

# Enrolled House Bill 2700

Sponsored by Representative BERGER

CHAPTER .....

AN ACT

Relating to claims for property tax exemption; creating new provisions; amending ORS 307.112, 307.162 and 307.166; and prescribing an effective date.

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

**SECTION 1.** ORS 307.112 is amended to read:

307.112. (1) Real or personal property of a taxable owner held under lease, sublease or lease-purchase agreement by an institution, organization or public body, other than the State of Oregon, granted exemption or the right to claim exemption for any of its property under ORS 307.090, 307.130, 307.136, 307.140, 307.145 or 307.147, is exempt from taxation if:

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

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

(2) **To obtain the exemption under this section**, the lessee or, if the lessee is not in possession of the property, the entity in possession of the property *[shall]* **must** file a claim for exemption with the county assessor, verified by the oath or affirmation of the president or other proper officer of the institution or organization, or head official of the public body or legally authorized delegate, showing:

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

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

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

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

(3) If the assessor is not satisfied that the rent stated in the lease, sublease or lease-purchase agreement has been established to reflect the savings below market rent resulting from the tax exemption, before the exemption may be granted the lessor *[shall]* **must** provide documentary proof, as specified by rule of the Department of Revenue, that the rent has been established to reflect the savings below market rent resulting from the tax exemption.

(4)(a) The claim *[shall]* **must** be filed on or before April 1 **preceding the tax year for which the exemption is claimed**, except *[as follows]*:

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

(B) *[Notwithstanding that no hardship grounds exist,]* If a late filing fee is *[determined, paid and distributed]* **paid** in the manner provided in ORS 307.162 (2), **as applicable and notwithstanding the limitation of scope in ORS 307.162 (1),** the claim *[shall]* **may** be filed on or before December 31 of the tax year for which exemption is first claimed.

(b) The exemption first *[shall apply]* **applies** for the tax year beginning July 1 of the year for which the claim is filed. The exemption *[shall continue so]* **continues** as long as the use of the property remains unchanged and during the period of the lease, sublease or lease-purchase agreement. If the use changes, a new claim *[shall]* **must** be filed as provided in this section. If the use changes due to sublease of the property or any portion of the property from the tax exempt entity described in subsection (1) of this section to another tax exempt entity, the entity in possession of the property *[shall]* **must** file a new claim for exemption as provided in this section. If the lease, sublease or lease-purchase agreement expires before July 1 of any year, the exemption *[shall terminate]* **terminates** as of January 1 of the same calendar year.

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

307.162. (1) Before any real or personal property may be exempted from taxation under ORS 307.115, 307.118, 307.130 to 307.140, 307.145, 307.147, 307.150, 307.160 or 307.580 for any tax year, the institution or organization *[claiming]* **entitled to claim** the exemption *[shall]* **must** file a **claim** with the county assessor, on or before April 1 *[of the assessment year, a statement]* **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, listing all real or personal property claimed to be exempt and showing the purpose for which such property is used. However:

(a) If the ownership of all property included in the *[statement]* **claim** filed with the county assessor for a prior year remains unchanged, a new *[statement shall not be]* **claim is not** required.

(b) When the property designated in the claim for exemption is acquired after March 1 and before July 1, the claim for that year *[shall]* **must** be filed within 30 days from the date of acquisition of the property.

*[(c) As used in this subsection, "ownership" means legal and equitable title.]*

(2)(a) Notwithstanding subsection (1) of this section, a *[statement]* **claim** may be filed under this section *[on or before December 31 of the assessment year for which exemption is first desired. However, any statement filed after the time for filing the statement specified in subsection (1) of this section must be];*

**(A) On or before December 31 of the tax year for which the exemption is claimed, 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 *[statement pertains, as determined for the assessment year by the assessor for this purpose]* **claim pertains.**

**(B) On or before April 1 of the tax year for which the exemption is claimed, 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) If the *[statement]* **claim** is not accompanied by the late filing fee or if the late filing fee is not otherwise paid, *[no exemption shall]* **an exemption may not** be allowed for the tax year *[based upon a statement]* **sought by the claim** filed pursuant to this subsection. A *[statement]* **claim** may be filed under this *[section]* **subsection** notwithstanding that there are no grounds for hardship as required for late filing under ORS 307.475.

(c) The value of the property used to determine the late filing fee under this *[section is]* **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.

(d) [Any] A filing fee collected under this [section shall] **subsection must** be deposited [to] in the county general fund.

(3) **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.**

[3(a)] (4)(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 [make] **file** a timely [application] **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 [an application] **a claim for exemption** with the county assessor to have the additions or improvements to the exempt property be exempt from taxation. The [application shall] **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 of Revenue; 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 [application] **claim**.

