

House Bill 3034

Sponsored by COMMITTEE ON REVENUE

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**.

Provides exemption for property of nonprofit corporation that provides health services occupied or used to provide health services to acutely ill patients or accident victims. Provides partial exemption for property of nonprofit corporation that provides health services occupied or used to provide charity care.

Provides that property of nonprofit corporation that provides health services is not exempt under exemption granted to property of incorporated literary, benevolent, charitable and scientific institutions.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to the property of nonprofit corporations that provide health services; creating new pro-
3 visions; amending ORS 307.112, 307.130 and 307.162 and section 15, chapter 52, Oregon Laws
4 2014; and prescribing an effective date.

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

6 **SECTION 1. (1) As used in this section:**

7 (a) **"Acutely ill" means suffering from a condition or illness that has a sudden onset and**
8 **is of short duration.**

9 (b) **"Charity care" has the meaning given that term in ORS 442.200.**

10 (c) **"Health services" has the meaning given that term in ORS 442.015.**

11 (d) **"Nonprofit corporation" means a corporation that:**

12 (A) **Is organized not for profit, pursuant to ORS chapter 65 or any predecessor of ORS**
13 **chapter 65; or**

14 (B) **Is organized and operated as described under section 501(c) of the Internal Revenue**
15 **Code as defined in section 15, chapter 52, Oregon Laws 2014.**

16 (e) **"Nonprofit corporation that provides health services" means a nonprofit corporation**
17 **that is licensed by the Oregon Health Authority to provide health services.**

18 (2) **Upon compliance with ORS 307.162, all real or personal property owned or being pur-**
19 **chased by a nonprofit corporation that provides health services shall be exempt from prop-**
20 **erty taxation only in accordance with subsections (3) and (4) of this section.**

21 (3) **Property is exempt from taxation under this section if the Oregon Health Authority**
22 **determines that the property is occupied or used to provide diagnosis and medical or surgical**
23 **treatment primarily for patients who are acutely ill or the victims of accidents. Exempt**
24 **property may be occupied or used for administrative services necessary to providing the di-**
25 **agnosis and medical or surgical treatment.**

26 (4)(a) **Property is partially exempt under this section, as provided in paragraph (b) of this**
27 **subsection, if the Oregon Health Authority determines that the property is occupied or used**
28 **to provide charity care or for administrative services necessary to providing the charity**

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 care.

2 (b) The partial exemption allowed under this subsection shall apply to the property if
 3 charity care accounts for at least 15 percent of the gross annual patient revenue of the
 4 nonprofit corporation that provides health services. The percentage of the partial exemption
 5 shall be equal to twice the percentage that the gross annual patient revenue of the nonprofit
 6 corporation attributable to charity care bears to the total gross annual patient revenue of
 7 the nonprofit corporation. The partial exemption allowed under this subsection may be equal
 8 to, but not greater than, 100 percent.

9 **SECTION 2.** ORS 307.162 is amended to read:

10 307.162. (1)(a) Before any real or personal property may be exempted from taxation under ORS
 11 307.092, 307.110 (3)(h), 307.115, 307.118, 307.130 to 307.140, 307.145, 307.147, 307.150, 307.160, 307.181
 12 (3) or 307.580 or section 1 of this 2015 Act for any tax year, the institution or organization entitled
 13 to claim the exemption must file a claim with the county assessor, on or before April 1 preceding
 14 the tax year for which the exemption is claimed. The claim must contain statements, verified by the
 15 oath or affirmation of the president or other proper officer of the institution or organization, that:

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

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

19 (b) If the ownership of all property, other than property described in ORS 307.110 (3)(h) or
 20 section 1 (4) of this 2015 Act, included in the claim filed with the county assessor for a prior year
 21 remains unchanged, a new claim is not required.

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

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

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

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

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

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

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

41 (B) A claim filed under this paragraph must be accompanied by a late filing fee of the greater
 42 of \$200, or one-tenth of one percent of the real market value as of the most recent assessment date
 43 of the property to which the claim pertains, multiplied by the number of prior tax years for which
 44 exemption is claimed.

