

D R A F T

SUMMARY

Provides exemption for property of nonprofit corporation that provides health services occupied or used to provide health services to acutely ill patients or accident victims. Provides partial exemption for property of nonprofit corporation that provides health services occupied or used to provide charity care.

Provides that property of nonprofit corporation that provides health services is not exempt under exemption granted to property of incorporated literary, benevolent, charitable and scientific institutions.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to the property of nonprofit corporations that provide health ser-
3 vices; creating new provisions; amending ORS 307.112, 307.130 and 307.162
4 and section 15, chapter 52, Oregon Laws 2014; and prescribing an effective
5 date.

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

7 **SECTION 1. (1) As used in this section:**

8 (a) **“Acutely ill” means suffering from a condition or illness that**
9 **has a sudden onset and is of short duration.**

10 (b) **“Charity care” has the meaning given that term in ORS 442.200.**

11 (c) **“Health services” has the meaning given that term in ORS**
12 **442.015.**

13 (d) **“Nonprofit corporation” means a corporation that:**

14 (A) **Is organized not for profit, pursuant to ORS chapter 65 or any**
15 **predecessor of ORS chapter 65; or**

16 (B) **Is organized and operated as described under section 501(c) of**

1 the Internal Revenue Code as defined in section 15, chapter 52, Oregon
2 Laws 2014.

3 (e) “Nonprofit corporation that provides health services” means a
4 nonprofit corporation that is licensed by the Oregon Health Authority
5 to provide health services.

6 (2) Upon compliance with ORS 307.162, all real or personal property
7 owned or being purchased by a nonprofit corporation that provides
8 health services shall be exempt from property taxation only in ac-
9 cordance with subsections (3) and (4) of this section.

10 (3) Property is exempt from taxation under this section if the
11 Oregon Health Authority determines that the property is occupied or
12 used to provide diagnosis and medical or surgical treatment primarily
13 for patients who are acutely ill or the victims of accidents. Exempt
14 property may be occupied or used for administrative services necessary
15 to providing the diagnosis and medical or surgical treatment.

16 (4)(a) Property is partially exempt under this section, as provided
17 in paragraph (b) of this subsection, if the Oregon Health Authority
18 determines that the property is occupied or used to provide charity
19 care or for administrative services necessary to providing the charity
20 care.

21 (b) The partial exemption allowed under this subsection shall apply
22 to the property if charity care accounts for at least 15 percent of the
23 gross annual patient revenue of the nonprofit corporation that pro-
24 vides health services. The percentage of the partial exemption shall
25 be equal to twice the percentage that the gross annual patient revenue
26 of the nonprofit corporation attributable to charity care bears to the
27 total gross annual patient revenue of the nonprofit corporation. The
28 partial exemption allowed under this subsection may be equal to, but
29 not greater than, 100 percent.

30 SECTION 2. ORS 307.162 is amended to read:

31 307.162. (1)(a) Before any real or personal property may be exempted from

1 taxation under ORS 307.092, 307.110 (3)(h), 307.115, 307.118, 307.130 to 307.140,
2 307.145, 307.147, 307.150, 307.160, 307.181 (3) or 307.580 **or section 1 of this**
3 **2015 Act** for any tax year, the institution or organization entitled to claim
4 the exemption must file a claim with the county assessor, on or before April
5 1 preceding the tax year for which the exemption is claimed. The claim must
6 contain statements, verified by the oath or affirmation of the president or
7 other proper officer of the institution or organization, that:

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

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

12 (b) If the ownership of all property, other than property described in ORS
13 307.110 (3)(h) **or section 1 (4) of this 2015 Act**, included in the claim filed
14 with the county assessor for a prior year remains unchanged, a new claim
15 is not required.

16 (c) When the property designated in the claim for exemption is acquired
17 after March 1 and before July 1, the claim for that year must be filed within
18 30 days from the date of acquisition of the property.

