

# House Bill 2033

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Rules for Oregon Association of County Clerks)

## 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**.

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

1  
2 Relating to instruments conveying title to real property; amending ORS 311.411; and prescribing an  
3 effective date.

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

5 **SECTION 1.** ORS 311.411 is amended to read:

6 311.411. (1) As used in this section:

7 (a) "Authorized agent" means an agent who is responsible for closing and settlement services  
8 in a conveyance.

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

14 (c) "Closing and settlement services" means services that are provided by:

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

17 (B) An attorney for the benefit of a transferor or a transferee in a conveyance, if, simultaneously  
18 with the conveyance, the attorney deposits the unpaid purchase price into the attorney's client trust  
19 account for disbursement pursuant to the written instructions of, or the agreement between, the  
20 transferor and transferee.

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

22 (e) "Conveyance" means the transfer of, or a contract to transfer, fee title to any real property  
23 located in this state to a transferee whose property is exempt from taxation under ORS 307.040 or  
24 307.090. "Conveyance" does not include a transfer of fee title of less than an entire parcel of prop-  
25 erty for state highway, county road or city street purposes.

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

**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       **(b) If an instrument is recorded without a certificate as required under paragraph (a) of**  
2 **this subsection, any charges against the real property as of the date of the recording that**  
3 **have not been paid shall be collected in the manner provided under subsection (6) of this**  
4 **section.**

5       (3)(a) On or after July 1 of any year, and before the date on which the assessor makes a cer-  
6 tificate pursuant to ORS 311.105, a person seeking to record an instrument described in subsection  
7 (2) of this section shall pay to the tax collector of the county:

8       (A) If the exact amount of charges against the real property can be computed by the county  
9 assessor, the exact amount.

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

12       (b) The county assessor shall levy and the tax collector shall collect the exact amount or the  
13 county assessor's estimate of the exact amount under this subsection.

14       (c) Payment made pursuant to this subsection may be made less any discount allowed under ORS  
15 311.505.

16       (4)(a) Pursuant to written instructions from the transferor, an authorized agent in a conveyance  
17 may withhold from the consideration payable to the transferor an amount equal to the amount of  
18 charges against the real property as of the date of the conveyance.

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

22       (5)(a) If all charges against the real property as of the date of the recording have been paid, the  
23 county assessor shall issue the certificate described in subsection (2) of this section and may not  
24 unreasonably withhold delivery of the certificate.

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

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

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

29       (b) Constitutes a personal debt of the person who has conveyed or contracted to convey the real  
30 property under the instrument described in subsection (2) of this section; and

31       (c) Shall be collected as provided by law for the collection of delinquent property taxes on per-  
32 sonal property.

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

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