

A-Engrossed
Senate Bill 1529

Ordered by the Senate February 6
Including Senate Amendments dated February 6

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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.

Requires Department of Revenue to establish separate [*class*] **classes for certain kinds of property, including** for real property machinery and equipment.

Eliminates requirement that certain separately owned fixtures be assessed separately.

Authorizes tax collector to collect delinquent property taxes on machinery and equipment in manner applicable to personal or real property.

Provides that taxes on machinery and equipment are lien on real property on which machinery and equipment is located if machinery and equipment and real property are owned by same person.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to property taxation; creating new provisions; amending ORS 308.115, 308.149, 308.215,
3 311.405 and 311.510; and prescribing an effective date.

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

5 **SECTION 1.** ORS 308.215 is amended to read:

6 308.215. (1) The assessor shall prepare the assessment roll in the following form:

7 [(1)] (a) Real property shall be listed in sequence by account number or by code area and ac-
8 count numbers. For each parcel of real property, the assessor shall set down in the assessment roll
9 according to the best information the assessor can obtain:

10 [(a)] (A) The name of the owner or owners and, if the assessor or tax collector is instructed in
11 writing by the owner or owners to send statements and notices relating to taxation to an agent or
12 representative, the name of such agent or representative.

13 [(b)] (B) A description as required by ORS 308.240 with its code area and account numbers.

14 [(c)] (C) The property class, in accordance with the classes established by rule by the Depart-
15 ment of Revenue.

16 [(d)] (D) The number of acres and parts of an acre, as nearly as can be ascertained, unless it
17 is divided into blocks and lots.

18 [(e)] (E) The real market value of the land, excluding all buildings, structures, improvements and
19 timber thereon.

20 [(f)] (F) The real market value of all buildings, structures and improvements thereon.

21 [(g)] (G) The real market value of each unit together with its percentage of undivided interest
22 in the common elements of property subject to ORS 100.005 to 100.910 stating separately the real
23 market value of the land, buildings, structures and improvements of each unit.

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 [(h)] (H) For each parcel of real property granted an exemption under ORS 307.250 to 307.283,
2 the real market value so exempt.

3 [(i)] (I) The total assessed value, maximum assessed value and real market value of each parcel
4 of real property assessed.

5 [(2)] (b) For personal property, the assessor shall set down separately in the assessment roll,
6 according to the best information the assessor can obtain:

7 [(a)] (A) The names, including assumed business names, if any, of all persons, whether individ-
8 uals, partnerships or corporations, or other owner, owning or having possession or control of taxable
9 personal property on January 1, at 1:00 a.m. of the assessment year. If it is a partnership, the names
10 of two general partners and the total number thereof.

11 [(b)] (B) The real market value of the personal property assessed, with a separate value for each
12 category of personal property, if any. The Department of Revenue, by rule, may establish such cat-
13 egories as appear useful or necessary for good tax administration.

14 [(c)] (C) The number of the code area assigned by the assessor covering the situs of the property
15 on January 1.

16 [(d)] (D) The total assessed, maximum assessed and real market value for the property.

17 (c) **Real property and machinery and equipment listed on the assessment roll shall each**
18 **bear a distinctive designation so that machinery and equipment can be identified with the**
19 **real property upon which the machinery and equipment is located.**

20 [(3)] (d)(A) The listing of manufactured structures on the assessment roll, whether as real or
21 personal property, shall be done in a distinctive manner so that manufactured structures may be
22 readily distinguished from other property.

23 [(4)] (B) In lieu of listing manufactured structures on the assessment roll as real or personal
24 property, the assessor may list manufactured structures in a separate section of the assessment roll.
25 In any county where such separate listing of manufactured structures is made the manufactured
26 structures assessed as real property under ORS 308.875 shall bear a distinctive designation so that
27 it can be identified with the real property upon which it is located. In like manner the real property
28 upon which the manufactured structure is situated shall bear a distinctive designation so that it can
29 be identified with the manufactured structure. Where a homestead exemption is granted to a manu-
30 factured structure assessed as real property under ORS 308.875, which manufactured structure is
31 listed on a portion of the assessment roll separate from the real property, the exempt amount shall
32 apply first to the value of the manufactured structure, and any remainder shall apply to the parcel
33 of land upon which it is situated.