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

21 (A) On or before December 31 of the tax year, if the claim is accompanied
22 by a late filing fee of the greater of \$200, or one-tenth of one percent of the
23 real market value as of the most recent assessment date of the property to
24 which the claim pertains.

25 (B) On or before April 1 of the tax year, if the claim is accompanied by
26 a late filing fee of \$200 and the claimant demonstrates good and sufficient
27 cause for failing to file a timely claim, is a first-time filer or is a public
28 entity described in ORS 307.090.

29 (b)(A) Notwithstanding subsection (1) of this section, a claimant that
30 demonstrates good and sufficient cause for failing to file a timely claim, is
31 a first-time filer or is a public entity described in ORS 307.090 may file a

1 claim under this section for the five tax years prior to the current tax year:

2 (i) Within 60 days after the date on which the county assessor mails no-
3 tice of additional taxes owing under ORS 311.206 for the property to which
4 the claim filed under this subparagraph pertains; or

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

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

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

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

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

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

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

29 **(4)(a) In a claim for partial exemption of property described in sec-**
30 **tion 1 (4) of this 2015 Act, the nonprofit corporation that provides**
31 **health services, as defined in section 1 of this 2015 Act, that is filing**

1 **the claim must substantiate that the Oregon Health Authority has**
2 **determined that the property is occupied or used as required under**
3 **section 1 (4) of this 2015 Act and must provide documentation showing**
4 **the total gross annual patient revenue of the nonprofit corporation**
5 **and the percentage attributable to charity care.**

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

8 [(4)] (5) As used in this section:

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

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

12 (B) Did not receive notice from the county assessor on or before December
13 1 of the tax year for which exemption is claimed regarding the potential
14 property tax liability of the property.

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

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

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

23 [(5)(a)] (6)(a) Notwithstanding subsection (1) of this section, if an insti-
24 tution or organization owns property that is exempt from taxation under a
25 provision of law listed in subsection (1) of this section and fails to file a
26 timely claim for exemption under subsection (1) of this section for additions
27 or improvements to the exempt property, the additions or improvements may
28 nevertheless qualify for exemption.

29 (b) The organization must file a claim for exemption with the county
30 assessor to have the additions or improvements to the exempt property be
31 exempt from taxation. The claim must:

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

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

4 (C) Identify the tax year and any preceding tax years for which the ex-
5 emption is sought;

6 (D) Contain any other information required by the department; and

7 (E) Be accompanied by a late filing fee equal to the product of the number
8 of tax years for which exemption is sought multiplied by the greater of \$200
9 or one-tenth of one percent of the real market value as of the most recent
10 assessment date of the property that is the subject of the claim.

11 (c) Upon the county assessor's receipt of a completed claim and late filing
12 fee, the assessor shall determine for each tax year for which exemption is
13 sought whether the additions or improvements that are the subject of the
14 claim would have qualified for exemption had a timely claim been filed under
15 subsection (1) of this section. Any property that would have qualified for
16 exemption had a timely claim been filed under subsection (1) of this section
17 is exempt from taxation for each tax year for which the property would have
18 qualified.

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

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

26 [(6)] (7) For each tax year for which an exemption granted pursuant to
27 subsection (2) or [(5)] (6) of this section applies:

28 (a) Any tax, or interest attributable thereto, that was paid with respect
29 to the property that is declared exempt from taxation must be refunded. Re-
30 funds must be made without interest from the unsegregated tax collections
31 account established under ORS 311.385.

1 (b) Any tax, or interest attributable thereto, that remains unpaid as of the
2 date the exemption is granted must be abated.

3 [(7)] (8) If an institution or organization owns property that is exempt
4 from taxation under a provision of law listed in subsection (1) of this section
5 and changes the use of the property to a use that would not entitle the
6 property to exemption from taxation, the institution or organization must
7 notify the county assessor of the change to a taxable use within 30 days.

