based on the ratio that is equal to the real market value of the homestead, as entered on the
 10 [last] certified assessment and tax roll **for the property tax year immediately preceding the**
 11 **property tax year for which the claim is filed**, divided by the county median RMV of the home-
 12 stead determined under ORS 311.670 (6), until the maximum number determined under paragraph (a)
 13 of this subsection is reached.

14 (d) **If the number of eligible claims described in paragraph (a) of this subsection that have**
 15 **been filed on or before the deadline set forth in subsection (1)(b) of this section do not equal**
 16 **or exceed the maximum number determined under paragraph (a) of this subsection, eligible**
 17 **claims that are filed on or before the deadline set forth in subsection (1)(c) of this section**
 18 **shall be granted in chronological order based on the filing date until the maximum number**
 19 **is reached. If the number of eligible claims filed on the date on which the maximum is**
 20 **reached would cause the maximum number to be exceeded, all claims filed on that date shall**
 21 **be denied deferral for that property tax year.**

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

24 **SECTION 6. The amendments to ORS 311.672 by section 5 of this 2021 Act apply to**
 25 **property tax years beginning on or after July 1, 2022.**

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

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

32 (2) The amendments to ORS 311.674 by section 5, **chapter 723, Oregon Laws 2011**, [of this 2011
 33 Act] apply to interest that accrues on taxes advanced to counties for tax-deferred property for
 34 property tax years beginning on or after July 1, 2011.

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

38 **SECTION 8. Section 9 of this 2021 Act is added to and made a part of ORS 311.666 to**
 39 **311.701.**

40 **SECTION 9. A claim for an initial year of deferral, or for continued deferral, under ORS**
 41 **311.666 to 311.701 may not be filed on or after April 16, 2033, and deferral may not be granted**
 42 **for a property tax year beginning after July 1, 2033.**

43 **SECTION 10.** ORS 311.694 is amended to read:

44 311.694. (1) At the time that the property is deeded over to the county at the conclusion of the
 45 foreclosure proceedings pursuant to ORS 312.200 the county court shall order the county treasurer

1 to pay to the Department of Revenue from the unsegregated tax collections account the amount of
2 **uncollected** deferred taxes [*and interest which were not*] **and any interest that accrued prior to**
3 **August 15 of the year in which the deferred taxes first became delinquent, or that accrues**
4 **after the property is deeded to the county, and that has not been** collected.

5 (2) Immediately upon payment, the county treasurer shall notify the tax collector of the amount
6 paid to the department for the property which has been deeded to the county pursuant to ORS
7 312.200.

8 **SECTION 11. The amendments to ORS 311.694 by section 10 of this 2021 Act apply to or-**
9 **ders for payment issued on or after the effective date of this 2021 Act.**

10 **SECTION 12. 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