

A-Engrossed
Senate Bill 311

Ordered by the Senate April 14
Including Senate Amendments dated April 14

Sponsored by Senator ROBLAN, Representative BOONE; Representative MCKEOWN (Presession filed.)

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.

Authorizes city or county to adopt ordinance or resolution providing property tax exemption to commercial, industrial and multifamily buildings **built before January 1, 1993**, that *[have been]* **will be** seismically retrofitted, for period *[of up to 10 years, with additional period up to five years based on locally adopted criteria]* **not to exceed 15 years. Defines "eligible costs" to mean costs directly related to work necessary to seismically retrofit eligible property incurred after application for exemption has been approved.** Caps dollar amount of exemption at specified eligible costs to seismically retrofit building. **Authorizes city or county to impose other restrictions and conditions that do not conflict with Act.**

Provides that ordinance or resolution becomes effective only if rates of taxation of taxing districts located within territory of local government whose governing boards agree to exemption or partial exemption, when combined with rate of local government adopting exemption or partial exemption, equal 75 percent or more of total combined rate of taxation within territory of local government. *[Provides that eligible costs equal discounted present value of estimated after-tax costs directly related to work necessary to seismically retrofit building.]* Authorizes county assessor to charge owner of building fee of up to \$200 for first year and up to \$100 for each subsequent year for which property exemption or partial exemption is granted.

Requires application for exemption to include certification by registered structural engineer or architect that proposed seismic retrofitting qualifies under specified performance standard. Provides for clawback of property tax upon disqualification for failure to comply with eligibility requirements or make reasonable progress on seismic retrofitting or for misleading or false statements in application. Authorizes city or county to provide owner with opportunity to cure grounds for disqualification.

Sunsets authority to adopt ordinance or resolution on January 2, 2028.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to property tax exemption for seismic retrofitting costs; and prescribing an effective date.

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

4 **SECTION 1. (1) As used in sections 1 to 5 of this 2017 Act:**

5 **(a)(A) "Eligible costs" means costs that are:**

6 **(i) Directly related to the work necessary to seismically retrofit eligible property; and**

7 **(ii) Incurred after an application relating to the retrofitting has been approved under**
8 **section 2 of this 2017 Act.**

9 **(B) "Eligible costs" includes, but is not limited to:**

10 **(i) All costs directly related to structural seismic retrofitting, including, but not limited**
11 **to, the necessary costs of demolition and restoration of similar architectural finishes, elec-**
12 **trical systems, plumbing and mechanical systems necessary for access; and**

13 **(ii) Architectural and engineering fees, and fees for testing, insurance and project man-**
14 **agement, related to the seismic retrofitting.**

15 **(C) "Eligible costs" does not include:**

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 (i) Costs associated with refurbishing or remodeling that are intended to enhance the
2 aesthetics, functionality or marketability of the improvements but do not extend the seismic
3 life safety of the improvements; or

4 (ii) Costs for abatement of hazardous materials, including, but not limited to, asbestos,
5 or for relocation or loss of rent during the seismic retrofitting.

6 (b) "Eligible property" means improvements built before January 1, 1993, that constitute
7 a commercial, industrial or multifamily building.

8 (2) The governing body of a city or county may adopt an ordinance or resolution provid-
9 ing for exemption or partial exemption from ad valorem property taxation of eligible property
10 that will be seismically retrofitted.

11 (3)(a) An ordinance or resolution adopted under this section must specify the eligibility
12 requirements for the exemption or partial exemption.

13 (b) Notwithstanding paragraph (a) of this subsection, property is not eligible for an ex-
14 emption or partial exemption pursuant to this section if, at the time an application for the
15 property is filed under section 2 of this 2017 Act, the property is:

16 (A) Subject to assessment under ORS 308.505 to 308.681; or

17 (B) State-appraised industrial property as defined in ORS 306.126.

18 (4)(a) An ordinance or resolution adopted under this section must specify the period, not
19 to exceed 15 years, for which the exemption or partial exemption may be granted.

