

Enrolled
House Bill 2546

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Revenue)

CHAPTER

AN ACT

Relating to exemption from property taxation; creating new provisions; amending ORS 307.112, 307.162 and 307.166; and prescribing an effective date.

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

SECTION 1. ORS 307.112 is amended to read:

307.112. (1) Real or personal property of a taxable owner held under lease, sublease or lease-purchase agreement by an institution, organization or public body, other than the State of Oregon, granted exemption or the right to claim exemption for any of its property under ORS 307.090, 307.130, 307.136, 307.140, 307.145 or 307.147, is exempt from taxation if:

(a) The property is used by the lessee or, if the lessee is not in possession of the property, **by** the entity in possession of the property, in the manner, if any, required by law for the exemption of property owned, leased, subleased or being purchased by it; and

(b) It is expressly agreed within the lease, sublease or lease-purchase agreement that the rent payable by the institution, organization or public body has been established to reflect the savings below market rent resulting from the exemption from taxation.

(2) To obtain the exemption under this section, the lessee or, if the lessee is not in possession of the property, the entity in possession of the property, must file a claim for exemption with the county assessor, verified by the oath or affirmation of the president or other proper officer of the institution or organization, or head official of the public body or legally authorized delegate, showing:

(a) A complete description of the property for which exemption is claimed.

(b) If applicable, all facts relating to the use of the property by the lessee or, if the lessee is not in possession of the property, *[all facts relating to the use of the property]* by the entity in possession of the property.

(c) A true copy of the lease, sublease or lease-purchase agreement covering the property for which exemption is claimed.

(d) Any other information required by the claim form.

(3) If the assessor is not satisfied that the rent stated in the lease, sublease or lease-purchase agreement has been established to reflect the savings below market rent resulting from the tax exemption, before the exemption may be granted the lessor must provide documentary proof, as specified by rule of the Department of Revenue, that the rent has been established to reflect the savings below market rent resulting from the tax exemption.

(4)(a) The claim must be filed on or before April 1 preceding the tax year for which the exemption is claimed, except:

(A) If the lease, sublease or lease-purchase agreement is entered into after March 1 but not later than June 30, the claim must be filed within 30 days after the date the lease, sublease or lease-purchase agreement is entered into if exemption is claimed for that year; or

(B) If a late filing fee is paid in the manner provided in ORS 307.162 (2), [*as applicable and notwithstanding the limitation of scope in ORS 307.162 (1),*] the claim may be filed [*on or before December 31 of the tax year for which exemption is first claimed*] **within the time specified in ORS 307.162 (2).**

(b) The exemption first applies for the tax year beginning July 1 of the year for which the claim is filed.

(5)(a) [The] An exemption granted under this section continues as long as the use of the property remains unchanged and during the period of the lease, sublease or lease-purchase agreement.

(b) If the use changes, a new claim must be filed as provided in this section.

(c) If the use changes due to sublease of the property or any portion of the property from the tax exempt entity described in subsection (1) of this section to another tax exempt entity, the entity in possession of the property must file a new claim for exemption as provided in this section.

(d) If the lease, sublease or lease-purchase agreement expires before July 1 of any year, the exemption terminates as of January 1 of the same calendar year.

SECTION 2. ORS 307.162 is amended to read:

307.162. (1)(a) Before any real or personal property may be exempted from taxation under ORS 307.115, 307.118, 307.130 to 307.140, 307.145, 307.147, 307.150, 307.160 or 307.580 for any tax year, the institution or organization entitled to claim the exemption must file a claim with the county assessor, on or before April 1 preceding the tax year for which the exemption is claimed. The claim must contain statements, verified by the oath or affirmation of the president or other proper officer of the institution or organization, that:

(A) List all real property claimed to be exempt and show the purpose for which the real property is used; and

(B) Cite the statutes under which exemption for personal property is claimed.

(b) If the ownership of all property included in the claim filed with the county assessor for a prior year remains unchanged, a new claim is not required.

