

Enrolled
House Bill 2485

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CHAPTER

AN ACT

Relating to property taxation; creating new provisions; amending ORS 308.425, 311.252, 311.795, 311.806 and 311.808 and section 5, chapter 23, Oregon Laws 2015 (Enrolled Senate Bill 611); and prescribing an effective date.

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

SECTION 1. ORS 311.806 is amended to read:

311.806. (1) Subject to subsection (2) of this section, the county governing body shall refund, out of the refund reserve account provided in ORS 311.807, or the unsegregated tax collections account provided in ORS 311.385, taxes on property collected by an assessor or tax collector pursuant to a levy of the assessor or of any taxing district or tax levying body or pursuant to ORS 311.255, plus interest as provided in ORS 311.812, in the following cases:

(a) To the person described in ORS 309.100 (1) and in whose name a petition was filed, whenever a change in the value of property is ordered by a county board of property tax appeals and no appeal is taken or can be taken from the board's order, or whenever ordered by the Oregon Tax Court or the Supreme Court and the order constitutes a final determination of the matter;

(b) To the person who has sought and obtained an order from the Department of Revenue under ORS 306.115, whenever a change in the value of property is ordered by the department and no appeal is taken or can be taken from the order of the department;

(c) To the person who meets the criteria described in ORS 305.275 and in whose name an appeal is filed under ORS 305.275, whenever ordered by the Oregon Tax Court or Supreme Court and the order constitutes a final determination of the matter;

(d) Whenever a change in the value of property is made under ORS 309.115 upon resolution of an appeal and no separate appeal of the value of the property was taken for the year of the change:

(A) To the person in whose name the appeal was filed, for each year after the year for which the appeal was filed in which that person was listed as the owner or an owner or the person in whose name the property was assessed; and

(B) To the owner of record on the tax roll at the time of refund, each year thereafter;

(e) To the owner of record on the tax roll at the time of refund, whenever taxes are collected against real or personal property not within the jurisdiction of the tax levying body;

(f) Except as provided in ORS 310.143, to the owner of record on the tax roll at the time of refund, whenever, through excusable neglect or through an error subject to correction under ORS 311.205, **other than ORS 311.205 (1)(b)(A)**, taxes on property are paid in excess of the amount legally chargeable, limited to the amount of money collected in excess of the amount actually due; [or]

(g) To the person in whose name the appeal was filed under ORS 305.275 if the officer makes a correction under ORS 311.205 (1)(b)(A) in the tax owed to which the appeal relates;

[(g)] **(h) Except as provided in ORS 311.808, to the payer of the tax whenever any person pays taxes on the property of another by mistake of any kind; or**

(i) To the applicant entitled to proration of taxes under ORS 308.425 resulting in an overpayment of taxes paid.

(2)(a) Except as provided in paragraphs (b) and (c) of this subsection, a refund of taxes may *[not]* be allowed or made *[after six years from the assessment date for the tax year for which the taxes were collected]* **for any year or years not exceeding five years prior to the last certified roll.** A refund under this subsection may be paid only to the extent that a refund under subsection (4) of this section has not been paid.

(b) A refund of taxes may be allowed or made under subsection *[(1)(f) or (g)]* **(1)(f) to (i)** of this section after the period described in paragraph (a) of this subsection if, before the expiration of the period, a written claim for refund of the taxes is filed by the taxpayer with the county governing body.

(c) The county governing body shall order a refund of taxes to be paid as specified in subsection (1) of this section without the filing of a written claim and without regard to the period *[specified under]* **described in** paragraph (a) of this subsection upon receipt of a copy of an order by the Department of Revenue, the Oregon Tax Court or the Supreme Court that constitutes a final determination that is not subject to appeal.

(3)(a) Upon request of the owner or an owner of any taxable property or the person in whose name the property is assessed, or the owner of record on the tax roll at the time of refund, whichever is applicable, and with the approval of the tax collector, the county governing body may authorize refunds payable under subsection (1)(a) to (e) of this section to be made by crediting the total tax liability account of the requester with the amount of the refund. The total tax liability account is the total amount of tax that has been extended or charged against a particular property tax account as limited by section 11b, Article XI of the Oregon Constitution.

