

# House Bill 3460

Sponsored by Representative BUTLER

## 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**.

Creates main street property special assessment for unoccupied properties at least 50 years of age at time of application for special assessment. Freezes property tax assessment for five years while property receiving main street property special assessment is renovated. Continues assessment under certain conditions if property is sold or transferred. Provides for recapture provisions upon disqualification.

Applies to tax years beginning on or after July 1, 2007.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to main street property special assessment; and prescribing an effective date.

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

4 **SECTION 1. For purposes of sections 1 to 10 of this 2007 Act:**

5 (1) **"Main street property" means commercial property that is at least 50 years of age.**

6 (2) **"Renovation plan" means a plan for making a significant investment in the restora-**  
7 **tion, renovation and improvement of a main street property. A renovation plan may include,**  
8 **but is not limited to, one or more of the following:**

9 (a) **Measures necessary to sustain the existing form, integrity and materials, including**  
10 **ongoing maintenance and repair of the structure;**

11 (b) **Repairs or alterations to the property to return the property to a state of utility in**  
12 **which a contemporary use is possible;**

13 (c) **Seismic improvements; or**

14 (d) **Energy conservation improvements.**

15 **SECTION 2. (1)(a) An owner of unoccupied property that qualifies as main street prop-**  
16 **erty desiring main street property special assessment for the property under sections 1 to**  
17 **10 of this 2007 Act may apply for the special assessment to the State Historic Preservation**  
18 **Officer on forms approved by the State Historic Preservation Officer. The forms shall include**  
19 **or be accompanied by the written consent of the owner to the viewing of the property by the**  
20 **State Historic Preservation Officer. Any application made under this subsection shall include**  
21 **a renovation plan. An application must be made during the calendar year preceding the first**  
22 **property tax year for which main street property special assessment is desired.**

23 (b) **Special assessment pursuant to an application made under this subsection shall be**  
24 **granted only for five consecutive property tax years, commencing in the tax year beginning**  
25 **on July 1 following the calendar year in which the application was made.**

26 (2) **By making application for assessment under this section, the owner consents that the**  
27 **State Historic Preservation Officer has access to the property for inspection at reasonable**  
28 **times to ensure that state laws or requirements are being met.**

**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) The application for assessment under sections 1 to 10 of this 2007 Act may not be  
 2 processed unless accompanied by a nonrefundable fee of one-third of one percent of the real  
 3 market value of the property, as of the assessment date, for the year in which application  
 4 is made. The fee shall be deposited in the State Parks and Recreation Department Fund for  
 5 use by the State Parks and Recreation Director or for transfer to the Oregon Property  
 6 Management Account established under ORS 358.690, upon the advice of the State Advisory  
 7 Committee on Historic Preservation.

8           **SECTION 3.** (1) After an application is filed under section 2 of this 2007 Act, the State  
 9 Historic Preservation Officer shall review the application and may view the premises. After  
 10 determining that the application is complete, the State Historic Preservation Officer shall  
 11 approve, approve with conditions or deny the application. The State Historic Preservation  
 12 Officer may not disapprove the application solely because of the potential loss of revenue  
 13 that may result from granting the application.

14           (2) The State Historic Preservation Officer may approve the application with respect to  
 15 only part of the property that is the subject of the application. However, if any part of the  
 16 application is denied, the applicant may withdraw the application.

17           (3) A renovation plan submitted to the State Historic Preservation Officer may be  
 18 amended from time to time, either at the request of the owner or at the request of the State  
 19 Historic Preservation Officer. Amendments to the renovation plan become part of the reno-  
 20 vation plan that must be carried out in order that the property not be disqualified as main  
 21 street property.

22           (4) The State Historic Preservation Officer may adopt rules for administration of the  
 23 main street property special assessment program established under sections 1 to 10 of this  
 24 2007 Act, including but not limited to definition of terms or further definition of terms used  
 25 in sections 1 to 10 of this 2007 Act.

26           **SECTION 4.** (1)(a) The county assessor shall, for the five consecutive tax years elected  
 27 under sections 1 to 10 of this 2007 Act, list on the assessment and tax roll a specially as-  
 28 sessed value for property classified as main street property that equals the assessed value  
 29 of the property at the time application for main street property special assessment was  
 30 made.

31           (b) Notwithstanding paragraph (a) of this subsection, if the property that is the subject  
 32 of the application was exempt or specially assessed at the time the application for classi-  
 33 fication was made, the county assessor shall, for the five consecutive tax years elected under  
 34 sections 1 to 10 of this 2007 Act, list on the assessment and tax roll a specially assessed value  
 35 for the property that equals the product of the real market value of the property for the tax  
 36 year in which the application was made multiplied by the ratio of the average maximum as-  
 37 sessed value over the average real market value for that tax year of property in the same  
 38 area and property class.