(c) When the property designated in the claim for exemption is acquired after March 1 and before July 1, the claim for that year must be filed within 30 days from the date of acquisition of the property.

(2)(a) Notwithstanding subsection (1) of this section, a claim may be filed under this section **for the current tax year:**

(A) On or before December 31 of the tax year [*for which the exemption is claimed*], if the claim is accompanied by a late filing fee of the greater of \$200, or one-tenth of one percent of the real market value as of the most recent assessment date of the property to which the claim pertains.

(B) On or before April 1 of the tax year [*for which the exemption is claimed*], if the claim is accompanied by a late filing fee of \$200 and the claimant demonstrates good and sufficient cause for failing to file a timely claim, is a first-time filer or is a public entity described in ORS 307.090.

(b)(A) Notwithstanding subsection (1) of this section, a claimant that demonstrates good and sufficient cause for failing to file a timely claim, is a first-time filer or is a public entity described in ORS 307.090 may file a claim under this section for the five tax years prior to the current tax year:

(i) **Within 60 days after the date on which the county assessor mails notice of additional taxes owing under ORS 311.206 for the property to which the claim filed under this subparagraph pertains; or**

(ii) **At any time if no notice is mailed.**

(B) A claim filed under this paragraph must be accompanied by a late filing fee of the greater of \$200, or one-tenth of one percent of the real market value as of the most recent

assessment date of the property to which the claim pertains, multiplied by the number of prior tax years for which exemption is claimed.

[(b)] (c) If [the] a claim **filed under this subsection** is not accompanied by the late filing fee or if the late filing fee is not otherwise paid, an exemption may not be allowed for the tax [year] **years** sought by the claim [filed pursuant to this subsection]. A claim may be filed under this subsection notwithstanding that there are no grounds for hardship as required for late filing under ORS 307.475.

[(c)] (d) The value of the property used to determine the late filing fee under this subsection and the determination of the county assessor relative to a claim of good and sufficient cause are appealable in the same manner as other acts of the county assessor.

[(d)] (e) A **late** filing fee collected under this subsection must be deposited in the county general fund.

(3) As used in this section:

(a) "First-time filer" means a claimant that:

(A) Has never filed a claim for the property that is the subject of the current claim; and

(B) Did not receive notice from the county assessor on or before December 1 of the tax year for which exemption is claimed regarding the potential property tax liability of the property.

(b)(A) "Good and sufficient cause" means an extraordinary circumstance beyond the control of the taxpayer or the taxpayer's agent or representative that causes the failure to file a timely claim.

(B) "Good and sufficient cause" does not include hardship, reliance on misleading information unless the information is provided by an authorized tax official in the course of the official's duties, lack of knowledge, oversight or inadvertence.

(c) "Ownership" means legal and equitable title.

(4)(a) Notwithstanding subsection (1) of this section, if an institution or organization owns property that is exempt from taxation under a provision of law listed in subsection (1) of this section and fails to file a timely claim for exemption under subsection (1) of this section for additions or improvements to the exempt property, the additions or improvements may nevertheless qualify for exemption.

(b) The organization must file a claim for exemption with the county assessor to have the additions or improvements to the exempt property be exempt from taxation. The claim must:

(A) Describe the additions or improvements to the exempt property;

(B) Describe the current use of the property that is the subject of the application;

(C) Identify the tax year and any preceding tax years for which the exemption is sought;

(D) Contain any other information required by the Department of Revenue; and

(E) Be accompanied by a late filing fee equal to the product of the number of tax years for which exemption is sought multiplied by the greater of \$200 or one-tenth of one percent of the real market value as of the most recent assessment date of the property that is the subject of the claim.

(c) Upon the county assessor's receipt of a completed claim and late filing fee, the assessor shall determine for each tax year for which exemption is sought whether the additions or improvements that are the subject of the claim would have qualified for exemption had a timely claim been filed under subsection (1) of this section. Any property that would have qualified for exemption had a timely claim been filed under subsection (1) of this section is exempt from taxation for each tax year for which the property would have qualified.

