

SENATE AMENDMENTS TO A-ENGROSSED HOUSE BILL 4028

By COMMITTEE ON FINANCE AND REVENUE

March 2

1 On page 1 of the printed A-engrossed bill, line 2, after “ORS” delete the rest of the line and
2 delete line 3 and insert “307.517, 307.518, 307.523, 307.529, 307.535, 315.176, 315.184, 315.264, 315.516
3 and 317.097 and section 1, chapter 112, Oregon Laws 2016; and prescribing an effective date.”.

4 On page 7, lines 5 and 6, restore the bracketed material and delete the boldfaced material.

5 Delete lines 9 through 13 and insert:

6 “(A) Earned income taxable by Oregon and reportable on the taxpayer’s return;

7 “(B) The lesser amount of earned income taxable by Oregon earned by either spouse, if report-
8 able on a joint return; or”.

9 On page 8, delete lines 24 through 45.

10 On page 9, line 1, delete “(6)” and insert “(4)”.

11 In lines 4 through 30, restore the bracketed material and delete the boldfaced material.

12 Delete lines 34 and 35 and insert:

13 **“SECTION 9. (1) Notwithstanding ORS 92.095, 307.155 and 311.411, if land that is exempt**
14 **under ORS 307.150 ceases to be used or held exclusively for cemetery or crematory purposes,**
15 **the additional taxes that would otherwise be due under ORS 307.155 (2) shall remain a po-**
16 **tential tax liability that is not imposed if:**

17 **“(a) As of the date of sale or other transfer of title to the land, the land is being used**
18 **or held for the purpose of providing low income housing that will be exempt from ad valorem**
19 **property taxation under ORS 307.515 to 307.523 or 307.540 to 307.548; and**

20 **“(b) All other requirements set forth in subsections (2) to (5) of this section are met.**

21 **“(2) At the time of recording the deed to the land with the county clerk, the owner of**
22 **the land shall file with the assessor of the county, and the governing body of the city or**
23 **county that adopted the low income housing exemption, as applicable, in which the land is**
24 **located a notice of intent:**

25 **“(a) To apply for the exemption for low income housing under ORS 307.515 to 307.523 or**
26 **307.540 to 307.548 on the land; and**

27 **“(b) To benefit from the provisions of this section.**

28 **“(3)(a) The owner of the land must file the application for exemption, as applicable:**

29 **“(A) Under ORS 307.521, no later than the deadlines set forth in ORS 307.523 that first**
30 **occur after the date on which the owner recorded the deed to the land; or**

31 **“(B) Under ORS 307.545, no later than the deadlines set forth in that section that first**
32 **occur after the date on which the owner recorded the deed to the land.**

33 **“(b) If the governing body to which the owner applies denies the application, the addi-**
34 **tional taxes described in ORS 307.155 (2) become due on the land.**

35 **“(4) If the land is held for the purpose of developing low income housing for a period**

1 exceeding the reasonable maximum period, if any, adopted by the governing body of the city
2 or county under ORS 307.517, 307.518 or 307.541, as applicable to the exemption granted for
3 the land, the additional taxes described in ORS 307.155 (2) become due on the land.

4 “(5)(a) If the land is not used to provide low income housing that is exempt under ORS
5 307.515 to 307.523 or 307.540 to 307.548 for at least 10 consecutive property tax years, the ad-
6 ditional taxes described in ORS 307.155 (2) become due on the land. Any period for which the
7 land is held for the purpose of developing low income housing on the land does not count
8 toward the 10 consecutive property tax years.

9 “(b) After the land has been used to provide low income housing that is exempt under
10 ORS 307.515 to 307.523 or 307.540 to 307.548 for at least 10 consecutive property tax years, the
11 potential tax liability of the land for the additional taxes described in ORS 307.155 (2) shall
12 end.

13 “(6) Additional taxes that become due on the land under this section:

14 “(a) Shall be added to the next general property tax roll, to be collected and distributed
15 in the same manner as other real property taxes.

16 “(b) Are in addition to any additional taxes or other charges that become due upon dis-
17 qualification of property exempt under ORS 307.515 to 307.523 or 307.540 to 307.548.

18 “(7) The lien for additional taxes that become due under this section, and the interest
19 on the additional taxes, shall attach as of July 1 of the property tax year in which the addi-
20 tional taxes become due under this section.

21 “(8) For each year that the additional taxes described in ORS 307.155 (2) remain a po-
22 tential tax liability that is not imposed under this section, the assessor shall enter on the
23 assessment and tax roll, with respect to the land, the notation ‘(potential additional tax).’

24 “(9) The amount of additional taxes determined to be due under this section may be paid
25 to the tax collector prior to the completion of the next general property tax roll, pursuant
26 to ORS 311.370.