45 (c) If a claim filed under this subsection is not accompanied by the late filing fee or if the late

1 filing fee is not otherwise paid, an exemption may not be allowed for the tax years sought by the
 2 claim. A claim may be filed under this subsection notwithstanding that there are no grounds for
 3 hardship as required for late filing under ORS 307.475.

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

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

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

12 (b) A claim filed under this subsection must be filed annually on a form prescribed by the De-
 13 partment of Revenue.

14 **(4)(a) In a claim for partial exemption of property described in section 1 (4) of this 2015**
 15 **Act, the nonprofit corporation that provides health services, as defined in section 1 of this**
 16 **2015 Act, that is filing the claim must substantiate that the Oregon Health Authority has**
 17 **determined that the property is occupied or used as required under section 1 (4) of this 2015**
 18 **Act and must provide documentation showing the total gross annual patient revenue of the**
 19 **nonprofit corporation and the percentage attributable to charity care.**

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

22 [(4)] (5) As used in this section:

23 (a) “First-time filer” means a claimant that:

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

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

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

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

32 (c) “Ownership” means legal and equitable title.

33 [(5)(a)] **(6)(a)** Notwithstanding subsection (1) of this section, if an institution or organization
 34 owns property that is exempt from taxation under a provision of law listed in subsection (1) of this
 35 section and fails to file a timely claim for exemption under subsection (1) of this section for additions
 36 or improvements to the exempt property, the additions or improvements may nevertheless qualify for
 37 exemption.

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

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

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

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

43 (D) Contain any other information required by the department; and

44 (E) Be accompanied by a late filing fee equal to the product of the number of tax years for
 45 which exemption is sought multiplied by the greater of \$200 or one-tenth of one percent of the real

1 market value as of the most recent assessment date of the property that is the subject of the claim.

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

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

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

13 [(6)] (7) For each tax year for which an exemption granted pursuant to subsection (2) or [(5)]
 14 (6) of this section applies:

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

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

20 [(7)] (8) If an institution or organization owns property that is exempt from taxation under a
 21 provision of law listed in subsection (1) of this section and changes the use of the property to a use
 22 that would not entitle the property to exemption from taxation, the institution or organization must
 23 notify the county assessor of the change to a taxable use within 30 days.

24 **SECTION 3.** ORS 307.112 is amended to read:

25 307.112. (1) Real or personal property of a taxable owner held under lease, sublease or lease-
 26 purchase agreement by an institution, organization or public body, other than the State of Oregon,
 27 or a public university listed in ORS 352.002, granted exemption or the right to claim exemption for
 28 any of its property under ORS 307.090, 307.130, 307.136, 307.140, 307.145, 307.147 or 307.181 (3) **or**
 29 **section 1 of this 2015 Act**, is exempt from taxation if:

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

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

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

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

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

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

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

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

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

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

12 (B) If a late filing fee is paid in the manner provided in ORS 307.162 (2), the claim may be filed
 13 within the time specified in ORS 307.162 (2).

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

16 (5)(a) An exemption granted under this section continues as long as the use of the property re-
 17 mains unchanged and during the period of the lease, sublease or lease-purchase agreement.

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

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

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

24 **SECTION 4.** ORS 307.130, as amended by section 16, chapter 52, Oregon Laws 2014, is amended
 25 to read:

26 307.130. (1) As used in this section:

27 (a) “Art museum” means a nonprofit corporation organized to display works of art to the public.

28 (b) “Nonprofit corporation” means a corporation that:

29 (A) Is organized not for profit, pursuant to ORS chapter 65 or any predecessor of ORS chapter
 30 65; or

31 (B) Is organized and operated as described under section 501(c) of the Internal Revenue Code
 32 as defined in section 15, chapter 52, Oregon Laws 2014.

33 (c) **“Rehabilitation facility” means a facility as defined in ORS 344.710 or a facility that**
 34 **provides individuals who have physical, mental or emotional disabilities with occupational**
 35 **rehabilitation activities of an educational or therapeutic nature, even if remuneration is re-**
 36 **ceived by the individual.**

37 [(c)] (d) “Volunteer fire department” means a nonprofit corporation organized to provide fire
 38 protection services in a specific response area.

