

**Enrolled**  
**House Bill 2478**

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Consumer Protection and Government Accountability for Government Efficiency Task Force)

CHAPTER .....

AN ACT

Relating to appeals of valuation of industrial property; creating new provisions; amending ORS 305.275, 305.403 and 309.100; and prescribing an effective date.

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

**SECTION 1.** ORS 305.403 is amended to read:

305.403. (1) *[In the case of]* **An appeal by** a taxpayer dissatisfied with the assessed or specially assessed value of land or improvements of a principal or secondary industrial property, *the taxpayer may elect to proceed directly to* **must be brought in** the tax court. *[An appeal involving the assessed or specially assessed value of both the land and improvements of a principal or secondary industrial property must be brought together in the same forum, whether the forum is the board of property tax appeals or the tax court.]*

(2) *[Election shall be made]* **An appeal under this section is taken** by filing a complaint with the tax court in the manner *[as other complaints are filed]* **prescribed** under ORS 305.560 *[within the time otherwise prescribed for filing an appeal to the board of property tax appeals. An election under this subsection may not be revoked and the taxpayer shall have no further right of appeal to the county board of property tax appeals]* **during the period following the date the tax statements are mailed for the current tax year and ending December 31.**

(3)(a) The complaint shall be entitled in the name of the person filing the complaint as plaintiff, and the Department of Revenue and the county assessor as defendants.

**(b)** In answering and defending against the allegations of the complaint:

(A) The department shall respond only to those allegations that relate to the appraisal or assessment performed by the department; and

(B) The county assessor shall respond only to those allegations that relate to the appraisal or assessment performed by the county assessor.

*[(b)]* **(c)** The department and the county assessor shall both remain parties to a proceeding described in this subsection unless either party is dismissed by order of the court.

(4) Service of the complaint upon the department and the county assessor shall be accomplished by the clerk of the tax court mailing a copy of the complaint to the Director of the Department of Revenue and to the county assessor.

*[(5) Upon an appeal directly to the tax court under this section, the county board of property tax appeals shall dismiss any appeal filed with the board involving the issue of assessed value or specially assessed value for the same property for the same tax year.]*

[6] (5) As used in this section, “principal industrial property” and “secondary industrial property” have the meanings given the terms under ORS 306.126 and include those properties appraised by the department for ad valorem property tax purposes.

**SECTION 2.** ORS 309.100 is amended to read:

309.100. (1) **Except as provided in ORS 305.403**, the owner or an owner of any taxable property or any person who holds an interest in the property that obligates the person to pay taxes imposed on the property, may petition the board of property tax appeals for relief as authorized under ORS 309.026. As used in this subsection, an interest that obligates the person to pay taxes includes a contract, lease or other intervening instrumentality.

(2) Petitions filed under this section shall be filed with the clerk of the board during the period following the date the tax statements are mailed for the current tax year and ending December 31.

(3) Each petition shall:

(a) Be made in writing.

(b) State the facts and the grounds upon which the petition is made.

(c) Be signed and verified by the oath of a person described in subsection (1) or (4) of this section.

(d) State the address to which notice of the action of the board shall be sent. The notice may be sent to a person described in subsection (1) or (4) of this section.

(e) State if the petitioner or a representative desires to appear at a hearing before the board.

(4)(a) The following persons may sign a petition and appear before the board on behalf of a person described in subsection (1) of this section:

(A) A relative, as defined by rule adopted by the Department of Revenue, of an owner of the property.

(B) A person duly qualified to practice law or public accountancy in this state.

(C) A legal guardian or conservator who is acting on behalf of an owner of the property.

(D) A real estate broker or principal real estate broker licensed under ORS 696.022.

(E) A state certified appraiser or a state licensed appraiser under ORS 674.310 or a registered appraiser under ORS 308.010.

(F) The lessee of the property.

(G) An attorney-in-fact under a general power of attorney executed by a principal who is an owner of the property.

(b) A petition signed by a person described in this subsection, other than a legal guardian or conservator of a property owner, an attorney-in-fact described in paragraph (a)(G) of this subsection or a person duly qualified to practice law in this state, shall include written authorization for the person to act on behalf of the owner or other person described in subsection (1) of this section. The authorization shall be signed by the owner or other person described in subsection (1) of this section.

(c) In the case of a petition signed by a legal guardian or conservator, the board may request the guardian or conservator to authenticate the guardianship or conservatorship.

(d) In the case of a petition signed by an attorney-in-fact described in paragraph (a)(G) of this subsection, the petition shall be accompanied by a copy of the general power of attorney.

(5) If the petitioner has requested a hearing before the board, the board shall give such petitioner at least five days’ written notice of the time and place to appear. If the board denies any petition upon the grounds that it does not meet the requirements of subsection (3) of this section, it shall issue a written order rejecting the petition and set forth in the order the reasons the board considered the petition to be defective.

(6) Notwithstanding ORS 9.160 or 9.320, the owner or other person described in subsection (1) of this section may appear and represent himself or herself at the hearing before the board, or may be represented at the hearing by any authorized person described in subsection (4) of this section.

**SECTION 3.** ORS 305.275 is amended to read:

305.275. (1) Any person may appeal under this subsection to the magistrate division of the Oregon Tax Court as provided in ORS 305.280 and 305.560, if all of the following criteria are met:

(a) The person must be aggrieved by and affected by an act, omission, order or determination of:

(A) The Department of Revenue in its administration of the revenue and tax laws of this state;

(B) A county board of property tax appeals other than an order of the board;

(C) A county assessor or other county official, including but not limited to the denial of a claim for exemption, the denial of special assessment under a special assessment statute, or the denial of a claim for cancellation of assessment; or

(D) A tax collector.

(b) The act, omission, order or determination must affect the property of the person making the appeal or property for which the person making the appeal holds an interest that obligates the person to pay taxes imposed on the property. As used in this paragraph, an interest that obligates the person to pay taxes includes a contract, lease or other intervening instrumentality.

(c) There is no other statutory right of appeal for the grievance.

(2) Except as otherwise provided by law, any person having a statutory right of appeal under the revenue and tax laws of the state may appeal to the tax court as provided in ORS 305.404 to 305.560.

(3) [Subject to ORS 305.403,] If a taxpayer may appeal to the board of property tax appeals under ORS 309.100, then no appeal [shall] **may** be allowed under this section. The appeal under this section is from an order of the board as a result of the appeal filed under ORS 309.100 or from an order of the board that certain corrections, additions to or changes in the roll be made.

(4) A county assessor who is aggrieved by an order of the county board of property tax appeals may appeal from the order as provided in this section, ORS 305.280 and 305.560.

**SECTION 4. The amendments to ORS 305.275, 305.403 and 309.100 by sections 1 to 3 of this 2011 Act apply to appeals filed for property tax years beginning on or after July 1, 2011.**

**SECTION 5. This 2011 Act takes effect on the 91st day after the date on which the 2011 session of the Seventy-sixth Legislative Assembly adjourns sine die.**

**Passed by House February 28, 2011**

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Ramona Kenady Line, Chief Clerk of House

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

**Passed by Senate May 10, 2011**

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Peter Courtney, President of Senate

**Received by Governor:**

.....M.,....., 2011

**Approved:**

.....M.,....., 2011

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John Kitzhaber, Governor

**Filed in Office of Secretary of State:**

.....M.,....., 2011

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Kate Brown, Secretary of State