

Enrolled
House Bill 2127

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Revenue)

CHAPTER

AN ACT

Relating to the withholding of outstanding taxes on real property transfers; creating new provisions; amending ORS 311.370; and prescribing an effective date.

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

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

(a) **“Authorized agent” means an agent who is responsible for closing and settlement services in a conveyance.**

(b) **“Charges against the real property” means all ad valorem property taxes, additional taxes and potential additional taxes, fees, interest, penalties, costs and other charges that have been or will be charged or listed during the property tax year on the assessment roll or the tax roll with respect to real property that is the subject of an instrument described in subsection (2) of this section.**

(c) **“Closing and settlement services” means services that are provided by:**

(A) **A licensed escrow agent in a real estate closing escrow within the meaning of ORS 696.505 to 696.590; or**

(B) **An attorney for the benefit of a transferor or a transferee in a conveyance, if, simultaneously with the conveyance, the attorney deposits the unpaid purchase price into the attorney’s client trust account for disbursement pursuant to the written instructions of, or the agreement between, the transferor and transferee.**

(d) **“Consideration” means the amount of cash paid for a conveyance.**

(e) **“Conveyance” means the transfer of, or a contract to transfer, fee title to any real property located in this state to a transferee whose property is exempt from taxation under ORS 307.040 or 307.090.**

(2) **Notwithstanding ORS 205.130, a county clerk may not record or cause to be recorded an instrument conveying or contracting to convey fee title to real property to an entity whose property is exempt from taxation under ORS 307.040 or 307.090 unless the instrument is accompanied by a certificate issued by the assessor of the county in which the real property is located attesting that all charges against the real property as of the date of the recording have been paid.**

(3)(a) **On or after July 1 of any year, and before the date on which the assessor makes a certificate pursuant to ORS 311.105, a person seeking to record an instrument described in subsection (2) of this section shall pay to the tax collector of the county:**

(A) **If the exact amount of charges against the real property can be computed by the county assessor, the exact amount.**

(B) If the exact amount cannot be computed, an amount equal to the county assessor's estimate of the exact amount.

(b) The county assessor shall levy and the tax collector shall collect the exact amount or the county assessor's estimate of the exact amount under this subsection.

(c) Payment made pursuant to this subsection may be made less any discount allowed under ORS 311.505.

(4)(a) Pursuant to written instructions from the transferor, an authorized agent in a conveyance may withhold from the consideration payable to the transferor an amount equal to the amount of charges against the real property as of the date of the conveyance.

(b) Amounts withheld pursuant to this subsection are held in trust for the taxing districts within the county in which the real property is located and shall be paid to the county tax collector before the consideration, net of the amounts withheld, may be paid to the transferor.

(5)(a) If all charges against the real property as of the date of the recording have been paid, the county assessor shall issue the certificate described in subsection (2) of this section and may not unreasonably withhold delivery of the certificate.

(b) The certificate shall be in a form prescribed by the Department of Revenue.

(6) Any deficiency in the amount required to be paid under this section:

(a) Notwithstanding ORS 311.405, is not a lien on the real property that is the subject of the instrument described in subsection (2) of this section;

(b) Constitutes a personal debt of the person who has conveyed or contracted to convey the real property under the instrument described in subsection (2) of this section; and

(c) Shall be collected as provided by law for the collection of delinquent property taxes on personal property.

SECTION 2. ORS 311.370 is amended to read:

311.370. (1)(a) For all taxes, penalties and other charges collected by the tax collector under, including, but not limited to, ORS 92.095, 100.110, 285C.050 to 285C.250, 308.260, 308.865, 308A.119, 308A.324, 308A.700 to 308A.733, 311.165, 311.206, 311.229, 311.405 (4) or (5), 311.415, 311.465, 354.690, 358.525, 446.631 and 454.225 **and section 1 of this 2015 Act**, the tax collector shall issue receipts similar in form to the receipts issued on payment of taxes regularly charged on the tax roll.

(b) The assessor shall enter all assessments of property to which paragraph (a) of this subsection applies in the assessment roll and shall make proper entries showing the extension of the taxes in the usual manner and as though no payment to the tax collector had been made.

(2) Upon receipt *[thereof]*, the tax collector shall deposit with the county treasurer all money collected by the tax collector under subsection (1) of this section. The county treasurer shall issue to the tax collector duplicate receipts for the money and shall hold it in a special account in the name of the tax collector.

(3) Upon delivery of the assessment roll pursuant to ORS 311.115, the tax collector shall post the payments evidenced by the receipts, and the amount of any underpayment or overpayment. The tax collector shall then make a statement to the county treasurer *[which shall specify]* **specifying** the amount to be retained in the special account to make the refunds required under subsection (4) of this section. The tax collector shall direct the county treasurer to transfer the balance in the special account to the unsegregated tax collections account described in ORS 311.385.

(4) Any sum collected by the tax collector that exceeds the amount extended on the tax roll as provided in subsection (1)(b) of this section by more than \$10 shall be refunded to the taxpayer by the county treasurer upon receiving instructions for doing so from the tax collector. If an amount remains that cannot be refunded by June 30 of the next calendar year, the tax collector shall instruct the treasurer to transfer the amount to the unsegregated tax collections account described in ORS 311.385.

(5) If a sum less than the tax charged on the tax roll has been collected, the deficiency shall be canceled by the tax collector if *[such sum]* **the deficiency** is \$10 or less, and the tax collector

shall note upon the tax roll opposite the appropriate account, "Tax deficiency canceled pursuant to ORS 311.370." Otherwise, the deficiency shall be collected as provided by law.

(6) If an appeal that is perfected under ORS 311.467 for taxes collected under ORS 311.465 results in a refund under ORS 311.806, the reimbursement for the refund to the unsegregated tax collections account shall be made from the account provided for in subsection (2) of this section.

SECTION 3. Section 1 of this 2015 Act applies to:

(1) Conveyances of real property that become final on or after the effective date of this 2015 Act.

(2) Instruments conveying or contracting to convey fee title to real property to an entity whose property is exempt from taxation under ORS 307.040 or 307.090 that are presented to a county clerk for recording on or after the effective date of this 2015 Act.

SECTION 4. This 2015 Act takes effect on the 91st day after the date on which the 2015 regular session of the Seventy-eighth Legislative Assembly adjourns sine die.

Passed by House April 20, 2015

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate May 11, 2015

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2015

Approved:

.....M.,....., 2015

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2015

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Jeanne P. Atkins, Secretary of State