

# Senate Bill 330

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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 **as introduced**.

Makes technical changes in Oregon tax statutes. Adjusts grammar and syntax. Repeals and deletes obsolete statutes and provisions. Conforms language and structure to existing statutes.

## A BILL FOR AN ACT

1  
2 Relating to correction of erroneous material in Oregon tax law; amending ORS 305.285, 305.288,  
3 311.205, 311.208, 314.307 and 677.141 and section 146, chapter 655, Oregon Laws 2003; and re-  
4 pealing ORS 305.805, 311.177, 311.179, 311.181, 315.259, 316.074 and 316.076.

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

5 **SECTION 1.** ORS 305.285 is amended to read:

6  
7 305.285. Whenever any property tax matter is appealed to the Department of Revenue, Oregon  
8 Tax Court or Supreme Court, and during the pendency of the appeal, no appeal is filed for a sub-  
9 sequent year or years, the taxpayer may, on or before December 15 of the year in which a final  
10 determination is made by the last body or tribunal to pass on the matter or within six months of  
11 [*such*] **the** final determination, whichever is later, request the department to order the officer in  
12 charge of the rolls for the intervening years to correct all tax and assessment rolls for those years  
13 with respect to the property affected by [*such*] **the** final determination. The department may require  
14 a hearing and the submission of evidence necessary to determine the correction, if any, that should  
15 be made for each intervening year in view of the holding in [*such*] **the** final determination.  
16 Notwithstanding any time limit in ORS 305.288 [(1) to (6)], 306.115 or 311.205, the department shall  
17 order [*such correction as*] **the corrections** it deems necessary.

18 **NOTE:** Corrects subsection reference. See section 2 (amending ORS 305.288). Updates syntax.

19 **SECTION 2.** ORS 305.288 is amended to read:

20 305.288. (1) The tax court shall order a change or correction applicable to a separate assessment  
21 of property to the assessment and tax roll for the current tax year or for either of the two tax years  
22 immediately preceding the current tax year, or for any or all of those tax years, if all of the fol-  
23 lowing conditions exist:

24 (a) For the tax year to which the change or correction is applicable, the property was or is used  
25 primarily as a dwelling (or is vacant) and was and is a single-family dwelling, a multifamily dwelling  
26 of not more than four units, a condominium unit, a manufactured structure or a floating home.

27 (b) The change or correction requested is a change in value for the property for the tax year  
28 and it is asserted in the request and determined by the tax court that the difference between the  
29 real market value of the property for the tax year and the real market value on the assessment and  
30 tax roll for the tax year is equal to or greater than 20 percent.

**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 (2) If the tax court finds that the conditions needed to order a change or correction under sub-  
 2 section (1) of this section exist, the court may order a change or correction in the maximum assessed  
 3 value of the property in addition to the change or correction in the real market value of the prop-  
 4 erty.

5 (3) The tax court may order a change or correction applicable to a separate assessment of  
 6 property to the assessment or tax roll for the current tax year and for either of the two tax years  
 7 immediately preceding the current tax year if, for the year to which the change or correction is  
 8 applicable, the assessor or taxpayer has no statutory right of appeal remaining and the tax court  
 9 determines that good and sufficient cause exists for the failure by the assessor or taxpayer to pursue  
 10 the statutory right of appeal.

11 (4) Before ordering a change or correction to the assessment or tax roll under subsection (3)  
 12 of this section, the tax court may determine whether any of the conditions exist in a particular case.  
 13 If the tax court determines that one of the conditions specified does exist, the tax court shall hold  
 14 a hearing to determine whether to order a change or correction to the roll.

15 (5) For purposes of this section:

16 (a) “Current tax year” has the meaning given the term under ORS 306.115.

17 (b) “Good and sufficient cause”:

18 (A) Means an extraordinary circumstance that is beyond the control of the taxpayer, or the  
 19 taxpayer’s agent or representative, and that causes the taxpayer, agent or representative to fail to  
 20 pursue the statutory right of appeal; and

21 (B) Does not include inadvertence, oversight, lack of knowledge, hardship or reliance on mis-  
 22 leading information provided by any person except an authorized tax official providing the relevant  
 23 misleading information.

