

Enrolled
House Bill 2030

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Revenue for Oregon Association of County Tax Collectors)

CHAPTER

AN ACT

Relating to funding for collection of debt in bankruptcy proceedings; creating new provisions; amending ORS 311.345, 311.385, 311.390, 311.395, 311.480 and 457.440 and sections 18 and 19, chapter 190, Oregon Laws 2003; repealing sections 4, 5 and 20, chapter 190, Oregon Laws 2003; and prescribing an effective date.

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

SECTION 1. (1) Sections 4 and 5, chapter 190, Oregon Laws 2003, are repealed.

(2) Section 20, chapter 190, Oregon Laws 2003, as amended by section 11, chapter 704, Oregon Laws 2003, is repealed.

SECTION 2. ORS 311.480, as amended by section 7, chapter 190, Oregon Laws 2003, is amended to read:

311.480. If a tax has been levied against **real or** personal property, and thereafter and prior to the date the tax becomes due and payable, the person against whom the tax is charged files a petition in bankruptcy, or is adjudged a bankrupt upon an involuntary proceeding, the tax shall become immediately due. The tax collector of the county where the tax was levied shall prepare and present to the bankruptcy court proof of claim of the county for the tax.

SECTION 3. ORS 311.385, as amended by section 9, chapter 190, Oregon Laws 2003, is amended to read:

311.385. (1) The tax collector shall deposit all property tax moneys with the county treasurer no later than:

(a) One business day after:

(A) Payment of the moneys is made in person at the office of the tax collector; or

(B) The tax collector receives moneys collected by a financial institution or other collection agency; or

(b) Thirty calendar days after the payment arrives by mail in the county mail receptacle.

(2) The tax collector shall take a receipt for all moneys deposited with the county treasurer.

(3) Property tax moneys shall not be deposited in any account other than the unsegregated tax collections account, except as provided in ORS 311.370 and 311.508 **and section 2, chapter 190, Oregon Laws 2003.**

(4) No later than one business day after receiving notice of collection of tax moneys by a financial institution or other collection agency, the tax collector shall notify the county treasurer of the collection of those tax moneys.

(5) Except as provided in ORS 311.370 and 311.508 **and section 2, chapter 190, Oregon Laws 2003,** the county treasurer shall deposit all property tax moneys to an account in the records of the

county treasurer designated as the unsegregated tax collections account. Only those moneys that will be distributed under ORS 311.390 and interest earned from the investment of those moneys shall be deposited to the unsegregated tax collections account.

(6) As used in this section, "property tax moneys" includes all ad valorem taxes and all taxes on property, as defined in ORS 310.140, and all other amounts specifically authorized by law to be included on the assessment and tax roll, that are certified for collection under ORS 310.060 or other law and any interest on those taxes.

SECTION 4. ORS 311.390, as amended by section 11, chapter 190, Oregon Laws 2003, is amended to read:

311.390. (1) When the tax collector receives the assessor's certificate pursuant to ORS 311.115, the tax collector shall prepare and file with the county treasurer a percentage schedule of the ratio of taxes on property, as defined in ORS 310.140, and other amounts to be collected, after reductions necessary to comply with section 11b, Article XI of the Oregon Constitution, after making adjustments in accordance with ORS 311.105 (1)(c), for each governmental unit as shown in such certificate, compared to the total of each of those amounts. Such schedule shall be approved by the county accountant, if one exists in the county, or by the county clerk before filing. Except as provided in subsections (2) and (3) of this section, the distribution of collections by the tax collector shall be made on the basis of the ratios computed pursuant to this section. The ratios computed pursuant to this section for a given fiscal year shall be used for the distribution of all taxes on property or penalties that have been imposed, collected and received for that fiscal year, regardless of the actual date of receipt, **except for moneys retained by a county to pay bankruptcy costs under section 2, chapter 190, Oregon Laws 2003.** Interest earned on moneys in the unsegregated tax collections account shall be distributed according to the ratio applicable to the year in which the moneys are distributed.

(2) If, after the ratios are computed pursuant to this section, the amount of a levy or other tax on property is changed, or a levy or other tax on property is filed with the assessor pursuant to ORS 310.060 that had not been included in the tax distribution schedule for that year, the tax collector shall revise the percentages provided in subsection (1) of this section to reflect the corrected or added levy or tax and shall adjust the amounts previously distributed and to be distributed thereafter to reflect the revision in percentages.