27 “(10) Additional taxes collected under this section shall be deemed to have been imposed
28 in the year to which the additional taxes relate.

29 “**SECTION 10.** ORS 307.517 is amended to read:

30 “307.517. (1) Property or a portion of the property is exempt from taxation as provided under
31 ORS 307.515 to 307.523 if:

32 “(a) The property is:

33 “(A) Offered for rent; or

34 “(B) Held for the purpose of developing low income rental housing, for a period not exceeding
35 a reasonable maximum period, if any, adopted by the governing body;

36 “(b) The property, if occupied, is occupied solely by low income persons;

37 “(c) The required rent payment reflects the full value of the property tax exemption;

38 “(d) The exemption has been approved as provided in ORS 307.523, **pursuant to an application**
39 **filed before July 1, 2020;**

40 “(e) The housing units on the property were constructed after the local governing body adopted
41 the provisions of ORS 307.515 to 307.523; and

42 “(f) The information disclosed on the application filed pursuant to ORS 307.521 meets any other
43 criteria adopted by the governing body.

44 “(2) A governing body that adopts the provisions of ORS 307.515 to 307.523 may adopt additional
45 criteria for exemption that do not conflict with the criteria described in subsection (1)(a) to (e) of

1 this section.

2 “(3) For the purposes of subsection (1) of this section, a person that has only a leasehold interest
3 in property is deemed to be a purchaser of that property if:

4 “(a) The person is obligated under the terms of the lease to pay the ad valorem taxes on the real
5 and personal property used in this activity on that property; or

6 “(b) The rent payable has been established to reflect the savings resulting from the exemption
7 from taxation.

8 “**SECTION 11.** ORS 307.518 is amended to read:

9 “307.518. (1) Property or a portion of property is exempt from taxation as provided under ORS
10 307.515 to 307.523 if:

11 “(a) The property, if unoccupied, is:

12 “(A) Offered for rental solely as a residence for low income persons; or

13 “(B) Held for the purpose of developing low income rental housing, for a period not exceeding
14 a reasonable maximum period, if any, adopted by the governing body;

15 “(b) The property, if occupied, is occupied solely as a residence for low income persons;

16 “(c) An exemption for the property has been approved as provided under ORS 307.523, pursuant
17 to an application filed before [*January*] **July** 1, 2020;

18 “(d) The property is owned or being purchased by a nonprofit corporation organized in a manner
19 that meets the criteria for a public benefit corporation or a religious corporation, both terms as
20 defined in ORS 65.001;

21 “(e) The property is owned or being purchased by a nonprofit corporation that expends no more
22 than 10 percent of the nonprofit corporation’s annual income from residential rentals for purposes
23 other than the acquisition, maintenance or repair of residential rental property for low income per-
24 sons or for the provision of on-site child care services for the residents of the rental property; and

25 “(f) The information disclosed on the application filed pursuant to ORS 307.521 meets any other
26 criteria adopted by the governing body.

27 “(2) A governing body that adopts the provisions of ORS 307.515 to 307.523 may adopt additional
28 criteria for exemption that do not conflict with the criteria described in subsection (1)(a) to (e) of
29 this section.

30 “(3) For the purposes of this section, a nonprofit corporation that has only a leasehold interest
31 in property is considered to be a purchaser of that property if:

32 “(a) The nonprofit corporation is obligated under the terms of the lease to pay the ad valorem
33 taxes on the real and personal property used in the rental activity on that property; or

34 “(b) The rent payable has been established to reflect the savings resulting from the exemption
35 from taxation.

36 “(4) A partnership shall be considered a nonprofit corporation for purposes of this section if:

37 “(a) A nonprofit corporation is a general partner of the partnership; and

38 “(b) The nonprofit corporation is responsible for the day-to-day operation of the property that
39 is the subject of the exemption under ORS 307.515 to 307.523.

40 “**SECTION 12.** ORS 307.523 is amended to read:

41 “307.523. (1) Application shall be made on or before December 1 of the calendar year imme-
42 diately preceding the first assessment year for which exemption is requested, and shall be accom-
43 panied by the application fee required under ORS 307.527. However, if the property is acquired after
44 November 1, the application shall be made within 30 days after the date of acquisition.

45 “(2) Within 60 days of the filing of an application under ORS 307.521, the governing body shall

1 take final action upon the application as provided under ORS 307.527, and certify the results of the
2 action to the county assessor, as set forth in ORS 307.512.

3 “(3) Upon receipt of certification under subsection (2) of this section, the county assessor shall
4 exempt the property from taxation to the extent certified by the governing body.