34 (2) **For purposes of the classification of real property required under subsection (1)(a)(C)**
35 **of this section, property listed in paragraph (a), (b) or (c) of this subsection must be classi-**
36 **fied, together with any other property listed in the respective paragraph, separately from all**
37 **other property:**

38 (a) **Machinery and equipment.**

39 (b) **Property appraised under ORS 306.126, other than machinery and equipment.**

40 (c) **Industrial property, other than property appraised under ORS 306.126, and commercial**
41 **property.**

42 [(5)] (3) The Department of Revenue may by rule require that the assessment roll include in-
43 formation in addition to that required by [subsections (1) and (2)] **subsection (1)** of this section.

44 **SECTION 2.** ORS 308.149 is amended to read:

45 308.149. As used in ORS 308.149 to 308.166:

1 [(1) "Property class" means the classification of property adopted by the Department of Revenue
2 by rule, except that in the case of property assessed under ORS 308.505 to 308.665, "property class"
3 means the total of all property set forth in the assessment roll prepared under ORS 308.540.]

4 [(2)] (1) "Area" means the county in which property, the maximum assessed value of which is
5 being adjusted, is located except that "area" means this state, if the property for which the maxi-
6 mum assessed value is being adjusted is property that is centrally assessed under ORS 308.505 to
7 308.665.

8 [(3)(a)] (2)(a) "Average maximum assessed value" means the value determined by dividing the
9 total maximum assessed value of all property in the same area in the same property class by the
10 total number of properties in the same area in the same property class.

11 (b) In making the calculation described under this subsection, the following property is not
12 taken into account:

- 13 (A) New property or new improvements to property;
- 14 (B) Property that is partitioned or subdivided;
- 15 (C) Property that is rezoned and used consistently with the rezoning;
- 16 (D) Property that is added to the assessment and tax roll as omitted property; or
- 17 (E) Property that is disqualified from exemption, partial exemption or special assessment.

18 (c) Paragraph (b)(B), (C), (D) and (E) of this subsection does not apply to the calculation of av-
19 erage maximum assessed value in the case of property centrally assessed under ORS 308.505 to
20 308.665.

21 [(4)(a)] (3)(a) "Average real market value" means the value determined by dividing the total real
22 market value of all property in the same area in the same property class by the total number of
23 properties in the same area in the same property class.

24 (b) In making the calculation described under this subsection, the following property is not
25 taken into account:

- 26 (A) New property or new improvements to property;
- 27 (B) Property that is partitioned or subdivided;
- 28 (C) Property that is rezoned and used consistently with the rezoning;
- 29 (D) Property that is added to the assessment and tax roll as omitted property; or
- 30 (E) Property that is disqualified from exemption, partial exemption or special assessment.

31 (c) Paragraph (b)(B), (C), (D) and (E) of this subsection does not apply to the calculation of av-
32 erage real market value in the case of property centrally assessed under ORS 308.505 to 308.665.

33 (4) "Lot line adjustment" means any addition to the square footage of the land for a real
34 property tax account and a corresponding subtraction of square footage of the land from a
35 contiguous real property tax account.

36 (5) "Minor construction" means additions of real property improvements, the real market
37 value of which does not exceed \$10,000 in any assessment year or \$25,000 for cumulative ad-
38 ditions made over five assessment years.

39 [(5)(a)] (6)(a) "New property or new improvements" means changes in the value of property as
40 the result of:

- 41 (A) New construction, reconstruction, major additions, remodeling, renovation or rehabilitation
42 of property;
- 43 (B) The siting, installation or rehabilitation of manufactured structures or floating homes; or
- 44 (C) The addition of machinery, fixtures, furnishings, equipment or other taxable real or personal
45 property to the property tax account.

1 (b) "New property or new improvements" does not include changes in the value of the property
2 as the result of:

3 (A) General ongoing maintenance and repair; or

4 (B) Minor construction.

5 (c) "New property or new improvements" includes taxable property that on January 1 of the
6 assessment year is located in a different tax code area than on January 1 of the preceding assess-
7 ment year.

8 [(6) "*Minor construction*" means additions of real property improvements, the real market value of
9 which does not exceed \$10,000 in any assessment year or \$25,000 for cumulative additions made over
10 five assessment years.]

11 [(7) "*Lot line adjustment*" means any addition to the square footage of the land for a real property
12 tax account and a corresponding subtraction of square footage of the land from a contiguous real
13 property tax account.]

