

House Bill 2846

Sponsored by COMMITTEE ON VETERANS' AFFAIRS

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**.

Permits veteran who is eligible for veterans homestead property tax partial exemption and who is at least 70 percent disabled to defer property taxes on portion of homestead that is not exempt. Establishes total exemption from property tax for homestead of veteran who is 100 percent disabled. Applies to tax years beginning on or after July 1, 2006.

A BILL FOR AN ACT

1
2 Relating to taxation; creating new provisions; and amending ORS 307.250, 307.260, 307.262, 307.270
3 and 307.280.

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

5 **SECTION 1.** ORS 307.250 is amended to read:

6 307.250. (1) Upon compliance with ORS 307.260 **and subject to subsection (3) of this section,**
7 *[there shall be exempt from taxation not to exceed \$8,750 of the assessed value of]* the homestead or
8 personal property of any of the following residents of this state other than those described in sub-
9 section (2) of this section, **shall be exempt from property taxation:**

10 (a) Any war veteran who is officially certified by the United States Department of Veterans
11 Affairs or any branch of the Armed Forces of the United States as having disabilities of 40 percent
12 or more.

13 (b) Any war veteran having served with the United States Armed Forces who, as certified by
14 one duly licensed physician, is rated as having disabilities of 40 percent or more. However, a veteran
15 shall be entitled to the exemption granted under this paragraph only if the veteran during the cal-
16 endar year immediately preceding the assessment year for which the exemption is claimed had total
17 gross income, including pensions, disability compensation or retirement pay, or any combination of
18 such payments from the United States Government on account of such service, of not more than:

19 (A) \$8,778 if the veteran was without a spouse or dependent child;

20 (B) \$11,497 if the veteran had either a spouse or a dependent child; or

21 (C) The amount specified in subparagraph (B) of this paragraph plus \$1,496 for each dependent
22 child, if the veteran had a spouse and dependent child or children, or if the veteran had only de-
23 pendent children, the amount specified in subparagraph (B) of this paragraph plus \$1,496 for each
24 additional dependent child after the first.

25 (c) The surviving spouse remaining unmarried of a war veteran, but the exemption shall apply
26 only to the period preceding the date of the first remarriage of the surviving spouse.

27 (2) Upon compliance with ORS 307.260 **and subject to subsection (3) of this section,** *[there*
28 *shall be exempt from taxation not to exceed \$11,670 of the assessed value of]* the homestead or personal
29 property of any of the following residents of this state **shall be exempt from property taxation:**

30 (a) Any war veteran who is officially certified by the United States Department of Veterans

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 Affairs or any branch of the Armed Forces of the United States as having service-connected disa-
2 bilities of 40 percent or more.

3 (b) The surviving spouse remaining unmarried of a war veteran, if the war veteran died as a
4 result of service-connected injury or illness or if the war veteran received at least one year of the
5 maximum exemption from taxation allowed under paragraph (a) of this subsection after 1981 for a
6 veteran certified as having service-connected disabilities of 40 percent or more.

7 **(3)(a) For an individual described in subsection (1) of this section who is certified as**
8 **having disabilities of 40 percent or more but less than 70 percent, the exemption may not**
9 **exceed \$8,750 of the assessed value of the homestead or personal property of the individual.**

10 **(b) For an individual described in subsection (2) of this section who is certified as having**
11 **disabilities of 40 percent or more but less than 70 percent, the exemption may not exceed**
12 **\$11,670 of the assessed value of the homestead or personal property of the individual.**

13 **(c) For an individual described in subsection (1) or (2) of this section who is certified as**
14 **having disabilities of 70 percent or more but less than 100 percent, the exemption may not**
15 **exceed the amount otherwise allowed under paragraph (a) or (b) of this subsection, but the**
16 **balance of property taxes imposed on the homestead or personal property may be deferred**
17 **as prescribed in subsection (5) of this section.**

18 **(d) For an individual described in subsection (1) or (2) of this section who is certified as**
19 **being 100 percent disabled, the entire assessed value of the homestead or personal property**
20 **shall be exempt from tax.**

21 [(3)] (4) For each tax year beginning on or after July 1, 2000, the amount of the exemption al-
22 lowed under subsection [(1) or (2)] (3)(a) or (b) of this section shall equal 103 percent of the amount
23 of the exemption for the prior tax year.

