

HB 4028-A19
(LC 223)
3/2/18 (ASD/ps)

Requested by SENATE COMMITTEE ON FINANCE AND REVENUE

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 4028**

1 On page 1 of the printed A-engrossed bill, line 2, after “ORS” delete the
2 rest of the line and delete line 3 and insert “307.517, 307.518, 307.523, 307.529,
3 307.535, 315.176, 315.184, 315.264, 315.516 and 317.097 and section 1, chapter
4 112, Oregon Laws 2016; and prescribing an effective date.”.

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

7 Delete lines 9 through 13 and insert:

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

10 “(B) The lesser amount of earned income taxable by Oregon earned by
11 either spouse, if reportable on a joint return; or”.

12 On page 8, delete lines 24 through 45.

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

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

16 Delete lines 34 and 35 and insert:

17 **“SECTION 9. (1) Notwithstanding ORS 92.095, 307.155 and 311.411, if**
18 **land that is exempt under ORS 307.150 ceases to be used or held ex-**
19 **clusively for cemetery or crematory purposes, the additional taxes that**
20 **would otherwise be due under ORS 307.155 (2) shall remain a potential**
21 **tax liability that is not imposed if:**

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

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

7 “(2) At the time of recording the deed to the land with the county
8 clerk, the owner of the land shall file with the assessor of the county,
9 and the governing body of the city or county that adopted the low in-
10 come housing exemption, as applicable, in which the land is located a
11 notice of intent:

12 “(a) To apply for the exemption for low income housing under ORS
13 307.515 to 307.523 or 307.540 to 307.548 on the land; and

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

15 “(3)(a) The owner of the land must file the application for ex-
16 emption, as applicable:

17 “(A) Under ORS 307.521, no later than the deadlines set forth in ORS
18 307.523 that first occur after the date on which the owner recorded the
19 deed to the land; or

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

23 “(b) If the governing body to which the owner applies denies the
24 application, the additional taxes described in ORS 307.155 (2) become
25 due on the land.

26 “(4) If the land is held for the purpose of developing low income
27 housing for a period exceeding the reasonable maximum period, if any,
28 adopted by the governing body of the city or county under ORS 307.517,
29 307.518 or 307.541, as applicable to the exemption granted for the land,
30 the additional taxes described in ORS 307.155 (2) become due on the

1 **land.**

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

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

12 **“(6) Additional taxes that become due on the land under this sec-**
13 **tion:**

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

17 **“(b) Are in addition to any additional taxes or other charges that**
18 **become due upon disqualification of property exempt under ORS**
19 **307.515 to 307.523 or 307.540 to 307.548.**

20 **“(7) The lien for additional taxes that become due under this sec-**
21 **tion, and the interest on the additional taxes, shall attach as of July**
22 **1 of the property tax year in which the additional taxes become due**
23 **under this section.**

24 **“(8) For each year that the additional taxes described in ORS 307.155**
25 **(2) remain a potential tax liability that is not imposed under this sec-**
26 **tion, the assessor shall enter on the assessment and tax roll, with re-**
27 **spect to the land, the notation ‘(potential additional tax).’**

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

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

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

4 “307.517. (1) Property or a portion of the property is exempt from taxation
5 as provided under ORS 307.515 to 307.523 if:

6 “(a) The property is:

7 “(A) Offered for rent; or

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

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

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

14 “(d) The exemption has been approved as provided in ORS 307.523, **pur-**
15 **suant to an application filed before July 1, 2020;**

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

18 “(f) The information disclosed on the application filed pursuant to ORS
19 307.521 meets any other criteria adopted by the governing body.

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

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

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

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

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

2 “307.518. (1) Property or a portion of property is exempt from taxation as
3 provided under ORS 307.515 to 307.523 if:

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

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

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

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

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

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

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

22 “(f) The information disclosed on the application filed pursuant to ORS
23 307.521 meets any other criteria adopted by the governing body.

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

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

30 “(a) The nonprofit corporation is obligated under the terms of the lease

1 to pay the ad valorem taxes on the real and personal property used in the
2 rental activity on that property; or

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

5 “(4) A partnership shall be considered a nonprofit corporation for pur-
6 poses of this section if:

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

8 “(b) The nonprofit corporation is responsible for the day-to-day operation
9 of the property that is the subject of the exemption under ORS 307.515 to
10 307.523.

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

12 “307.523. (1) Application shall be made on or before December 1 of the
13 calendar year immediately preceding the first assessment year for which ex-
14 emption is requested, and shall be accompanied by the application fee re-
15 quired under ORS 307.527. However, if the property is acquired after
16 November 1, the application shall be made within 30 days after the date of
17 acquisition.

18 “(2) Within 60 days of the filing of an application under ORS 307.521, the
19 governing body shall take final action upon the application as provided un-
20 der ORS 307.527, and certify the results of the action to the county assessor,
21 as set forth in ORS 307.512.

22 “(3) Upon receipt of certification under subsection (2) of this section, the
23 county assessor shall exempt the property from taxation to the extent certi-
24 fied by the governing body.

