

House Bill 2546

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). 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**.

Allows late filing of claim for exemption from property taxation for five tax years prior to current tax year. Requires late filing fee of greater of \$200, or one-tenth of one percent of real market value of property to which claim pertains, multiplied by number of prior tax years for which exemption is claimed. Provides tax to be refunded without interest for exempt property for which claim is filed late.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to exemption from property taxation; creating new provisions; amending ORS 307.112,
3 307.162 and 307.166; and prescribing an effective date.

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

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

6 307.112. (1) Real or personal property of a taxable owner held under lease, sublease or lease-
7 purchase agreement by an institution, organization or public body, other than the State of Oregon,
8 granted exemption or the right to claim exemption for any of its property under ORS 307.090,
9 307.130, 307.136, 307.140, 307.145 or 307.147, is exempt from taxation if:

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

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

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

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

22 (b) If applicable, all facts relating to the use of the property by the lessee or, if the lessee is
23 not in possession of the property, [*all facts relating to the use of the property*] by the entity in pos-
24 session of the property.

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

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

28 (3) If the assessor is not satisfied that the rent stated in the lease, sublease or lease-purchase

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 agreement has been established to reflect the savings below market rent resulting from the tax ex-
 2 emption, before the exemption may be granted the lessor must provide documentary proof, as spec-
 3 ified by rule of the Department of Revenue, that the rent has been established to reflect the savings
 4 below market rent resulting from the tax exemption.

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

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

10 (B) If a late filing fee is paid in the manner provided in ORS 307.162 (2), [*as applicable and*
 11 *notwithstanding the limitation of scope in ORS 307.162 (1),*] the claim may be filed [*on or before De-*
 12 *cember 31 of the tax year for which exemption is first claimed*] **within the time specified in ORS**
 13 **307.162 (2).**

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

16 (5)(a) [*The*] **An exemption granted under this section** continues as long as the use of the
 17 property remains unchanged and during the period of the lease, sublease or lease-purchase agree-
 18 ment.

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

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

23 (d) If the lease, sublease or lease-purchase agreement expires before July 1 of any year, the
 24 exemption terminates as of January 1 of the same calendar year.

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

26 307.162. (1)(a) Before any real or personal property may be exempted from taxation under ORS
 27 307.115, 307.118, 307.130 to 307.140, 307.145, 307.147, 307.150, 307.160 or 307.580 for any tax year, the
 28 institution or organization entitled to claim the exemption must file a claim with the county
 29 assessor, on or before April 1 preceding the tax year for which the exemption is claimed. The claim
 30 must contain statements, verified by the oath or affirmation of the president or other proper officer
 31 of the institution or organization, that:

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

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

35 (b) If the ownership of all property included in the claim filed with the county assessor for a
 36 prior year remains unchanged, a new claim is not required.

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

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

42 (A) On or before December 31 of the tax year [*for which the exemption is claimed*], if the claim
 43 is accompanied by a late filing fee of the greater of \$200, or one-tenth of one percent of the real
 44 market value as of the most recent assessment date of the property to which the claim pertains.

45 (B) On or before April 1 of the tax year [*for which the exemption is claimed*], if the claim is ac-

1 accompanied by a late filing fee of \$200 and the claimant demonstrates good and sufficient cause for
 2 failing to file a timely claim, is a first-time filer or is a public entity described in ORS 307.090.

3 **(b)(A) Notwithstanding subsection (1) of this section, a claim may be filed under this**
 4 **section for the five tax years prior to the current tax year:**

5 **(i) Within 60 days after the date on which the county assessor mails notice of additional**
 6 **taxes owing under ORS 311.206 for the property to which the claim filed under this subpar-**
 7 **agraph pertains; or**

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

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

13 *[(b)]* **(c) If [the] a claim filed under this subsection** is not accompanied by the late filing fee
 14 or if the late filing fee is not otherwise paid, an exemption may not be allowed for the tax *[year]*
 15 **years** sought by the claim *[filed pursuant to this subsection]*. A claim may be filed under this sub-
 16 section notwithstanding that there are no grounds for hardship as required for late filing under ORS
 17 307.475.

18 *[(c)]* **(d)** The value of the property used to determine the late filing fee under this subsection and
 19 the determination of the county assessor relative to a claim of good and sufficient cause are
 20 appealable in the same manner as other acts of the county assessor.

21 *[(d)]* **(e)** A **late** filing fee collected under this subsection must be deposited in the county general
 22 fund.

23 (3) As used in this section:

24 (a) “First-time filer” means a claimant that:

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

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

28 (b)(A) “Good and sufficient cause” means an extraordinary circumstance beyond the control of
 29 the taxpayer or the taxpayer’s agent or representative that causes the failure to file a timely claim.

30 (B) “Good and sufficient cause” does not include hardship, reliance on misleading information
 31 unless the information is provided by an authorized tax official in the course of the official’s duties,
 32 lack of knowledge, oversight or inadvertence.

