

A-Engrossed
Senate Bill 296

Ordered by the Senate April 13
Including Senate Amendments dated April 13

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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.

Repeals elderly rental assistance program, operative January 1, 2016.
Directs Housing and Community Services Department to provide funds to assist very low income elderly persons with rental housing. Becomes operative [*January*] **July 1, 2017.**
Creates Elderly Rental Assistance Fund, operative [*January*] **July 1, 2017.** Continuously appropriates moneys in fund to Housing and Community Services Department to assist very low income elderly persons with rental housing.
[*Appropriates moneys from General Fund to Department of Revenue for elderly rental assistance program claims filed on or before July 1, 2016.*]
Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to rental housing assistance for elderly persons; creating new provisions; amending ORS
3 18.845, 18.896, 179.640, 305.265, 305.380, 310.657, 310.692, 311.666, 311.678, 311.706, 311.708,
4 314.400, 314.835, 314.840, 316.147, 316.157, 316.158, 411.083 and 454.662 and section 17, chapter
5 906, Oregon Laws 2007, and section 15, chapter 52, Oregon Laws 2014; repealing ORS 310.630,
6 310.635, 310.651, 310.652, 310.657, 310.690, 310.695, 310.706 and 314.860; and prescribing an ef-
7 fective date.

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

9
10 **REPEAL OF ELDERLY RENTAL ASSISTANCE PROGRAM**

11
12 **SECTION 1. ORS 310.630, 310.635, 310.651, 310.652, 310.690, 310.695, 310.706 and 314.860 are**
13 **repealed.**

14 **SECTION 2. ORS 310.657 is repealed.**

15 **SECTION 3. ORS 310.692 is added to and made a part of ORS 307.241 to 307.245.**

16 **SECTION 4. ORS 310.657 is amended to read:**

17 310.657. (1) On or before July 1, **2016** [*following the year for which the claim is filed*], a taxpayer
18 claiming the elderly rental assistance **for 2015, as** provided under ORS 310.635, **as in effect im-**
19 **mediately before January 1, 2016,** shall submit a claim to the Department of Revenue, together
20 with a copy of the statement of gross rent **in accordance with rules adopted by the**
21 **department.** The claim shall be submitted on a form prescribed and furnished by the department.
22 The department shall prepare blank forms for the claims and shall distribute them throughout the
23 state. The department may require from the taxpayer any proof it considers necessary to determine

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 if the taxpayer is eligible for elderly rental assistance pursuant to ORS 310.635, **as in effect im-**
 2 **mediately before January 1, 2016.** If the taxpayer is unable to submit the claim of the taxpayer,
 3 the claim shall be submitted by a duly authorized agent or by a guardian or other person charged
 4 with the care of the person or property of such taxpayer.

5 *[(2) A claim for elderly rental assistance that is filed after July 1 shall be paid by the department*
 6 *at the time and to the extent that payments for timely filed claims made in the next succeeding year*
 7 *are made by the department.]*

8 *[(3)]* **(2)** The department shall audit or examine the claim and, if it appears that the taxpayer is
 9 eligible for rental assistance, shall determine the amount to which the taxpayer is entitled under
 10 ORS 310.635, **as in effect immediately before January 1, 2016.**

11 *[(4)]* **(3)** If the department denies the claim in whole or in part, the department shall notify the
 12 taxpayer. If the claim is allowed in whole or in part, the entire elderly rental assistance shall be
 13 paid on or before November 15, **2016** *[of the year in which the claim is filed]*. The department shall
 14 make the payments required by this section from the suspense account referred to in ORS 310.692.
 15 If necessary, the department may prorate the payments as provided in ORS 310.692.

16 **SECTION 5.** ORS 310.692 is amended to read:

17 310.692. (1) Amounts necessary to make the payments authorized by ORS 307.244 *[and 310.635]*
 18 shall be transferred to a suspense account established under ORS 293.445 *[from the appropriation*
 19 *made by the Legislative Assembly to fund the elderly rental assistance program]*. Moneys in the sus-
 20 pense account are continuously appropriated to the Department of Revenue to carry out the pur-
 21 poses of *[the elderly rental assistance program]* **ORS 307.241 to 307.245.**

22 *[(2) If any portion of the tax liability for which the refund payments described in subsection (1) of*
 23 *this section are authorized are offset against the refund, the Department of Revenue shall transfer from*
 24 *the suspense account referred to in subsection (1) of this section to the General Fund an amount equal*
 25 *to the income tax liability.]*

26 *[(3)]* **(2)** Of the total amount transferred to the suspense account referred to in subsection (1)
 27 of this section for the biennium, the department shall allocate a portion to each fiscal year. The
 28 allocation shall be the department's best estimate of the most efficient use of the moneys in the
 29 suspense account so as to minimize any reductions in the payments required under ORS 307.244 *[and*
 30 *310.635]* for each fiscal year.

31 *[(4)]* **(3)** On or before November 1 of each fiscal year of each biennium, the department *[of Re-*
 32 *venue]* shall determine the amount of money needed to make the payments under ORS 307.244 *[and*
 33 *310.635]* for that fiscal year. If the sum of the obligations is greater than the amounts credited to
 34 the suspense account referred to in subsection (1) of this section and allocated to that fiscal year
 35 for those obligations under subsection *[(3)]* **(2)** of this section, the payments required under ORS
 36 307.244 *[and 310.635]* shall be proportionally reduced so that the state does not accrue a debt in
 37 excess of the amount credited. A claim for payment may not accrue *[to a taxpayer under ORS*
 38 *310.635 or]* to a county under ORS 307.244 in excess of the amount determined under this subsection.

39 *[(5)]* **(4)** If the amount allocated to the first fiscal year of a biennium under subsection *[(3)]* **(2)**
 40 of this section exceeds the amount of actual payments made under ORS 307.244 *[or 310.635]*, the
 41 excess amount shall be available for payments under ORS 307.244 *[or 310.635]* in the second fiscal
 42 year of the biennium.

43 **SECTION 6.** Sections 7 and 8 of this 2015 Act are added to and made a part of ORS
 44 **chapter 458.**

45 **SECTION 7.** (1) The Housing and Community Services Department shall provide funds to

1 assist very low income elderly persons to defray the cost of rental housing through programs
2 administered by the department including, but not limited to, the Emergency Housing Ac-
3 count created in ORS 458.620 and disbursed pursuant to ORS 458.650.

4 (2) The department shall adopt rules to carry out the provisions of this section.

5 (3) For purposes of this section:

6 (a) "Elderly person" means a person 58 years of age or older.

7 (b) "Very low income" has the meaning given that term in ORS 458.610.

8 **SECTION 8.** (1) The Elderly Rental Assistance Fund is created within the State Treasury,
9 separate and distinct from the General Fund. Interest earned by the Elderly Rental Assist-
10 ance Fund shall be credited to the fund.

11 (2) Moneys in the Elderly Rental Assistance Fund shall consist of:

12 (a) Amounts appropriated or otherwise transferred to the fund by the Legislative As-
13 sembly;

14 (b) Amounts received from state, federal and private sources;

15 (c) Amounts donated to the fund; and

16 (d) Other amounts deposited in the fund from any source.

17 (3) Moneys in the fund are continuously appropriated to the Housing and Community
18 Services Department for the purposes of providing funds to elderly persons under section 7
19 of this 2015 Act.

20 (4) The department may use moneys in the fund to pay the administrative costs associ-
21 ated with the fund and with carrying out the provisions of section 7 of this 2015 Act.

22
23 **CONFORMING AMENDMENTS**

24
25 **SECTION 9.** ORS 305.265 is amended to read:

26 305.265. (1) Except as provided in ORS 305.305, the provisions of this section apply to all reports
27 or returns of tax or tax liability [*including claims under ORS 310.630 to 310.706*] filed with the De-
28 partment of Revenue under the revenue and tax laws administered by it, except those filed under
29 ORS 320.005 to 320.150.

30 (2) As soon as practicable after a report or return is filed, the department shall examine or audit
31 it, if required by law or the department deems such examination or audit practicable. If the de-
32 partment discovers from an examination or an audit of a report or return or otherwise that a defi-
33 ciency exists, it shall compute the tax and give notice to the person filing the return of the
34 deficiency and of the department's intention to assess the deficiency, plus interest and any appro-
35 priate penalty. Except as provided in subsection (3) of this section, the notice shall:

36 (a) State the reason for each adjustment;

37 (b) Give a reference to the statute, regulation or department ruling upon which the adjustment
38 is based; and

39 (c) Be certified by the department that the adjustments are made in good faith and not for the
40 purpose of extending the period of assessment.

41 (3) When the notice of deficiency described in subsection (2) of this section results from the
42 correction of a mathematical or clerical error and states what would have been the correct tax but
43 for the mathematical or clerical error, such notice need state only the reason for each adjustment
44 to the report or return.

45 (4) With respect to any tax return filed under ORS chapter 314, 316, 317 or 318, deficiencies

1 shall include but not be limited to the assertion of additional tax arising from:

2 (a) The failure to report properly items or amounts of income subject to or which are the
3 measure of the tax;

4 (b) The deduction of items or amounts not permitted by law;

5 (c) Mathematical errors in the return or the amount of tax shown due in the records of the de-
6 partment; or

7 (d) Improper credits or offsets against the tax claimed in the return.

8 (5)(a) The notice of deficiency shall be accompanied by a statement explaining the person's right
9 to make written objections, the person's right to request a conference and the procedure for re-
10 questing a conference. The statement, and an accompanying form, shall also explain that conference
11 determinations are routinely transmitted via regular mail and that a person desiring to have con-
12 ference determinations transmitted by certified mail may do so by indicating on the form the
13 person's preference for certified mail and by returning the form with the person's written objections
14 as described in paragraph (b) of this subsection.

15 (b) Within 30 days from the date of the notice of deficiency, the person given notice shall pay
16 the deficiency with interest computed to the date of payment and any penalty proposed. Or within
17 that time the person shall advise the department in writing of objections to the deficiency, and may
18 request a conference with the department, which shall be held prior to the expiration of the one-year
19 period set forth in subsection (7) of this section.

20 (6) If a request for a conference is made, the department shall notify the person of a time and
21 place for conference and appoint a conference officer to meet with the person for an informal dis-
22 cussion of the matter. After the conference, the conference officer shall send the determination of
23 the issues to the person. The determination letter shall be sent by regular mail, or by certified mail
24 if the person given notice has indicated a preference for transmission of the determination by cer-
25 tified mail. The department shall assess any deficiency in the manner set forth in subsection (7) of
26 this section. If no conference is requested and written objections are received, the department shall
27 make a determination of the issues considering such objections, and shall assess any deficiency in
28 the manner provided in subsection (7) of this section. The failure to request or have a conference
29 shall not affect the rights of appeal otherwise provided by law.

30 (7) If neither payment nor written objection to the deficiency is received by the department
31 within 30 days after the notice of deficiency has been mailed, the department shall assess the defi-
32 ciency, plus interest and penalties, if any, and shall send the person a notice of assessment, stating
33 the amount so assessed, and interest and penalties. The notice of assessment shall be mailed within
34 one year from the date of the notice of deficiency unless an extension of time is agreed upon as
35 described in subsection (8) of this section. The notice shall advise the person of the rights of appeal.