24 (c) **“Manufactured structure” has the meaning given that term in ORS 446.561.**

25 (6) The remedy provided under this section is in addition to all other remedies provided by law.

26 [(7) *As used in subsections (1) to (6) of this section, “manufactured structure” has the meaning*  
 27 *given that term in ORS 446.561.*]

28 **NOTE:** Reorganizes and restructures definition in (7) to improve readability.

29 **SECTION 3. ORS 305.805, 311.177, 311.179 and 311.181 are repealed.**

30 **NOTE:** Repeals outdated statutes.

31 **SECTION 4.** ORS 311.205 is amended to read:

32 311.205. (1) After the assessor certifies the assessment and tax roll to the tax collector, the of-  
 33 ficer in charge of the roll may correct errors or omissions in the roll to conform to the facts, as  
 34 follows:

35 (a) The officer may correct a clerical error. **For purposes of this paragraph:**

36 (A) A clerical error is an error on the roll [*which either arises*]:

37 (i)(I) **That arises** from an error in the ad valorem tax records of the assessor, or the records  
 38 of the Department of Revenue for property assessed under ORS 306.126[, *or*]; **or**

39 (II) **That** [*which*] is a failure to correctly reflect the ad valorem tax records of the assessor, or  
 40 the records of the department [*of Revenue*] for property assessed under ORS 306.126[, *and which*,];

41 (ii) **That**, had it been discovered by the assessor or the department prior to the certification  
 42 of the assessment and tax roll of the year of assessment, would have been corrected as a matter of  
 43 course[,]; and

44 (iii) **For which** the information necessary to make the correction is contained in [*such*] **the** re-  
 45 cords.

1       **(B) Clerical errors** [*Such errors*] include, but are not limited to, arithmetic and copying  
 2 errors[,] and the omission or misstatement of a land, improvement or other property value on the  
 3 roll.

4       (b)(A) The officer may correct an error in valuation judgment at any time in any account when  
 5 an appeal has been filed in the tax court alleging that the value on the roll is incorrect, if the  
 6 correction results in a reduction of the tax owed on the account.

7       **(B) The officer may not make** corrections under this paragraph to accounts appraised by the  
 8 department pursuant to ORS 306.126 and 308.505 to 308.665 [*may not be made*] without the approval  
 9 of the department. [*Errors in valuation judgment are those where the assessor or the department would*  
 10 *arrive at a different opinion of value.*]

11       **(C)** The officer may correct any other error or omission of any kind. Corrections that are not  
 12 corrections of **errors in** valuation judgment [*errors*] include, but are not limited to[,]:

13       (i) The elimination of an assessment to one taxpayer of property belonging to another on the  
 14 assessment date[,];

15       (ii) The correction of a tax limit calculation[,];

16       (iii) The correction of a value changed on appeal[, *or*]; **and**

17       (iv) The correction of an error in the assessed value of property resulting from an error in the  
 18 identification of a unit of property, but not **from** an error in a notice filed under ORS 310.060.

19       **(D) For purposes of this paragraph, an error in valuation judgment is one in which the**  
 20 **assessor or the department would arrive at a different opinion of value.**

21       (c) The officer shall make any change requested by the department [*of Revenue which*] **that** re-  
 22 lates to an assessment of property made by the department under ORS 308.505 to 308.665.

23       (d) The officer shall make any change ordered by the tax court or the department [*of Revenue*]  
 24 under ORS 305.288 [(1) to (6)] or 306.115.

25       (e) The officer shall make any change required under ORS 308A.089.

26       (2)(a) The officer in charge of the roll shall make corrections with the assent and concurrence  
 27 of the assessor or the department. The direction for the correction [*shall*] **must** be made in writing  
 28 and state the type of error and the statutory authority for the correction. [*Corrections may be made*  
 29 *to*] **The officer may correct** the roll for any year or years not exceeding five years prior to the last  
 30 **certified** roll [*so certified*].

31       (b) Any additional taxes resulting from corrections for years prior to the current year [*shall*  
 32 *be*] **are** deemed assessed and imposed in the particular year or years [*as*] to which the corrections  
 33 apply. Addition of tax to a prior year's tax roll[,] due to corrections under this section[, *shall*] **may**  
 34 not be considered in calculating the effect of the tax limitation under [*section 11b,*] Article XI,  
 35 **section 11b**, of the Oregon Constitution, for the current year.