33 (c) “Ownership” means legal and equitable title.

34 (4)(a) Notwithstanding subsection (1) of this section, if an institution or organization owns
 35 property that is exempt from taxation under a provision of law listed in subsection (1) of this section
 36 and fails to file a timely claim for exemption under subsection (1) of this section for additions or
 37 improvements to the exempt property, the additions or improvements may nevertheless qualify for
 38 exemption.

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

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

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

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

44 (D) Contain any other information required by the Department of Revenue; and

45 (E) Be accompanied by a late filing fee equal to the product of the number of tax years for

1 which exemption is sought multiplied by the greater of \$200 or one-tenth of one percent of the real
 2 market value as of the most recent assessment date of the property that is the subject of the claim.

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

9 (d) A claim for exemption under this subsection may be filed only for tax years for which the
 10 time for filing a claim under subsections (1) and (2)(a) of this section has expired. A claim filed un-
 11 der this subsection, however, may serve as the claim required under subsection (1) of this section
 12 for the current tax year.

13 **(e) A late filing fee collected under this subsection must be deposited in the county gen-
 14 eral fund.**

15 [(e)] (5) For each tax year for which an exemption granted pursuant to [this] subsection (2) or
 16 (4) of this section applies:

17 [(A)] (a) Any tax, or interest attributable thereto, that was paid with respect to the property
 18 that is declared exempt from taxation must be refunded. Refunds must be made **without interest**
 19 from the unsegregated tax collections account established under ORS 311.385.

20 [(B)] (b) Any tax, or interest attributable thereto, that remains unpaid as of the date the ex-
 21 emption is granted must be abated.

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

23 [(5)] (6) If an institution or organization owns property that is exempt from taxation under a
 24 provision of law listed in subsection (1) of this section and changes the use of the property to a use
 25 that would not entitle the property to exemption from taxation, the institution or organization must
 26 notify the county assessor of the change to a taxable use within 30 days.

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

28 307.166. (1) If property is owned or being purchased by an institution, organization or public
 29 body that is granted exemption or the right to claim exemption for any of its property under a
 30 provision of law contained in this chapter, and the institution, organization or public body leases
 31 or otherwise grants the use and possession of the property to another institution, organization or
 32 public body that is likewise granted exemption or the right to claim exemption for property under
 33 a provision of law contained in this chapter, the property is exempt from taxation if used by the
 34 lessee or possessor in the manner, if any, required by law for the exemption of property owned or
 35 being purchased by the lessee or possessor and the rent payable under the lease or other grant of
 36 use and possession of the property has been established to reflect the savings below market rent
 37 resulting from the exemption from taxation. Likewise, if the property is sublet or otherwise the use
 38 and possession of the property is granted to another institution, organization or public body of the
 39 kind described in this subsection, the property is exempt if used by the sublessee or possessor in the
 40 manner, if any, required by law for the exemption of property owned or being purchased by the
 41 sublessee or possessor and the rent payable under the sublease or other grant of use and possession
 42 of the property has been established to reflect the savings below market rent resulting from the
 43 exemption from taxation.

44 (2) To obtain the exemption under this section, the lessee or entity in possession must file a
 45 claim for exemption with the county assessor, verified by the oath or affirmation of the president

1 or other proper officer of the institution or organization, or head official of the public body or the
2 legally authorized delegate of the head official, showing:

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

4 (b) All facts relating to the ownership or purchase of the property.

5 (c) All facts relating to the use of the property by the lessee or entity in possession.

6 (d) A true copy of the lease, sublease or other grant of use and possession covering the property
7 for which exemption is claimed.

8 (e) Any other information required by the claim form.

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

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

15 (B) If a late filing fee is paid in the manner provided in ORS 307.162 (2), [*as applicable and*
16 *notwithstanding the limitation of scope in ORS 307.162 (1),*] the claim may be filed [*on or before De-*
17 *cember 31 of the assessment year for which exemption is first claimed*] **within the time specified in**
18 **ORS 307.162 (2).**

19 (b) The exemption first applies for the tax year beginning July 1 of the year for which the claim
20 is filed. The exemption continues as long as the ownership and use of the property remain un-
21 changed and during the period of the lease, sublease or other grant of use and possession. If either
22 the ownership or use changes, a new claim must be filed as provided in this section. If the lease,
23 sublease or other grant of use and possession expires before July 1 of any year, the exemption ter-
24 minates as of January 1 of the same calendar year.

25 **SECTION 4. The amendments to ORS 307.112, 307.162 and 307.166 by sections 1 to 3 of this**
26 **2011 Act apply to property tax years beginning on or after July 1, 2011.**

27 **SECTION 5. This 2011 Act takes effect on the 91st day after the date on which the 2011**
28 **session of the Seventy-sixth Legislative Assembly adjourns sine die.**

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