36 (8) If, prior to the expiration of any period of time prescribed in subsection (7) of this section
37 for giving of notice of assessment, the department and the person consent in writing to the defi-
38 ciency being assessed after the expiration of such prescribed period, such deficiency may be assessed
39 at any time prior to the expiration of the period agreed upon. The period so agreed upon may be
40 extended by subsequent agreements in writing made before the expiration of the period agreed upon.

41 (9) The failure to hold a requested conference within the one-year period prescribed in sub-
42 section (5) of this section shall not invalidate any assessment of deficiency made within the one-year
43 period pursuant to subsection (7) of this section or within any extension of time made pursuant to
44 subsection (8) of this section, but shall invalidate any assessment of interest or penalties attributable
45 to the deficiency. After an assessment has been made, the department and the person assessed may

1 still hold a conference within 90 days from the date of assessment. If a conference is held, the 90-day
2 period under ORS 305.280 (2) shall run from the date of the conference officer's written determi-
3 nation of the issues.

4 (10)(a) In the case of a failure to file a report or return on the date prescribed therefor (deter-
5 mined with regard to any extension for filing), the department shall determine the tax according to
6 the best of its information and belief, assess the tax plus appropriate penalty and interest, and give
7 written notice of the failure to file the report or return and of the determination and assessment to
8 the person required to make the filing. The amount of tax shall be reduced by the amount of any
9 part of the tax which is paid on or before the date prescribed for payment of the tax and by the
10 amount of any credit against the tax which may be lawfully claimed upon the return.

11 (b) Notwithstanding subsection (14) of this section and ORS 305.280, and only to the extent al-
12 lowed by rules adopted by the department, the department may accept the filing of a report or re-
13 turn submitted by a person who has been assessed a tax under paragraph (a) of this subsection.

14 (c) The department may reject a report or return:

15 (A) That is not verified as required by ORS 305.810;

16 (B) That the department determines is not true and correct as to every material matter as re-
17 quired by ORS 305.815; or

18 (C) If the department may impose a penalty under ORS 316.992 (1) with respect to the report
19 or return.

20 (d) If the department rejects a report or return of a person assessed a tax under paragraph (a)
21 of this subsection, the department shall issue a notice of rejection to the person. The person may
22 appeal the rejection to the magistrate division of the Oregon Tax Court only if:

23 (A) The report or return was filed within 90 days of the date the department's assessment under
24 paragraph (a) of this subsection was issued; and

25 (B) The appeal is filed within 90 days of the date shown on the notice of rejection.

26 (e) If the person assessed under paragraph (a) of this subsection submits a report or return to
27 the department and appeals the assessment to the tax court, the department may request a stay of
28 action from the court pending review of the report or return. If the department:

29 (A) Accepts the filing of the report or return, the appeal shall be dismissed as moot.

30 (B) Rejects the report or return, the stay of action on the appeal shall be lifted.

31 (f) If the department accepts the filing of a report or return, the department may reduce the
32 assessment issued under paragraph (a) of this subsection. A report or return filed under this sub-
33 section that is accepted by the department, whether or not the assessment has been reduced, shall
34 be considered a report or return described in subsection (1) of this section and shall be subject to
35 the provisions of this section, including but not limited to examination and adjustment pursuant to
36 subsection (2) of this section.

37 (g) The department may refund payments made with respect to a report or return filed and ac-
38 cepted pursuant to this subsection. If the report or return is filed within three years of the due date
39 for filing the report or return, excluding extensions, the refund shall be made as provided by ORS
40 305.270 and 314.415. If the report or return is not filed within three years of the due date for filing
41 the report or return, excluding extensions, the refund shall be limited to payments received within
42 the two-year period ending on the date the report or return is received by the department and
43 payments received after the date the report or return is received by the department. Interest shall
44 be paid at the rate established under ORS 305.220 for each month or fraction of a month from the
45 date the report or return is received by the department to the time the refund is made.

1 (11) Mailing of notice to the person at the person's last-known address shall constitute the giving of notice as prescribed in this section.

2
3 (12) If a return is filed with the department accompanied by payment of less than the amount of tax shown on or from the information on the return as due, the difference between the tax and the amount submitted is considered as assessed on the due date of the report or return (determined with regard to any extension of time granted for the filing of the return) or the date the report or return is filed, whichever is later. For purposes of this subsection, the amount of tax shown on or from the information on the return as due shall be reduced by the amount of any part of the tax that is paid on or before the due date prescribed for payment of the tax, and by any credits against the tax that are claimed on the return. If the amount required to be shown as tax on a return is less than the amount shown as tax on the return, this subsection shall be applied by substituting the lesser amount.

13 (13) Every deficiency shall bear interest at the rate established under ORS 305.220 for each month or fraction of a month computed from the due date of the return to date of payment. If the return was falsely prepared and filed with intent to evade the tax, a penalty equal to 100 percent of the deficiency shall be assessed and collected. All payments received shall be credited first to penalty, then to interest accrued, and then to tax due.

18 (14) If the deficiency is paid in full before a notice of assessment is issued, the department is not required to send a notice of assessment, and the tax shall be considered as assessed as of the date which is 30 days from the date of the notice of deficiency or the date the deficiency is paid, whichever is the later. A partial payment of the deficiency shall constitute only a credit to the account of the person assessed. Assessments and billings of taxes shall be final after the expiration of the appeal period specified in ORS 305.280, except to the extent that an appeal is allowed under ORS 305.280 (3) following payment of the tax.

25 (15) Appeal may be taken to the tax court from any notice of assessment. The provisions of this chapter with respect to appeals to the tax court apply to any deficiency, penalty or interest assessed.

28 **SECTION 10.** ORS 305.380 is amended to read:

29 305.380. As used in ORS 305.385:

30 (1) "Agency" means any department, board, commission, division or authority of the State of Oregon, or any political subdivision of this state which imposes a local tax administered by the Department of Revenue under ORS 305.620.

33 (2) "License" means any written authority required by law or ordinance as a prerequisite to the conduct of a business, trade or profession.

35 (3) "Provider" means any person who contracts to supply goods, services or real estate space to an agency.

37 (4) "Tax" means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250 and ORS chapters 118, 314, 316, 317, 318, 321 and 323 [*and the elderly rental assistance program under ORS 310.630 to 310.706*] and local taxes administered by the Department of Revenue under ORS 305.620.

40 **SECTION 11.** ORS 311.666 is amended to read:

41 311.666. As used in ORS 311.666 to 311.701:

42 (1) "County median RMV" means the median real market value entered on the last certified assessment and tax roll for all residential improved properties in the county in which a homestead is located that are classified as 1-0-1 pursuant to the rule adopted by the Department of Revenue under ORS 308.215.

1 (2) "Homestead" means the owner occupied principal dwelling, either real or personal property,
2 owned by the taxpayer and the tax lot upon which it is located. If the homestead is located in a
3 multiunit building, the homestead is the portion of the building actually used as the principal
4 dwelling and its percentage of the value of the common elements and of the value of the tax lot upon
5 which it is built. The percentage is the value of the unit consisting of the homestead compared to
6 the total value of the building exclusive of the common elements, if any.

7 [(3) "Household income" has the meaning given that term in ORS 310.630.]

8 (3) "Household income" means the aggregate income of the taxpayer and the spouse of
9 the taxpayer who occupy the homestead, that was received during the calendar year for
10 which the claim is filed. "Household income" includes payments received by the taxpayer or
11 the spouse of the taxpayer under the federal Social Security Act for the benefit of a minor
12 child or minor children who occupy the homestead.

13 (4) "Income" means "adjusted gross income" as defined in the federal Internal Revenue
14 Code, as amended and in effect on December 31, 2014, even when the amendments take effect
15 or become operative after that date, relating to the measurement of taxable income of indi-
16 viduals, estates and trusts, with the following modifications:

17 (a) There shall be added to adjusted gross income the following items of otherwise ex-
18 empt income:

19 (A) The gross amount of any otherwise exempt pension less return of investment, if any.

20 (B) Child support received by the taxpayer.

21 (C) Inheritances.

22 (D) Gifts and grants, the sum of which are in excess of \$500 per year.

23 (E) Amounts received by a taxpayer or spouse of a taxpayer for support from a parent
24 who is not a member of the taxpayer's household.

25 (F) Life insurance proceeds.

26 (G) Accident and health insurance proceeds, except reimbursement of incurred medical
27 expenses.

28 (H) Personal injury damages.

29 (I) Sick pay that is not included in federal adjusted gross income.

30 (J) Strike benefits excluded from federal gross income.

31 (K) Worker's compensation, except for reimbursement of medical expense.

32 (L) Military pay and benefits.

33 (M) Veteran's benefits.

34 (N) Payments received under the federal Social Security Act that are excluded from
35 federal gross income.

36 (O) Welfare payments, except as follows:

37 (i) Payments for medical care, drugs and medical supplies, if the payments are not made
38 directly to the welfare recipient;

39 (ii) In-home services authorized and approved by the Department of Human Services; and

40 (iii) Direct or indirect reimbursement of expenses paid or incurred for participation in
41 work or training programs.

42 (P) Nontaxable dividends.

43 (Q) Nontaxable interest not included in federal adjusted gross income.

44 (R) Rental allowance paid to a minister that is excluded from federal gross income.

45 (S) Income from sources without the United States that is excluded from federal gross

1 **income.**

2 (b) **Adjusted gross income shall be increased due to the disallowance of the following de-**
3 **ductions:**

4 (A) **The amount of the net loss, in excess of \$1,000, from all dispositions of tangible or**
5 **intangible properties.**

6 (B) **The amount of the net loss, in excess of \$1,000, from the operation of a farm or**
7 **farms.**

8 (C) **The amount of the net loss, in excess of \$1,000, from all operations of a trade or**
9 **business, profession or other activity entered into for the production or collection of income.**

10 (D) **The amount of the net loss, in excess of \$1,000, from tangible or intangible property**
11 **held for the production of rents, royalties or other income.**

12 (E) **The amount of any net operating loss carryovers or carrybacks included in federal**
13 **adjusted gross income.**

14 (F) **The amount, in excess of \$5,000, of the combined deductions or other allowances for**
15 **depreciation, amortization or depletion.**

16 (G) **The amount added or subtracted, as required within the context of this section, for**
17 **adjustments made under ORS 316.680 (2)(d) and 316.707 to 316.737.**

18 (c) **“Income” does not include any of the following:**

19 (A) **Any governmental grant that must be used by the taxpayer for rehabilitation of the**
20 **homestead of the taxpayer.**

21 (B) **The amount of any payments made pursuant to ORS 310.630 to 310.706.**

22 (C) **Any refund of Oregon personal income taxes that were imposed under ORS chapter**
23 **316.**

24 [(4)(a)] (5)(a) **“Net worth” means the sum of the current market value of all assets, including**
25 **real property, cash, savings accounts, bonds and other investments, after deducting outstanding li-**
26 **abilities.**

27 (b) **“Net worth” does not include the value of a homestead for which deferral is claimed under**
28 **ORS 311.666 to 311.701, the cash value of life insurance policies on the life of a taxpayer or tangible**
29 **personal property owned by a taxpayer.**

30 [(5)] (6) **“Person with a disability” means an individual who has been determined to be eligible**
31 **to receive or who is receiving federal Social Security benefits due to disability or blindness, in-**
32 **cluding an individual who is receiving Social Security survivor benefits in lieu of Social Security**
33 **benefits due to disability or blindness.**

34 [(6)] (7) **“Tax-deferred property” means the property upon which taxes are deferred under ORS**
35 **311.666 to 311.701.**

36 [(7)] (8) **“Taxes” or “property taxes” means ad valorem taxes, assessments, fees and charges**
37 **entered on the assessment and tax roll.**

38 [(8)] (9) **“Taxpayer” means an individual who has filed, as an individual or jointly, a claim for**
39 **deferral under ORS 311.666 to 311.701.**

40 [(9)(a)] (10)(a) **“Transferee” means, without limitation, an heir, legatee, devisee, distributee of**
41 **an estate of a deceased individual, the assignee or donee of an insolvent individual or a person**
42 **acting in a fiduciary capacity on behalf of a transferee.**

43 (b) **“Transferee” does not mean a bona fide purchaser for value.**

44 [(10)] (11) **“U.S. City Average Consumer Price Index” means the U.S. City Average Consumer**
45 **Price Index for All Urban Consumers (All Items) as published by the Bureau of Labor Statistics of**

1 the United States Department of Labor.