24 **(5)(a) In the case of an individual described in subsection (3)(c) of this section, the prop-**
25 **erty taxes deferred under this section, plus interest and recording fees, constitute a lien**
26 **against the homestead or personal property, until paid.**

27 **(b) The lien shall be recorded in the mortgage records of the county in which the home-**
28 **stead or personal property is located.**

29 **(c) The lien for deferred taxes shall attach to the property on July 1 of the year in which**
30 **the taxes were assessed. The deferred property tax liens shall have the same priority as**
31 **other real property tax liens except that the lien of mortgages, trust deeds or security in-**
32 **terests that are recorded or noted on any certificate of title prior in time to the attachment**
33 **of the lien for deferred taxes shall be prior to the liens for deferred taxes.**

34 **(d) The lien may be foreclosed by the county in which the homestead or personal property**
35 **is located as if the lien were a purchase money mortgage under ORS chapter 88. The court**
36 **may award reasonable attorney fees to the Department of Revenue if the department pre-**
37 **vails in a foreclosure action under this section. The court may award reasonable attorney**
38 **fees to a defendant who prevails in a foreclosure action under this section if the court de-**
39 **termines that the department had no objectively reasonable basis for asserting the claim or**
40 **no reasonable basis for appealing an adverse decision of the court.**

41 **(e) Receipts from payment of the deferred taxes or from foreclosure proceedings shall**
42 **be credited to the unsegregated tax collections account of the county in which the homestead**
43 **or personal property is located.**

44 **SECTION 2.** ORS 307.260 is amended to read:

45 307.260. (1)(a) Each veteran or surviving spouse qualifying for the exemption or deferral under

1 ORS 307.250 shall file with the county assessor, on forms supplied by the assessor, a claim therefor
2 in writing on or before April 1 of the assessment year for which the exemption **or deferral** is
3 claimed, except that when the property designated is acquired after March 1 but prior to July 1 the
4 claim for that year shall be filed within 30 days after the date of acquisition.

5 (b) Not later than April 10 in each year, the county assessor shall notify each veteran or sur-
6 viving spouse of a veteran in the county who secured an exemption **or deferral** under ORS 307.250
7 in the preceding year but who did not make application therefor on or before April 1 of the current
8 year. [*Such*] **The** notice may be given on an unsealed postal card. Any veteran or surviving spouse
9 so notified may secure [*such*] **the** exemption **or deferral**, if still qualified, by making application
10 therefor to the county assessor not later than May 1 of the current year, accompanied by a late-
11 filing fee of \$10 which shall be deposited in the general fund of the county for general governmental
12 expenses. If the claim for any year is not filed within the time specified, the exemption [*shall*] **or**
13 **deferral may** not be allowed on the assessment roll of that year.

14 (2) The claim shall set out the basis of the claim and designate the property to which the ex-
15 emption **or deferral** may apply. Except as provided in subsection (3) of this section, claims [*for ex-*
16 *emptions*] **made by individuals described** under ORS 307.250 (1)(a) and (2)(a) shall have annexed
17 thereto the certificate last issued by United States Department of Veterans Affairs or the branch
18 of the Armed Forces of the United States, as the case may be, but dated within three years prior
19 to the date of the claim for exemption, certifying the rate of disability of the claimant. Claims [*for*
20 *exemption*] **made by individuals described** under ORS 307.250 (1)(b) shall, except as provided in
21 subsection (3) of this section, have annexed thereto, in addition to any certificate prescribed, a
22 statement by the claimant under oath or affirmation setting forth the total gross income received
23 by the claimant from all sources during the last calendar year. There shall be annexed to each claim
24 the affidavit or affirmation of the claimant that the statements contained therein are true.

25 (3) The provisions of subsection (2) of this section [*which*] **that** require a veteran to annex to
26 the claim certificates of either the United States Department of Veterans Affairs, any branch of the
27 Armed Forces of the United States or a duly licensed physician[, *shall*] **do** not apply to a veteran
28 who has filed the required certificate after attaining the age of 65 years or to a veteran who has
29 filed, on or after September 27, 1987, a certificate certifying a disability rating that, under federal
30 law, is permanent and cannot be changed.

31 (4)(a) Notwithstanding subsection (1) of this section, a surviving spouse may file a claim for
32 [*the*] exemption **or deferral** under ORS 307.250 at any time during the tax year if:

33 (A) The veteran died during the previous tax year; or

34 (B) The property designated as the homestead was acquired after March 1 but prior to July 1
35 of the assessment year and the veteran died within 30 days of the date the property was acquired.

36 (b) The claim shall be allowed by the county assessor if the surviving spouse meets all of the
37 qualifications for [*an*] exemption **or deferral** under ORS 307.250 other than the timely filing of a
38 claim under subsection (1) of this section.

