

**Enrolled**  
**Senate Bill 609**

Sponsored by COMMITTEE ON FINANCE AND REVENUE (at the request of Associated Oregon Industries)

CHAPTER .....

AN ACT

Relating to protective orders in tax court proceedings; creating new provisions; amending ORS 305.430; and prescribing an effective date.

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

**SECTION 1.** ORS 305.430 is amended to read:

305.430. (1) Except as provided in subsections (2) and (3) of this section, hearings before the judge or a magistrate of the tax court shall be open to the public. All proceedings in the regular division of the tax court shall be reported unless waived by the parties with the consent of the court. The expense of reporting shall be paid by the state from the appropriation for the court. Proceedings before the magistrate division shall not be reported.

(2) If information is confidential under ORS 308.411 (4) or by court order under ORS 305.420 (4), and is introduced into evidence in any hearing before the tax court, the court first shall make such order or orders as are necessary to protect the confidentiality of the information.

(3) In any proceeding before a magistrate or before the tax court judge [*in which*] **involving** confidential business records, tax returns or documents containing trade secrets [*are to be introduced into evidence*], upon motion of a party to the proceeding, the magistrate or judge may make such protective orders as may be necessary to protect the confidentiality of such records or the information contained therein. In determining whether such protective orders should be issued, the court shall weigh the harm suffered by the disclosing party against any benefit received by the public as a result of the disclosure. Complaints, pleadings and other filings containing confidential business record information, tax return information or trade secret information shall be subject to the provisions of this subsection.

(4) In a matter involving a request for a protective order under subsections (2) and (3) of this section, the decision of [*the judge or*] a magistrate of the tax court **may be appealed to the regular division of the tax court and the magistrate may stay the case on the merits until the request for a protective order is resolved by the tax court judge or the Supreme Court. A decision of the tax court judge on a request for a protective order** shall be a final order for purposes of appeal to the Supreme Court. The parties may appeal the issue of the protective order to the Supreme Court at any time after the protective order was granted or denied **by the tax court judge**. Upon appeal to the Supreme Court, the [*judge or a magistrate of the tax court may*] **Supreme Court shall** stay the case on the merits until a resolution of the protective order issue is determined by the Supreme Court. **Appeals to the regular division of the tax court described in this subsection shall be expedited and determined within 90 days, unless the tax court determines in its discretion that it requires additional time.**

**SECTION 2.** The amendments to ORS 305.430 by section 1 of this 2009 Act apply to cases filed on or after the effective date of this 2009 Act.

**SECTION 3.** 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 Senate April 13, 2009**

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Secretary of Senate

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President of Senate

**Passed by House June 9, 2009**

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Speaker of House

**Received by Governor:**

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**Approved:**

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Governor

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

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Secretary of State