2 **SECTION 12.** ORS 311.678 is amended to read:

3 311.678. (1) On or before December 15 of each year, the Department of Revenue shall send a
4 notice to each taxpayer who has claimed deferral of property taxes for the current tax year. The
5 notice shall:

6 (a) Inform the taxpayer that the property taxes have or have not been deferred in the current
7 year.

8 (b) Show the total amount of deferred taxes remaining unpaid since initial application for
9 deferral and the interest accruing therein to November 15 of the current year.

10 (c) Inform the taxpayer that voluntary payment of the deferred taxes may be made at any time
11 to the Department of Revenue.

12 (d) Contain any other information that the department considers necessary to facilitate admin-
13 istration of the homestead deferral program[, *including but not limited to the right of the taxpayer to*
14 *submit any elderly rental assistance amount received under ORS 310.630 to 310.706 to reduce the total*
15 *amount of the deferred taxes and interest*].

16 (2) The department shall give the notice required under subsection (1) of this section by an un-
17 sealed postcard or other form of mail sent to the residence address of the taxpayer as shown in the
18 claim for deferral or as otherwise determined by the department to be the correct address of the
19 taxpayer.

20 **SECTION 13.** ORS 311.706 is amended to read:

21 311.706. (1) In order to qualify for deferral of payment of special assessment for local improve-
22 ment amounts under ORS 311.702 to 311.735, the taxpayer or, in the case of two or more individuals
23 filing a claim jointly, each filing the claim for deferral and the homestead with respect to which the
24 claim is filed must meet the following requirements at the time the claim for deferral is filed and
25 thereafter so long as payment of the amount of special assessment for local improvement is deferred:

26 (a) The taxpayer filing the claim for deferral must be 62 years of age or older.

27 (b) The taxpayer filing the claim, by himself or herself or together with his or her spouse, must
28 own the fee simple estate or be purchasing the fee simple estate under a recorded instrument of sale.

29 (c) The property with respect to which the claim is filed must be the homestead of the taxpayer
30 who files the claim for deferral, except for a taxpayer required to be absent from the homestead by
31 reason of health.

32 (d) If the taxpayer is delinquent in payment of the special assessment for local improvement or
33 any installments thereof, the homestead must not have yet been sold at foreclosure sale.

34 (e) The household income, as defined in ORS [310.630] **311.666**, of the taxpayer filing the claim
35 must have been \$32,000 or less for the calendar year immediately preceding the calendar year in
36 which the claim for deferral of special assessment for local improvement installment amounts is
37 filed.

38 (f) There must be no prohibition to the deferral of special assessments contained in any pro-
39 vision of federal law, rule or regulation applicable to a mortgage, trust deed, land sale contract or
40 conditional sale contract for which the homestead is security.

41 (2) If a trustee of an inter vivos trust which was created by and is revocable by a taxpayer, who
42 is both the trustor and beneficiary of the trust and who is otherwise qualified to obtain a deferral
43 of special assessment for local improvement under ORS 311.702 to 311.735 owns the fee simple estate
44 under a recorded instrument of sale, the trustee may act for the taxpayer in complying with the
45 provisions of ORS 311.702 to 311.735.

1 (3) Nothing in this section shall be construed to require a spouse of a taxpayer to file a claim
2 jointly with the taxpayer even though the spouse may be eligible to claim the deferral jointly with
3 the taxpayer.

4 (4) Nothing in this section shall be construed to disqualify a taxpayer otherwise qualifying for
5 deferral if the spouse of the taxpayer is less than 62 years of age or if the spouse does not own, or
6 is not purchasing under a recorded instrument of sale, a fee simple estate in the homestead.

7 (5) Subject to ORS 311.729, when a taxpayer exercises the election to claim the deferral under
8 ORS 311.704, it shall have the effect of:

9 (a) Deferring payment of the amount of special assessment for local improvements deferred
10 pursuant to the claim until the special assessment for local improvements become delinquent under
11 ORS 311.718.

12 (b) Continuing the deferral of payment by the taxpayer of any special assessment for local im-
13 provements deferred under ORS 311.702 to 311.735 for previous years which have not become de-
14 linquent under ORS 311.718.

15 (6)(a) For each tax year beginning on or after July 1, 2002, the Department of Revenue shall
16 recompute the maximum household income that may be incurred under an allowable claim for
17 deferral under subsection (1)(e) of this section. The computation shall be as follows:

18 (A) Divide the average U.S. City Average Consumer Price Index for the first six months of the
19 current calendar year by the average U.S. City Average Consumer Price Index for the first six
20 months of 2001.

21 (B) Recompute the maximum household income by multiplying \$32,000 by the appropriate in-
22 dexing factor determined as provided in subparagraph (A) of this paragraph.

23 (b) As used in this section, "U.S. City Average Consumer Price Index" means the U.S. City Av-
24 erage Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of
25 Labor Statistics of the United States Department of Labor.

26 (c) If any change in the maximum household income determined under paragraph (a) of this
27 subsection is not a multiple of \$500, the increase shall be rounded to the nearest multiple of \$500.

28 **SECTION 14.** ORS 311.708 is amended to read:

29 311.708. (1) A claim for deferral under ORS 311.704 shall be in writing on a form prescribed by
30 the Department of Revenue and shall:

31 (a) Describe the homestead.

32 (b) Recite facts establishing the eligibility for the deferral under the provisions of ORS 311.702
33 to 311.735 including facts that establish that the household income as defined in ORS [310.630]
34 **311.666** of the taxpayer, or in the case of two or more taxpayers claiming the deferral jointly, was
35 less than the amount required under ORS 311.706 for the calendar year immediately preceding the
36 calendar year in which the claim is filed.

37 (c) Have attached any documentary proof required by the department to show that the require-
38 ments of ORS 311.702 to 311.735 have been met.

39 (2) There shall be annexed to the claim a statement verified by a written declaration of the
40 applicant making the claim to the effect that the statements contained in the claim are true.

41 (3) The claim shall incorporate the terms or have annexed thereto a certified copy of the
42 agreement for payment of the special assessment for local improvement in installments. The claim
43 shall be filed on or after October 1 and before December 1 of the calendar year in which the deferral
44 is first claimed.

45 (4) Any person aggrieved by the denial of a claim for deferral of special assessments for local

1 improvements or disqualification from deferral of special assessments for local improvements may
2 appeal in the manner provided by ORS 305.404 to 305.560.

3 **SECTION 15.** ORS 314.835 is amended to read:

4 314.835. (1) Except as otherwise specifically provided in rules adopted under ORS 305.193 or in
5 other law, it shall be unlawful for the Department of Revenue or any officer or employee of the
6 department to divulge or make known in any manner the amount of income, expense, deduction,
7 exclusion or credit or any particulars set forth or disclosed in any report or return [*required in the*
8 *administration of ORS 310.630 to 310.706,*] required in the administration of any local tax pursuant
9 to ORS 305.620[,] or required under a law imposing a tax upon or measured by net income. It shall
10 be unlawful for any person or entity to whom information is disclosed or given by the department
11 pursuant to ORS 314.840 (2) or any other provision of state law to divulge or use such information
12 for any purpose other than that specified in the provisions of law authorizing the use or disclosure.
13 No subpoena or judicial order shall be issued compelling the department or any of its officers or
14 employees, or any person who has acquired information pursuant to ORS 314.840 (2) or any other
15 provision of state law to divulge or make known the amount of income, expense, deduction, exclu-
16 sion or credit or any particulars set forth or disclosed in any report or return except where the
17 taxpayer's liability for income tax is to be adjudicated by the court from which such process issues.

18 (2) As used in this section:

19 (a) "Officer," "employee" or "person" includes an authorized representative of the officer, em-
20 ployee or person, or any former officer, employee or person, or an authorized representative of such
21 former officer, employee or person.

22 (b) "Particulars" includes, but is not limited to, a taxpayer's name, address, telephone number,
23 Social Security number, employer identification number or other taxpayer identification number and
24 the amount of refund claimed by or granted to a taxpayer.

25 **SECTION 16.** ORS 314.840 is amended to read:

26 314.840. (1) The Department of Revenue may:

27 (a) Furnish any taxpayer, representative authorized to represent the taxpayer under ORS 305.230
28 or person designated by the taxpayer under ORS 305.193, upon request of the taxpayer, represen-
29 tative or designee, with a copy of the taxpayer's income tax return filed with the department for
30 any year, or with a copy of any report filed by the taxpayer in connection with the return, or with
31 any other information the department considers necessary.

32 (b) Publish lists of taxpayers who are entitled to unclaimed tax refunds.

33 (c) Publish statistics so classified as to prevent the identification of income or any particulars
34 contained in any report or return.

35 (d) Disclose a taxpayer's name, address, telephone number, refund amount, amount due, Social
36 Security number, employer identification number or other taxpayer identification number to the ex-
37 tent necessary in connection with collection activities or the processing and mailing of correspond-
38 ence or of forms for any report[,] or return [*or claim*] required in the administration of [*ORS 310.630*
39 *to 310.706,*] any local tax under ORS 305.620[,] or any law imposing a tax upon or measured by net
40 income.

41 (2) The department also may disclose and give access to information described in ORS 314.835
42 to:

43 (a) The Governor of the State of Oregon or the authorized representative of the Governor with
44 respect to an individual who is designated as being under consideration for appointment or reap-
45 pointment to an office or for employment in the office of the Governor. The information disclosed

1 shall be confined to whether the individual:

2 (A) Has filed returns with respect to the taxes imposed by ORS chapter 316 for those of not
3 more than the three immediately preceding years for which the individual was required to file an
4 Oregon individual income tax return.