14 (7) "**Property class**" means the classification of property adopted by the Department of
15 Revenue by rule pursuant to ORS 308.215, except that in the case of property assessed under
16 ORS 308.505 to 308.665, "**property class**" means the total of all property set forth in the as-
17 sessment roll prepared under ORS 308.540.

18 **SECTION 3.** ORS 308.115 is amended to read:

19 308.115. (1) Whenever any mineral, coal, oil, gas or other severable interest in or part of real
20 property is owned separately and apart from the rights and interests owned in the surface ground
21 of the real property, such minerals, coal, oil, gas or other interest or parts shall not be assessed and
22 taxed.

23 (2) Notwithstanding subsection (1) of this section, if the property is actively being mined as of
24 the assessment date, the severable interest described in subsection (1) of this section shall be as-
25 sessed and taxed as real or personal property in accordance with existing law in the name of the
26 owner [*thereof*], separately from the surface rights and interests in the real property and may be sold
27 for taxes in the same manner and with the same effect as other interests in real property are sold
28 for taxes.

29 (3) [*Similarly,*] Whenever any building, structure, improvement, machinery[,] **or** equipment [*or*
30 *fixture*] is owned separately and apart from the land or real property [*whereon*] **on which** it stands
31 or to which it is affixed, such building, structure, improvement, machinery[,] **or** equipment [*or*
32 *fixture*] shall be assessed and taxed in the name of the owner [*thereof*].

33 (4) Nothing in this section [*shall alter*] **alters** the tax-exempt status of a mining claim described
34 in ORS 307.080.

35 **SECTION 4.** Section 5 of this 2012 Act is added to and made a part of ORS chapter 311.

36 **SECTION 5.** (1) The tax collector of a county in which property taxes on machinery and
37 equipment are delinquent may, at the tax collector's discretion, collect the delinquent taxes
38 pursuant to:

39 (a) The provisions of ORS chapter 311 applicable to personal property; or

40 (b) The provisions of ORS chapter 312 establishing foreclosure proceedings with respect
41 to liens against real property.

42 (2) If machinery and equipment and the real property upon which the machinery and
43 equipment is located are owned by the same persons, both the machinery and equipment and
44 the real property may be included in a foreclosure proceeding pursuant to ORS chapter 312
45 whenever the taxes on either the machinery and equipment or the real property are delin-

1 **quent.**

2 **SECTION 6.** ORS 311.405 is amended to read:

3 311.405. (1)(a) All ad valorem property taxes lawfully imposed or levied on real or personal
4 property are liens on such real and personal property, respectively. Such taxes include delinquent
5 taxes on personal property made a lien on real property, and ad valorem property taxes on real or
6 personal property added to an assessment or tax roll pursuant to ORS 311.216 to 311.232.

7 **(b) If machinery and equipment and the real property upon which the machinery and**
8 **equipment is located are owned by the same persons, all ad valorem property taxes lawfully**
9 **imposed or levied on the machinery and equipment are a lien on the real property on which**
10 **the machinery and equipment is located.**

11 (2) Taxes on real property shall be a lien thereon from and including July 1 of the year in which
12 they are levied until paid and, except as otherwise specifically provided by law, such lien shall not
13 be voided or impaired.

14 (3)(a) Taxes on personal property shall be a lien:

15 (A) On any and all of the particular personal property assessed and on any and all of the per-
16 sonal property assessed as the same category, as disclosed by the property tax return and assess-
17 ment list; and

18 (B) For purposes of distraint, on any and all of the taxable personal property owned by or in the
19 possession or control of the person assessed.

20 (b) The liens for taxes on personal property shall attach on and after July 1 of the year of as-
21 sessment and shall continue until the taxes are paid, except as provided in subsection (4) or (5) of
22 this section and ORS 311.410.

23 (c) Notwithstanding paragraph (a) of this subsection, if possession of personal property that is
24 subject to a perfected security interest is taken by a secured party on default, the lien for taxes on
25 the property shall be limited to the taxes on the particular property and not the taxes on any other
26 property of the debtor.

27 (4)(a) If a manufactured structure or floating home is removed from the county in which it is
28 assessed to another county in this state on or after January 1 and before July 1 of the assessment
29 year, taxes on the manufactured structure or floating home shall be a lien on the manufactured
30 structure or floating home that attaches as of the day preceding the date of removal.