5 “(4) **Notwithstanding the dates specified in ORS 307.517 and 307.518, property granted**
6 **exemption pursuant to an application filed under ORS 307.517 or 307.518 before July 1, 2020,**
7 **shall continue to receive the exemption on the same terms, including duration, on which the**
8 **exemption was granted.**

9 “**SECTION 13.** ORS 307.529 is amended to read:

10 “307.529. (1) Except as provided in ORS 307.531, if, after an application for exemption under ORS
11 307.517 has been approved under ORS 307.527, the governing body finds that construction or devel-
12 opment of the exempt property differs from the construction or development described in the appli-
13 cation for exemption, or is not completed on or before [*January*] **July 1, 2020**, or that any provision
14 of ORS 307.515 to 307.523 is not being complied with, or any provision required by the governing
15 body pursuant to ORS 307.515 to 307.523 is not being complied with, the governing body shall give
16 notice of the proposed termination of the exemption to the owner, by mailing the notice to the
17 last-known address of the owner, and to every known lender, by mailing the notice to the last-known
18 address of every known lender. The notice shall state the reasons for the proposed termination and
19 shall require the owner to appear at a specified time, not less than 20 days after mailing the notice,
20 to show cause, if any, why the exemption should not be terminated.

21 “(2) If the owner fails to appear and show cause why the exemption should not be terminated,
22 the governing body shall notify every known lender, and shall allow any lender not less than 30 days
23 after the date the notice of the failure to appear and show cause is mailed to cure any noncompli-
24 ance or to provide assurance adequate to the governing body that all noncompliance shall be rem-
25 edied.

26 “(3) If the owner fails to appear and show cause why the exemption should not be terminated,
27 and the lender fails to cure or give adequate assurance of the cure of any noncompliance, the gov-
28 erning body shall adopt an ordinance or resolution stating its findings terminating the exemption.
29 A copy of the ordinance or resolution shall be filed with the county assessor, and a copy shall be
30 sent to the owner at the owner’s last-known address and to the lender at the last-known address of
31 the lender within 10 days after its adoption.

32 “**SECTION 14.** ORS 307.535 is amended to read:

33 “307.535. Notwithstanding any provision of ORS 307.515 to 307.523:

34 “(1) If the governing body finds that construction of the housing unit otherwise entitled to ex-
35 emption under ORS 307.517 was not completed by [*January*] **July 1, 2020**, due to circumstances be-
36 yond the control of the owner, and that the owner had been acting and could reasonably be expected
37 to act in good faith and with due diligence, the governing body may extend the deadline for com-
38 pletion of construction for a period not to exceed 12 consecutive months.

39 “(2) If property granted exemption under ORS 307.515 to 307.523 is destroyed by fire or act of
40 God, or is otherwise no longer capable of owner-occupancy due to circumstances beyond the control
41 of the owner, the exemption shall cease but no additional taxes shall be imposed upon the property
42 under ORS 307.531 or 307.533.

43 “**SECTION 15.** Section 1, chapter 112, Oregon Laws 2016, is amended to read:

44 “**Sec. 1.** (1) As used in sections 1 to 5 [*of this 2016 Act*], **chapter 112, Oregon Laws 2016:**

45 “(a) ‘Eligible location’ means land and improvements that are located in a rural area. **‘Eligible**

1 **location' includes a location that has not formerly been used for industrial purposes.**

2 “(b) ‘Eligible property’ means improvements classified as industrial under rules established by
3 the Department of Revenue pursuant to ORS 308.215 (1)(a)(C), and associated personal property,
4 **whether appraised by the county or by the Department of Revenue**, that:

5 “(A) Are newly constructed or installed at an eligible location; and

6 “(B) Have a cost of initial investment to the purchaser of at least \$1 million and not more than
7 \$25 million.

8 “(c) ‘Qualified property’ means eligible property for which an application has been approved
9 under section 2 [of this 2016 Act], **chapter 112, Oregon Laws 2016**.

10 “(d) ‘Rural area’ means an area located **in unincorporated territory, or in a city with a**
11 **population of less than 40,000, that is located** entirely outside of the urban growth [boundary of
12 a city with a population] **boundaries of any and all cities with populations** of 40,000 or more, as
13 the urban growth [boundary is] **boundaries are** acknowledged on the date on which an applicant
14 submits an application for eligible property under section 2 [of this 2016 Act], **chapter 112, Oregon**
15 **Laws 2016**.

16 “(2)(a) The governing body of a city or county may adopt an ordinance or resolution granting
17 a property tax exemption for eligible property located within the boundaries of the city or county,
18 respectively.

19 “(b) The terms of the exemption must conform to the provisions of sections 1 to 5 [of this 2016
20 Act], **chapter 112, Oregon Laws 2016**. In addition, an ordinance or resolution adopted under this
21 subsection shall establish standards for the imposition of conditions described in section 2 (4) [of this
22 2016 Act], **chapter 112, Oregon Laws 2016**.