5 (B) Has failed to pay any tax within 30 days from the date of mailing of a deficiency notice or
6 otherwise respond to a deficiency notice within 30 days of its mailing.

7 (C) Has been assessed any penalty under the Oregon personal income tax laws and the nature
8 of the penalty.

9 (D) Has been or is under investigation for possible criminal offenses under the Oregon personal
10 income tax laws. Information disclosed pursuant to this paragraph shall be used only for the purpose
11 of making the appointment, reappointment or decision to employ or not to employ the individual in
12 the office of the Governor.

13 (b) An officer or employee of the Oregon Department of Administrative Services duly authorized
14 or employed to prepare revenue estimates, or a person contracting with the Oregon Department of
15 Administrative Services to prepare revenue estimates, in the preparation of revenue estimates re-
16 quired for the Governor's budget under ORS 291.201 to 291.226, or required for submission to the
17 Emergency Board or the Joint Interim Committee on Ways and Means, or if the Legislative As-
18 sembly is in session, to the Joint Committee on Ways and Means, and to the Legislative Revenue
19 Officer or Legislative Fiscal Officer under ORS 291.342, 291.348 and 291.445. The Department of
20 Revenue shall disclose and give access to the information described in ORS 314.835 for the purposes
21 of this paragraph only if:

22 (A) The request for information is made in writing, specifies the purposes for which the request
23 is made and is signed by an authorized representative of the Oregon Department of Administrative
24 Services. The form for request for information shall be prescribed by the Oregon Department of
25 Administrative Services and approved by the Director of the Department of Revenue.

26 (B) The officer, employee or person receiving the information does not remove from the premises
27 of the Department of Revenue any materials that would reveal the identity of a personal or corpo-
28 rate taxpayer.

29 (c) The Commissioner of Internal Revenue or authorized representative, for tax administration
30 and compliance purposes only.

31 (d) For tax administration and compliance purposes, the proper officer or authorized represen-
32 tative of any of the following entities that has or is governed by a provision of law that meets the
33 requirements of any applicable provision of the Internal Revenue Code as to confidentiality:

34 (A) A state;

35 (B) A city, county or other political subdivision of a state;

36 (C) The District of Columbia; or

37 (D) An association established exclusively to provide services to federal, state or local taxing
38 authorities.

39 (e) The Multistate Tax Commission or its authorized representatives, for tax administration and
40 compliance purposes only. The Multistate Tax Commission may make the information available to
41 the Commissioner of Internal Revenue or the proper officer or authorized representative of any
42 governmental entity described in and meeting the qualifications of paragraph (d) of this subsection.

43 (f) The Attorney General, assistants and employees in the Department of Justice, or other legal
44 representative of the State of Oregon, to the extent the department deems disclosure or access
45 necessary for the performance of the duties of advising or representing the department pursuant to

1 ORS 180.010 to 180.240 and the tax laws of this state.

2 (g) Employees of the State of Oregon, other than of the Department of Revenue or Department
3 of Justice, to the extent the department deems disclosure or access necessary for such employees
4 to perform their duties under contracts or agreements between the department and any other de-
5 partment, agency or subdivision of the State of Oregon, in the department's administration of the
6 tax laws.

7 (h) Other persons, partnerships, corporations and other legal entities, and their employees, to
8 the extent the department deems disclosure or access necessary for the performance of such others'
9 duties under contracts or agreements between the department and such legal entities, in the
10 department's administration of the tax laws.

11 (i) The Legislative Revenue Officer or authorized representatives upon compliance with ORS
12 173.850. Such officer or representative shall not remove from the premises of the department any
13 materials that would reveal the identity of any taxpayer or any other person.

14 (j) The Department of Consumer and Business Services, to the extent the department requires
15 such information to determine whether it is appropriate to adjust those workers' compensation
16 benefits the amount of which is based pursuant to ORS chapter 656 on the amount of wages or
17 earned income received by an individual.

18 (k) Any agency of the State of Oregon, or any person, or any officer or employee of such agency
19 or person to whom disclosure or access is given by state law and not otherwise referred to in this
20 section, including but not limited to the Secretary of State as Auditor of Public Accounts under
21 [section 2,] Article VI, **section 2**, of the Oregon Constitution; the Department of Human Services
22 pursuant to ORS [314.860 and] 412.094; the Division of Child Support of the Department of Justice
23 and district attorney regarding cases for which they are providing support enforcement services
24 under ORS 25.080; the State Board of Tax Practitioners, pursuant to ORS 673.710; and the Oregon
25 Board of Accountancy, pursuant to ORS 673.415.

26 (L) The Director of the Department of Consumer and Business Services to determine that a
27 person complies with ORS chapter 656 and the Director of the Employment Department to determine
28 that a person complies with ORS chapter 657, the following employer information:

29 (A) Identification numbers.

30 (B) Names and addresses.

31 (C) Inception date as employer.

32 (D) Nature of business.

33 (E) Entity changes.

34 (F) Date of last payroll.

35 (m) The Director of the Oregon Health Authority to determine that a person has the ability to
36 pay for care that includes services provided by the Blue Mountain Recovery Center or the Oregon
37 State Hospital or the Oregon Health Authority to collect any unpaid cost of care as provided by
38 ORS chapter 179.

39 (n) Employees of the Employment Department to the extent the Department of Revenue deems
40 disclosure or access to information on a combined tax report filed under ORS 316.168 is necessary
41 to performance of their duties in administering the tax imposed by ORS chapter 657.

42 (o) The State Fire Marshal to assist the State Fire Marshal in carrying out duties, functions and
43 powers under ORS 453.307 to 453.414, the employer or agent name, address, telephone number and
44 standard industrial classification, if available.

45 (p) Employees of the Department of State Lands for the purposes of identifying, locating and

1 publishing lists of taxpayers entitled to unclaimed refunds as required by the provisions of chapter
2 694, Oregon Laws 1993. The information shall be limited to the taxpayer's name, address and the
3 refund amount.

4 (q) In addition to the disclosure allowed under ORS 305.225, state or local law enforcement
5 agencies to assist in the investigation or prosecution of the following criminal activities:

6 (A) Mail theft of a check, in which case the information that may be disclosed shall be limited
7 to the stolen document, the name, address and taxpayer identification number of the payee, the
8 amount of the check and the date printed on the check.

9 (B) The counterfeiting, forging or altering of a check submitted by a taxpayer to the Department
10 of Revenue or issued by the Department of Revenue to a taxpayer, in which case the information
11 that may be disclosed shall be limited to the counterfeit, forged or altered document, the name, ad-
12 dress and taxpayer identification number of the payee, the amount of the check, the date printed
13 on the check and the altered name and address.

14 (r) The United States Postal Inspection Service or a federal law enforcement agency, including
15 but not limited to the United States Department of Justice, to assist in the investigation of the fol-
16 lowing criminal activities:

17 (A) Mail theft of a check, in which case the information that may be disclosed shall be limited
18 to the stolen document, the name, address and taxpayer identification number of the payee, the
19 amount of the check and the date printed on the check.

20 (B) The counterfeiting, forging or altering of a check submitted by a taxpayer to the Department
21 of Revenue or issued by the Department of Revenue to a taxpayer, in which case the information
22 that may be disclosed shall be limited to the counterfeit, forged or altered document, the name, ad-
23 dress and taxpayer identification number of the payee, the amount of the check, the date printed
24 on the check and the altered name and address.

25 (s) The United States Financial Management Service, for purposes of facilitating the offsets de-
26 scribed in ORS 305.612.

27 (t) A municipal corporation of this state for purposes of assisting the municipal corporation in
28 the administration of a tax of the municipal corporation that is imposed on or measured by income,
29 wages or net earnings from self-employment. Any disclosure under this paragraph may be made only
30 pursuant to a written agreement between the Department of Revenue and the municipal corporation
31 that ensures the confidentiality of the information disclosed.

32 (u) A consumer reporting agency, to the extent necessary to carry out the purposes of ORS
33 314.843.

34 (v) The Public Employees Retirement Board, to the extent necessary to carry out the purposes
35 of ORS 238.372 to 238.384, and to any public employer, to the extent necessary to carry out the
36 purposes of ORS 237.635 (3) and 237.637 (2).

37 (3)(a) Each officer or employee of the department and each person described or referred to in
38 subsection (2)(a), (b), (f) to (L) or (n) to (q) of this section to whom disclosure or access to the tax
39 information is given under subsection (2) of this section or any other provision of state law, prior
40 to beginning employment or the performance of duties involving such disclosure or access, shall be
41 advised in writing of the provisions of ORS 314.835 and 314.991, relating to penalties for the vio-
42 lation of ORS 314.835, and shall as a condition of employment or performance of duties execute a
43 certificate for the department, in a form prescribed by the department, stating in substance that the
44 person has read these provisions of law, that the person has had them explained and that the person
45 is aware of the penalties for the violation of ORS 314.835.

1 (b) The disclosure authorized in subsection (2)(r) of this section shall be made only after a
2 written agreement has been entered into between the Department of Revenue and the person de-
3 scribed in subsection (2)(r) of this section to whom disclosure or access to the tax information is
4 given, providing that:

5 (A) Any information described in ORS 314.835 that is received by the person pursuant to sub-
6 section (2)(r) of this section is confidential information that may not be disclosed, except to the ex-
7 tent necessary to investigate or prosecute the criminal activities described in subsection (2)(r) of
8 this section;

9 (B) The information shall be protected as confidential under applicable federal and state laws;
10 and

11 (C) The United States Postal Inspection Service or the federal law enforcement agency shall
12 give notice to the Department of Revenue of any request received under the federal Freedom of In-
13 formation Act, 5 U.S.C. 552, or other federal law relating to the disclosure of information.

14 (4) The Department of Revenue may recover the costs of furnishing the information described
15 in subsection (2)(L), (m) and (o) to (q) of this section from the respective agencies.

16 **SECTION 17.** Section 17, chapter 906, Oregon Laws 2007, is amended to read:

17 **Sec. 17.** (1) As used in this section:

18 (a) "Household" [*has the meaning given that term in ORS 310.630*] **means the taxpayer, the**
19 **spouse of the taxpayer and all other persons residing in the manufactured dwelling during**
20 **any part of the calendar year for which a credit is claimed.**

21 (b) "Manufactured dwelling" has the meaning given that term in ORS 446.003.

22 (c) "Manufactured dwelling park" means a place within this state where four or more manufac-
23 tured dwellings are located, the primary purpose of which is to rent space or keep space for rent
24 to any person for a charge or fee.

25 (d) "Rental agreement" means a contract under which an individual rents space in a manufac-
26 tured dwelling park for siting a manufactured dwelling.