25 **“ (4) Notwithstanding the dates specified in ORS 307.517 and 307.518,**
26 **property granted exemption pursuant to an application filed under**
27 **ORS 307.517 or 307.518 before July 1, 2020, shall continue to receive the**
28 **exemption on the same terms, including duration, on which the ex-**
29 **emption was granted.**

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

1 “307.529. (1) Except as provided in ORS 307.531, if, after an application
2 for exemption under ORS 307.517 has been approved under ORS 307.527, the
3 governing body finds that construction or development of the exempt prop-
4 erty differs from the construction or development described in the applica-
5 tion for exemption, or is not completed on or before [*January*] **July** 1, 2020,
6 or that any provision of ORS 307.515 to 307.523 is not being complied with,
7 or any provision required by the governing body pursuant to ORS 307.515 to
8 307.523 is not being complied with, the governing body shall give notice of
9 the proposed termination of the exemption to the owner, by mailing the no-
10 tice to the last-known address of the owner, and to every known lender, by
11 mailing the notice to the last-known address of every known lender. The
12 notice shall state the reasons for the proposed termination and shall require
13 the owner to appear at a specified time, not less than 20 days after mailing
14 the notice, to show cause, if any, why the exemption should not be termi-
15 nated.

16 “(2) If the owner fails to appear and show cause why the exemption
17 should not be terminated, the governing body shall notify every known
18 lender, and shall allow any lender not less than 30 days after the date the
19 notice of the failure to appear and show cause is mailed to cure any non-
20 compliance or to provide assurance adequate to the governing body that all
21 noncompliance shall be remedied.

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

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

1 “307.535. Notwithstanding any provision of ORS 307.515 to 307.523:

2 “(1) If the governing body finds that construction of the housing unit
3 otherwise entitled to exemption under ORS 307.517 was not completed by
4 [January] **July** 1, 2020, due to circumstances beyond the control of the
5 owner, and that the owner had been acting and could reasonably be expected
6 to act in good faith and with due diligence, the governing body may extend
7 the deadline for completion of construction for a period not to exceed 12
8 consecutive months.

9 “(2) If property granted exemption under ORS 307.515 to 307.523 is de-
10 stroyed by fire or act of God, or is otherwise no longer capable of owner-
11 occupancy due to circumstances beyond the control of the owner, the
12 exemption shall cease but no additional taxes shall be imposed upon the
13 property under ORS 307.531 or 307.533.

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

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

18 “(a) ‘Eligible location’ means land and improvements that are located in
19 a rural area. **‘Eligible location’ includes a location that has not for-**
20 **merly been used for industrial purposes.**

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

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

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

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

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

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

11 “(b) The terms of the exemption must conform to the provisions of
12 sections 1 to 5 [*of this 2016 Act*], **chapter 112, Oregon Laws 2016.** In addi-
13 tion, an ordinance or resolution adopted under this subsection shall establish
14 standards for the imposition of conditions described in section 2 (4) [*of this*
15 *2016 Act*], **chapter 112, Oregon Laws 2016.**

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

17 “(A) Owned or leased by the applicant filing the application under section
18 2 [*of this 2016 Act*], **chapter 112, Oregon Laws 2016.**

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

22 “(b) The exemption:

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

27 “(B) Shall be granted only for qualified property that was first placed in
28 service after the ordinance or resolution was adopted.

29 “(4)(a) The exemption shall be granted as a 100 percent exemption of the
30 real market value of the qualified property for any three out of five consec-

1 utive property tax years.

2 “(b) Notwithstanding paragraph (a) of this subsection, the city or county
3 may specify in the ordinance or resolution:

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

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

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

9 “(D) Different schedules in each property tax year for the years and per-
10 centages described in subparagraphs (B) and (C) of this paragraph, depending
11 on the minimum costs of initial investment of the qualified property.

12 “(5)(a) An ordinance or resolution adopted pursuant to this section may
13 not take effect unless, upon request of the city or county that adopted the
14 ordinance or resolution, the rates of taxation of the taxing districts whose
15 governing bodies agree to grant the exemption, when combined with the rate
16 of taxation of the city or county, equal 75 percent or more of the total
17 combined rate of taxation on the qualified property.

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

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

25 “(d) All qualified property shall be granted exemption under this section,
26 or deferral under section 3 [*of this 2016 Act*], **chapter 112, Oregon Laws**
27 **2016**, on the same terms provided in the ordinance or resolution adopted or
28 amended by the city or county and in effect on the date the application is
29 submitted under section 2 [*of this 2016 Act*], **chapter 112, Oregon Laws**
30 **2016**.

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

6 “(b) Notwithstanding an ordinance or resolution adopted under paragraph
7 (a) of this subsection, qualified property that has been granted an exemption
8 pursuant to this section, or a deferral pursuant to section 3 [*of this 2016*
9 *Act*], **chapter 112, Oregon Laws 2016**, shall continue to receive the ex-
10 emption or deferral under the terms in effect at the time the exemption or
11 deferral was first granted.

12 “(7) If a city or county proposes an ordinance or resolution providing for
13 an exemption on terms other than the terms provided in subsection (4)(a) of
14 this section, the ordinance or resolution may not take effect unless the gov-
15 erning body of the city or county, as applicable, receives testimony from the
16 county assessor at a public hearing on the question regarding the cost and
17 administration of the proposed terms of the exemption.

18 “(8)(a) Qualified property granted an exemption pursuant to this section,
19 or a deferral pursuant to section 3 [*of this 2016 Act*], **chapter 112, Oregon**
20 **Laws 2016**, is not eligible for any other property tax exemption or special
21 assessment.

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

24 “(c) Paragraphs (a) and (b) of this subsection do not apply to the ex-
25 emption granted under ORS 307.330.

26 **“SECTION 16. The amendments to section 1, chapter 112, Oregon**
27 **Laws 2016, by section 15 of this 2018 Act apply to ordinances and re-**
28 **solutions adopted under section 1, chapter 112, Oregon Laws 2016, on**
29 **or after the effective date of this 2018 Act.**

30 **“SECTION 17. This 2018 Act takes effect on the 91st day after the**

1 **date on which the 2018 regular session of the Seventy-ninth Legislative**
2 **Assembly adjourns sine die.”**

3 _____