36       (3) **The officer in charge of the roll shall make** a correction [*made*] pursuant to this section  
 37 [*shall be made*] in whatever manner **is** necessary to make the assessment, tax or other proceeding  
 38 regular and valid. The correction [*shall*] **must** be distinguishable upon the roll, [*shall*] **must** include  
 39 the date of the correction and [*shall*] **must** identify the officer making the correction.

40       (4) Whenever a correction **that will increase the assessment to which it relates** is to be  
 41 made after the assessor has delivered the roll to the tax collector, [*the effect of which is to increase*  
 42 *the assessment to which it relates, except where*] **unless the correction is** made by order of the de-  
 43 partment, the **officer in charge of the tax roll shall follow the** procedure prescribed in ORS  
 44 311.216 to 311.232 [*shall be followed; and*]. The provisions [*therein*] **of ORS 311.216 to 311.232** with  
 45 respect to appeals [*shall likewise*] apply **under this subsection.**

1        [(4)] (5) Corrections [which] **that** would result in [less than a \$1,000] a change in assessed value  
 2 or real market value **of less than \$1,000 do** [shall] not change the value for purposes of computing  
 3 the taxes levied against the property, but shall be made only for purposes of correcting the office  
 4 records.

5        [(5)] (6) The remedies under this section are in addition to other remedies provided by law.

6        **NOTE:** Corrects subsection reference in (1)(d). See section 2 (amending ORS 305.288). Updates  
 7 form and style; updates syntax and tabulates for improved readability.

8        **SECTION 5.** ORS 311.208 is amended to read:

9        311.208. (1) The assessor shall notify the property owner of record or other person claiming to  
 10 own the property or occupying the property or in possession of the property, if:

11        (a) A correction is made that applies only to the current roll;

12        (b) The correction is made after roll certification under ORS 311.105 and prior to December 1  
 13 of the current tax year; and

14        (c) The correction increases the value of the property.

15        (2) If a correction described in subsection (1) of this section results in additional taxes being  
 16 added to the current roll, the additional taxes shall be due and payable without interest if paid prior  
 17 to the 16th of the month next following the date the notice was sent under this section.

18        (3) If the additional taxes described in subsection (2) of this section are not paid prior to the  
 19 16th of the month next following the date the notice was sent under this section, the additional  
 20 taxes shall be considered for all purposes of collection and enforcement of payment as having be-  
 21 come delinquent on the date the taxes would normally have become delinquent if the taxes had been  
 22 timely extended on the roll.

23        (4) The notice described in subsection (1) of this section shall:

24        (a) Be mailed prior to December 1 to the last-known address of the person described in sub-  
 25 section (1) of this section;

26        (b) Specify the date and the amount of the correction;

27        (c) If additional tax is imposed, specify the date by which the additional tax may be paid without  
 28 interest; and

29        (d) Include the owner's right to file a petition with the county board of property tax appeals not  
 30 later than December 31 of the current tax year.

31        (5) The correction shall be made by the officer in charge of the roll in the manner described in  
 32 ORS 311.205 [(3)].

33        (6) A correction made under this section may be appealed to the board of property tax appeals  
 34 in the manner provided in ORS 309.100.

35        **NOTE:** Corrects subsection reference in (5). See section 4 (amending ORS 311.205).

36        **SECTION 6.** ORS 314.307 is amended to read:

37        314.307. As used in this section and ORS 314.308, 314.403[, ] **and** 314.404[, 314.406 and 314.469]:

38        (1) "Listed transaction" means any of the following transactions:

39        (a) A listed transaction under section 6707A of the Internal Revenue Code.

40        (b) A transaction without economic substance in which an Oregon taxable corporation:

41        (A) Transfers income-producing assets to a real estate investment trust owned directly or indi-  
 42 rectly by the corporation; and

43        (B) With respect to dividends paid from the real estate investment trust, claims a dividend-  
 44 received deduction and the real estate investment trust claims a dividend-paid deduction.