39           (2) For the five-year period of main street property special assessment, notwithstanding  
 40 ORS 308.149 (2), the maximum assessed value of property subject to main street property  
 41 special assessment shall equal the specially assessed value of the property under subsection  
 42 (1) of this section multiplied by the ratio, not greater than 1.00, of the maximum assessed  
 43 value the property would have had if the property were not specially assessed over the real  
 44 market value of the property.

45           (3) The assessed value of property that is classified as main street property for the tax

1 year shall equal the lesser of:

2 (a) The property's specially assessed value as determined under subsection (1) of this  
3 section; or

4 (b) The property's maximum assessed value as determined under subsection (2) of this  
5 section.

6 (4) Except as provided under section 2 (1) of this 2007 Act, the entitlement of property  
7 to the special assessment provisions of this section shall be determined as of July 1. If the  
8 property becomes disqualified on or after July 1, its assessment for that year shall continue  
9 as provided in this section.

10 (5) Assessed value, as determined under ORS 308.146, shall be determined for property  
11 classified as main street property by the county assessor each year. The assessed value so  
12 determined for any year shall be subject to appeal to the county board of property tax ap-  
13 peals within the time and in the manner provided in ORS chapter 309 and shall be subject  
14 to appeal thereafter to the Oregon Tax Court and to the Oregon Supreme Court within the  
15 time and in the manner provided for appeals of value determination for purposes of ad  
16 valorem property taxation.

17 (6) The Department of Revenue, in consultation with the State Historic Preservation  
18 Officer, shall adopt rules within its area of expertise that are necessary to implement  
19 sections 1 to 10 of this 2007 Act.

20 SECTION 5. If the county assessor or governing body has reason to believe that property  
21 classified as main street property is not being maintained, rehabilitated or preserved as re-  
22 quired under the renovation plan approved for the property, as amended, or as required un-  
23 der rules established by the State Historic Preservation Officer, or otherwise no longer  
24 qualifies for special assessment as main street property, the county assessor, local landmark  
25 commission or governing body shall request the State Historic Preservation Officer to de-  
26 termine if the property continues to qualify. The request shall be in writing and state the  
27 reasons why the continuing qualification is questioned. Upon receipt of the request, the State  
28 Historic Preservation Officer may initiate a continuing qualification review. If a review is  
29 initiated, the State Historic Preservation Officer or designee of the officer shall inspect the  
30 property and may take whatever steps are necessary to determine if the property continues  
31 to qualify for main street property special assessment. The State Historic Preservation Of-  
32 ficer shall notify the county assessor of the determination made pursuant to the request  
33 within 60 days after the request is received. A determination by the State Historic Preser-  
34 vation Officer that the property no longer qualifies shall constitute a discovery described in  
35 section 6 (1)(c) of this 2007 Act.

36 SECTION 6. (1) When property has once been assessed as main street property pursuant  
37 to application filed under sections 1 to 10 of this 2007 Act, it shall remain so classified and  
38 be granted the special assessment provided by section 4 of this 2007 Act until the property  
39 becomes disqualified for such assessment by:

40 (a) Written notice by the taxpayer to the assessor to remove the special assessment.

41 (b) Sale or transfer to an ownership making it exempt from property taxation.

42 (c) Removal of the special assessment by the assessor upon discovery that the property  
43 no longer qualifies as main street property because it is not in compliance with the reno-  
44 vation plan applicable to the property or for other reason.

45 (2)(a) The sale or transfer to a new owner or transfer by reason of death of a former

1 owner to a new owner does not operate to disqualify the property from the special assess-  
2 ment provided by section 4 of this 2007 Act so long as the property continues to qualify as  
3 main street property and the new owner expressly assents to the renovation plan in effect  
4 for the property and continues to implement the renovation plan. Property sold or trans-  
5 ferred under this subsection continues to receive the main street property special assess-  
6 ment for the remainder of the original five-year main street property special assessment  
7 allowed under section 2 of this 2007 Act.

8 (b) The new owner shall notify the State Historic Preservation Officer of the sale or  
9 transfer of ownership within 60 days after the date that the documents described in ORS  
10 93.040 are recorded.

11 (3) When, for any reason, the property or any portion thereof ceases to qualify as main  
12 street property, the owner at the time of change shall notify the assessor and the State  
13 Historic Preservation Officer of the change prior to the next January 1 assessment date.

14 **SECTION 7.** (1) Except as provided in subsection (4) of this section, whenever property  
15 that has received special assessment as main street property under sections 1 to 10 of this  
16 2007 Act thereafter becomes disqualified for such assessment as provided in section 6 of this  
17 2007 Act, there shall be added to the tax extended against the property on the next general  
18 property tax roll, to be collected and distributed in the same manner as the remainder of real  
19 property tax, additional taxes equal to the difference between the taxes assessed against the  
20 property and the taxes that would otherwise have been assessed against the property for  
21 each of the last five years (or such lesser number of years, corresponding to the years of  
22 assessment as main street property applicable to the property) as of January 1 of the as-  
23 sessment year for which the property was disqualified for special assessment, plus an  
24 amount equal to the sum of the interest on each year's additional taxes computed under  
25 section 4 of this 2007 Act from November 15 of the tax year for which back taxes are being  
26 added to July 1 of the tax year of disqualification.