27 (2) A credit of \$5,000 against the taxes otherwise due under this chapter is allowed to an indi-
28 vidual who:

29 (a) Rents space in a manufactured dwelling park for a manufactured dwelling that is owned and
30 occupied by the individual as the individual's principal residence on the date that the landlord de-
31 livers notice that the park, or a portion of the park, is being closed and the rental agreement for
32 the space is being terminated because of the exercise of eminent domain, by order of a federal, state
33 or local agency or by the landlord; and

34 (b) Ends tenancy at the manufactured dwelling park site in response to the delivered notice
35 described in paragraph (a) of this subsection.

36 (3) For purposes of subsection (2) of this section:

37 (a) Tenancy by the individual at the manufactured dwelling park site ends on the last day that
38 a member of the individual's household occupies the manufactured dwelling at the manufactured
39 dwelling park site; and

40 (b) Tenancy by the individual at the manufactured dwelling park site does not end if the manu-
41 factured dwelling park is converted to a subdivision under ORS 92.830 to 92.845 and the individual
42 buys a space or lot in the subdivision or sells the manufactured dwelling to a person who buys a
43 space or lot in the subdivision.

44 (4) Notwithstanding subsection (2) of this section, if the manufactured dwelling park, or a por-
45 tion of the park, is being closed and the rental agreement of the individual is being terminated be-

1 cause of the exercise of eminent domain, the credit amount allowed to the individual is the amount
 2 described in subsection (2) of this section, reduced by any amount that was paid to the individual
 3 as compensation for the exercise of eminent domain.

4 (5) An individual may not claim more than one credit under this section for tenancies ended
 5 during the tax year.

6 (6) If, for the year in which the individual ends the tenancy at the manufactured dwelling park,
 7 the amount of the credit allowed by this section, when added to the sum of the amounts allowable
 8 as payment of tax under ORS 316.187 and 316.583 plus other tax prepayment amounts and other
 9 refundable credit amounts, exceeds the taxes imposed by this chapter or ORS chapter 314 for the
 10 tax year, reduced by any nonrefundable credits allowable for purposes of this chapter for the tax
 11 year, the amount of the excess shall be refunded to the individual as provided in ORS 316.502.

12 (7) If more than one individual in a household qualifies under this section to claim the tax
 13 credit, the qualifying individuals may each claim a share of the available credit that is in proportion
 14 to their respective gross incomes for the tax year.

15 **SECTION 18.** ORS 316.147 is amended to read:

16 316.147. As used in ORS 316.147 to 316.149, unless the context requires otherwise:

17 (1) "Eligible taxpayer" includes any individual who must pay taxes otherwise imposed by this
 18 chapter and:

19 (a) Who pays or incurs expenses for the care of a "qualified individual," [*as defined in subsection*
 20 *(2) of this section,*] through a payment method determined by rule of the Department of Revenue; and

21 (b) Who has a "household income," [*as defined by ORS 310.630,*] for the taxable year, not to
 22 exceed the maximum amount of household income allowed in ORS 310.640 (1989 Edition) for a
 23 homeowner or renter refund.

24 (2) "**Household income**" means the aggregate income of the eligible taxpayer and the
 25 spouse of the taxpayer who reside in the household, that was received during a calendar
 26 year. "**Household income**" includes payments received by the eligible taxpayer or the spouse
 27 of the taxpayer under the federal Social Security Act for the benefit of a minor child or mi-
 28 nor children who reside in the household.

29 (3) "**Income**" means "**adjusted gross income**" as defined in the federal Internal Revenue
 30 Code, as amended and in effect on December 31, 2014, even when the amendments take effect
 31 or become operative after that date, relating to the measurement of taxable income of indi-
 32 viduals, estates and trusts, with the following modifications:

33 (a) There shall be added to adjusted gross income the following items of otherwise ex-
 34 empt income:

35 (A) The gross amount of any otherwise exempt pension less return of investment, if any.

36 (B) Child support received by the taxpayer.

37 (C) Inheritances.

38 (D) Gifts and grants, the sum of which are in excess of \$500 per year.

39 (E) Amounts received by a taxpayer or spouse of a taxpayer for support from a parent
 40 who is not a member of the taxpayer's household.

41 (F) Life insurance proceeds.

42 (G) Accident and health insurance proceeds, except reimbursement of incurred medical
 43 expenses.

44 (H) Personal injury damages.

45 (I) Sick pay that is not included in federal adjusted gross income.

1 (J) Strike benefits excluded from federal gross income.

2 (K) Worker's compensation, except for reimbursement of medical expense.

3 (L) Military pay and benefits.

4 (M) Veteran's benefits.

5 (N) Payments received under the federal Social Security Act that are excluded from
6 federal gross income.

7 (O) Welfare payments, except as follows:

8 (i) Payments for medical care, drugs and medical supplies, if the payments are not made
9 directly to the welfare recipient;

10 (ii) In-home services authorized and approved by the Department of Human Services; and

11 (iii) Direct or indirect reimbursement of expenses paid or incurred for participation in
12 work or training programs.

13 (P) Nontaxable dividends.

14 (Q) Nontaxable interest not included in federal adjusted gross income.

15 (R) Rental allowance paid to a minister that is excluded from federal gross income.

16 (S) Income from sources without the United States that is excluded from federal gross
17 income.

18 (b) Adjusted gross income shall be increased due to the disallowance of the following de-
19 ductions:

20 (A) The amount of the net loss, in excess of \$1,000, from all dispositions of tangible or
21 intangible properties.

22 (B) The amount of the net loss, in excess of \$1,000, from the operation of a farm or
23 farms.

24 (C) The amount of the net loss, in excess of \$1,000, from all operations of a trade or
25 business, profession or other activity entered into for the production or collection of income.

26 (D) The amount of the net loss, in excess of \$1,000, from tangible or intangible property
27 held for the production of rents, royalties or other income.

28 (E) The amount of any net operating loss carryovers or carrybacks included in federal
29 adjusted gross income.

30 (F) The amount, in excess of \$5,000, of the combined deductions or other allowances for
31 depreciation, amortization or depletion.

32 (G) The amount added or subtracted, as required within the context of this section, for
33 adjustments made under ORS 316.680 (2)(d) and 316.707 to 316.737.

34 (c) "Income" does not include any of the following:

35 (A) Any governmental grant that must be used by the taxpayer for rehabilitation of the
36 homestead of the taxpayer.

37 (B) The amount of any payments made pursuant to ORS 310.630 to 310.706.

38 (C) Any refund of Oregon personal income taxes that were imposed under ORS chapter
39 316.

40 [(2)] (4) "Qualified individual" includes an individual at least 60 years of age on the date that
41 the expenses described in subsection (1)(a) of this section are paid or incurred by the eligible tax-
42 payer:

43 (a) Whose household income[*as defined by ORS 310.630,*] does not exceed \$7,500 for the calen-
44 dar year in which the taxable year of the taxpayer begins;

45 (b) Who is eligible for authorized services as defined in ORS 410.410 under Oregon Project In-

1 dependence;

2 (c) Who is certified by the Department of Human Services; and

3 (d) Whose care or any portion thereof is not paid for under ORS chapter 414.

4 **SECTION 19.** ORS 316.157 is amended to read:

5 316.157. (1) In the case of an eligible individual, there shall be allowed as a credit against the
6 taxes otherwise due under this chapter for the taxable year an amount equal to the lesser of the tax
7 liability of the taxpayer or nine percent of net pension income.

8 (2) For purposes of this section:

9 (a) "Eligible individual" means any individual who is receiving pension income and who has at-
10 tained the following age before the close of the taxable year:

11 (A) For taxable years beginning on or after January 1, 1991, and before January 1, 1993, the
12 individual must attain 58 years of age before the close of the taxable year.

13 (B) For taxable years beginning on or after January 1, 1993, and before January 1, 1995, the
14 individual must attain 59 years of age before the close of the taxable year.

15 (C) For taxable years beginning on or after January 1, 1995, and before January 1, 1997, the
16 individual must attain 60 years of age before the close of the taxable year.

17 (D) For taxable years beginning on or after January 1, 1997, and before January 1, 1999, the
18 individual must attain 61 years of age before the close of the taxable year.

19 (E) For taxable years beginning on or after January 1, 1999, the individual must attain 62 years
20 of age before the close of the taxable year.

21 (b) "Household income" [*has that meaning given in ORS 310.630*] **means the aggregate income**
22 **of the taxpayer and the spouse of the taxpayer who reside in the household, that was re-**
23 **ceived during the taxable year for which a credit is claimed, except that "household income"**
24 [*shall*] **does not include Social Security benefits received by the taxpayer or the spouse of the tax-**
25 **payer.**

26 (c) "**Income**" means "**adjusted gross income**" as defined in the federal Internal Revenue
27 Code, as amended and in effect on December 31, 2014, even when the amendments take effect
28 or become operative after that date, relating to the measurement of taxable income of indi-
29 viduals, estates and trusts, with the following modifications:

30 (A) There shall be added to adjusted gross income the following items of otherwise ex-
31 empt income:

32 (i) The gross amount of any otherwise exempt pension less return of investment, if any.

33 (ii) Child support received by the taxpayer.

34 (iii) Inheritances.

35 (iv) Gifts and grants, the sum of which are in excess of \$500 per year.

36 (v) Amounts received by a taxpayer or spouse of a taxpayer for support from a parent
37 who is not a member of the taxpayer's household.

38 (vi) Life insurance proceeds.

39 (vii) Accident and health insurance proceeds, except reimbursement of incurred medical
40 expenses.

41 (viii) Personal injury damages.

42 (ix) Sick pay that is not included in federal adjusted gross income.

43 (x) Strike benefits excluded from federal gross income.

44 (xi) Worker's compensation, except for reimbursement of medical expense.

45 (xii) Military pay and benefits.

1 (xiii) Veteran's benefits.

2 (xiv) Payments received under the federal Social Security Act that are excluded from
3 federal gross income.

4 (xv) Welfare payments, except as follows:

5 (I) Payments for medical care, drugs and medical supplies, if the payments are not made
6 directly to the welfare recipient;

7 (II) In-home services authorized and approved by the Department of Human Services;
8 and

9 (III) Direct or indirect reimbursement of expenses paid or incurred for participation in
10 work or training programs.

11 (xvi) Nontaxable dividends.

12 (xvii) Nontaxable interest not included in federal adjusted gross income.

13 (xviii) Rental allowance paid to a minister that is excluded from federal gross income.

14 (xix) Income from sources without the United States that is excluded from federal gross
15 income.

16 (B) Adjusted gross income shall be increased due to the disallowance of the following
17 deductions:

18 (i) The amount of the net loss, in excess of \$1,000, from all dispositions of tangible or
19 intangible properties.

20 (ii) The amount of the net loss, in excess of \$1,000, from the operation of a farm or farms.

21 (iii) The amount of the net loss, in excess of \$1,000, from all operations of a trade or
22 business, profession or other activity entered into for the production or collection of income.

23 (iv) The amount of the net loss, in excess of \$1,000, from tangible or intangible property
24 held for the production of rents, royalties or other income.

25 (v) The amount of any net operating loss carryovers or carrybacks included in federal
26 adjusted gross income.

27 (vi) The amount, in excess of \$5,000, of the combined deductions or other allowances for
28 depreciation, amortization or depletion.

