House Bill 4141 – Relating to property tax interest (House Committee on Revenue: Feb 8, 2024 Hearing)

What this is:

This bill is an amendment to the current collections practices affixed to the interest rates of delinquent fees charged against those who are behind on paying their property taxes. Currently, the interest rates are being assessed at a monthly interest rate whereas every other type of loan (credit cards, car loans, personal loans) are charged an annual, yearly, interest rate.

The -1 Amendment to the bill proposes that the current ORS language about the 1.333% per month be replaced with the "current United States prime lending rate plus 1.333% per year or fraction of a year". This will match the current delinquent property tax interest rate to become like the Federal annual prime lending rate calculated yearly, instead of from monthly.

The current property tax interest rate (as determined by the legislature) is 1.333% per month or fraction of a month, which calculates to 17.2% annually.

What this is not:

This is not a bill to reduce or decrease property taxes. This bill will also not reduce or decrease the interest rate percentage charged upon property taxes.

Who this affects:

Currently, when a homeowner, landowner, or real property owner who has already paid off the total costs of their property, they are still obligated to pay their ever-growing property taxes. Mortgage loan customers normally have their property tax fees included and paid for by their lending companies, so this situation doesn't often apply to them.

However, for those who are living in rural areas, low income, or unable to work at a job for employment, such as retirees, or those on disability or receiving social security, or those living on a fixed income, when they fall behind on their property taxes they get charged delinquency fees with interest rates that are compounded monthly, which is much higher than other types of loans charged with yearly interest rates.

Why is this important:

When someone falls behind on paying these delinquency fees, the interest rates keep growing and compounding monthly. Eventually, the county can stake a claim upon the property by eminent domain through tax liens and the unfortunate property owner risks becoming homeless and/or unable to pass on an asset to their heirs that would help to provide for the future of their generational wealth and stability.

In Oregon, real property is normally subject to seizure and foreclosure three years after the taxes become delinquent, this includes the interest rates and late fees charged upon those taxes. This is important right now because three years ago, COVID affected a large number of Oregonians who lost their jobs making them unable to work to pay their property taxes. Now these property owners are at risk of losing their homes, property, and assets as they have now become subject to the foreclosure process since their taxes have become three years delinquent.

Why this is unconstitutional:

The Fifth Amendment of the U.S. Constitution has a "takings clause," stating private property can't be taken away by the government "without just compensation." That means the government must pay full market value for the land. Under this current regime, the landowner is never even offered or paid full market value for the illegal seizure of their property that they lost due to unpaid and overcharged interest rates due upon delinquent property tax fees.

Not coincidentally, when the government wants your land, they will often send their own assessors to over appraise the property's condition, location, accessibility, size, and current use to estimate its value. Usually, the property is seized for far less than full market value and the owner loses their property "without just compensation." These same assessors salaries have been paid from these overcharged interest rates since 1989. The Legislature should find them a new funding source.

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Oppositional points to consider:

The Association of Counties, the League of Oregon Cities, County Tax Assessors, the Oregon Department of Revenue, and other treasurer, tax, or revenue related agencies are concerned that without the money from these overcharged interest rates that they won't be able to fund the salaries of the county tax collectors or assessors or other functions that are funded from this.

It may also be very bad PR for them because not only have they been exposed in overcharging people on these interest rates that are causing people to lose their homes or properties, which is unconstitutional and inhumane, there is now a discussion into what else these interest rates funds have been used for and the sources of that revenue.

These delinquent interest rate funds have been sent to the state and then paid to the county tax assessors via the County Assessment Function Funding Assistance Account (CAFFA). There are several confusing ORS sections that do not provide answers.

Why this is urgent:
The salaries of county property tax assessors should not be dependent upon those who happen to fall behind or can't pay the compounding monthly interest of their property tax delinquency fees. If the property owner pays their bills on time, or even early, they are given a discount on their bills. So let's assume that if everyone paid their bills on time, then the salaries of the county property tax assessors would lose their funding source altogether. The Legislature needs to come up with a better funding source for these assessors, counties, or agencies that is more reliable and less dependent upon the misfortunes of others.

For these reasons, we urge your support of HB 4141, one of the only tri-partisan and bicameral bills.

Chief Sponsor: Rep Hieb
Regular Sponsors: Senator Meek, Senator Boquist, Rep Boice, Rep Levy, Rep Mannix, Rep Osborne, Rep Reschke

Request for a Work Group with the relevant stakeholders

If possible, the funding sources for CAFFA should be reconsidered to come from other sources that are not going to be a conflict of interest. It does not seem fair that the county assessors who choose to raise the value on someone's property are being paid a salary from the compounding interest rates of delinquency fees because the owners cannot afford to pay their increasing property taxes.

