

House Bill 2047

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim 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**.

Exempts from taxation real property of nonprofit health clinic that is occupied or used to provide health services, or administrative services necessary to provide such health services, and is either federally qualified health center or occupied or used to serve specified low-income or needy patients.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to exemption from taxation of certain property of nonprofit health clinics; creating new
3 provisions; amending ORS 305.842, 307.112, 307.130 and 307.162; and prescribing an effective
4 date.

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

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

7 (a) **"Health clinic" has the meaning given that term in ORS 30.792.**

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

9 (c) **"Hospital" has the meaning given that term in ORS 442.015.**

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

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

13 (B) **Is organized and operated as described under section 501(c) of the Internal Revenue**
14 **Code as defined in ORS 305.842.**

15 (2) **Upon compliance with ORS 307.162, all real property owned or being purchased by a**
16 **nonprofit health clinic other than a hospital shall be exempt from taxation if the real prop-**
17 **erty:**

18 (a) **Is occupied or used to provide:**

19 (A) **Health services; or**

20 (B) **Administrative services necessary to provide the health services; and**

21 (b)(A) **Is a federally qualified health center; or**

22 (B) **Is occupied or used to serve patients at least 40 percent of whom are:**

23 (i) **Not charged for the health services or are charged using a sliding scale based on the**
24 **income of the patient;**

25 (ii) **Uninsured; or**

26 (iii) **Recipients of medical assistance.**

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

28 307.162. (1)(a) Before any real or personal property may be exempted from taxation under ORS
29 307.092, 307.110 (3)(h), 307.115, 307.118, 307.130 to 307.140, 307.145, 307.147, 307.150, 307.160, 307.181

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 (3), 307.513 or 307.580 **or section 1 of this 2017 Act** for any tax year, the institution or organization
 2 entitled to claim the exemption must file a claim with the county assessor, on or before April 1
 3 preceding the tax year for which the exemption is claimed. The claim must contain statements,
 4 verified by the oath or affirmation of the president or other proper officer of the institution or or-
 5 ganization, that:

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

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

9 (b) If the ownership of all property, other than property described in ORS 307.110 (3)(h) **or**
 10 **section 1 of this 2017 Act**, included in the claim filed with the county assessor for a prior year
 11 remains unchanged, a new claim is not required.

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

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

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

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

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

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

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

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

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

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

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

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

1 of lower income, as applicable.

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

4 (4) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (b) Any tax, or interest attributable thereto, that remains unpaid as of the date the exemption

1 is granted must be abated.

2 (7) If an institution or organization owns property that is exempt from taxation under a pro-
 3 vision of law listed in subsection (1) of this section and changes the use of the property to a use that
 4 would not entitle the property to exemption from taxation, the institution or organization must no-
 5 tify the county assessor of the change to a taxable use within 30 days.

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

7 307.112. (1) Real or personal property of a taxable owner held under lease, sublease or lease-
 8 purchase agreement by an institution, organization or public body, other than the State of Oregon,
 9 or a public university listed in ORS 352.002, granted exemption or the right to claim exemption for
 10 any of its property under ORS 307.090, 307.130, 307.136, 307.140, 307.145, 307.147 or 307.181 (3) **or**
 11 **section 1 of this 2017 Act**, is exempt from taxation if:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 **SECTION 4.** ORS 307.130 is amended to read:

7 307.130. (1) As used in this section:

8 (a) "Art museum" means a nonprofit corporation organized to display works of art to the public.

9 (b) "History museum or science museum" means a nonprofit corporation organized to display
10 historical or scientific exhibits, or both, to the public.

11 (c) "Nonprofit corporation" means a corporation that:

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

14 (B) Is organized and operated as described under section 501(c) of the Internal Revenue Code
15 as defined in ORS 305.842.

16 (d) **"Rehabilitation facility" means a facility defined in ORS 344.710 or a facility that**
17 **provides individuals who have physical, mental or emotional disabilities with occupational**
18 **rehabilitation activities of an educational or therapeutic nature, even if remuneration is re-**
19 **ceived by the individual.**

20 [(d)] (e) "Volunteer fire department" means a nonprofit corporation organized to provide fire
21 protection services in a specific response area.

22 (f) **"Welfare program" means a program to provide food, shelter, clothing or health care,**
23 **including dental service, to needy persons without charge.**

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

27 (a) Except as provided in ORS 748.414, only [such] real or personal property, or a proportion
28 [thereof, as] **of the property, that** is actually and exclusively occupied or used in the literary, be-
29 nevolent, charitable or scientific work carried on by such institutions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (3)(a) Upon compliance with ORS 307.162, real and personal property owned or leased by a his-
 19 tory museum or science museum shall be exempt from property taxes if the property:

20 (A) Is used to fulfill the mission of the museum as provided in the articles of incorporation and
 21 bylaws of the museum; and

22 (B) Is used or occupied for one or more of the following purposes:

23 (i) As a food service facility or concession stand selling food and refreshments to museum visi-
 24 tors, volunteers or staff within the museum buildings or on museum grounds.

25 (ii) As a retail store selling inventory, at least 90 percent of which is museum-related, within the
 26 museum buildings or on museum grounds.

27 (iii) As a parking lot, the use of which is permitted without charge for not fewer than 355 days
 28 during the property tax year, for museum visitors, volunteers or staff employed by the museum.