29 (vii) The amount added or subtracted, as required within the context of this section, for
30 adjustments made under ORS 316.680 (2)(d) and 316.707 to 316.737.

31 (C) "Income" does not include any of the following:

32 (i) Any governmental grant that must be used by the taxpayer for rehabilitation of the
33 homestead of the taxpayer.

34 (ii) The amount of any payments made pursuant to ORS 310.630 to 310.706.

35 (iii) Any refund of Oregon personal income taxes that were imposed under ORS chapter
36 316.

37 [(c)] (d) "Net pension income" means:

38 (A) For eligible individuals filing a joint return, the lesser of the pension income of the eligible
39 individuals received during the taxable year or the excess, if any, of \$15,000 over the sum of the
40 following amounts:

41 (i) Any Social Security benefits received by the eligible individual, or by the spouse of the in-
42 dividual, during the taxable year; and

43 (ii) The excess, if any, of household income over \$30,000.

44 (B) For an eligible individual filing a return other than a joint return, the lesser of the pension
45 income of the eligible individual received during the taxable year or the excess, if any, of \$7,500

1 over the sum of the following amounts:

- 2 (i) Any Social Security benefits received by the eligible individual during the taxable year; and
- 3 (ii) The excess, if any, of household income over \$15,000.

4 [(d)] (e) "Pension income" means income included in Oregon taxable income from:

5 (A) Distributions from or pursuant to an employee pension benefit plan, as defined in section
6 3(2) of the Employee Retirement Income Security Act of 1974, which satisfies the requirements of
7 section 401 of the Internal Revenue Code;

8 (B) Distributions from or pursuant to a public retirement system of this state or a political
9 subdivision of this state, or a public retirement system created by an Act of this state or a political
10 subdivision of this state, or the public retirement system of any other state or local government;

11 (C) Distributions from or pursuant to a federal retirement system created by the federal gov-
12 ernment for any officer or employee of the United States, including any person retired from service
13 in the United States Civil Service, the Armed Forces of the United States or any agency or subdi-
14 vision thereof;

15 (D) Distributions or withdrawals from or pursuant to an eligible deferred compensation plan
16 which satisfies the requirements of section 457 of the Internal Revenue Code;

17 (E) Distributions or withdrawals from or pursuant to an individual retirement account, annuity
18 or trust or simplified employee pension which satisfies the requirements of section 408 of the Inter-
19 nal Revenue Code; and

20 (F) Distributions or withdrawals from or pursuant to an employee annuity, including custodial
21 accounts treated as annuities, subject to section 403 (a) or (b) of the Internal Revenue Code.

22 [(e)] (f) "Social Security benefits" means Social Security benefits, as defined in section 86 of the
23 Internal Revenue Code (Title II Social Security or tier 1 railroad retirement benefits).

24 (3) If a change in the taxable year of the eligible individual occurs as described in ORS 314.085,
25 or if the Department of Revenue terminates the tax year of the eligible individual under ORS
26 314.440, the credit allowed by this section shall be prorated or computed in a manner consistent with
27 ORS 316.085.

28 (4) If a change in the status of the eligible individual from resident to nonresident or from
29 nonresident to resident occurs, the credit allowed by this section shall be determined in a manner
30 consistent with subsection (1) of this section.

31 **SECTION 20.** ORS 454.662 is amended to read:

32 454.662. (1) Except as provided in subsection (2) of this section, each application for a variance
33 submitted pursuant to ORS 454.657 must be accompanied by a fee, the amount of which shall be
34 determined by a fee structure adopted by the Environmental Quality Commission as described in
35 ORS 454.745. The moneys received are continuously appropriated to meet administrative expenses
36 of the hearings and appeals.

37 (2) Notwithstanding subsection (1) of this section, an applicant for a variance under this section
38 is not required to pay the fee specified in subsection (1) of this section if, at the time of filing the
39 application, the applicant:

- 40 (a) Is 65 years of age or older;
- 41 (b) Is a resident of this state; and
- 42 (c) Has an annual household income, as defined in ORS [310.630] **311.666**, of \$15,000 or less.

43 **SECTION 21.** ORS 314.400 is amended to read:

44 314.400. (1) If a taxpayer fails to file a report or return or fails to pay a tax by the date on which
45 the filing or payment is due, the Department of Revenue shall add to the amount required to be

1 shown as tax on the report or return a delinquency penalty of five percent of the amount of the
2 unpaid tax.

3 (2) In the case of a report or return that is required to be filed annually or for a one-year period,
4 if the failure to file the report or return continues for a period in excess of three months after the
5 due date:

6 (a) There shall be added to the amount of tax required to be shown on the report or return a
7 failure to file penalty of 20 percent of the amount of the tax; and

8 (b) Thereafter the department may send a notice and demand to the person to file a report or
9 return within 30 days of the mailing of the notice. If after the notice and demand no report or return
10 is filed within the 30 days, the department may determine the tax according to the best of its in-
11 formation and belief, assess the tax with appropriate penalty and interest plus an additional penalty
12 of 25 percent of the tax deficiency determined by the department and give written notice of the de-
13 termination and assessment to the person required to make the filing.

14 (3) In the case of a report or return that is required to be filed more frequently than annually
15 and the failure to file the report or return continues for a period in excess of one month after the
16 due date:

17 (a) There shall be added to the amount of tax required to be shown on the report or return a
18 failure to file penalty of 20 percent of the amount of the tax; and

19 (b) Thereafter the department may send a notice and demand to the person to file a report or
20 return within 30 days of the mailing of the notice. If after the notice and demand no report or return
21 is filed within the 30 days, the department may determine the tax according to the best of its in-
22 formation and belief, assess the tax with appropriate penalty and interest plus an additional penalty
23 of 25 percent of the tax deficiency determined by the department and give written notice of the de-
24 termination and assessment to the person required to make the filing.

25 (4) Notwithstanding subsections (2) and (3) of this section, if a taxpayer is required to file a
26 federal income tax return for a period of less than 12 months under section 443 of the Internal Re-
27 venue Code, the Oregon personal income or corporate excise or income tax return required to be
28 filed for that period shall be subject to subsection (2) of this section.

29 (5) If a report or return that is subject to a failure to file penalty described in subsection (2)
30 or (3) of this section is filed before a notice of determination and assessment is issued by the de-
31 partment, the failure to file penalty referred to in subsection (2)(a) or (3)(a) of this section shall be
32 added to the amount of tax shown on the report or return.

33 (6) A penalty equal to 100 percent of any deficiency determined by the department shall be as-
34 sessed and collected if:

35 (a) There is a failure to file a report or return with intent to evade the tax; **or**

36 (b) A report or return was falsely prepared and filed with intent to evade the tax.]; *or*]

37 [*c*] *A false claim was intentionally filed under ORS 310.635, 310.657 and 310.706.*]

38 (7) Interest shall be collected on the unpaid tax at the rate established under ORS 305.220 for
39 each month or fraction of a month, computed from the time the tax became due, during which the
40 tax remains unpaid.

41 (8) Each penalty imposed under this section is in addition to any other penalty imposed under
42 this section. However, the total amount of penalty imposed under this section and ORS 305.265 (13)
43 with respect to any deficiency shall not exceed 100 percent of the deficiency.

44 (9) For purposes of subsections (1) to (3) of this section, the amount of tax required to be shown
45 or that is shown on the report or return shall be reduced by the amount that is paid on or before

1 the date prescribed for payment of the tax and by the amount of any credit against the tax that is
 2 claimed on the report or return. If the amount required to be shown as tax on the report or return
 3 is less than the amount that is actually shown as tax on the report or return, this subsection shall
 4 be applied by substituting the lower amount.

5 (10) Notwithstanding subsection (1) of this section, the five percent penalty for failure to file a
 6 report or return or pay a tax at the time the tax becomes due may not be imposed if:

7 (a) The taxpayer pays the full amount of the tax plus accrued interest within 30 days of the date
 8 shown on the department's notice sent to the taxpayer; and

9 (b)(A) The taxpayer had filed an amended individual tax return or an amended corporate return
 10 of income or excise tax accompanied by less than full payment of the tax shown on the return plus
 11 accrued interest; or

12 (B) The department issues a notice of tax deficiency to the taxpayer under ORS 305.265.

13 **SECTION 22.** ORS 316.158 is amended to read:

14 316.158. (1) It is the intent of the Legislative Assembly that no part of ORS 316.157 be the law
 15 if any part of ORS 316.157 is held to be invalid or unconstitutional. However, no amended return
 16 or payment of additional taxes shall be required for any year prior to the year in which any part
 17 of ORS 316.157 is held to be invalid or unconstitutional by a court of last resort.

18 (2) Except as provided in subsection (1) of this section, it is the intent of the Legislative As-
 19 sembly that the provisions of ORS 238.445, [310.635,] 316.087, 316.157, 316.158, 316.680 and 316.695
 20 be severable as provided in ORS 174.040.

21 **SECTION 23.** ORS 411.083 is amended to read:

22 411.083. (1) The Department of Human Services, in consultation with the Oregon Health Au-
 23 thority, may prescribe by rule that income and resources may be disregarded in the determination
 24 of eligibility and the amount of need with respect to a recipient of or applicant for public assistance
 25 under ORS 411.706 and ORS chapter 414, if required by federal law or rules adopted pursuant
 26 thereto or if authorized by the Legislative Assembly, including *[the following:]*

27 *[(a) Any elderly rental assistance payments provided by ORS 310.635 or refunds in lieu of such*
 28 *relief shall be disregarded in determining eligibility and need.]*

29 *[(b)] any increase in the amount of assistance that is authorized by section 4, Public Law 93-233*
 30 *(87 Stat. 953) and which is also being paid on March 5, 1974[, shall be disregarded in determining*
 31 *eligibility and need].*

32 (2) The department, in consultation with the authority, shall prescribe by rule that in the de-
 33 termination of eligibility and the amount of need with respect to a recipient of or applicant for
 34 public assistance under ORS 411.706 and ORS chapter 414:

35 (a) Any increase in the amount of assistance provided under Title XVI of the Social Security
 36 Act to meet changes in the cost of living that is an increase over that amount being paid on January
 37 1, 1977, pursuant to an Act of Congress and which will first be paid after January 1, 1977, shall be
 38 disregarded.

39 (b) Up to \$10,000 equity value of any licensed and unlicensed vehicles owned by the applicant
 40 or recipient is exempt from consideration as a resource.

41 (3) The department shall implement subsection (2)(b) of this section statewide to the extent
 42 possible that is consistent with federal regulation to maintain state eligibility for federal partic-
 43 ipation in public assistance programs. In the event the department determines that this policy has
 44 a net fiscal cost to the state, the department shall present the fiscal analysis to the Emergency
 45 Board for additional funding or direction to modify or suspend the policy.

SECTION 24. ORS 18.845 is amended to read:

18.845. A notice of exemptions form must be in substantially the form set forth in this section. Nothing in the notice form described in this section is intended to expand or restrict the law relating to exempt property. A determination as to whether property is exempt from execution, attachment and garnishment must be made by reference to other law. The form provided in this section may be modified to provide more information or to update the notice based on subsequent changes in exemption laws.