31 (b) If a manufactured structure or floating home is removed from the county in which it is as-
32 sessed to a location that is outside this state on or after January 1 and before July 1 of the as-
33 sessment year, the manufactured structure or floating home shall be removed from the assessment
34 and tax roll for the corresponding tax year beginning July 1.

35 (c) The taxes arising from a lien under this subsection may be paid to the tax collector prior
36 to the completion of the next general property tax roll, pursuant to ORS 311.370.

37 (d) As used in this subsection, "taxes" means the amount computed using the assessed value
38 then on the assessment and tax roll for the manufactured structure or floating home or the value
39 that next would be used on the assessment and tax roll, if known at the time the lien is created,
40 and the assessor's best estimate of taxes, special assessments, fees and other charges for the tax
41 year that corresponds to the assessment year in which the removal occurs.

42 (5)(a) If taxable personal property, other than a manufactured structure or floating home, is re-
43 moved from the county in which it is assessed, or is sold or otherwise transferred to another owner,
44 on or after January 1 and before July 1 of the assessment year, taxes on the removed, sold or
45 transferred personal property shall be a lien on the personal property described in subsection

1 (3)(a)(A) of this section that attaches as of the day preceding the date of removal, sale or transfer.

2 (b) The taxes arising from a lien under this subsection may be paid to the tax collector prior
3 to the completion of the next general property tax roll, pursuant to ORS 311.370.

4 (6) Where real or personal property is omitted from the assessment or tax roll prepared as of
5 January 1 of the current tax year and notice is given pursuant to ORS 311.216 to 311.232 during
6 such year and the property subsequently is added to such roll pursuant to ORS 311.216 to 311.232,
7 the taxes shall be a lien on such property and on other property at the same time and in the same
8 manner as taxes became liens on the taxable property not so omitted from the roll.

9 (7) Taxes on real and personal property omitted from an assessment or tax roll prepared as of
10 the assessment date of a prior calendar or tax year and added to such roll pursuant to ORS 311.216
11 to 311.232, shall be a lien on such property from and including the date the addition or correction
12 is made on such roll. Where the omitted property consists of any building, structure or improvement
13 which has been severed or removed from the land, the taxes on such property also shall be a lien
14 against the land. Where the property omitted is personal property, the taxes also shall be a lien on
15 any and all of the taxable personal property of the person assessed from such date of addition or
16 correction. However, no taxes shall become a lien on real or personal property under this subsection
17 where the property was transferred to a bona fide purchaser as defined in ORS 311.235 after the
18 date the roll was certified in such prior tax year and prior to the lien date provided for hereunder.

19 (8) Each lien, whether on real or personal property, shall include all interest, penalties and costs
20 applicable by law to any of such taxes.

21 (9)(a) Except as provided in paragraph (b) of this subsection, the liens for ad valorem taxes, in-
22 cluding and not limited to the general lien provided by subsection (3)(a)(B) of this section, created
23 under this section are superior to, have priority over and shall be fully satisfied before all other
24 liens, judgments, mortgages, security interests or encumbrances on the property without regard to
25 date of creation, filing or recording.

26 (b) If it becomes necessary to charge personal property taxes against real property under ORS
27 311.645, if the county obtains a judgment under ORS 311.455 or records a warrant under ORS
28 311.625, or if in any other manner personal property taxes are made a lien against real property,
29 any judgment, mortgage or other lien or encumbrance on the real property that is placed of record
30 prior to the date the personal property tax becomes a lien on the real property has priority over the
31 personal property tax lien.

32 **SECTION 7.** ORS 311.510 is amended to read:

33 311.510. Taxes on real property not paid on or before May 15 *[shall be]* **are** delinquent. Taxes
34 on personal property *[shall become]* **or on real property machinery and equipment are** delinquent
35 whenever any third *[thereof]*, or other specified installment, **of the taxes** is not paid on or before
36 its due date, as provided in ORS 311.505.

37 **SECTION 8. Section 5 of this 2012 Act and the amendments to ORS 308.115, 308.149,**
38 **308.215, 311.405 and 311.510 by sections 1 to 3, 6 and 7 of this 2012 Act apply to property tax**
39 **years beginning on or after July 1, 2012.**

40 **SECTION 9. This 2012 Act takes effect on the 91st day after the date on which the 2012**
41 **regular session of the Seventy-sixth Legislative Assembly adjourns sine die.**