20 (b) Eligible property may be granted exemption or partial exemption under this section
21 until the earlier of:

22 (A) The expiration of the period for which the eligible property is eligible for exemption
23 or partial exemption under paragraph (a) of this subsection; or

24 (B) The date on which the dollar amount of the tax benefit from the exemption or partial
25 exemption equals the eligible costs for the property.

26 (c) The ordinance or resolution may:

27 (A) Further restrict eligible properties to unreinforced masonry buildings, unreinforced
28 concrete buildings or any other building type considered seismically dangerous by the gov-
29 erning body of the city or county;

30 (B) Impose an annual cap on the total dollar value of exemptions and partial exemptions;
31 and

32 (C) Impose any other conditions for the exemption or partial exemption that do not
33 conflict with sections 1 to 5 of this 2017 Act.

34 (5)(a) A city or county may amend or repeal an ordinance or resolution adopted under
35 this section at any time.

36 (b) Notwithstanding paragraph (a) of this subsection, eligible property that is granted an
37 exemption or partial exemption under this section when the ordinance or resolution is
38 amended or repealed shall continue to receive the exemption or partial exemption for the
39 period granted, pursuant to the provisions of the ordinance or resolution in effect when the
40 property was initially granted the exemption or partial exemption.

41 (6)(a) An ordinance or resolution adopted under this section does not become effective
42 unless the rates of taxation of the taxing districts located within the territory of the city or
43 county whose governing boards agree to the exemption, when combined with the rate of
44 taxation of the city or county that adopted the ordinance or resolution, equal 75 percent or
45 more of the total combined rate of taxation within the territory of the city or county.

1 (b) If an ordinance or resolution becomes effective pursuant to paragraph (a) of this
2 subsection, the exemption or partial exemption shall be effective for the tax levies of all
3 taxing districts in which an eligible property that is granted an exemption or partial ex-
4 emption is located.

5 **SECTION 2.** (1)(a) The owner of eligible property seeking an exemption or partial ex-
6 emption for the eligible property under an ordinance or resolution adopted pursuant to sec-
7 tion 1 of this 2017 Act must file an application, with the governing body of the city or county
8 that adopted the ordinance or resolution, on or before March 15 preceding the beginning of
9 the property tax year for which the exemption or partial exemption is sought. A single ap-
10 plication may be filed for eligible property in contiguous tax accounts under common own-
11 ership.

12 (b) Notwithstanding paragraph (a) of this subsection, an application may be filed after
13 March 15 and on or before December 31 if the application is accompanied by a late filing fee
14 equal to the greater of \$200 or one-tenth of one percent of the real market value of the eli-
15 gible property to which the application relates as of the assessment date for that tax year.

16 (2) An application filed pursuant to this section must include:

17 (a) The address of the eligible property.

18 (b) Documentation showing the ownership of the eligible property by the person filing the
19 application.

20 (c) Documentation showing that all applicable eligibility requirements have been met.

21 (d) Documentation of estimated eligible costs with respect to the eligible property pre-
22 pared by a person unrelated to the owner of the eligible property and having expertise in
23 estimating such costs. Documentation of eligible costs may include, but is not limited to,
24 bids, cost estimates, copies of contracts, notes and minutes of contract negotiations and
25 accounts, invoices, sales receipts and other payment records of purchases, sales, leases and
26 other transactions relating to the eligible costs.

27 (e) Plans, calculations and any other documentation required by the city or county, pre-
28 pared and stamped by a registered structural engineer or architect certifying that the pro-
29 posed seismic retrofitting qualifies under the performance standard defined as Basic
30 Performance Objective for Existing Buildings, or higher, for structural performance in the
31 Seismic Evaluation and Retrofit of Existing Buildings ASCE/SEI 41-13, published by the
32 American Society of Civil Engineers and the Structural Engineering Institute, as in effect
33 on December 31, 2016, unless the governing body of the city or county has expressly approved
34 or required a different performance standard. The certification must include seismic
35 retrofitting of parapets, cornices and chimneys.