39 (c) If taxes on the exempt value have been paid **or if taxes that are permitted to be deferred**
40 **under ORS 307.250 (5) have been paid**, the taxes shall be refunded in the manner prescribed in
41 paragraph (d) of this subsection. If taxes on the exempt value have not been paid **or if taxes that**
42 **are permitted to be deferred under ORS 307.250 (5) have not been paid**, the taxes and any in-
43 terest thereon shall be abated.

44 (d) The tax collector shall notify the governing body of the county of any refund required under
45 this section and the governing body shall cause a refund of the taxes and any interest paid to be

1 made from the unsegregated tax collections account described in ORS 311.385. The refund under this
 2 subsection shall be made without interest. The county assessor and tax collector shall make the
 3 necessary corrections in the records of their offices.

4 **(e) The lien on taxes that are permitted to be deferred under this subsection and ORS**
 5 **307.250 (5) shall attach as of the date of refund of the deferred taxes.**

6 **SECTION 3.** ORS 307.262 is amended to read:

7 307.262. (1) Notwithstanding ORS 307.260, if a war veteran receives notice of certification from
 8 the United States Department of Veterans Affairs or any branch of the Armed Forces of the United
 9 States that the war veteran has disabilities of 40 percent or more as of a date set forth in the cer-
 10 tification, the war veteran may obtain the exemption **or deferral** set forth in ORS 307.250 for each
 11 tax year following the date of certified disability.

12 (2) A war veteran seeking to obtain an exemption **or deferral** under ORS 307.250 pursuant to
 13 this section must file a claim for exemption with the county assessor within six months of the date
 14 the federal government agency notifies the war veteran of the certified disability.

15 (3) Notwithstanding subsection (1) of this section, a war veteran may not receive an exemption
 16 **or deferral** under ORS 307.250 for a tax year that is more than three tax years prior to the tax year
 17 in which a claim is filed under this section.

18 (4)(a) If the county assessor determines that a war veteran who has filed a claim under this
 19 section meets the requirements of ORS 307.250 for a tax year prior to the current tax year, property
 20 taxes collected on the exempt amount for the prior tax year, together with interest at the rate set
 21 forth in ORS 311.812, shall be refunded to the war veteran.

22 **(b) If the county assessor determines that a war veteran who has filed a claim under this**
 23 **section meets the requirements of ORS 307.250 (5) for a tax year prior to the current tax**
 24 **year, property taxes collected that may be deferred under ORS 307.250 (5) for the prior tax**
 25 **year, together with interest at the rate set forth in ORS 311.812, shall be refunded to the**
 26 **war veteran.**

27 (c) Refunds shall be made from the refund reserve account established under ORS 311.807. **The**
 28 **lien on taxes that are permitted to be deferred under ORS 307.250 (5) shall attach as of the**
 29 **date of refund of the deferred taxes.**

30 **SECTION 4.** ORS 307.270 is amended to read:

31 307.270. (1) The exemption **or deferral** under ORS 307.250 shall apply to property any such
 32 veteran or surviving spouse may own, or have in possession under a recorded contract of purchase,
 33 on January 1 of the year in which the exemption **or deferral** is claimed. The exemption **or deferral**
 34 shall first apply to the homestead of the veteran or surviving spouse and then to the personal
 35 property of the veteran or surviving spouse. Property of the spouse of any such veteran where they
 36 are living together and occupying the same as their homestead shall be deemed the homestead of
 37 the veteran. When any such veteran or surviving spouse applies for exemption on properties in two
 38 or more counties, the total amount of the exemption allowed in all such counties [*shall*] **may** not
 39 exceed \$8,750 or \$11,670, whichever is applicable, **unless the applicant is entitled to a total ex-**
 40 **emption under ORS 307.250 (3)(d).**

41 (2) For each qualified veteran or surviving spouse only one valid and allowable claim for [*an*]
 42 exemption **or deferral** on a homestead shall be permitted in any one assessment year.

43 **SECTION 5.** ORS 307.280 is amended to read:

44 307.280. Allowance of the exemption **or deferral**, under ORS 307.250, in any year [*shall*] **does**
 45 not have the effect of canceling or permitting the cancellation of any tax levied in any prior year.

1 **SECTION 6.** The amendments to ORS 307.250, 307.260, 307.262, 307.270 and 307.280 by
2 sections 1 to 5 of this 2005 Act apply to tax years beginning on or after July 1, 2006.
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