

# House Bill 2460

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary for Oregon State Bar Elder Law Section)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Provides 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; creating new pro-  
3 visions; amending ORS 311.695; and prescribing an effective date.

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

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

6 311.695. (1)(a) **Except as provided in paragraph (b) of this subsection**, a transferee of a  
7 homestead who is ineligible to claim, or does not claim, deferral under ORS 311.666 to 311.701, or  
8 that is not an individual, is jointly and severally liable for amounts payable under ORS 311.686 to  
9 the extent of the positive amount, if any, remaining after subtracting the amount of all liens prior  
10 to the Department of Revenue's liens for deferred taxes arising under ORS 311.673 or 311.679 from  
11 the real market value of the homestead entered on the last certified assessment and tax roll prior  
12 to the date of the transfer.

13 **(b) A transferee of a homestead is not liable for amounts payable under ORS 311.686, as**  
14 **determined under paragraph (a) of this subsection, if the transferee receives no interest in**  
15 **real or personal property from the estate.**

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

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

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

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

23 (ii) May request a conference. The provisions of ORS 305.265 governing a conference requested  
24 relating to a notice of deficiency apply to a conference requested under this sub-subparagraph.

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

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

30 (4)(a) After a conference, or, if no conference is requested, a determination of the issues raised

**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 by the written objections, the department shall mail to the transferee a conference letter affirming,  
 2 canceling or adjusting the notice of liability.

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

7 (5)(a) If more than one transferee may be held jointly and severally liable for payment of de-  
 8 ferred amounts under this section, the department may require any or all of the transferees who  
 9 may be held liable to appear before the department for a joint determination of liability. The de-  
 10 partment shall notify each transferee of the time and place set for the determination of liability.

11 (b) Each transferee notified of a joint determination under this subsection shall appear and  
 12 present such information as is necessary to establish that person's liability or nonliability for pay-  
 13 ment of deferred amounts to the department. If any person notified fails to appear, the department  
 14 shall make its determination on the basis of all the information and evidence presented. The  
 15 department's determination shall be binding on all persons notified and required to appear under  
 16 this subsection.

17 (c)(A) If an appeal is taken to the Oregon Tax Court pursuant to ORS 305.404 to 305.560 by any  
 18 transferee determined to be liable for deferred amounts under this subsection, each person required  
 19 to appear before the department under this subsection shall be impleaded by the plaintiff. The de-  
 20 partment may implead any transferee who may be held jointly and severally liable for the payment  
 21 of deferred amounts. Each person impleaded under this paragraph shall be made a party to the  
 22 action before the tax court and shall make available to the tax court such information as was pre-  
 23 sented before the department, as well as such other information as may be presented to the court.

24 (B) The court may determine that one or more persons impleaded under this paragraph are lia-  
 25 ble for deferred amounts without regard to any earlier determination by the department that an  
 26 impleaded person was not liable for deferred amounts.

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

33 (d) Nothing in this section shall be construed to preclude a determination by the department or  
 34 the Oregon Tax Court that more than one transferee is jointly and severally liable for deferred  
 35 amounts.

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

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

38 **(2) A transfer occurring before the effective date of this 2019 Act if the circumstances**  
 39 **described in ORS 311.695 (1)(b) apply to the transfer and the amounts payable under ORS**  
 40 **311.686 with respect to the transfer have not been paid as of the effective date of this 2019**  
 41 **Act. Any amounts that have been charged to a transferee with respect to a transfer de-**  
 42 **scribed in this subsection shall be canceled.**

43 **SECTION 3. This 2019 Act takes effect on the 91st day after the date on which the 2019**  
 44 **regular session of the Eightieth Legislative Assembly adjourns sine die.**