36 (f) Documentation of any financial incentives received from local, state or federal gov-
37 ernment for the seismic retrofitting of the eligible property, exclusive of the exemption or
38 partial exemption granted under sections 1 to 5 of this 2017 Act.

39 (g) An application fee, if any, required by the city or county.

40 (3) The application shall be reviewed by the city or county. The city or county may
41 consult with the owner of the eligible property about the application, and the owner may
42 amend the application.

43 (4)(a) If the city or county determines that the application does not meet the require-
44 ments of this section, the city or county shall promptly notify the owner of the eligible
45 property in writing that the application is not approved, stating the reasons for the deter-

1 mination. A determination under this paragraph is not reviewable, but the owner of the eli-
2 gible property may file an application under this section for any subsequent year.

3 (b) If the city or county determines that the application meets the requirements of this
4 section, the city or county shall promptly:

5 (A) Notify the owner of the eligible property in writing that the application is approved;
6 and

7 (B) Notify the county assessor in writing that the application is approved and certify the
8 period for which the exemption or partial exemption is granted and the estimated eligible
9 costs with respect to the eligible property, reduced by any financial incentives received from
10 local, state or federal government for the seismic retrofitting of the eligible property, ex-
11 clusive of the exemption or partial exemption granted under sections 1 to 5 of this 2017 Act.

12 (5) The assessor of the county in which the eligible property granted an exemption or
13 partial exemption is located may charge the owner a fee of up to \$200 for the first year and
14 up to \$100 for each subsequent year for which the exemption or partial exemption is granted
15 to compensate the assessor for duties imposed under sections 1 to 5 of this 2017 Act.

16 (6) Upon receiving notice under subsection (4) of this section of the approval of an ap-
17 plication, the owner of the eligible property shall cause to be recorded with the clerk of the
18 county in which the eligible property is located a notice that contains a legal description of
19 the eligible property and a statement that the eligible property has been granted a property
20 tax exemption pursuant to an ordinance or resolution adopted under section 1 of this 2017
21 Act and that the owner, or the owner's successor or assignees, may be liable for additional
22 taxes under section 5 of this 2017 Act.

23 (7) The transfer of the eligible property shall not disqualify the eligible property from an
24 exemption or partial exemption granted to the eligible property under the ownership of the
25 transferor, provided the transferee:

26 (a) Notifies the city or county and the county assessor as soon as practicable of the
27 transfer and of the transferee's intention to continue the seismic retrofitting in a manner
28 consistent with the requirements of sections 1 to 5 of this 2017 Act; and

29 (b) Complies with all requirements under sections 1 to 5 of this 2017 Act.

30 **SECTION 3.** (1) An ordinance or resolution adopted under section 1 of this 2017 Act must
31 state the percentage of the exemption to be applied to the real market value of the eligible
32 property.

33 (2) The exemption or partial exemption shall apply to existing eligible property of any
34 classification under rules established by the Department of Revenue pursuant to ORS 308.215
35 (1)(a)(C) that is consistent with the definition of 'eligible property' under section 1 of this
36 2017 Act.

37 (3) ORS 307.032 applies to eligible property granted partial exemption under the ordinance
38 or resolution.

39 (4) Each year the county assessor shall add to the assessment and tax rolls of the county,
40 with respect to the eligible property granted exemption or partial exemption pursuant to an
41 ordinance or resolution adopted under section 1 of this 2017 Act, the notation "potential ad-
42 ditional tax."

43 **SECTION 4.** (1)(a) Each year, on or before a date prescribed by the city or county that
44 adopted the ordinance or resolution under section 1 of this 2017 Act pursuant to which eli-
45 gible property is granted an exemption or partial exemption, the owner of the eligible prop-

1 erty shall submit documentation of actual eligible costs incurred and an updated estimate
2 of the eligible costs to the city or county, as applicable.