27 (2) Whenever property that has received special assessment as main street property un-  
28 der section 4 of this 2007 Act becomes disqualified for such assessment and either notice  
29 required by section 6 (3) of this 2007 Act is not given, the assessor shall determine the date  
30 that the notice should have been given, shall notify the owner thereof and, notwithstanding  
31 ORS 311.235, there shall be added to the tax extended against the property on the next gen-  
32 eral property tax roll, to be collected and distributed in the same manner as the remainder  
33 of the real property tax, in full payment of all taxes and penalties accruing from the dis-  
34 qualification, the sum of the following:

35 (a) Additional taxes equal to the difference between the total amount of taxes that would  
36 have been due on the property for each year, not to exceed the last five years, in which  
37 special assessment under section 4 of this 2007 Act was in effect for the property (even  
38 though erroneously) and the taxes that would have been due had special assessment not been  
39 in effect, plus an amount equal to the sum of the interest on each year's additional taxes  
40 computed under ORS 311.505 from November 15 of the tax year for which additional taxes  
41 are being added to July 1 of the tax year of disqualification; and

42 (b) An additional penalty of 15 percent of the amount in paragraph (a) of this subsection.

43 (3) Prior to adding to the tax extended against the property on the next general property  
44 tax roll of any additional taxes or penalty imposed by subsection (1) or (2) of this section, in  
45 the case of disqualification pursuant to section 6 (1)(c) of this 2007 Act, the assessor shall

1 notify the owner of the property by certified mail, return receipt requested, of the disquali-  
 2 fication.

3 (4) Additional tax or penalty may not be imposed under subsection (1) or (2) of this sec-  
 4 tion upon the sale or transfer to an ownership making it exempt from property taxation.  
 5 Additional tax or penalty may not be imposed under subsection (1) or (2) of this section if  
 6 the main street property is destroyed by fire or act of God.

7 (5) The amount determined to be due under subsection (1) or (2) of this section may be  
 8 paid to the tax collector prior to the completion of the next general property tax roll, pur-  
 9 suant to ORS 311.370.

10 (6) Additional taxes collected under this section shall be deemed to have been imposed in  
 11 the year to which the additional taxes relate.

12 **SECTION 8.** (1) Notwithstanding section 7 of this 2007 Act, whenever property that has  
 13 received special assessment as main street property under sections 1 to 10 of this 2007 Act  
 14 thereafter becomes disqualified for main street property assessment as the result of a writ-  
 15 ten notice given by the taxpayer pursuant to section 6 (1)(a) of this 2007 Act, additional taxes  
 16 shall be added to the tax extended against the property as prescribed in section 7 (1) of this  
 17 2007 Act, but interest may not be added to the additional taxes if within two years following  
 18 the date of disqualification:

19 (a) The property has been classified for special assessment as main street property under  
 20 sections 1 to 10 of this 2007 Act; and

21 (b) The property owner has spent an amount implementing a renovation plan for the  
 22 property that equals or exceeds five times the amount of interest that would otherwise be  
 23 payable under section 7 (1) of this 2007 Act.

24 (2) If the property owner files a written request with the county assessor, for the period  
 25 of time from the disqualification of the property until the earlier of the time the assessor  
 26 determines that the requirements of subsection (1) of this section have been met or two  
 27 years following the date of disqualification, interest that would otherwise be added to the  
 28 additional taxes due under section 7 of this 2007 Act may not be extended against the prop-  
 29 erty but shall remain a potential liability on the assessment and tax roll. If the assessor  
 30 determines that the requirements of subsection (1) of this section are met, the interest shall  
 31 be canceled. If the assessor determines that the requirements of subsection (1) of this sec-  
 32 tion have not been met, the interest shall be added to the tax extended against the property  
 33 as prescribed in section 7 (1) of this 2007 Act.

34 **SECTION 9.** When any property has been classified and assessed as main street property  
 35 under sections 1 to 10 of this 2007 Act and the owner or other qualified person applies for a  
 36 change in the classification under another special assessment program, the applicant shall  
 37 have 30 days thereafter within which to withdraw the application, by giving written notice  
 38 to the public official or agency to whom the applicant applied for the change in classification.  
 39 If no notice of withdrawal is given by the applicant, the application shall be acted upon and  
 40 the change in classification made, as otherwise provided by law.

41 **SECTION 10.** (1) Property classified as main street property under sections 1 to 10 of this  
 42 2007 Act is entitled to any other exemption or special assessment provided by law.

43 (2) Property that has received special assessment under sections 1 to 10 of this 2007 Act  
 44 for five years, at the completion of the five-year term, is disqualified from main street  
 45 property special assessment.

1        **SECTION 11.** Sections 1 to 10 of this 2007 Act apply to tax years beginning on or after  
2        **July 1, 2007.**

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

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