Research from LPRO

Oregon statute has established the rate of interest to be charged and collected for late payments under the state's property tax system since at least 1953 (the requirement appears to pre-date 1953, but legislative research before that date requires a trip to the law library), when the rate was two thirds of one percent (0.66%) per month. ORS 311.505(2) (1953). In 1975, the legislature raised the rate to one percent (1%) per month. ORS 311.505(2) (1975). The current rate of one and one-third percent (1.33%) per month was established in 1999 by House Bill 2139 (1999).

Unfortunately, the 1999 regular session predates the legislature's current electronic records system. I'm working through recording log notes from the 1999 House Committee on Revenue and will update you if I find anything that indicates a purpose for the increase.

TYLER LARSON | Research Analyst
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Per ORS 311.508, approximately 40% of delinquent interest is deposited into each county's County Assessment and Taxation Fund (CATF). These amounts are subsequently deposited into the statewide County Assessment Function Funding Assistance (CAFFA) fund, to be distributed to counties based on need. Approximately 60% of delinquent interest is given to taxing districts, per ORS 311.505 (5). Over the past 5 years the total amount (40% + 60%) averaged approximately $34M.

Beau Olen
Economist - Legislative Revenue Office

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Representative Hieb,

The rate of interest on delinquent property taxes charged under ORS 311.505 has been one and one-third percent since 2000. The Legislative Assembly increased the rate from one percent during the 1999 regular session. (Section 1, chapter 701, Oregon Laws 1999) The one percent rate was adopted by the legislature during the 1975 regular session, raising the rate from two-thirds of one percent. The rate was at two-thirds of one percent from at least 1953 until it was changed in 1975. Time constraints did not allow me to review the pre-1953 versions of the statute or to access legislative history materials that might explain why the rate was increased at various points in time.

ORS 311.505 (5) directs that the interest collected, along with discounts allowed under ORS 311.505, "be prorated to the several municipal corporations, taxing districts and governmental agencies sharing in the taxes or assessments." However, ORS 311.508 also provides for disposition of the interest. That is, ORS 311.508 directs county treasurers to deposit 25 percent of interest collected under ORS 311.505 into a County Assessment and Taxation Fund (CATF). See ORS 294.187 (creating funds). An additional 25 percent of the interest is also directed to the CATF, "to the extent the interest would otherwise be distributed to cities or other taxing districts that are not counties or districts within the public school system." ORS 311.508(1)(b). In addition, county treasurers may be required to deposit additional amounts in the CATF under ORS 311.508 (2).

Moneys in the county CATF derived from interest on delinquent property taxes are transferred (along with a percentage of certain recording fees collected by the county clerk under ORS 205.323) each quarter to the Department of Revenue (DOR) for deposit in the County Assessment Function Funding Assistance Account (CAFFA Account) established by ORS 294.184. Money in the CAFFA Account is used primarily to provide grants to counties through the County Assessment Funding Assistance Program (CAFA program) (ORS 294.178 to 294.187). (However, up to 10 percent of the moneys in the CAFFA Account may be used by the DOR to cover the administrative costs of operating the CAFA program and to cover the costs of appraising state-appraised property). At a high level, the CAFA program provides grants to counties to support the property assessment and taxation functions that counties are required to perform under state law. The CAFA program requires counties to submit estimates of their property tax assessment expenditures for the ensuing year. ORS 294.175. The DOR reviews submitted expenditures to determine whether the expenditures are adequate (and not beyond what is required) for the county to implement the property tax system in accordance with state law. If the department certifies that the expenses are adequate, the county receives quarterly grants paid out of the CAFFA Account in an amount based on the percentage of the county's expenses in relation to all certified county expenses in the state. ORS 294.178.

To summarize, the rate of interest on delinquent property taxes has ranged from two-thirds of one percent (in at least 1953) to the one and one-third percent rate that has been in effect since 2000. Up to 50 percent of the interest collected is primarily directed to the County Assessment Funding Assistance Program under ORS 294.178 to 294.187. That program provides grants to counties to support the property assessment and taxation functions that counties perform under state law. The remaining interest collected is prorated among various taxing districts in the county.

I hope that is helpful. Please let me know if you have any questions or if I can be of further help.

Thanks,
Seth Nickerson
Deputy Legislative Counsel