(b) In the case of a refund or credit payable to a single requester that results from an order constituting a final determination of a matter as described under subsection (1)(a), (b) or (c) of this section, a county governing body may elect to pay the refund or apply the credit in equal periodic installments over not more than the five-year period that begins on the date that the order is issued if the amount to be refunded or credited exceeds the lesser of \$250,000 or one-quarter of one percent of the total amount of taxes on property imposed within the county within the limits of section 11b, Article XI of the Oregon Constitution, as listed on the certificate last prepared under ORS 311.105.

(c) If a county governing body elects to pay a refund or credit under the provisions of paragraph (b) of this subsection, and the election will result in a hardship to a requester, the requester may appeal the election to the tax court as provided in ORS 305.404 to 305.560.

(4)(a) The tax collector shall refund taxes paid on a property value, a claim for exemption or a claim for cancellation of a property tax *[exemption]* if:

(A) A county board of property tax appeals or the Oregon Tax Court issues a decision that could result in a refund if the decision is upheld on appeal;

(B) The final resolution is pending further appeal; and

(C) The county governing body orders a refund of taxes paid under this subsection.

(b) An order by a county governing body or a recommendation of an assessor or tax collector in regard to this subsection may not be considered in determining matters in controversy on appeal, including property value or tax liability.

(c) Interest may not be paid on any refund under this subsection prior to final resolution of the appeal. If, after taking into account the amount refunded under this subsection, the final resolution of the controversy after appeal results in a refund due, interest shall be determined and paid as provided in ORS 311.812.

(d) If, after taking into account the amount refunded under this subsection, the final resolution of the controversy after appeal results in additional taxes due on the property, the additional taxes shall be billed and collected as provided in ORS 311.513.

(5) Immediately upon payment of the refund and any interest thereon, the tax collector shall make the necessary correcting entries in the records of the office of the tax collector. ORS 294.305 to 294.565 do not apply to refunds made out of the refund reserve account or the unsegregated tax collections account.

(6) A refund is not required under this section for any tax year if the amount of the refund would be \$10 or less. Any amount not refunded under this subsection shall be distributed to taxing districts in the same manner that other taxes are distributed.

(7) As used in this section, "owner of record on the tax roll at the time of refund" means the owner or an owner of the property or the person in whose name the property is assessed on the tax roll last certified and delivered to the tax collector under ORS 311.105 and 311.115.

SECTION 2. ORS 308.425 is amended to read:

308.425. (1) If, during any tax year, any real or personal property is destroyed or damaged by fire or act of God, the owner or purchaser under a recorded instrument of sale in the case of real property, or the person assessed, person in possession or owner in the case of personal property, may apply to the tax collector for proration of the taxes imposed on the property for the tax year.

(2) Application for proration of taxes under subsection (1) of this section shall be made not later than the end of the tax year or 60 days after the date the property was destroyed or damaged, whichever is later.

(3)(a)(A) For property that is totally destroyed, the tax collector shall collect only one-twelfth of the taxes imposed on the property for the tax year, for each month or fraction of a month that the property was in existence during the tax year. The tax collector shall cancel the remainder of the taxes imposed on the property for the tax year.

[(b)] (B) For property that is damaged, the tax collector shall collect only one-twelfth of the taxes imposed on the property for the tax year, for each month or fraction of a month that preceded the month during which the property was damaged. For the month in which the property was damaged, and for each month of the tax year thereafter in which the property remains damaged, the tax collector shall collect that percentage of one-twelfth of the taxes imposed on the property that the real market value or the assessed value of the property after the damage (whichever is less) bears to the assessed value of the property before the damage. The assessor shall advise the tax collector of the value percentage required under this paragraph. The tax collector shall cancel any taxes not to be collected due to this paragraph.

(b) If proration under this subsection results in an overpayment of taxes paid, the amount of the overpayment shall be refunded in the manner prescribed in ORS 311.806.

(4) That portion of the property that is damaged property and that is subsequently repaired shall be considered to be new property or new improvements to property under ORS 308.153 for the assessment year in which the repairs or replacements are first taken into account.