(3) If, in the opinion of the tax collector, it is not feasible to make the revisions described in subsection (2) of this section, the tax collector shall treat the amount of the change in levy or tax or the additional levy or tax as a separate tax collection and segregate the moneys collected for the particular district or districts in the periodic statement of tax collections given to the county treasurer pursuant to ORS 311.395.

(4) If the percentage schedule is revised, a copy shall be filed with the county treasurer after approval by the county accountant, if one exists in the county, or by the county clerk.

(5) If, after the ratios are computed under this section, a levy or tax is changed or a levy or tax is filed with the assessor pursuant to ORS 310.060, that was not included in the tax distribution schedule for that year, future distributions of interest shall be based on the revised percentages that reflect the corrected or added levy or tax. No adjustments shall be made for previously distributed interest.

SECTION 5. ORS 311.395, as amended by section 13, chapter 190, Oregon Laws 2003, is amended to read:

311.395. (1) The tax collector shall make statements of the exact amounts of property tax moneys in cash and warrants collected as follows:

(a) For the period beginning on the first Monday following the last Friday in October through the last Friday in November, the tax collector shall make weekly statements of those taxes that are collected for the current tax year.

(b) For the period beginning the first Monday following the last Friday of November through the last Friday of October of the ensuing year, the tax collector shall make quarterly statements of those taxes that are collected for the current tax year.

(c) The tax collector shall make quarterly statements of taxes collected for prior years.

(d) Notwithstanding paragraph (b) or (c) of this subsection, if the balance in the unsegregated tax collection account as of the close of any month for any tax year (the current tax year or any prior tax year) exceeds \$10,000 or if requested by any taxing district, and if weekly statements are not required, then the tax collector shall make a statement for the period since the last statement for the tax year.

(e) If the processing of tax payments for the current tax year received or postmarked on or before the November 15 due date (or if the due date is extended under ORS 311.507, the due date pursuant to the extension) is not substantially completed as of the last Friday in November, the tax collector shall continue to make weekly statements until the end of a week when the processing is substantially completed.

(2)(a) Each statement shall be of taxes collected during the weekly, monthly, quarterly or other period for which the statement is required.

(b) The statements prepared under subsection (1) of this section shall specify the tax years for which the payments of taxes were made.

(c) A copy of each statement shall be filed with the county clerk and a copy shall be filed with the county treasurer no later than the fifth business day after the last business day of the period for which the statement is prepared. A copy of each statement shall be retained in the office of the tax collector.

(3) For the purposes of this section, property tax moneys are collected when:

(a) Payment is made in person at the office of the tax collector;

(b) The tax collector receives tax moneys or notice of tax moneys collected by a financial institution or other collection agency;

(c) The tax collector receives payment or notice of payment of tax moneys by the state; or

(d) The tax collector has posted a payment that arrived by mail in the county mail receptacle.

(4) Each statement required under subsections (1) and (2) of this section shall separately state the amount deposited into the property tax bankruptcy account under section 2, chapter 190, Oregon Laws 2003, for the period covered by the statement.

[(4)] (5) The statements required under subsections (1) and (2) of this section may be made more often and for shorter periods if the tax collector so desires but one of the statements so filed shall cover a period coinciding with the last business day of the particular calendar month or quarter during the period.

[(5)] (6) The county treasurer shall credit the total amount of moneys set out in the statements prepared under subsections (1) and (2) of this section, **except for the amount deposited into the property tax bankruptcy account under section 2, chapter 190, Oregon Laws 2003**, to the several funds for which the moneys were respectively received in accordance with the schedule provided in ORS 311.390. The county treasurer shall keep the moneys and warrants received from the tax collector in their respective funds.

[(6)] (7) Within five business days of receiving a statement required by subsection (1) or (2) of this section, the county treasurer shall distribute the amount of money set out in the statement, **except for the amount deposited into the property tax bankruptcy account under section 2, chapter 190, Oregon Laws 2003**, to the several taxing units according to the ratios provided in ORS 311.390. The county treasurer shall distribute interest earned on moneys in the unsegregated tax collections account at least as often as the treasurer receives a statement from the tax collector under subsection (1)(b) or (d) of this section. When statements are received under subsection (1)(a) of this section, the county treasurer shall distribute interest at least once a calendar month.

