

# House Bill 2570

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on 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**.

Provides exception to tax lien for taxes owed on omitted property if property is transferred to bona fide purchaser in prior tax year after date on which tax roll is certified and prior to date of lien.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1 Relating to tax liens; amending ORS 311.405; and prescribing an effective date.

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

3 **SECTION 1.** ORS 311.405 is amended to read:

4 311.405. (1) All ad valorem property taxes lawfully imposed or levied on real or personal prop-  
5 erty are liens on such real and personal property, respectively. Such taxes include delinquent taxes  
6 on personal property made a lien on real property, and ad valorem property taxes on real or per-  
7 sonal property added to an assessment or tax roll pursuant to ORS 311.216 to 311.232.

8 (2) Taxes on real property shall be a lien thereon from and including July 1 of the year in which  
9 they are levied until paid and, except as otherwise specifically provided by law, such lien shall not  
10 be voided or impaired.

11 (3)(a) Taxes on personal property shall be a lien:

12 (A) On any and all of the particular personal property assessed and on any and all of the per-  
13 sonal property assessed as the same category, as disclosed by the property tax return and assess-  
14 ment list; and

15 (B) For purposes of distraint, on any and all of the taxable personal property owned by or in the  
16 possession or control of the person assessed.

17 (b) The liens for taxes on personal property shall attach on and after July 1 of the year of as-  
18 sessment and shall continue until the taxes are paid, except as provided in subsection (4) or (5) of  
19 this section and ORS 311.410.

20 (c) Notwithstanding paragraph (a) of this subsection, if possession of personal property that is  
21 subject to a perfected security interest is taken by a secured party on default, the lien for taxes on  
22 the property shall be limited to the taxes on the particular property and not the taxes on any other  
23 property of the debtor.

24 (4)(a) If a manufactured structure or floating home is removed from the county in which it is  
25 assessed to another county in this state on or after January 1 and before July 1 of the assessment  
26 year, taxes on the manufactured structure or floating home shall be a lien on the manufactured  
27 structure or floating home that attaches as of the day preceding the date of removal.

28 (b) If a manufactured structure or floating home is removed from the county in which it is as-  
29 sessed to a location that is outside this state on or after January 1 and before July 1 of the as-  
30

**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 assessment year, the manufactured structure or floating home shall be removed from the assessment  
 2 and tax roll for the corresponding tax year beginning July 1.

3 (c) The taxes arising from a lien under this subsection may be paid to the tax collector prior  
 4 to the completion of the next general property tax roll, pursuant to ORS 311.370.

5 (d) As used in this subsection, “taxes” means the amount computed using the assessed value  
 6 then on the assessment and tax roll for the manufactured structure or floating home or the value  
 7 that next would be used on the assessment and tax roll, if known at the time the lien is created,  
 8 and the assessor’s best estimate of taxes, special assessments, fees and other charges for the tax  
 9 year that corresponds to the assessment year in which the removal occurs.

10 (5)(a) If taxable personal property, other than a manufactured structure or floating home, is re-  
 11 moved from the county in which it is assessed, or is sold or otherwise transferred to another owner,  
 12 on or after January 1 and before July 1 of the assessment year, taxes on the removed, sold or  
 13 transferred personal property shall be a lien on the personal property described in subsection  
 14 (3)(a)(A) of this section that attaches as of the day preceding the date of removal, sale or transfer.

15 (b) The taxes arising from a lien under this subsection may be paid to the tax collector prior  
 16 to the completion of the next general property tax roll, pursuant to ORS 311.370.

17 (6) Where real or personal property is omitted from the assessment or tax roll prepared as of  
 18 January 1 of the current tax year and notice is given pursuant to ORS 311.216 to 311.232 during  
 19 such year and the property subsequently is added to such roll pursuant to ORS 311.216 to 311.232,  
 20 the taxes shall be a lien on such property and on other property at the same time and in the same  
 21 manner as taxes became liens on the taxable property not so omitted from the roll.

22 (7) Taxes on real and personal property omitted from an assessment or tax roll prepared as of  
 23 the assessment date of a prior calendar or tax year and added to such roll pursuant to ORS 311.216  
 24 to 311.232, shall be a lien on such property from and including the date the addition or correction  
 25 is made on such roll. Where the omitted property consists of any building, structure or improvement  
 26 which has been severed or removed from the land, the taxes on such property also shall be a lien  
 27 against the land. Where the property omitted is personal property, the taxes also shall be a lien on  
 28 any and all of the taxable personal property of the person assessed from such date of addition or  
 29 correction. However, no taxes shall become a lien on real or personal property under this subsection  
 30 where the property was transferred to a bona fide purchaser as defined in ORS 311.235 after the  
 31 [assessment date for] **date the roll was certified in** such prior tax year and prior to the lien date  
 32 provided for hereunder.

33 (8) Each lien, whether on real or personal property, shall include all interest, penalties and costs  
 34 applicable by law to any of such taxes.

35 (9)(a) Except as provided in paragraph (b) of this subsection, the liens for ad valorem taxes, in-  
 36 cluding and not limited to the general lien provided by subsection (3)(a)(B) of this section, created  
 37 under this section are superior to, have priority over and shall be fully satisfied before all other  
 38 liens, judgments, mortgages, security interests or encumbrances on the property without regard to  
 39 date of creation, filing or recording.

40 (b) If it becomes necessary to charge personal property taxes against real property under ORS  
 41 311.645, if the county obtains a judgment under ORS 311.455 or records a warrant under ORS  
 42 311.625, or if in any other manner personal property taxes are made a lien against real property,  
 43 any judgment, mortgage or other lien or encumbrance on the real property that is placed of record  
 44 prior to the date the personal property tax becomes a lien on the real property has priority over the  
 45 personal property tax lien.

1        **SECTION 2.** This 2011 Act takes effect on the 91st day after the date on which the 2011  
2        session of the Seventy-sixth Legislative Assembly adjourns sine die.  
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