

# House Bill 3453

Sponsored by Representative NOSSE

## 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**.

Requires, for purposes of property tax exemption, certain lease agreements for taxable property entered into by institution, organization or public body whose property is tax exempt to include express term that any tax savings resulting from such exemption shall inure solely to benefit of lessee institution, organization or public body.

Provides that if institution, organization or public body whose property is tax exempt leases, subleases or grants possession of property to another such institution, organization or public body, exemption continues only if any tax savings resulting from such exemption will inure solely to benefit of lessee, sublessee or possessor institution, organization or public body.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to tax savings resulting from property tax exemption; amending ORS 307.112 and 307.166;  
3 and prescribing an effective date.

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

5 **SECTION 1.** ORS 307.112 is amended to read:

6 307.112. (1) Real or personal property of a taxable owner held under lease, sublease or lease-  
7 purchase agreement by an institution, organization or public body, other than the State of Oregon,  
8 or a public university listed in ORS 352.002, granted exemption or the right to claim exemption for  
9 any of its property under ORS 307.090, 307.130, 307.136, 307.140, 307.145, 307.147 or 307.181 (3), is  
10 exempt from taxation if:

11 (a) The property is used by the lessee or, if the lessee is not in possession of the property, by  
12 the entity in possession of the property, in the manner, if any, required by law for the exemption  
13 of property owned, leased, subleased or being purchased by it; and

14 (b) It is expressly agreed [*within*] **under the terms of** the lease, sublease or lease-purchase  
15 agreement that [*the rent payable by*] **any tax savings resulting from the exemption granted un-**  
16 **der this section shall inure solely to the benefit of** the institution, organization or public body  
17 [*has been established to reflect the savings below market rent resulting from the exemption from taxa-*  
18 *tion*].

19 (2) To obtain the exemption under this section, the lessee or, if the lessee is not in possession  
20 of the property, the entity in possession of the property, must file a claim for exemption with the  
21 county assessor, verified by the oath or affirmation of the president or other proper officer of the  
22 institution or organization, or head official of the public body or legally authorized delegate, show-  
23 ing:

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

25 (b) If applicable, all facts relating to the use of the property by the lessee or, if the lessee is  
26 not in possession of the property, by the entity in possession of the property.

27 (c) A true copy of the lease, sublease or lease-purchase agreement covering the property for

**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 which exemption is claimed.

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

3 (3) If the assessor is not satisfied that the *[rent stated in the lease, sublease or lease-purchase*  
 4 *agreement has been established to reflect the savings below market rent resulting from the tax ex-*  
 5 *emption]* **tax savings resulting from the exemption granted under this section will inure solely**  
 6 **to the benefit of the institution, organization or public body**, before the exemption may be  
 7 granted the lessor must provide documentary proof, as specified by rule of the Department of Re-  
 8 venue, that *[the rent has been established to reflect]* the **tax** savings *[below market rent]* resulting from  
 9 the *[tax]* exemption **will inure solely to the benefit of the institution, organization or public**  
 10 **body**.

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

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

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

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

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

22 (b) If the use changes, a new claim must be filed as provided in this section.

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

26 (d) If the lease, sublease or lease-purchase agreement expires before July 1 of any year, the ex-  
 27 emption terminates as of January 1 of the same calendar year.

28 **SECTION 2.** ORS 307.166 is amended to read:

29 307.166. (1) If property is owned or being purchased by an institution, organization or public  
 30 body that is granted exemption or the right to claim exemption for any of its property under a  
 31 provision of law contained in this chapter, and the institution, organization or public body leases  
 32 or otherwise grants the use and possession of the property to another institution, organization or  
 33 public body that is likewise granted exemption or the right to claim exemption for property under  
 34 a provision of law contained in this chapter, the property is exempt from taxation if used by the  
 35 lessee or possessor in the manner, if any, required by law for the exemption of property owned or  
 36 being purchased by the lessee or possessor and *[the rent payable under the lease or other grant of*  
 37 *use and possession of the property has been established to reflect the savings below market rent]* **any**  
 38 **tax savings** resulting from the exemption from taxation **granted under this section will inure**  
 39 **solely to the benefit of the lessee or possessor**. Likewise, if the property is sublet or otherwise  
 40 the use and possession of the property is granted to another institution, organization or public body  
 41 of the kind described in this subsection, the property is exempt if used by the sublessee or possessor  
 42 in the manner, if any, required by law for the exemption of property owned or being purchased by  
 43 the sublessee or possessor and *[the rent payable under the sublease or other grant of use and pos-*  
 44 *session of the property has been established to reflect the savings below market rent]* **any tax savings**  
 45 resulting from the exemption from taxation **granted under this section will inure solely to the**

1 **benefit of the sublessee or possessor.**

2 (2) Except as provided in subsection (4) of this section, to obtain the exemption under this sec-  
 3 tion, the lessee, **sublessee** or entity in possession must file a claim for exemption with the county  
 4 assessor, verified by the oath or affirmation of the president or other proper officer of the institution  
 5 or organization, or head official of the public body or the legally authorized delegate of the head  
 6 official, showing:

- 7 (a) A complete description of the property for which exemption is claimed.
- 8 (b) All facts relating to the ownership or purchase of the property.
- 9 (c) All facts relating to the use of the property by the lessee, **sublessee** or entity in possession.
- 10 (d) A true copy of the lease, sublease or other grant of use and possession covering the property  
 11 for which exemption is claimed.
- 12 (e) Any other information required by the claim form.

13 (3)(a) The claim required under subsection (2) of this section must be filed on or before April 1  
 14 preceding the tax year for which the exemption is claimed, except:

15 (A) If the lease, sublease or other grant of use and possession is entered into after March 1 but  
 16 not later than June 30, the claim must be filed within 30 days after the date the lease, sublease or  
 17 other grant of use and possession is entered into if the exemption is claimed for the assessment year  
 18 beginning on the preceding January 1; or

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

21 (b) The exemption first applies for the tax year beginning July 1 of the year for which the claim  
 22 is filed. The exemption continues as long as the ownership and use of the property remain un-  
 23 changed and during the period of the lease, sublease or other grant of use and possession. If either  
 24 the ownership or use changes, a new claim must be filed as provided in this section. If the lease,  
 25 sublease or other grant of use and possession expires before July 1 of any year, the exemption ter-  
 26 minates as of January 1 of the same calendar year.

27 (4)(a) In lieu of filing a claim under subsection (2) of this section, the lessor, sublessor or person  
 28 granting the use and possession of property that is exempt from taxation under ORS 307.040 or  
 29 307.090 to a lessee, sublessee or entity the property of which is eligible for exemption under ORS  
 30 307.040 or 307.090 must provide the assessor of the county in which the property is located with the  
 31 following information as soon as practicable after execution of a lease, sublease or other grant of  
 32 use and possession of the property:

- 33 (A) The name and address of the lessee, sublessee or possessor;
- 34 (B) Upon request of the assessor, a copy of the lease, sublease or other grant of use and pos-  
 35 session of the property; and
- 36 (C) The location of the property.

37 (b) Upon compliance with paragraph (a) of this subsection, the property is exempt from taxation  
 38 under this section during the term of the lease, sublease or other grant of use and possession.

39 **SECTION 3. This 2017 Act takes effect on the 91st day after the date on which the 2017**  
 40 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**