SECTION 6. ORS 311.345, as amended by section 15, chapter 190, Oregon Laws 2003, is amended to read:

311.345. (1) If a tax collector fails to make settlement of the taxes included in the assessment roll within the time required by ORS 311.395, the tax collector shall be charged with damages in an amount equaling five percent of the amount not settled within the time required by ORS 311.395,

plus 12 percent interest per year on the damages from the day payment should have been made of the balance of unsettled taxes due from the tax collector.

(2) If a tax collector neglects or refuses to pay over all moneys received for taxes to the county treasurer, the tax collector shall, in addition to the criminal penalty provided for in ORS 311.990 (6), be liable to pay damages in an amount equaling 10 percent of the amount not paid over, plus 12 percent interest per year on the damages from the day payment should have been made.

(3) The moneys, damages and interest authorized to be collected under this section may be collected by suit upon the bond of the tax collector for the recovery of the same.

(4) If a county treasurer neglects or refuses to distribute moneys in the unsegregated tax collections account as required by ORS 311.395 [(5)] (6), the county treasurer shall be liable to pay damages in an amount equaling 10 percent of the amount not distributed as required by ORS 311.395, plus 12 percent interest per year on the damages from the day distribution should have been made.

SECTION 7. ORS 457.440, as amended by section 17, chapter 190, Oregon Laws 2003, is amended to read:

457.440. During the period specified under ORS 457.450:

(1) The county assessor shall determine the amount of funds to be raised each year for urban renewal within the county levied by taxing districts in accordance with section 1c, Article IX of the Oregon Constitution, and ORS 457.420 to 457.460.

(2) Not later than July 15 of each tax year, each urban renewal agency shall determine and file with the county assessor a notice stating the amount of funds to be raised for each urban renewal area as follows:

(a) If the municipality that activated the urban renewal agency has chosen Option One as provided in ORS 457.435 (2)(a), the notice shall state that the maximum amount of funds that may be raised by dividing the taxes under section 1c, Article IX of the Oregon Constitution, shall be raised for the agency.

(b) If the municipality that activated the urban renewal agency has chosen Option Two as provided in ORS 457.435 (2)(b), the notice shall state the amount of funds to be raised by the special levy.

(c) If the municipality that activated the urban renewal agency has chosen Option Three as provided in ORS 457.435 (2)(c), the notice shall state the amount of funds to be raised by special levy in addition to the amount to be raised by dividing the taxes as stated in the ordinance adopted under ORS 457.435 (1).

(d) If the plan is not an existing plan, the notice shall state that the maximum amount of funds that may be raised by dividing the taxes under section 1c, Article IX of the Oregon Constitution, shall be raised for the agency.

(3) If a municipality has chosen Option Three pursuant to ORS 457.435, the maximum amount of funds that may be raised for an urban renewal agency by dividing the taxes as provided in section 1c, Article IX of the Oregon Constitution, may be limited by the municipality in which the urban renewal agency is located. The decision of the municipality to limit the amount of funds to be included in the notice filed under subsection (2) of this section shall be reflected in the certified statement filed by the urban renewal agency with the county assessor.

(4) Not later than September 25 of each tax year, the assessor of any county in which a joint district is located shall provide, to the assessor of each other county in which the joint district is located, the assessed values of the property in the joint district that is located within the county, including the certified statement value and the increment for each code area containing any urban renewal area located within the joint district, and a copy of the notice filed by the urban renewal agency for the area located within the joint district under subsection (2) of this section.

(5) The maximum amount of funds that may be raised for an urban renewal plan by dividing the taxes as provided in section 1c, Article IX of the Oregon Constitution, shall be computed by the county assessor as follows:

(a) The county assessor shall compute the total consolidated billing tax rate for each code area in which an urban renewal area of the plan is located.

(b) The assessor shall determine the amount of taxes that would be produced by extending the tax rate computed under paragraph (a) of this subsection against the increment of each code area.

(c) The total amount determined for all code areas containing urban renewal areas included within the urban renewal plan is the maximum amount of funds to be raised for the urban renewal plan by dividing the taxes.