NOTICE OF EXEMPT PROPERTY
AND INSTRUCTIONS FOR
CHALLENGE TO GARNISHMENT

Property belonging to you may have been taken or held in order to satisfy a debt. The debt may be reflected in a judgment or in a warrant or order issued by a state agency. Important legal papers are enclosed.

YOU MAY BE ABLE TO GET YOUR PROPERTY BACK, SO READ THIS NOTICE CAREFULLY.

State and federal law specify that certain property may not be taken. Some of the property that you may be able to get back is listed below.

(1) Wages or a salary as described in ORS 18.375 and 18.385. Whichever of the following amounts is greater:

- (a) 75 percent of your take-home wages; or
- (b) \$218 per workweek.
- (2) Social Security benefits.
- (3) Supplemental Security Income (SSI).
- (4) Public assistance (welfare).
- (5) Unemployment benefits.
- (6) Disability benefits (other than SSI benefits).
- (7) Workers' compensation benefits.

(8) All Social Security benefits and Supplemental Security Income benefits, and up to \$7,500 in exempt wages, retirement benefits, welfare, unemployment benefits and disability benefits, that are held in a bank account. You may attach copies of bank statements to the Challenge to Garnishment form if you claim this exemption.

(9) Spousal support, child support or separate maintenance to the extent reasonably necessary for your support or the support of any of your dependents.

(10) A homestead (house, manufactured dwelling or floating home) occupied by you, or occupied by your spouse, parent or child. Up to \$40,000 of the value of the homestead is exempt. If you jointly own the homestead with another person who is also liable on the debt, up to \$50,000 of the value of the homestead is exempt.

(11) Proceeds from the sale of a homestead described in item 10, up to the limits described in item 10, if you hold the proceeds for less than one year and intend to use those proceeds to procure another homestead.

(12) Household goods, furniture, radios, a television set and utensils with a combined value not to exceed \$3,000.

- 1 *(13) An automobile, truck, trailer or other vehicle with a value not to exceed \$3,000.
- 2 *(14) Tools, implements, apparatus, team, harness or library that are necessary to carry on your
- 3 occupation, with a combined value not to exceed \$5,000.
- 4 *(15) Books, pictures and musical instruments with a combined value not to exceed \$600.
- 5 *(16) Wearing apparel, jewelry and other personal items with a combined value not to exceed
- 6 \$1,800.
- 7 (17) Domestic animals and poultry for family use with a combined value not to exceed \$1,000
- 8 and their food for 60 days.
- 9 (18) Provisions and fuel for your family for 60 days.
- 10 (19) One rifle or shotgun and one pistol. The combined value of all firearms claimed as exempt
- 11 may not exceed \$1,000.
- 12 (20) Public or private pensions.
- 13 (21) Veterans' benefits and loans.
- 14 (22) Medical assistance benefits.
- 15 (23) Health insurance proceeds and disability proceeds of life insurance policies.
- 16 (24) Cash surrender value of life insurance policies not payable to your estate.
- 17 (25) Federal annuities.
- 18 (26) Other annuities to \$250 per month (excess over \$250 per month is subject to the same ex-
- 19 emption as wages).
- 20 (27) Professionally prescribed health aids for you or any of your dependents.
- 21 *(28) *[Elderly rental assistance allowed pursuant to ORS 310.635]* **Rental assistance to an el-**
- 22 **derly person allowed pursuant to section 7 of this 2015 Act.**
- 23 (29) Your right to receive, or property traceable to:
- 24 (a) An award under any crime victim reparation law.
- 25 (b) A payment or payments, not exceeding a total of \$10,000, on account of personal bodily in-
- 26 jury suffered by you or an individual of whom you are a dependent.
- 27 (c) A payment in compensation of loss of future earnings of you or an individual of whom you
- 28 are or were a dependent, to the extent reasonably necessary for your support and the support of
- 29 any of your dependents.
- 30 (30) Amounts paid to you as an earned income tax credit under federal tax law.
- 31 (31) Your right to the assets held in, or right to receive payments under, a medical savings ac-
- 32 count or health savings account authorized under section 220 or 223 of the Internal Revenue Code.
- 33 *(32) Interest in personal property to the value of \$400, but this cannot be used to increase the
- 34 amount of any other exemption.
- 35 (33) Equitable interests in property.
- 36 (34) Security deposits or prepaid rent held by a residential landlord under ORS 90.300.
- 37 (35) If the amount shown as owing on the Debt Calculation form exceeds the amount you actu-
- 38 ally owe to the creditor, the difference between the amount owed and the amount shown on the Debt
- 39 Calculation form.

40
41 Note: If two or more people in your household owe the claim or judgment, each of them may

42 claim the exemptions marked by an asterisk (*).

43
44
45 SPECIAL RULES APPLY FOR DEBTS THAT ARE OWED FOR CHILD SUPPORT AND

1 SPOUSAL SUPPORT. Some property that may not otherwise be taken for payment against the debt
2 may be taken to pay for overdue support. For instance, Social Security benefits, workers' compen-
3 sation benefits, unemployment benefits, veterans' benefits and pensions are normally exempt, but
4 only 50 percent of a lump sum payment of these benefits is exempt if the debt is owed for a support
5 obligation.

6
7 **YOU MUST ACT PROMPTLY IF YOU WANT TO GET YOUR MONEY OR PROPERTY BACK.**

8 You may seek to reclaim your exempt property by doing the following:

9 (1) Fill out the Challenge to Garnishment form that you received with this notice.

10 (2) Mail or deliver the Challenge to Garnishment form to the court administrator at the address
11 shown on the writ of garnishment, and mail or deliver a copy of the form to the Garnishor at the
12 address shown on the writ of garnishment. If you wish to claim wages or salary as exempt, you must
13 mail or deliver the form within 120 days after you receive this notice. If you wish to claim that any
14 other money or property is exempt, or claim that the property is not subject to garnishment, you
15 must mail or deliver the form within 30 days after you receive this notice. You have the burden of
16 showing that your challenge is made on time, so you should keep records showing when the chal-
17 lenge was mailed or delivered.

18 (3) The law only requires that the Garnishor hold the garnished money or property for 10 days
19 before applying it to the Creditor's use. You may be able to keep the property from being used by
20 the Creditor by promptly following (1) and (2) above.

21
22 You should be prepared to explain your exemption in court. If you have any questions about the
23 garnishment or the debt, you should see an attorney.

24 **YOU MAY USE THE CHALLENGE TO GARNISHMENT FORM ONLY FOR THE FOLLOW-**
25 **ING PURPOSES:**

26 (1) To claim such exemptions from garnishment as are permitted by law.

27 (2) To assert that property is not garnishable property under ORS 18.618.

28 (3) To assert that the amount specified in the writ of garnishment as being subject to
29 garnishment is greater than the total amount owed.

30
31 **YOU MAY NOT USE THE CHALLENGE TO GARNISHMENT FORM TO CHALLENGE THE**
32 **VALIDITY OF THE DEBT.**

33 **IF YOU FILE A CHALLENGE TO A GARNISHMENT IN BAD FAITH, YOU MAY BE SUB-**
34 **JECT TO PENALTIES IMPOSED BY THE COURT THAT COULD INCLUDE A FINE.** Penalties
35 that you could be subject to are listed in ORS 18.715.

36 When you file a Challenge to Garnishment form, the Garnishee may be required to make all
37 payments under the garnishment to the court, and the Garnishor may be required to pay to the
38 court all amounts received by the Garnishor that are subject to the challenge to the garnishment.
39 The Garnishee and Garnishor are subject to penalties if they do not. For a complete explanation of
40 their responsibilities, see ORS 18.705 and 18.708.

41
42
43 **SECTION 25.** ORS 18.896 is amended to read:

44 18.896. (1) The challenge to execution form described in this section does not expand or restrict
45 the law relating to exempt property. A determination as to whether property is exempt from at-

1 attachment or execution must be made by reference to other law. The form provided in this section
2 may be modified to provide more information or to update the notice based on subsequent changes
3 in exemption laws.

4 (2) A challenge to execution form must be in substantially the following form:

5 _____

6

7

_____ COURT

8

COUNTY OF _____

9

10

_____) CHALLENGE TO

11

Plaintiff,) EXECUTION

12

)

13

vs.) Case No. _____

14

)

15

_____)

16

Defendant.)

17

18 THIS FORM MAY BE USED BY THE DEBTOR ONLY FOR THE FOLLOWING PURPOSES:

19

(1) To claim such exemptions from execution as are permitted by law.

20

(2) To assert that the amount specified in the writ of execution as being subject to execution is
21 greater than the total amount owed.

22

23

24 THIS FORM MAY BE USED BY PERSONS OTHER THAN THE DEBTOR ONLY TO CLAIM
25 AN INTEREST IN THE PROPERTY THAT IS TO BE SOLD ON EXECUTION.

26

27 THIS FORM MAY NOT BE USED TO CHALLENGE THE VALIDITY OF THE DEBT.

28

29 I/We claim that the following described property or money is exempt from execution:

30

31

32

33

34

35 I/We believe this property is exempt from execution because (the Notice of Exempt Property at
36 the end of this form describes most types of property that you can claim as exempt from execution):

37

38

39

40

41

42 I am a person other than the Debtor and I have the following interest in the property:

43

44

45

1	Name _____	Name _____
2	Signature _____	Signature _____
3	Address _____	Address _____
4	_____	_____
5	Telephone	Telephone
6	Number _____	Number _____
7	(Required)	(Required)

8
9

10 YOU MUST ACT PROMPTLY IF YOU WANT TO GET YOUR MONEY OR PROPERTY BACK.

11 You may seek to reclaim your exempt property by doing the following:

- 12 (1) Fill out the Challenge to Execution form that you received with this notice.
- 13 (2) Mail or deliver the Challenge to Execution form to the court administrator at the address
- 14 shown on the writ of execution.
- 15 (3) Mail or deliver a copy of the Challenge to Execution form to the judgment creditor at the
- 16 address shown on the writ of execution.

17 You should be prepared to explain your exemption in court. If you have any questions about the
18 execution or the debt, you should see an attorney.

19

20 YOU MAY USE THE CHALLENGE TO EXECUTION FORM ONLY FOR THE FOLLOWING
21 PURPOSES:

- 22 (1) To claim such exemptions from execution as are permitted by law.
- 23 (2) To assert that the amount specified in the writ of execution as being subject to execution is
- 24 greater than the total amount owed.

25

26 YOU MAY NOT USE THE CHALLENGE TO EXECUTION FORM TO CHALLENGE THE
27 VALIDITY OF THE DEBT.

28

29 IF YOU CLAIM AN EXEMPTION IN BAD FAITH, YOU MAY BE SUBJECT TO PENALTIES
30 IMPOSED BY THE COURT THAT COULD INCLUDE A FINE. Penalties that you could be subject
31 to are listed in ORS 18.899.

32

33 NOTICE OF EXEMPT PROPERTY

34

35 Property belonging to you may have been taken or held in order to satisfy a debt. The debt may
36 be reflected in a judgment or in a warrant or order issued by a state agency. Important legal papers
37 are enclosed.

