

Enrolled
House Bill 3112

Sponsored by COMMITTEE ON REVENUE

CHAPTER

AN ACT

Relating to the exemption from tax of property of a political subdivision of the state; creating new provisions; amending ORS 307.110 and 307.162; and prescribing an effective date.

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

SECTION 1. ORS 307.110 is amended to read:

307.110. (1) Except as provided in ORS 307.120, all real and personal property of this state or any institution or department thereof or of any county or city, town or other municipal corporation or political subdivision of this state, held under a lease or other interest or estate less than a fee simple, by any person whose real property, if any, is taxable, except employees of the state, municipality or political subdivision as an incident to such employment, shall be subject to assessment and taxation for the assessed or specially assessed value thereof uniformly with real property of nonexempt ownerships.

(2) Each leased or rented premises not exempt under ORS 307.120 and subject to assessment and taxation under this section which is located on property used as an airport and owned by and serving a municipality or port shall be separately assessed and taxed.

(3) Nothing contained in this section shall be construed as subjecting to assessment and taxation any publicly owned property described in subsection (1) of this section that is:

(a) Leased for student housing by a school or college to students attending such a school or college.

(b) Leased to or rented by persons, other than sublessees or subrenters, for agricultural or grazing purposes and for other than a cash rental or a percentage of the crop.

(c) Utilized by persons under a land use permit issued by the Department of Transportation for which the department's use restrictions are such that only an administrative processing fee is able to be charged.

(d) County fairgrounds and the buildings thereon, in a county holding annual county fairs, managed by the county fair board under ORS 565.230, if utilized, in addition to county fair use, for any of the purposes described in ORS 565.230 (2), or for horse stalls or storage for recreational vehicles or farm machinery or equipment.

(e) The properties and grounds managed and operated by the State Parks and Recreation Director under ORS 565.080, if utilized, in addition to the purpose of holding the Oregon State Fair, for horse stalls or for storage for recreational vehicles or farm machinery or equipment.

(f) State property that is used by the Oregon University System or the Oregon Health and Science University to provide parking for employees, students or visitors.

(g) Property of a housing authority created under ORS chapter 456 which is leased or rented to persons of lower income for housing pursuant to the public and governmental purposes of the

housing authority. For purposes of this paragraph, “persons of lower income” has the meaning given [the phrase under] **that term in** ORS 456.055.

(h) Property of any county or city, town or other municipal corporation or political subdivision of this state that is used for affordable housing or is leased or rented to persons of lower income for housing pursuant to the public and governmental purposes of the county or city, town or other municipal corporation or political subdivision of this state. For purposes of this paragraph, “affordable housing” and “persons of lower income” have the meanings given those terms in ORS 456.055. The exemption under this paragraph shall be granted upon compliance with ORS 307.162.

[*h*] (i) Property of a health district if:

(A) The property is leased or rented for the purpose of providing facilities for health care practitioners practicing within the county; and

(B) The county is a frontier rural practice county under rules adopted by the Office of Rural Health.

(4) Property determined to be an eligible project for tax exemption under ORS 285C.600 to 285C.626 and 307.123 that was acquired with revenue bonds issued under ORS 285B.320 to 285B.371 and that is leased by this state, any institution or department thereof or any county, city, town or other municipal corporation or political subdivision of this state to an eligible applicant shall be assessed and taxed in accordance with ORS 307.123. The property’s continued eligibility for taxation and assessment under ORS 307.123 is not affected:

(a) If the eligible applicant retires the bonds prior to the original dates of maturity; or

(b) If any applicable lease or financial agreement is terminated prior to the original date of expiration.

(5) The provisions of law for liens and the payment and collection of taxes levied against real property of nonexempt ownerships shall apply to all real property subject to the provisions of this section. Taxes remaining unpaid upon the termination of a lease or other interest or estate less than a fee simple, shall remain a lien against the real or personal property.

(6) If the state enters into a lease of property with, or grants an interest or other estate less than a fee simple in property to, a person whose real property, if any, is taxable, then within 30 days after the date of the lease, or within 30 days after the date the interest or estate less than a fee simple is created, the state shall file a copy of the lease or other instrument creating or evidencing the interest or estate with the county assessor. This section applies notwithstanding that the property may otherwise be entitled to an exemption under this section, ORS 307.120 or as otherwise provided by law.

SECTION 2. ORS 307.162, as amended by section 3, chapter 42, Oregon Laws 2012, is amended to read:

307.162. (1)(a) Before any real or personal property may be exempted from taxation under ORS **307.110 (3)(h)**, 307.115, 307.118, 307.130 to 307.140, 307.145, 307.147, 307.150, 307.160, 307.181 (3) or 307.580 for any tax year, the institution or organization entitled to claim the exemption must file a claim with the county assessor, on or before April 1 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) List all real property claimed to be exempt and show the purpose for which the real property is used; and

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

(b) If the ownership of all property, **other than property described in ORS 307.110 (3)(h)**, included in the claim filed with the county assessor for a prior year remains unchanged, a new 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 must be filed within 30 days from the date of acquisition of the property.

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

(A) On or before December 31 of the tax year, 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 claim pertains.

(B) On or before April 1 of the tax year, 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)(A) Notwithstanding subsection (1) of this section, a claimant that 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 may file a claim under this section for the five tax years prior to the current tax year:

(i) Within 60 days after the date on which the county assessor mails notice of additional taxes owing under ORS 311.206 for the property to which the claim filed under this subparagraph pertains; or

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

(B) A claim filed under this paragraph must be 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 claim pertains, multiplied by the number of prior tax years for which exemption is claimed.

(c) If a claim filed under this subsection is not accompanied by the late filing fee or if the late filing fee is not otherwise paid, an exemption may not be allowed for the tax years sought by the claim. A claim may be filed under this subsection notwithstanding that there are no grounds for hardship as required for late filing under ORS 307.475.

(d) The value of the property used to determine the late filing fee under this 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.

(e) A late filing fee collected under this subsection must be deposited in the county general fund.

(3)(a) In a claim for exemption of property described in ORS 307.110 (3)(h), the county or city, town or other municipal corporation or political subdivision of this state that is filing the claim must substantiate that the property is used for affordable housing or that it is leased or rented to persons of lower income, as applicable.

(b) A claim filed under this subsection must be filed annually on a form prescribed by the Department of Revenue.

[3] (4) 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.

[4(a)] (5)(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 file a timely 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 a claim for exemption with the county assessor to have the additions or improvements to the exempt property be exempt from taxation. The 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 claim.

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

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

(e) A late filing fee collected under this subsection must be deposited in the county general fund.

~~[(5)]~~ (6) For each tax year for which an exemption granted pursuant to subsection (2) or ~~[(4)]~~ (5) of this section applies:

(a) Any tax, or interest attributable thereto, that was paid with respect to the property that is declared exempt from taxation must be refunded. Refunds must be made without interest 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 must be abated.

~~[(6)]~~ (7) 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 must notify the county assessor of the change to a taxable use within 30 days.

SECTION 3. The amendments to ORS 307.110 and 307.162 by sections 1 and 2 of this 2013 Act apply to property tax years beginning on or after July 1, 2013.

SECTION 4. This 2013 Act takes effect on the 91st day after the date on which the 2013 regular session of the Seventy-seventh Legislative Assembly adjourns sine die.

Passed by House May 15, 2013

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Ramona J. Line, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate June 5, 2013

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2013

Approved:

.....M,....., 2013

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2013

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Kate Brown, Secretary of State