(c) Upon the county assessor’s receipt of a completed [application] **claim** and late filing fee, the assessor shall determine [if the property that is the subject of the application,] 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 [statement] **claim** been filed under subsection (1) of this section. Any property that would have qualified for exemption had a timely [statement] **claim been filed** under subsection (1) of this section [been filed shall be] **is** exempt from taxation for each tax year for which the property would have [so] qualified.

(d) [An application] **A claim** for exemption under this subsection may be filed only for tax years for which the time for filing a [statement] **claim** under subsections (1) and (2) of this section has expired. [An application] **A claim** filed under this subsection, however, may serve as the [statement] **claim** required under subsection (1) of this section for the current [assessment] **tax** year.

(e) For each tax year for which an exemption granted pursuant to this subsection applies:

(A) Any tax, or interest attributable thereto, that was paid with respect to the property that is declared exempt from taxation[, shall] **must** be refunded. Refunds [shall] **must** be made 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[, shall] **must** be abated.

(f) A late filing fee collected under this subsection [shall] **must** be deposited in the county general fund.

[4] (5) 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 [shall] **must** notify the county assessor of the change to a taxable use within 30 days [of the change in use].

**SECTION 2a.** If Senate Bill 594 becomes law, section 2 of this 2009 Act (amending ORS 307.162) is repealed and ORS 307.162, as amended by section 3, chapter \_\_, Oregon Laws 2009 (Enrolled Senate Bill 594), is amended to read:

307.162. (1)(a) Before any real or personal property may be exempted from taxation under ORS 307.115, 307.118, 307.130 to 307.140, 307.145, 307.147, 307.150, 307.160 or 307.580 for any tax year, the institution or organization [claiming] **entitled to claim** the exemption [shall] **must** file a **claim** with the county assessor, on or before April 1 [of the assessment year, a statement] **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) [Lists] **List** all real property claimed to be exempt and [shows] **show** the purpose for which the real property is used; and

(B) [Cites] **Cite** the statutes under which exemption for personal property is claimed.

(b) If the ownership of all property included in the [statement] **claim** filed with the county assessor for a prior year remains unchanged, a new [statement shall not be] **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 [shall] **must** be filed within 30 days from the date of acquisition of the property.

[d) For purposes of this subsection, "ownership" means legal and equitable title.]

(2)(a) Notwithstanding subsection (1) of this section, a [statement] **claim** may be filed under this section [on or before December 31 of the assessment year for which exemption is first desired. However, any statement filed after the time for filing the statement specified in subsection (1) of this section must be]:

(A) **On or before December 31 of the tax year for which the exemption is claimed, 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 [statement pertains, as determined for the assessment year by the assessor for this purpose] claim pertains.**

(B) **On or before April 1 of the tax year for which the exemption is claimed, 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) If the [statement] **claim** is not accompanied by the late filing fee or if the late filing fee is not otherwise paid, [no exemption shall] **an exemption may not** be allowed for the tax year [based upon a statement] **sought by the claim** filed pursuant to this subsection. A [statement] **claim** may be filed under this [section] **subsection** notwithstanding that there are no grounds for hardship as required for late filing under ORS 307.475.

(c) The value of the property used to determine the late filing fee under this [section is] **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.

(d) [Any] **A** filing fee collected under this [section shall] **subsection must** be deposited [to] **in** the county general fund.

(3) **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.**

~~[(3)(a)]~~ **(4)(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 ~~[make]~~ **file** a timely ~~[application]~~ **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 ~~[an application]~~ **a claim for exemption** with the county assessor to have the additions or improvements to the exempt property be exempt from taxation. The ~~[application shall]~~ **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 of Revenue; 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 ~~[application]~~ **claim**.

(c) Upon the county assessor’s receipt of a completed ~~[application]~~ **claim** and late filing fee, the assessor shall determine ~~[if the property that is the subject of the application,]~~ 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 ~~[statement]~~ **claim** been filed under subsection (1) of this section. Any property that would have qualified for exemption had a timely ~~[statement]~~ **claim been filed** under subsection (1) of this section ~~[been filed shall be]~~ **is** exempt from taxation for each tax year for which the property would have ~~[so]~~ qualified.

(d) ~~[An application]~~ **A claim** for exemption under this subsection may be filed only for tax years for which the time for filing a ~~[statement]~~ **claim** under subsections (1) and (2) of this section has expired. ~~[An application]~~ **A claim** filed under this subsection, however, may serve as the ~~[statement]~~ **claim** required under subsection (1) of this section for the current ~~[assessment]~~ **tax** year.