SECTION 3. (1) The amendments to ORS 311.806 (2) by section 1 of this 2015 Act apply to refunds allowed on or after the effective date of this 2015 Act.

(2) The amendments to ORS 308.425 by section 2 of this 2015 Act apply to applications for proration of taxes filed on or after the effective date of this 2015 Act.

SECTION 4. ORS 311.252 is amended to read:

311.252. (1) If a mortgagee is required or authorized to pay the ad valorem taxes on a manufactured structure **or a floating home** or on real property that is subject to the mortgage by a provision contained in the mortgage instrument, upon written request sent to the tax collector, the tax collector shall send a copy of the statement required to be mailed to the taxpayer under ORS 311.250 to the mortgagee. The request by the mortgagee for the sending of the copy shall be made to the tax collector on or before October 1 of each year and shall state that the mortgagee has the duty or is authorized to pay the taxes for the owner of the property.

(2) The tax collector and any mortgagee referred to in subsection (1) of this section may agree that a computer record containing the information required by the Department of Revenue may be delivered to the mortgagee instead of a copy of the tax statement required by subsection (1) of this section.

(3) For the purposes of this section, the holder of a perfected security interest in a manufactured structure **or a floating home** is considered a “mortgagee” and the perfected security interest is considered a “mortgage.”

SECTION 5. ORS 311.808 is amended to read:

311.808. A refund of property taxes under ORS 311.806 [(1)(g)] **(1)(h)** may not be made on real property [or], a manufactured structure [when] **or a floating home if** all of the following conditions are present:

(1) A mortgagee has requested the tax statement for the property under ORS 311.252 and has paid the tax on the property.

(2) The tax roll shows payment of the taxes, and thereafter the property is sold to a bona fide purchaser.

SECTION 6. ORS 311.795 is amended to read:

311.795. (1) A county governing body may cancel all delinquent taxes and the interest and penalties thereon accrued upon property donated to any incorporated city or town or any park and recreation district organized and operating under ORS chapter 266 for parks, playgrounds or a city hall. This section does not apply if the city, town or park and recreation district makes any payment to the owner, either directly or indirectly, for the property.

(2) A county governing body may cancel all delinquent real property taxes and interest and penalties due thereon from any taxpayer where the total of the same is [less than \$5] **\$10 or less**, when in the judgment of the county governing body the cost of collecting the same will be greater than the amount to be collected.

(3) A county governing body may cancel all delinquent personal property taxes and the interest and penalties thereon due from any taxpayer where the total of the same is [less than \$5] **\$10 or less** and in the judgment of the county governing body the cost of collecting the same will be greater than the amount to be collected.

(4) Property taxes that are deferred under the homestead deferral program established under ORS 311.666 to 311.701, special assessments for local improvements that are deferred under ORS 311.702 to 311.735 or property taxes that are deferred under the disaster area tax deferral program established under ORS 311.740 to 311.780 are not delinquent taxes for purposes of this section. A county governing body may not cancel any deferred taxes, deferred special assessments or interest or penalties that accrue with respect to deferred taxes or deferred special assessments described in this subsection.

SECTION 7. If Senate Bill 611 becomes law, section 5, chapter 23, Oregon Laws 2015 (Enrolled Senate Bill 611), is amended to read:

Sec. 5. (1) Subject to section 2 [of this 2015 Act], **chapter 23, Oregon Laws 2015 (Enrolled Senate Bill 611)**, the property of a company described in ORS 308.515 (1) shall be granted an exemption under subsection (5) of this section if the company builds, maintains and operates a qualified project in Oregon.

(2) A project is qualified under this section if:

(a) The project requires capital investment in newly constructed or installed real or tangible personal property constituting infrastructure that enables the company to offer communication services, including [a capacity of at least] **the capacity to provide, at least, approximately** one gigabit per second symmetrical service, to a majority of the residential customers of the company’s broadband services; and

(b) With respect to communication services offered by the company using the infrastructure, the company does not deny access to the communication services to any group of residential customers because of the income level of the residential customers in the local service area in which the residential customers reside.