(d) A claim for exemption under this subsection may be filed only for tax years for which the time for filing a claim under subsections (1) and (2)(a) of this section has expired. A claim filed under this subsection, however, may serve as the claim required under subsection (1) of this section for the current tax year.

(e) A late filing fee collected under this subsection must be deposited in the county general fund.

[(e)] (5) For each tax year for which an exemption granted pursuant to [this] subsection (2) or (4) of this section applies:

[(A)] (a) Any tax, or interest attributable thereto, that was paid with respect to the property that is declared exempt from taxation must be refunded. Refunds must be made **without interest** from the unsegregated tax collections account established under ORS 311.385.

[(B)] (b) Any tax, or interest attributable thereto, that remains unpaid as of the date the exemption is granted must be abated.

[(f) A late filing fee collected under this subsection must be deposited in the county general fund.]

[(5)] (6) If an institution or organization owns property that is exempt from taxation under a provision of law listed in subsection (1) of this section and changes the use of the property to a use that would not entitle the property to exemption from taxation, the institution or organization must notify the county assessor of the change to a taxable use within 30 days.

SECTION 3. ORS 307.166 is amended to read:

307.166. (1) If property is owned or being purchased by an institution, organization or public body that is granted exemption or the right to claim exemption for any of its property under a provision of law contained in this chapter, and the institution, organization or public body leases or otherwise grants the use and possession of the property to another institution, organization or public body that is likewise granted exemption or the right to claim exemption for property under a provision of law contained in this chapter, the property is exempt from taxation if used by the lessee or possessor in the manner, if any, required by law for the exemption of property owned or being purchased by the lessee or possessor and the rent payable under the lease or other grant of use and possession of the property has been established to reflect the savings below market rent resulting from the exemption from taxation. Likewise, if the property is sublet or otherwise the use and possession of the property is granted to another institution, organization or public body of the kind described in this subsection, the property is exempt if used by the sublessee or possessor in the manner, if any, required by law for the exemption of property owned or being purchased by the sublessee or possessor and the rent payable under the sublease or other grant of use and possession of the property has been established to reflect the savings below market rent resulting from the exemption from taxation.

(2) To obtain the exemption under this section, the lessee or entity in possession must file a claim for exemption with the county assessor, verified by the oath or affirmation of the president or other proper officer of the institution or organization, or head official of the public body or the legally authorized delegate of the head official, showing:

- (a) A complete description of the property for which exemption is claimed.
- (b) All facts relating to the ownership or purchase of the property.
- (c) All facts relating to the use of the property by the lessee or entity in possession.
- (d) A true copy of the lease, sublease or other grant of use and possession covering the property for which exemption is claimed.
- (e) Any other information required by the claim form.

(3)(a) The claim must be filed on or before April 1 preceding the tax year for which the exemption is claimed, except:

(A) If the lease, sublease or other grant of use and possession is entered into after March 1 but not later than June 30, the claim must be filed within 30 days after the date the lease, sublease or other grant of use and possession is entered into if the exemption is claimed for the assessment year beginning on the preceding January 1; or

(B) If a late filing fee is paid in the manner provided in ORS 307.162 (2), *[as applicable and notwithstanding the limitation of scope in ORS 307.162 (1),]* the claim may be filed *[on or before December 31 of the assessment year for which exemption is first claimed]* **within the time specified in ORS 307.162 (2).**

(b) The exemption first applies for the tax year beginning July 1 of the year for which the claim is filed. The exemption continues as long as the ownership and use of the property remain unchanged and during the period of the lease, sublease or other grant of use and possession. If either the ownership or use changes, a new claim must be filed as provided in this section. If the lease,

sublease or other grant of use and possession expires before July 1 of any year, the exemption terminates as of January 1 of the same calendar year.

SECTION 4. The amendments to ORS 307.112, 307.162 and 307.166 by sections 1 to 3 of this 2011 Act apply to 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 May 5, 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 June 21, 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