38 YOU MAY BE ABLE TO GET YOUR PROPERTY BACK, SO READ THIS NOTICE CARE-
39 FULLY.

40 State and federal law specify that certain property may not be taken. Some of the property that
41 you may be able to get back is listed below.

- 42 (1) Wages or a salary as described in ORS 18.375 and 18.385. Whichever of the following
- 43 amounts is greater:
- 44 (a) 75 percent of your take-home wages; or
- 45 (b) \$218 per workweek.

- 1 (2) Social Security benefits.
- 2 (3) Supplemental Security Income (SSI).
- 3 (4) Public assistance (welfare).
- 4 (5) Unemployment benefits.
- 5 (6) Disability benefits (other than SSI benefits).
- 6 (7) Workers' compensation benefits.
- 7 (8) All Social Security benefits and Supplemental Security Income benefits, and up to \$7,500 in
8 exempt wages, retirement benefits, welfare, unemployment benefits and disability benefits, that are
9 held in a bank account.
- 10 (9) Spousal support, child support or separate maintenance to the extent reasonably necessary
11 for your support or the support of any of your dependents.
- 12 (10) A homestead (house, manufactured dwelling or floating home) occupied by you, or occupied
13 by your spouse, parent or child. Up to \$40,000 of the value of the homestead is exempt. If you jointly
14 own the homestead with another person who is also liable on the debt, up to \$50,000 of the value
15 of the homestead is exempt.
- 16 (11) Proceeds from the sale of a homestead described in item 10, up to the limits described in
17 item 10, if you hold the proceeds for less than one year and intend to use those proceeds to procure
18 another homestead.
- 19 (12) Household goods, furniture, radios, a television set and utensils with a combined value not
20 to exceed \$3,000.
- 21 *(13) An automobile, truck, trailer or other vehicle with a value not to exceed \$3,000.
- 22 *(14) Tools, implements, apparatus, team, harness or library that are necessary to carry on your
23 occupation, with a combined value not to exceed \$5,000.
- 24 *(15) Books, pictures and musical instruments with a combined value not to exceed \$600.
- 25 *(16) Wearing apparel, jewelry and other personal items with a combined value not to exceed
26 \$1,800.
- 27 (17) Domestic animals and poultry for family use with a combined value not to exceed \$1,000
28 and their food for 60 days.
- 29 (18) Provisions and fuel for your family for 60 days.
- 30 (19) One rifle or shotgun and one pistol. The combined value of all firearms claimed as exempt
31 may not exceed \$1,000.
- 32 (20) Public or private pensions.
- 33 (21) Veterans' benefits and loans.
- 34 (22) Medical assistance benefits.
- 35 (23) Health insurance proceeds and disability proceeds of life insurance policies.
- 36 (24) Cash surrender value of life insurance policies not payable to your estate.
- 37 (25) Federal annuities.
- 38 (26) Other annuities to \$250 per month (excess over \$250 per month is subject to the same ex-
39 emption as wages).
- 40 (27) Professionally prescribed health aids for you or any of your dependents.
- 41 *(28) *[Elderly rental assistance allowed pursuant to ORS 310.635]* **Rental assistance to an el-**
42 **derly person allowed pursuant to section 7 of this 2015 Act.**
- 43 *(29) Your right to receive, or property traceable to:
44 *(a) An award under any crime victim reparation law.
45 *(b) A payment or payments, not exceeding a total of \$10,000, on account of personal bodily in-

1 jury suffered by you or an individual of whom you are a dependent.

2 *(c) A payment in compensation of loss of future earnings of you or an individual of whom you
3 are or were a dependent, to the extent reasonably necessary for your support and the support of
4 any of your dependents.

5 (30) Amounts paid to you as an earned income tax credit under federal tax law.

6 (31) Your right to the assets held in, or right to receive payments under, a medical savings ac-
7 count or health savings account authorized under section 220 or 223 of the Internal Revenue Code.

8 (32) Interest in personal property to the value of \$400, but this cannot be used to increase the
9 amount of any other exemption.

10 (33) Equitable interests in property.

11 Note: If two or more people in your household owe the claim or judgment, each of them may
12 claim the exemptions marked by an asterisk (*).

14
15 SPECIAL RULES APPLY FOR DEBTS THAT ARE OWED FOR CHILD SUPPORT AND
16 SPOUSAL SUPPORT. Some property that may not otherwise be taken for payment against the debt
17 may be taken to pay for overdue support. For instance, Social Security benefits, workers' compen-
18 sation benefits, unemployment benefits, veterans' benefits and pensions are normally exempt, but
19 only 50 percent of a lump sum payment of these benefits is exempt if the debt is owed for a support
20 obligation.

21
22
23 **SECTION 26.** ORS 179.640 is amended to read:

24 179.640. (1)(a) The Department of Corrections and the Oregon Health Authority shall establish
25 rules for determining ability to pay for persons in their respective institutions. The rules adopted
26 by each agency shall require, in addition to other relevant factors, consideration of the personal
27 estate, the person's need for funds for personal support after release, and the availability of third-
28 party benefits such as, but not limited to, Medicare or private insurance. Each agency may also
29 consider the probable length of stay at the state institution. Nothing in this section requires the
30 Department of Corrections to investigate a person's ability to pay or to issue an ability-to-pay order.

31 (b) When adopting rules under paragraph (a) of this subsection, the Department of Corrections
32 shall consider the person's needs for funds to pay for the support of the person's children and to pay
33 any monetary obligations imposed on the person as a result of the person's conviction.

34 (2) In determining a person's ability to pay, none of the agencies may consider as part of the
35 personal estate of the person or the decedent's estate:

36 (a) Any assets received by or owing to the person and the personal estate of the person, or the
37 decedent's estate, as compensation from the state for injury, death or, if the collection is being made
38 by the Department of Corrections, the false imprisonment of the person that occurred when the
39 person was in a state institution listed in ORS 179.321 and for which the state admits liability or is
40 found liable through adjudication; and

41 (b) Any real or personal property that the person or an authorized representative of the person
42 can demonstrate was purchased solely with assets referred to in paragraph (a) of this subsection or
43 partially with such assets, to the extent such assets were used in the purchase.

44 (3) A person and the authorized representative of the person, if any, shall provide all financial
45 information requested by the agency that is necessary to determine the person's ability to pay. To

1 determine ability to pay, the agency may use any information available to the agency, including in-
 2 formation provided by the Department of Revenue from personal income tax returns pursuant to
 3 ORS 314.840[, *and elderly rental assistance claims*]. Upon request, the Department of Revenue shall
 4 release copies of tax returns to the agency. When the person or the person's authorized represen-
 5 tative fails to provide evidence to demonstrate an inability to pay full cost of care, the agency may
 6 determine the person has the ability to pay the full cost of care.

7 (4) The agency shall provide actual notice to the person and any authorized representative, if
 8 known to the agency, of its determination by issuing an ability-to-pay order. The order shall state
 9 the person's full liability and the person's determined ability to pay. Actual notice means receipt by
 10 the person and the authorized representative of notice. The notice shall include a copy of the
 11 ability-to-pay order, a description of the person's appeal rights and the date upon which appeal
 12 rights terminate and state the address where a request for hearing may be mailed or delivered. At
 13 any time, the agency may reissue an ability-to-pay order to notify an authorized representative as
 14 provided by ORS 179.653 (4).

15 (5) At any time during the person's stay at the state institution or within 36 months from the
 16 date the person is released, if the agency receives new financial information that shows a change
 17 in the person's financial circumstances, the agency shall consider the changed circumstances and
 18 issue a new ability-to-pay order.

19 (6) Orders issued after the person is released may not require the person to make payments to-
 20 ward the cost of care for more than 36 consecutive months following release. However, the agency
 21 may collect beyond the 36-month period any payments that became due but were not paid within the
 22 36 months following release. Any remaining balance of full cost of care shall be collected as pro-
 23 vided in ORS 179.740.

24 (7) Notwithstanding ORS 183.315 (5), if a person or authorized representative disagrees with any
 25 ability-to-pay order issued pursuant to this section, the person or authorized representative may re-
 26 quest a contested case hearing. To the extent practical, the hearing will be held at a location con-
 27 venient to the person or the authorized representative. The request must be postmarked within 60
 28 days from the date of the mailing of the ability-to-pay order. If the person or the authorized repre-
 29 sentative makes a timely request for a contested case hearing, the hearing and any appeal of the
 30 final hearing order shall be governed by ORS 183.413 to 183.497. If the person or the authorized
 31 representative fails to make a timely request for a contested case hearing, the ability-to-pay order
 32 shall be final and not subject to judicial review, except as subsequently modified by the agency as
 33 provided in subsection (5) of this section.

34 (8) On appeal, regardless of other information presented, payment of the full cost of care may
 35 be ordered if the person or the authorized representative refuses to produce financial information
 36 that the Hearings Officer or administrative law judge determines is relevant and must be produced.

37 **SECTION 27.** Section 15, chapter 52, Oregon Laws 2014, is amended to read:

38 **Sec. 15.** As used in ORS 307.130, 307.147, 308A.450, 310.140[, 310.630] and 310.800, "Internal
 39 Revenue Code" means the federal Internal Revenue Code as amended and in effect on December 31,
 40 [2013] (2014).

41 42 UNIT CAPTIONS

43
44 **SECTION 28.** The unit captions used in this 2015 Act are provided only for the conven-
 45 ience of the reader and do not become part of the statutory law of this state or express any

1 legislative intent in the enactment of this 2015 Act.

2
3 OPERATIVE DATE

4
5 **SECTION 29.** (1) The repeal of ORS 310.630, 310.635, 310.651, 310.652, 310.690, 310.695,
6 310.706 and 314.860 by section 1 of this 2015 Act and the amendments to ORS 18.845, 18.896,
7 179.640, 305.265, 305.380, 310.657, 310.692, 311.666, 311.678, 311.706, 311.708, 314.400, 314.835,
8 314.840, 316.147, 316.157, 316.158, 411.083 and 454.662 and section 17, chapter 906, Oregon Laws
9 2007, and section 15, chapter 52, Oregon Laws 2014, by sections 4, 5 and 9 to 27 of this 2015
10 Act become operative on January 1, 2016.

11 (2) The repeal of ORS 310.657 by section 2 of this 2015 Act becomes operative on Decem-
12 ber 31, 2016.

13 (3) Sections 7 and 8 of this 2015 Act become operative on July 1, 2017.

14 (4) The Director of the Department of Revenue and the Director of the Housing and
15 Community Services Department may take any action before the operative dates specified
16 in subsections (1) to (3) of this section that is necessary to enable the directors to exercise,
17 on and after the operative dates specified in subsections (1) to (3) of this section, the duties,
18 functions and powers of the directors and the departments under this 2015 Act.

19
20 EFFECTIVE DATE

21
22 **SECTION 30.** This 2015 Act takes effect on the 91st day after the date on which the 2015
23 regular session of the Seventy-eighth Legislative Assembly adjourns sine die.
24