23 “(3)(a) Qualified property must be:

24 “(A) Owned or leased by the applicant filing the application under section 2 [of this 2016 Act],
25 **chapter 112, Oregon Laws 2016**.

26 “(B) Used through the final year of exemption for the purpose, and at the location, identified in
27 the application filed under section 2 [of this 2016 Act], **chapter 112, Oregon Laws 2016**.

28 “(b) The exemption:

29 “(A) May be granted to eligible property only if the first assessment year to which the applica-
30 tion filed under section 2 [of this 2016 Act], **chapter 112, Oregon Laws 2016**, relates is the first
31 assessment year that begins after the eligible property was first placed in service; and

32 “(B) Shall be granted only for qualified property that was first placed in service after the ordi-
33 nance or resolution was adopted.

34 “(4)(a) The exemption shall be granted as a 100 percent exemption of the real market value of
35 the qualified property for any three out of five consecutive property tax years.

36 “(b) Notwithstanding paragraph (a) of this subsection, the city or county may specify in the or-
37 dinance or resolution:

38 “(A) A minimum cost of initial investment greater than \$1 million.

39 “(B) Any number of years not greater than five for which the exemption shall be granted.

40 “(C) The percentage of the real market value of the qualified property granted exemption for
41 each year.

42 “(D) Different schedules in each property tax year for the years and percentages described in
43 subparagraphs (B) and (C) of this paragraph, depending on the minimum costs of initial investment
44 of the qualified property.

45 “(5)(a) An ordinance or resolution adopted pursuant to this section may not take effect unless,

1 upon request of the city or county that adopted the ordinance or resolution, the rates of taxation
2 of the taxing districts whose governing bodies agree to grant the exemption, when combined with
3 the rate of taxation of the city or county, equal 75 percent or more of the total combined rate of
4 taxation on the qualified property.

5 “(b) Upon the taking effect of the ordinance or resolution, the exemption shall apply to all
6 property tax levies of all taxing districts in which qualified property is located.

7 “(c) The decisions of the taxing districts under paragraph (a) of this subsection may not be
8 changed but are not binding with respect to an ordinance or resolution adopted pursuant to sub-
9 section (6) of this section or a new ordinance or resolution adopted pursuant to subsection (2) of this
10 section.

11 “(d) All qualified property shall be granted exemption under this section, or deferral under sec-
12 tion 3 [of this 2016 Act], **chapter 112, Oregon Laws 2016**, on the same terms provided in the ordi-
13 nance or resolution adopted or amended by the city or county and in effect on the date the
14 application is submitted under section 2 [of this 2016 Act], **chapter 112, Oregon Laws 2016**.

15 “(6)(a) A city or county may adopt at any time an ordinance or resolution amending the terms
16 of an exemption granted pursuant to this section or a deferral granted pursuant to section 3 [of this
17 2016 Act], **chapter 112, Oregon Laws 2016**, subject to approval of the taxing districts under sub-
18 section (5)(a) of this section, or terminating the exemption or deferral.

19 “(b) Notwithstanding an ordinance or resolution adopted under paragraph (a) of this subsection,
20 qualified property that has been granted an exemption pursuant to this section, or a deferral pur-
21 suant to section 3 [of this 2016 Act], **chapter 112, Oregon Laws 2016**, shall continue to receive the
22 exemption or deferral under the terms in effect at the time the exemption or deferral was first
23 granted.

24 “(7) If a city or county proposes an ordinance or resolution providing for an exemption on terms
25 other than the terms provided in subsection (4)(a) of this section, the ordinance or resolution may
26 not take effect unless the governing body of the city or county, as applicable, receives testimony
27 from the county assessor at a public hearing on the question regarding the cost and administration
28 of the proposed terms of the exemption.

29 “(8)(a) Qualified property granted an exemption pursuant to this section, or a deferral pursuant
30 to section 3 [of this 2016 Act], **chapter 112, Oregon Laws 2016**, is not eligible for any other prop-
31 erty tax exemption or special assessment.

32 “(b) Otherwise eligible property that has received another property tax exemption or special
33 assessment is not eligible for the exemption or deferral.

34 “(c) Paragraphs (a) and (b) of this subsection do not apply to the exemption granted under ORS
35 307.330.

36 “**SECTION 16. The amendments to section 1, chapter 112, Oregon Laws 2016, by section**
37 **15 of this 2018 Act apply to ordinances and resolutions adopted under section 1, chapter 112,**
38 **Oregon Laws 2016, on or after the effective date of this 2018 Act.**

39 “**SECTION 17. This 2018 Act takes effect on the 91st day after the date on which the 2018**
40 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**”.