45        (c) A transaction without economic substance in which an Oregon taxable corporation:

1 (A) Transfers income-producing assets to a regulated investment company owned directly or in-  
2 directly by the corporation; and

3 (B) With respect to dividends paid from the regulated investment company, claims a dividend-  
4 received deduction and the regulated investment company claims a dividend-paid deduction.

5 (2) "Oregon taxable corporation" means a corporation:

6 (a) That does business in Oregon, is organized in Oregon or has income from Oregon sources;  
7 or

8 (b) That is owned by an Oregon income or corporate excise taxpayer.

9 (3) "Reportable transaction" means a transaction:

10 (a) That is a reportable transaction under section 6707A of the Internal Revenue Code; or

11 (b) That is a listed transaction.

12 (4) "Transaction without economic substance" means a transaction for which the taxpayer can-  
13 not demonstrate a business purpose other than tax savings.

14 **NOTE:** Eliminates unnecessary references in lead-in.

15 **SECTION 7. ORS 315.259, 316.074 and 316.076 are repealed.**

16 **NOTE:** Repeals outdated statutes.

17 **SECTION 8.** Section 146, chapter 655, Oregon Laws 2003, is amended to read:

18 (1) Except as provided in [*subsections (2) and*] **ORS 446.621 and subsection (3)** of this section,  
19 [*sections 9 to 23a and 47a to 47c of this 2003 Act*] **ORS 305.288 (5)(c), 306.006, 446.566 to 446.646**  
20 **and 446.995**, the amendments to Oregon Revised Statutes by sections 48 to 142, **chapter 655,**  
21 **Oregon Laws 2003**, [*of this 2003 Act*] and the repeal of Oregon Revised Statutes by section 143,  
22 **chapter 655, Oregon Laws 2003**, [*of this 2003 Act*] do not apply to expand, diminish or alter the  
23 rights or remedies available, prior to [*the operative date of sections 9 to 23a of this 2003 Act*] **May**  
24 **1, 2005**, to a creditor who perfected a security interest in a manufactured structure prior to [*the*  
25 *operative date of sections 9 to 23a of this 2003 Act*] **May 1, 2005**.

26 (2) If the Department of Consumer and Business Services issues an ownership document for a  
27 manufactured structure that was previously issued a certificate of title by the Department of  
28 Transportation, the Department of Consumer and Business Services shall record in the department's  
29 records and note on the ownership document any unreleased secured interest that was noted on the  
30 certificate of title. A secured interest described in this subsection retains the original perfection  
31 date of the interest, but provides the same creditor rights and remedies available for a secured in-  
32 terest in personal property perfected under [*section 18 (1) of this 2003 Act*] **ORS 446.611 (1)**.

33 (3) [*Section 21 of this 2003 Act*] **ORS 446.626** applies to applications by a manufactured structure  
34 owner who holds a leasehold estate in real property whether the lease creating the required re-  
35 corded leasehold estate is entered into before, on or after [*the effective date of this 2003 Act*] **August**  
36 **14, 2003**.

37 **NOTE:** Adjusts subsection reference in (1). See section 2 (amending ORS 305.288).

38 **SECTION 9.** ORS 677.141 is amended to read:

39 677.141. (1) A physician issued a license under ORS 677.139 is subject to all the provisions of  
40 this chapter and to all the rules of the Oregon Medical Board. A physician issued a license under  
41 ORS 677.139 has the same duties and responsibilities and is subject to the same penalties and  
42 sanctions as any other physician licensed under this chapter.

43 (2) A physician issued a license under ORS 677.139 may not:

44 (a) Act as a dispensing physician as defined in ORS 677.010;

45 (b) Administer controlled substances for the treatment of intractable pain to a person located

1 within this state;

2 (c) Employ a physician assistant as defined in ORS 677.495 to treat a person located within this  
3 state;

4 [(d) *Claim the tax deduction provided by ORS 316.076;*]

5 [(e)] (d) Participate in the Primary Care Services Program under ORS 442.550 to 442.570; or

6 [(f)] (e) Assert a lien for services under ORS 87.555.

7 (3) A physician licensed under ORS 677.139 shall comply with all patient confidentiality re-  
8 quirements of this state, except as those requirements are expressly prohibited by the law of any  
9 other state of the United States where a person's medical records are maintained.

10 **NOTE:** Deletes reference to repealed statute.

11