8 **SECTION 3.** ORS 307.112 is amended to read:

9 307.112. (1) Real or personal property of a taxable owner held under lease,
10 sublease or lease-purchase agreement by an institution, organization or pub-
11 lic body, other than the State of Oregon, or a public university listed in ORS
12 352.002, granted exemption or the right to claim exemption for any of its
13 property under ORS 307.090, 307.130, 307.136, 307.140, 307.145, 307.147 or
14 307.181 (3) **or section 1 of this 2015 Act**, is exempt from taxation if:

15 (a) The property is used by the lessee or, if the lessee is not in possession
16 of the property, by the entity in possession of the property, in the manner,
17 if any, required by law for the exemption of property owned, leased, sub-
18 leased or being purchased by it; and

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

23 (2) To obtain the exemption under this section, the lessee or, if the lessee
24 is not in possession of the property, the entity in possession of the property,
25 must file a claim for exemption with the county assessor, verified by the oath
26 or affirmation of the president or other proper officer of the institution or
27 organization, or head official of the public body or legally authorized dele-
28 gate, showing:

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

30 (b) If applicable, all facts relating to the use of the property by the lessee
31 or, if the lessee is not in possession of the property, by the entity in pos-

1 session of the property.

2 (c) A true copy of the lease, sublease or lease-purchase agreement cover-
3 ing the property for which exemption is claimed.

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

5 (3) If the assessor is not satisfied that the rent stated in the lease, sub-
6 lease or lease-purchase agreement has been established to reflect the savings
7 below market rent resulting from the tax exemption, before the exemption
8 may be granted the lessor must provide documentary proof, as specified by
9 rule of the Department of Revenue, that the rent has been established to
10 reflect the savings below market rent resulting from the tax exemption.

11 (4)(a) The claim must be filed on or before April 1 preceding the tax year
12 for which the exemption is claimed, except:

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

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

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

21 (5)(a) An exemption granted under this section continues as long as the
22 use of the property remains unchanged and during the period of the lease,
23 sublease or lease-purchase agreement.

24 (b) If the use changes, a new claim must be filed as provided in this sec-
25 tion.

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

30 (d) If the lease, sublease or lease-purchase agreement expires before July
31 1 of any year, the exemption terminates as of January 1 of the same calendar

1 year.

2 **SECTION 4.** ORS 307.130, as amended by section 16, chapter 52, Oregon
3 Laws 2014, is amended to read:

4 307.130. (1) As used in this section:

5 (a) “Art museum” means a nonprofit corporation organized to display
6 works of art to the public.

7 (b) “Nonprofit corporation” means a corporation that:

8 (A) Is organized not for profit, pursuant to ORS chapter 65 or any pred-
9 ecessor of ORS chapter 65; or

10 (B) Is organized and operated as described under section 501(c) of the
11 Internal Revenue Code as defined in section 15, chapter 52, Oregon Laws
12 2014.

13 (c) **“Rehabilitation facility” means a facility as defined in ORS**
14 **344.710 or a facility that provides individuals who have physical, men-**
15 **tal or emotional disabilities with occupational rehabilitation activities**
16 **of an educational or therapeutic nature, even if remuneration is re-**
17 **ceived by the individual.**

18 [(c)] (d) “Volunteer fire department” means a nonprofit corporation or-
19 ganized to provide fire protection services in a specific response area.

20 (e) **“Welfare program” means a program to provide food, shelter,**
21 **clothing or health care, including dental service, to needy persons**
22 **without charge.**

23 (2) Upon compliance with ORS 307.162, the following property owned or
24 being purchased by art museums, volunteer fire departments, or incorporated
25 literary, benevolent, charitable and scientific institutions shall be exempt
26 from taxation:

27 (a) Except as provided in ORS 748.414, only [*such*] real or personal prop-
28 erty, or proportion [*thereof, as*] **of the property, that** is actually and ex-
29 clusively occupied or used in the literary, benevolent, charitable or scientific
30 work carried on by such institutions.

