

# Enrolled House Bill 2690

Sponsored by Representatives GOMBERG, WHISNANT (Presession filed.)

CHAPTER .....

AN ACT

Relating to exemption of land held for low-income housing; creating new provisions; amending ORS 307.162; and prescribing an effective date.

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

**SECTION 1. (1)(a) Upon compliance with ORS 307.162, land acquired and held by a nonprofit corporation as defined in ORS 307.130 for the purpose of building on the land one or more residences to be sold to individuals whose income is not greater than 80 percent of area median income, adjusted for family size, as determined by the Housing and Community Services Department, shall be exempt from property taxation.**

**(b) Notwithstanding paragraph (a) of this subsection, a nonprofit corporation may not claim an exemption for land under this section unless, within the 10 years immediately preceding the filing of a claim pursuant to this section, the nonprofit corporation has sold at least one residence to individuals described in paragraph (a) of this subsection.**

**(2)(a) The exemption shall be granted to land beginning with the first property tax year for which the nonprofit corporation files a claim for the land under ORS 307.162 and ending on or at the earlier of:**

**(A) The date on which the nonprofit corporation has transferred title to the residences on the land; or**

**(B) The end of the seventh consecutive property tax year for which the land is granted an exemption under this section or, if the nonprofit corporation has claimed an extension under paragraph (b) of this subsection, the end of the 10th consecutive property tax year for which the land is granted an exemption under this section.**

**(b)(A) If, before the end of the sixth consecutive property tax year for which the land is granted an exemption, the nonprofit corporation believes that title to the residences on the land will not be transferred by the end of the next following property tax year, the nonprofit corporation may claim a three-year extension of the exemption period by filing a notice of extension with the county assessor.**

**(B) The extension becomes effective if the notice of extension is filed on or before April 1 preceding the first property tax year for which the extension is claimed and is accompanied by a filing fee equal to the greater of \$200 or one-tenth of one percent of the real market value of the land as of the most recent assessment date.**

**(3)(a) For each property tax year that land is exempt under this section, the county assessor shall indicate on the assessment and tax roll that the land is exempt from property taxation under this section and is subject to potential additional taxes.**

**(b) If the nonprofit corporation has not transferred title to the residences on the land by the end of the seventh consecutive property tax year for which the land is granted an exemption under this section, or, if the nonprofit corporation has claimed an extension under subsection (2)(b) of this section, by the end of the 10th consecutive property tax year, the land shall be disqualified for the exemption. Additional taxes shall be imposed on the land on the next assessment and tax roll following the disqualification and shall be collected and distributed in the same manner as other ad valorem property taxes.**

**(c) The additional taxes shall be imposed in an amount equal to the property taxes that were not imposed on the land because of the exemption, plus interest computed at the rate provided under ORS 311.505 (2).**

**(d) The additional taxes described in this subsection shall be deemed assessed and imposed in the year to which the additional taxes relate.**

**(e) The amount determined to be due under this subsection may be paid to the tax collector prior to the time of the next general property tax roll, pursuant to the provisions of ORS 311.370.**

**(4) An exemption for land under this section does not preempt a county from granting other tax benefits to the land or the nonprofit corporation for any 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 307.092, 307.110 (3)(h), 307.115, 307.118, 307.130 to 307.140, 307.145, 307.147, 307.150, 307.160, 307.181 (3) or 307.580 **or section 1 of this 2015 Act** 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, other than property described in ORS 307.110 (3)(h), 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, 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, 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.

(c) If 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 years sought by the claim. 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.

(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.

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

(3)(a) In a claim for exemption of property described in ORS 307.110 (3)(h), the county or city, town or other municipal corporation or political subdivision of this state that is filing the claim must substantiate that the property is used for affordable housing or that it is leased or rented to persons of lower income, as applicable.

(b) A claim filed under this subsection must be filed annually on a form prescribed by the Department of Revenue.

(4) 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.

(5)(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; 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.

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

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

(7) 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. Section 1 of this 2015 Act and the amendments to ORS 307.162 by section 2 of this 2015 Act apply to property tax years beginning on or after July 1, 2015.**

**SECTION 4. 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 May 18, 2015**

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

**Passed by Senate June 11, 2015**

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Peter Courtney, President of Senate

**Received by Governor:**

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

**Approved:**

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

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Kate Brown, Governor

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

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

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Jeanne P. Atkins, Secretary of State