

# D R A F T

## SUMMARY

Provides that transferee of homestead is not liable for amounts of outstanding deferred property taxes due on homestead if transferee receives no interest in real or personal property from estate.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to the liability of transferees for deferred homestead property taxes;  
3 creating new provisions; amending ORS 311.695; and prescribing an ef-  
4 fective date.

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

6 **SECTION 1.** ORS 311.695 is amended to read:

7 311.695. (1)(a) **Except as provided in paragraph (b) of this subsection,**  
8 a transferee of a homestead who is ineligible to claim, or does not claim,  
9 deferral under ORS 311.666 to 311.701, or that is not an individual, is jointly  
10 and severally liable for amounts payable under ORS 311.686 to the extent of  
11 the positive amount, if any, remaining after subtracting the amount of all  
12 liens prior to the Department of Revenue's liens for deferred taxes arising  
13 under ORS 311.673 or 311.679 from the real market value of the homestead  
14 entered on the last certified assessment and tax roll prior to the date of the  
15 transfer.

16 **(b) A transferee of a homestead is not liable for amounts payable**  
17 **under ORS 311.686, as determined under paragraph (a) of this sub-**  
18 **section, if the transferee receives no interest in real or personal**  
19 **property from the estate.**

1 (2) The department shall issue by mail a notice of liability to a transferee  
2 after deferred amounts for which the transferee is liable under this section  
3 become payable under ORS 311.686.

4 (3)(a) Within 30 days after the department mails the notice of liability  
5 required under subsection (2) of this section, the transferee:

6 (A) Shall pay the deferred amounts, plus interest, the cost of insurance  
7 purchased pursuant to ORS 311.670 (4)(b) and fees; or

8 (B)(i) Shall notify the department in writing of objections to the notice  
9 of liability; and

10 (ii) May request a conference. The provisions of ORS 305.265 governing  
11 a conference requested relating to a notice of deficiency apply to a confer-  
12 ence requested under this sub-subparagraph.

13 (b) If the department does not receive payment or written objection to the  
14 notice of liability within 30 days after the notice has been mailed, the notice  
15 of liability becomes final.

16 (c) A transferee may appeal the notice of liability to the tax court in the  
17 manner provided for an appeal from a notice of assessment within 90 days  
18 after the notice becomes final under this subsection.

19 (4)(a) After a conference, or, if no conference is requested, a determi-  
20 nation of the issues raised by the written objections, the department shall  
21 mail to the transferee a conference letter affirming, canceling or adjusting  
22 the notice of liability.

23 (b) Within 90 days after the date on which the conference letter is mailed  
24 to the transferee, the transferee shall pay the deferred amounts, plus interest,  
25 the cost of insurance purchased pursuant to ORS 311.670 (4)(b) and fees, or  
26 appeal to the tax court in the manner provided for an appeal from a notice  
27 of assessment.

28 (5)(a) If more than one transferee may be held jointly and severally liable  
29 for payment of deferred amounts under this section, the department may re-  
30 quire any or all of the transferees who may be held liable to appear before  
31 the department for a joint determination of liability. The department shall

1 notify each transferee of the time and place set for the determination of li-  
2 ability.

3 (b) Each transferee notified of a joint determination under this subsection  
4 shall appear and present such information as is necessary to establish that  
5 person's liability or nonliability for payment of deferred amounts to the de-  
6 partment. If any person notified fails to appear, the department shall make  
7 its determination on the basis of all the information and evidence presented.  
8 The department's determination shall be binding on all persons notified and  
9 required to appear under this subsection.

10 (c)(A) If an appeal is taken to the Oregon Tax Court pursuant to ORS  
11 305.404 to 305.560 by any transferee determined to be liable for deferred  
12 amounts under this subsection, each person required to appear before the  
13 department under this subsection shall be impleaded by the plaintiff. The  
14 department may implead any transferee who may be held jointly and se-  
15 verally liable for the payment of deferred amounts. Each person impleaded  
16 under this paragraph shall be made a party to the action before the tax court  
17 and shall make available to the tax court such information as was presented  
18 before the department, as well as such other information as may be presented  
19 to the court.

20 (B) The court may determine that one or more persons impleaded under  
21 this paragraph are liable for deferred amounts without regard to any earlier  
22 determination by the department that an impleaded person was not liable for  
23 deferred amounts.

24 (C) If any person required to appear before the court under this sub-  
25 section fails or refuses to appear or bring such information in part or in  
26 whole, or is outside the jurisdiction of the tax court, the court shall make  
27 its determination on the basis of all the evidence introduced. All such evi-  
28 dence shall constitute a public record and shall be available to the parties  
29 and the court. The determination of the tax court shall be binding on all  
30 persons made parties to the action under this subsection.

31 (d) Nothing in this section shall be construed to preclude a determination

1 by the department or the Oregon Tax Court that more than one transferee  
2 is jointly and severally liable for deferred amounts.

3 **SECTION 2. The amendments to ORS 311.695 by section 1 of this**  
4 **2019 Act apply to:**

5 (1) A transfer occurring on or after the effective date of this 2019  
6 Act.

7 (2) A transfer occurring before the effective date of this 2019 Act if  
8 the circumstances described in ORS 311.695 (1)(b) apply to the transfer  
9 and the amounts payable under ORS 311.686 with respect to the  
10 transfer have not been paid as of the effective date of this 2019 Act.  
11 Any amounts that have been charged to a transferee with respect to  
12 a transfer described in this subsection shall be canceled.

13 **SECTION 3. This 2019 Act takes effect on the 91st day after the date**  
14 **on which the 2019 regular session of the Eightieth Legislative Assem-**  
15 **bly adjourns sine die.**

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