(6)(a) The maximum amount of funds that may be raised for an urban renewal agency as determined under subsection (5) of this section, or the maximum amount, as determined under subsection (2) of this section, shall be certified by the county assessor to the tax collector. The tax collector shall include the amount so certified in the percentage schedule of the ratio of taxes on property prepared under ORS 311.390 and filed with the county treasurer. Notwithstanding ORS 311.395 [(5)] (6), the county treasurer shall credit the amount to the urban renewal agency and shall distribute its percentage amount to the urban renewal agency as determined by the schedule at the times other distributions are made under ORS 311.395 [(6)] (7).

(b) The county assessor shall notify the urban renewal agency of the amounts received under subsection (5) of this section or amounts received pursuant to the notice provided in subsection (2) of this section for each urban renewal plan area. Any amounts received by the urban renewal agency under paragraph (a) of this subsection shall be attributed to the urban renewal plan in which the urban renewal area is included, shall be paid into a special fund of the urban renewal agency for the urban renewal plan and shall be used to pay the principal and interest on any indebtedness issued or incurred by the urban renewal agency to finance or refinance the urban renewal plan.

(7) Unless and until the total assessed value of the taxable property in an urban renewal area exceeds the total assessed value specified in the certified statement, all of the ad valorem taxes levied and collected upon the taxable property in the urban renewal area shall be paid into the funds of the respective taxing districts.

(8) The agency may incur indebtedness, including obtaining loans and advances in carrying out the urban renewal plan, and the portion of taxes received under this section may be irrevocably pledged for the payment of principal of and interest on the indebtedness.

(9) The Department of Revenue shall by rule establish procedures for giving notice of amounts to be raised for urban renewal agencies and for determination of amounts to be raised and distributed to urban renewal agencies.

(10) The notice required under this section shall serve as the notice required under ORS 310.060 for the special levy described under ORS 457.435.

SECTION 8. Section 18, chapter 190, Oregon Laws 2003, as amended by section 9, chapter 704, Oregon Laws 2003, is amended to read:

Sec. 18. Section 2, chapter 190, Oregon Laws 2003, applies to taxes, interest and related penalties[:]

[(1)] due under ORS 311.405 or 311.480 on or after **November 26, 2003**. [*the effective date of this 2003 Act and before July 1, 2008; or*]

[(2) *Due pursuant to an order of a bankruptcy court issued before July 1, 2008.*]

SECTION 9. Section 19, chapter 190, Oregon Laws 2003, as amended by section 10, chapter 704, Oregon Laws 2003, is amended to read:

Sec. 19. The amendments to ORS 311.345, 311.385, 311.390, 311.395, 311.480 and 457.440 by sections [6, 8, 10, 12, 14 and 16] **6 to 17**, chapter 190, Oregon Laws 2003, apply to taxes, interest and related penalties[:]

[(1)] due under ORS 311.405 or 311.480 on or after **November 26, 2003**. [*the effective date of this 2003 Act; or*]

[(2) *Due pursuant to an order of a bankruptcy court issued before July 1, 2008.*]

SECTION 10. **If this 2007 Act does not become effective until after September 1, 2007, the repeal of section 4, chapter 190, Oregon Laws 2003, by section 1 of this 2007 Act revives sections 2 and 3, chapter 190, Oregon Laws 2003. If this 2007 Act does not become effective**

until after September 1, 2007, this 2007 Act shall be operative retroactively to that date, and the operation and effect of sections 2 and 3, chapter 190, Oregon Laws 2003, shall continue unaffected from September 1, 2007, to the effective date of this 2007 Act and thereafter. Any otherwise lawful action taken or otherwise lawful obligation incurred under the authority of sections 2 and 3, chapter 190, Oregon Laws 2003, after September 1, 2007, and before the effective date of this 2007 Act, is ratified and approved.

SECTION 11. If this 2007 Act does not become effective until after June 29, 2007, the amendments to section 18, chapter 190, Oregon Laws 2003, by section 8 of this 2007 Act and the repeal of section 5, chapter 190, Oregon Laws 2003, by section 1 of this 2007 Act shall be operative retroactively to that date.

SECTION 12. This 2007 Act takes effect on the 91st day after the date on which the regular session of the Seventy-fourth Legislative Assembly adjourns sine die.

Passed by House March 28, 2007

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Chief Clerk of House

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Speaker of House

Passed by Senate June 5, 2007

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President of Senate

Received by Governor:

.....M.,....., 2007

Approved:

.....M.,....., 2007

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Governor

Filed in Office of Secretary of State:

.....M.,....., 2007

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Secretary of State