31 (b) Parking lots used for parking or any other use as long as that parking

1 or other use is permitted without charge for no fewer than 355 days during
2 the tax year.

3 (c) All real or personal property of a rehabilitation facility or any retail
4 outlet [*thereof*] **of the facility**, including inventory. [*As used in this sub-*
5 *section, “rehabilitation facility” means either those facilities defined in ORS*
6 *344.710 or facilities which provide individuals who have physical, mental or*
7 *emotional disabilities with occupational rehabilitation activities of an educa-*
8 *tional or therapeutic nature, even if remuneration is received by the*
9 *individual.*]

10 (d) All real and personal property of a retail store dealing exclusively in
11 donated inventory, [*where*] **if** the inventory is distributed without cost as
12 part of a welfare program or where the proceeds of the sale of any inventory
13 sold to the general public are used to support a welfare program. [*As used*
14 *in this subsection, “welfare program” means the providing of food, shelter,*
15 *clothing or health care, including dental service, to needy persons without*
16 *charge.*]

17 (e) All real and personal property of a retail store if:

18 (A) The retail store deals [*primarily and*] on a regular basis in **inventory**
19 **at least one-half of which is** donated and consigned [*inventory*];

20 (B) The individuals who operate the retail store are all individuals who
21 work as volunteers; and

22 (C) The inventory is either distributed without charge as part of a welfare
23 program, or sold to the general public and the sales proceeds used exclu-
24 sively to support a welfare program. [*As used in this paragraph, “primarily”*
25 *means at least one-half of the inventory.*]

26 (f) The real and personal property of an art museum that is used in con-
27 junction with the public display of works of art or used to educate the public
28 about art, but not including any portion of the art museum’s real or personal
29 property that is used to sell, or hold out for sale, works of art, reproductions
30 of works of art or other items to be sold to the public.

31 (g) All real and personal property of a volunteer fire department that is

1 used in conjunction with services and activities for providing fire protection
2 to all residents within a fire response area.

3 (h) All real and personal property, including inventory, of a retail store
4 owned by a nonprofit corporation if:

5 (A) The retail store deals exclusively in donated inventory; and

6 (B) Proceeds of the retail store sales are used to support a not-for-profit
7 housing program whose purpose is to:

8 (i) Acquire property and construct housing for resale to individuals at or
9 below the cost of acquisition and construction; and

10 (ii) Provide loans bearing no interest to individuals purchasing housing
11 through the program.

12 (3) An art museum or institution shall not be deprived of an exemption
13 under this section solely because its primary source of funding is from one
14 or more governmental entities.

15 (4) An institution shall not be deprived of an exemption under this section
16 because its purpose or the use of its property is not limited to relieving pain,
17 alleviating disease or removing constraints.

18 **(5) This section does not apply to property owned or being pur-**
19 **chased by a nonprofit corporation that provides health services as de-**
20 **defined in section 1 of this 2015 Act.**

21 **SECTION 5.** Section 15, chapter 52, Oregon Laws 2014, is amended to
22 read:

23 **Sec. 15.** As used in ORS 307.130, 307.147, 308A.450, 310.140, 310.630 and
24 310.800 **and section 1 of this 2015 Act**, “Internal Revenue Code” means the
25 federal Internal Revenue Code as amended and in effect on December 31,
26 2013.

27 **SECTION 6.** **Section 1 of this 2015 Act and the amendments to ORS**
28 **307.112, 307.130 and 307.162 and section 15, chapter 52, Oregon Laws**
29 **2014, by sections 2 to 5 of this 2015 Act apply to property tax years**
30 **beginning on or after July 1, 2015.**

31 **SECTION 7.** **This 2015 Act takes effect on the 91st day after the date**

1 **on which the 2015 regular session of the Seventy-eighth Legislative**
2 **Assembly adjourns sine die.**

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