(3)(a) A company seeking the exemption granted under this section must submit an application to the Public Utility Commission, with a copy to the Department of Revenue, on or before January 15 preceding the first property tax year for which the exemption is sought.

(b) The application must include:

(A) A certification that the project meets the requirements of subsection (2) of this section; and

(B) An application fee of \$50,000.

(c) The application fee shall be distributed evenly to the commission and the department to reimburse the commission for the costs of reviewing the application and the department for the costs of appraising the property of the company submitting the application.

(4)(a) On or before March 1 of the year in which the application is submitted under subsection (3) of this section, the commission shall determine whether the project is a qualified project.

(b) During the period in which the commission is making a determination under this subsection:

(A) The commission may discuss the information included in the application with the company and the department;

(B) The commission shall consult with any city with which the company has entered into a franchise fee agreement to provide services to which the application relates;

(C) The company may amend the application; and

(D) Upon request of the company, the commission may grant an extension of not more than two weeks for a determination under this subsection.

(c) If the commission determines that the project is not a qualified project, the application may not be approved. The commission shall notify the company of the negative determination and state the reasons.

(d) If the commission determines that the project is a qualified project:

(A) The application shall be approved.

(B) The commission shall notify the company, the department and the assessor of each county in which the project is located of the approval.

(C) Subject to section 2 [of this 2015 Act], **chapter 23, Oregon Laws 2015 (Enrolled Senate Bill 611)**, the property of the company shall be granted the exemption under subsection (5) of this section beginning with the first property tax year that begins after the date of the determination.

(5)(a) The property of a company described in subsection (1) of this section shall be granted an exemption for a property tax year in an amount equal to the positive value, if any, obtained by subtracting from the real market value of the company's real property and tangible and intangible personal property, including property that would otherwise be assessed under section 8 [of this 2015 Act], **chapter 23, Oregon Laws 2015 (Enrolled Senate Bill 611)**, that is allocated to Oregon and included in the unit subject to central assessment, reduced by the portion of the value of any exemption elected under ORS 307.126 that is allocated to Oregon, an amount equal to the greater of \$250 million or the real market value of the company's real and tangible personal property located in Oregon as of the assessment date, without reduction for any exemption elected under ORS 307.126.

(b) The exemption shall be granted for [the lesser of 20 consecutive property tax years or] the period during which an owner maintains and operates the qualified project.

(6) If the amount determined under subsection (5)(a) of this section is not positive, subject to section 2 [of this 2015 Act], **chapter 23, Oregon Laws 2015 (Enrolled Senate Bill 611)**, the real market value of the company's real property and tangible and intangible personal property, excluding property that is assessed under section 8 [of this 2015 Act], **chapter 23, Oregon Laws 2015 (Enrolled Senate Bill 611)**, allocated to Oregon and included in the unit subject to central assessment, reduced by the portion of the value of any exemption elected under ORS 307.126 that is allocated to Oregon, shall be the real market value of the company's property allocated to Oregon for the property tax year.

(7)(a) If the property of a company is granted an exemption under this section for a property tax year, the property is not eligible for any other exemption from ad valorem property taxation for the property tax year.

(b) Notwithstanding paragraph (a) of this subsection:

(A) An exemption granted under ORS 307.126 to property that is granted an exemption under this section shall be allowed in the manner provided under this section and ORS 307.126.

(B) An exemption granted under this section for a property tax year has no effect on the benefits that the property of the company or the company may be granted under ORS chapter 285C or ORS 307.123 for the property tax year.

SECTION 8. This 2015 Act takes effect on the 91st day after the date on which the 2015 regular session of the Seventy-eighth Legislative Assembly adjourns sine die.

Passed by House February 25, 2015

Received by Governor:

Repassed by House April 9, 2015

.....M,....., 2015

Approved:

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Timothy G. Sekerak, Chief Clerk of House

.....M,....., 2015

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Tina Kotek, Speaker of House

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Kate Brown, Governor

Passed by Senate April 7, 2015

Filed in Office of Secretary of State:

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Peter Courtney, President of Senate

.....M,....., 2015

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Jeanne P. Atkins, Secretary of State