39 (e) **“Welfare program” means a program to provide food, shelter, clothing or health care,**
 40 **including dental service, to needy persons without charge.**

41 (2) Upon compliance with ORS 307.162, the following property owned or being purchased by art
 42 museums, volunteer fire departments, or incorporated literary, benevolent, charitable and scientific
 43 institutions shall be exempt from taxation:

44 (a) Except as provided in ORS 748.414, only [*such*] real or personal property, or proportion
 45 [*thereof, as*] **of the property, that** is actually and exclusively occupied or used in the literary, be-

1 nevolent, charitable or scientific work carried on by such institutions.

2 (b) Parking lots used for parking or any other use as long as that parking or other use is per-
3 mitted without charge for no fewer than 355 days during the tax year.

4 (c) All real or personal property of a rehabilitation facility or any retail outlet [*thereof*] **of the**
5 **facility**, including inventory. [*As used in this subsection, "rehabilitation facility" means either those*
6 *facilities defined in ORS 344.710 or facilities which provide individuals who have physical, mental or*
7 *emotional disabilities with occupational rehabilitation activities of an educational or therapeutic nature,*
8 *even if remuneration is received by the individual.*]

9 (d) All real and personal property of a retail store dealing exclusively in donated inventory,
10 [*where*] **if** the inventory is distributed without cost as part of a welfare program or where the pro-
11 ceeds of the sale of any inventory sold to the general public are used to support a welfare program.
12 [*As used in this subsection, "welfare program" means the providing of food, shelter, clothing or health*
13 *care, including dental service, to needy persons without charge.*]

14 (e) All real and personal property of a retail store if:

15 (A) The retail store deals [*primarily and*] on a regular basis in **inventory at least one-half of**
16 **which is** donated and consigned [*inventory*];

17 (B) The individuals who operate the retail store are all individuals who work as volunteers; and

18 (C) The inventory is either distributed without charge as part of a welfare program, or sold to
19 the general public and the sales proceeds used exclusively to support a welfare program. [*As used*
20 *in this paragraph, "primarily" means at least one-half of the inventory.*]

21 (f) The real and personal property of an art museum that is used in conjunction with the public
22 display of works of art or used to educate the public about art, but not including any portion of the
23 art museum's real or personal property that is used to sell, or hold out for sale, works of art, re-
24 productions of works of art or other items to be sold to the public.

25 (g) All real and personal property of a volunteer fire department that is used in conjunction with
26 services and activities for providing fire protection to all residents within a fire response area.

27 (h) All real and personal property, including inventory, of a retail store owned by a nonprofit
28 corporation if:

29 (A) The retail store deals exclusively in donated inventory; and

30 (B) Proceeds of the retail store sales are used to support a not-for-profit housing program whose
31 purpose is to:

32 (i) Acquire property and construct housing for resale to individuals at or below the cost of ac-
33 quisition and construction; and

34 (ii) Provide loans bearing no interest to individuals purchasing housing through the program.

35 (3) An art museum or institution shall not be deprived of an exemption under this section solely
36 because its primary source of funding is from one or more governmental entities.

37 (4) An institution shall not be deprived of an exemption under this section because its purpose
38 or the use of its property is not limited to relieving pain, alleviating disease or removing constraints.

39 **(5) This section does not apply to property owned or being purchased by a nonprofit**
40 **corporation that provides health services as defined in section 1 of this 2015 Act.**

41 **SECTION 5.** Section 15, chapter 52, Oregon Laws 2014, is amended to read:

42 **Sec. 15.** As used in ORS 307.130, 307.147, 308A.450, 310.140, 310.630 and 310.800 **and section 1**
43 **of this 2015 Act**, "Internal Revenue Code" means the federal Internal Revenue Code as amended
44 and in effect on December 31, 2013.

45 **SECTION 6.** **Section 1 of this 2015 Act and the amendments to ORS 307.112, 307.130 and**

1 307.162 and section 15, chapter 52, Oregon Laws 2014, by sections 2 to 5 of this 2015 Act apply
2 to property tax years beginning on or after July 1, 2015.

3 SECTION 7. This 2015 Act takes effect on the 91st day after the date on which the 2015
4 regular session of the Seventy-eighth Legislative Assembly adjourns sine die.

5