29 (iv) As a theater located in a museum building showing entertainment or educational features,
 30 at least 75 percent of which are museum-related.

31 (v) As unimproved land that is not specially assessed and that is contiguous with the land on
 32 which the museum is situated.

33 (vi) For displays, storage areas, educational classrooms or meeting areas.

34 (b) The exemption granted under this subsection does not apply to property used or occupied
 35 as a hotel, water park or chapel or for any commercial enterprise.

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

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

40 **(6) This section does not apply to property of a nonprofit health clinic that is eligible for**
 41 **exemption from taxation under section 1 of this 2017 Act.**

42 **SECTION 5.** ORS 307.130, as amended by section 48, chapter 701, Oregon Laws 2015, is
 43 amended to read:

44 307.130. (1) As used in this section:

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

- 1 (b) “Nonprofit corporation” means a corporation that:
- 2 (A) Is organized not for profit, pursuant to ORS chapter 65 or any predecessor of ORS chapter
- 3 65; or
- 4 (B) Is organized and operated as described under section 501(c) of the Internal Revenue Code
- 5 as defined in ORS 305.842.
- 6 (c) **“Rehabilitation facility” means a facility defined in ORS 344.710 or a facility that**
- 7 **provides individuals who have physical, mental or emotional disabilities with occupational**
- 8 **rehabilitation activities of an educational or therapeutic nature, even if remuneration is re-**
- 9 **ceived by the individual.**
- 10 [(c)] (d) “Volunteer fire department” means a nonprofit corporation organized to provide fire
- 11 protection services in a specific response area.
- 12 (e) **“Welfare program” means a program to provide food, shelter, clothing or health care,**
- 13 **including dental service, to needy persons without charge.**
- 14 (2) Upon compliance with ORS 307.162, the following property owned or being purchased by art
- 15 museums, volunteer fire departments, or incorporated literary, benevolent, charitable and scientific
- 16 institutions shall be exempt from taxation:
- 17 (a) Except as provided in ORS 748.414, only [such] real or personal property, or a proportion
- 18 [thereof, as] **of the property, that** is actually and exclusively occupied or used in the literary, be-
- 19 nevolent, charitable or scientific work carried on by such institutions.
- 20 (b) Parking lots used for parking or any other use as long as that parking or other use is per-
- 21 mitted without charge for no fewer than 355 days during the tax year.
- 22 (c) All real or personal property of a rehabilitation facility or any retail outlet [thereof] **of the**
- 23 **facility**, including inventory. [As used in this subsection, “rehabilitation facility” means either those
- 24 facilities defined in ORS 344.710 or facilities which provide individuals who have physical, mental or
- 25 emotional disabilities with occupational rehabilitation activities of an educational or therapeutic nature,
- 26 even if remuneration is received by the individual.]
- 27 (d) All real and personal property of a retail store dealing exclusively in donated inventory,
- 28 [where] **if** the inventory is distributed without cost as part of a welfare program or where the pro-
- 29 ceeds of the sale of any inventory sold to the general public are used to support a welfare program.
- 30 [As used in this subsection, “welfare program” means the providing of food, shelter, clothing or health
- 31 care, including dental service, to needy persons without charge.]
- 32 (e) All real and personal property of a retail store if:
- 33 (A) The retail store deals [primarily and] on a regular basis in **inventory at least one-half of**
- 34 **which is** donated and consigned [inventory];
- 35 (B) The individuals who operate the retail store are all individuals who work as volunteers; and
- 36 (C) The inventory is either distributed without charge as part of a welfare program, or sold to
- 37 the general public and the sales proceeds used exclusively to support a welfare program. [As used
- 38 in this paragraph, “primarily” means at least one-half of the inventory.]
- 39 (f) The real and personal property of an art museum that is used in conjunction with the public
- 40 display of works of art or used to educate the public about art, but not including any portion of the
- 41 art museum’s real or personal property that is used to sell, or hold out for sale, works of art, re-
- 42 productions of works of art or other items to be sold to the public.
- 43 (g) All real and personal property of a volunteer fire department that is used in conjunction with
- 44 services and activities for providing fire protection to all residents within a fire response area.
- 45 (h) All real and personal property, including inventory, of a retail store owned by a nonprofit

1 corporation if:

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

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

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

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

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

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

12 **(5) This section does not apply to property of a nonprofit health clinic that is eligible for**
13 **exemption from taxation under section 1 of this 2017 Act.**

14 **SECTION 6.** ORS 305.842, as amended by section 15, chapter 33, Oregon Laws 2016, is amended
15 to read:

16 305.842. As used in ORS 307.130, 307.147, 308A.450, 310.140 and 310.800 **and section 1 of this**
17 **2017 Act**, "Internal Revenue Code" means the federal Internal Revenue Code as amended and in
18 effect on December 31, 2015.

19 **SECTION 7.** **Section 1 of this 2017 Act and the amendments to ORS 305.842, 307.112,**
20 **307.130 and 307.162 by sections 2 to 6 of this 2017 Act apply to property tax years beginning**
21 **on or after July 1, 2017.**

22 **SECTION 8.** **This 2017 Act takes effect on the 91st day after the date on which the 2017**
23 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**

24