3 (b) The owner shall include with the documentation the amount of any financial incen-
4 tives received from local, state or federal government for the seismic retrofitting of the eli-
5 gible property, exclusive of the exemption or partial exemption granted under sections 1 to
6 5 of this 2017 Act. The city or county shall report the amount of the incentives to the
7 assessor of the county in which the eligible property is located, who shall reduce the eligible
8 costs for the eligible property by the amount of the incentives.

9 (2)(a) If the updated estimate of the eligible costs is greater or less than the original
10 estimate by 10 percent or more, the city or county shall submit the documentation and up-
11 dated estimate to the county assessor.

12 (b) Upon receipt, the county assessor shall recompute the assessed value and maximum
13 assessed value of the eligible property under ORS 308.156, beginning with the first year for
14 which the eligible property was granted exemption or partial exemption.

15 (c) The values as recomputed under this section shall apply to the remaining period for
16 which the eligible property has been granted exemption or partial exemption. Delinquent
17 taxes may not be assessed or collected, and refunds may not be paid, as a consequence of the
18 recomputation under this section for property tax years preceding the remaining period.

19 **SECTION 5.** (1) Eligible property that is granted exemption or partial exemption pursuant
20 to an ordinance or resolution adopted under section 1 of this 2017 Act shall continue to re-
21 ceive the exemption or partial exemption until the eligible property is disqualified by the
22 earliest of:

23 (a) The expiration of the period for which the exemption or partial exemption was certi-
24 fied under section 2 of this 2017 Act.

25 (b) The date on which the dollar amount of the exemption or partial exemption equals
26 the eligible costs for the eligible property.

27 (c) The discovery by the city or county that the owner of the eligible property has failed
28 to:

29 (A) Comply with the eligibility requirements adopted by the city or county;

30 (B) Begin or make reasonable progress on seismic retrofitting of the eligible property;
31 or

32 (C) Perform the seismic retrofitting of the eligible property in substantial compliance
33 with the standards certified in the manner provided in section 2 (2)(e) of this 2017 Act and
34 approved with the application relating to the eligible property by the city or county under
35 section 2 of this 2017 Act.

36 (d) The discovery by the city or county that any statement or representation in any
37 documentation filed pursuant to section 2 of this 2017 Act was misleading or false.

38 (2) The city or county may provide an owner with the opportunity to cure the grounds
39 for disqualification under subsection (1) of this section.

40 (3) The city or county shall notify the county assessor of the disqualification of eligible
41 property from exemption or partial exemption under this section, and upon disqualification
42 the eligible property shall be assessed and taxed under ORS 308.146.

43 (4) Upon disqualification of eligible property from exemption or partial exemption under
44 subsection (1)(c) or (d) of this section, there shall be added to the tax extended against the
45 eligible property on the next assessment and tax roll, to be collected and distributed in the

1 same manner as other property taxes, additional taxes, equal to the difference between the
2 taxes assessed against the eligible property and the taxes that otherwise would have been
3 assessed against the eligible property if the eligible property had not been granted exemption
4 or partial exemption, for all years for which the eligible property was granted exemption or
5 partial exemption.

6 (5) Additional taxes collected under this section shall be deemed to have been imposed in
7 the year to which the additional taxes relate.

8 (6) The amount of additional taxes determined to be due under this section may be paid
9 to the tax collector prior to the completion of the next assessment and property tax roll
10 pursuant to ORS 311.370.

11 **SECTION 6.** (1) Sections 1 to 5 of this 2017 Act are repealed on January 2, 2028.

12 (2) Notwithstanding the date specified in subsection (1) of this section, eligible property
13 that is granted exemption or partial exemption under an ordinance or resolution adopted
14 pursuant to section 1 of this 2017 Act before the date specified in subsection (1) of this sec-
15 tion shall continue to receive the exemption or partial exemption under the provisions of the
16 ordinance or resolution for the period of time for which the exemption or partial exemption
17 was granted.

18 **SECTION 7.** This 2017 Act takes effect on the 91st day after the date on which the 2017
19 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.

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