

House Bill 4041

Introduced and printed pursuant to House Rule 12.00. 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**.

Exempts from taxation property owned exclusively by eligible Indian tribe or by entity wholly owned by eligible Indian tribe if property is used exclusively for certain government services.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to taxation of Indian tribe property; amending ORS 307.112 and 307.181; and prescribing
3 an effective date.

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

5 **SECTION 1.** ORS 307.181 is amended to read:

6 307.181. (1) Land acquired by an Indian tribe by purchase, gift or without consideration is ex-
7 empt from taxation if:

8 (a) The land is located within the ancient tribal boundaries of the tribe; and

9 (b) Acquisition of the land by the United States in trust status has been requested or is in pro-
10 cess.

11 (2) The exemption under **subsection (1) of this section** ceases if the federal government enters
12 a final administrative determination denying the request for acquisition of the land in trust status
13 and:

14 (a) The deadlines for all available federal administrative appeals and federal judicial review ex-
15 pire with no appeal or review initiated; or

16 (b) All federal administrative and judicial proceedings arising from or related to the request for
17 or process of acquisition of the land in trust status that have been initiated are completed without
18 overturning the administrative denial of the request.

19 **(3) Notwithstanding subsections (1) and (2) of this section, property that is owned exclu-**
20 **sively by an eligible Indian tribe or by an entity wholly owned by an eligible Indian tribe, or**
21 **a portion of the property, is exempt from taxation if the property, or the portion of the**
22 **property, respectively, is used exclusively for government services.**

23 **(4) As used in this section:**

24 (a) **"Eligible Indian tribe" means the Burns Paiute Tribe, the Confederated Tribes of**
25 **Coos, Lower Umpqua and Siuslaw Indians, the Confederated Tribes of the Grand Ronde**
26 **Community of Oregon, the Confederated Tribes of Siletz Indians of Oregon, the Confederated**
27 **Tribes of the Umatilla Indian Reservation, the Confederated Tribes of Warm Springs Reser-**
28 **vation of Oregon, the Coquille Indian Tribe, the Cow Creek Band of Umpqua Tribe of Indians**
29 **or the Klamath Tribes.**

30 (b) **"Government services" means services provided by an eligible Indian tribe that:**

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 (A) Are equivalent to services that a state or local government or the federal govern-
2 ment customarily provides to its citizens;

3 (B) Are related to:

4 (i) Tribal administration;

5 (ii) Tribal facilities or tribal health facilities;

6 (iii) Elementary or secondary education or higher education, including community col-
7 leges;

8 (iv) Transportation;

9 (v) Fire or police;

10 (vi) Low-income housing that meets the criteria for exemption under ORS 307.517 (1)(a),
11 (b) and (c) or the criteria under ORS 456.620 (4);

12 (vii) Utility services provided to an Indian reservation or to land held in trust by the
13 United States for the benefit of an eligible Indian tribe; or

14 (viii) Cemeteries; and

15 (C) Do not generate income, other than fees that do not exceed the actual cost of pro-
16 viding the goods or services for which the fees are charged.

17 (c) "Utility services" means services related to sanitation, sewer, storm drainage and
18 water.

19 **SECTION 2.** ORS 307.112 is amended to read:

20 307.112. (1) Real or personal property of a taxable owner held under lease, sublease or lease-
21 purchase agreement by an institution, organization or public body, other than the State of Oregon,
22 granted exemption or the right to claim exemption for any of its property under ORS 307.090,
23 307.130, 307.136, 307.140, 307.145 [or], 307.147 or **307.181 (3)**, is exempt from taxation if:

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

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

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

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

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

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

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

41 (3) If the assessor is not satisfied that the rent stated in the lease, sublease or lease-purchase
42 agreement has been established to reflect the savings below market rent resulting from the tax ex-
43 emption, before the exemption may be granted the lessor must provide documentary proof, as spec-
44 ified by rule of the Department of Revenue, that the rent has been established to reflect the savings
45 below market rent resulting from the tax exemption.

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

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

6 (B) If a late filing fee is paid in the manner provided in ORS 307.162 (2), the claim may be filed
7 within the time specified in ORS 307.162 (2).

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

10 (5)(a) An exemption granted under this section continues as long as the use of the property re-
11 mains unchanged and during the period of the lease, sublease or lease-purchase agreement.

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

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

16 (d) If the lease, sublease or lease-purchase agreement expires before July 1 of any year, the ex-
17 emption terminates as of January 1 of the same calendar year.

18 **SECTION 3. This 2012 Act takes effect on the 91st day after the date on which the 2012**
19 **regular session of the Seventy-sixth Legislative Assembly adjourns sine die.**

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