(e) For each tax year for which an exemption granted pursuant to this subsection applies:

(A) Any tax, or interest attributable thereto, that was paid with respect to the property that is declared exempt from taxation[, ~~shall~~] **must** be refunded. Refunds ~~[shall]~~ **must** be made 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[, ~~shall~~] **must** be abated.

(f) A late filing fee collected under this subsection ~~[shall]~~ **must** be deposited in the county general fund.

~~[(4)]~~ **(5)** 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 ~~[shall]~~ **must** notify the county assessor of the change to a taxable use within 30 days ~~[of the change in use]~~.

**SECTION 3.** ORS 307.166 is amended to read:

307.166. (1) If property is owned or being purchased by an institution, organization or public body[, ~~and if the institution, organization or public body is one~~] **that is** granted exemption or the right to claim exemption for any of its property under a provision of law contained in this chapter, and ~~[such]~~ **the** institution, organization or public body leases or otherwise grants the use and possession of ~~[such]~~ **the** property to another institution, organization or public body **that is** likewise granted exemption or the right to claim exemption for ~~[any of its]~~ property under a provision of law contained in this chapter, ~~[such]~~ **the** property is exempt from taxation if used by the lessee or

possessor in the manner, if any, required by law for the exemption of property owned or being purchased by the lessee or possessor and the rent payable under the lease or other grant of use and possession of the property has been established to reflect the savings below market rent resulting from the exemption from taxation. Likewise, if the property is sublet or otherwise the use and possession of the property is granted to another institution, organization or public body of the kind described in this subsection, *[such]* **the** property is exempt if *[the property is]* used by the sublessee or possessor in the manner, if any, required by law for the exemption of property owned or being purchased by the sublessee or possessor and the rent payable under the sublease or other grant of use and possession of the property has been established to reflect the savings below market rent resulting from the exemption from taxation.

(2) **To obtain the exemption under this section**, the lessee or entity in possession *[shall]* **must** file a claim for exemption with the county assessor, verified by the oath or affirmation of the president or other proper officer of the institution or organization, or head official of the public body or the legally authorized delegate of the head official, showing:

- (a) A complete description of the property for which exemption is claimed.
- (b) All facts relating to the ownership or purchase of the property.
- (c) All facts relating to the use of the property by the lessee or entity in possession.
- (d) A true copy of the lease, **sublease** or other *[agreement]* **grant of use and possession** covering the property for which exemption is claimed.
- (e) Any other information required by the claim form.

(3)(a) The claim *[shall]* **must** be filed on or before April 1 **preceding the tax year for which the exemption is claimed**, except *[as follows]*:

(A) If the lease, **sublease** or other *[agreement]* **grant of use and possession** is entered into after March 1 but not later than June 30, the claim *[shall]* **must** be filed within 30 days after the date the lease, **sublease** or **other** *[agreement]* **grant of use and possession** is entered into if the exemption is claimed for the assessment year beginning on *[that]* **the preceding** January 1; or

(B) *[Notwithstanding that no hardship grounds exist,]* If a late filing fee is *[determined, paid and distributed]* **paid** in the manner provided in ORS 307.162 (2), **as applicable and notwithstanding the limitation of scope in ORS 307.162 (1)**, the claim *[shall]* **may** be filed on or before December 31 of the assessment year for which exemption is first claimed.

(b) The exemption first *[shall apply]* **applies** for the tax year beginning July 1 of the year for which the claim is filed. The exemption *[shall continue so]* **continues as** long as the ownership and use of the property remain unchanged and during the period of the lease *[or agreement]*, **sublease or other grant of use and possession**. If either the ownership or use changes, a new claim *[shall]* **must** be filed as provided in this section. If the lease *[or agreement]*, **sublease or other grant of use and possession** expires before July 1 of any year, the exemption *[shall terminate]* **terminates** as of January 1 of the same **calendar** year.

**SECTION 4. The amendments to ORS 307.112, 307.162 and 307.166 by sections 1 to 3 of this 2009 Act apply to tax years beginning on or after July 1, 2009.**

**SECTION 5. This 2009 Act takes effect on the 91st day after the date on which the regular session of the Seventy-fifth Legislative Assembly adjourns sine die.**

**Passed by House May 1, 2009**

**Repassed by House June 16, 2009**

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Chief Clerk of House

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Speaker of House

**Passed by Senate June 11, 2009**

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President of Senate

**Received by Governor:**

.....M,....., 2009

**Approved:**

.....M,....., 2009

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Governor

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

.....M,....., 2009

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Secretary of State