

D R A F T

SUMMARY

Authorizes tax collector in county covered by state of emergency declared by Governor due to fire or act of God, or authority of Governor under Emergency Conflagration Act, who knows or has reason to believe property has been destroyed or damaged by fire or act of God to prorate taxes imposed on property. Combines provisions for proration of taxes for property destroyed and property damaged by fire or act of God. Provides new computation for proration of taxes for property other than specially assessed property. Applies to property tax years beginning on or after July 1, 2020.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to taxation of damaged property; creating new provisions; amending ORS 308.425 and 311.806; and prescribing an effective date.

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

SECTION 1. ORS 308.425 is amended to read:

308.425. (1) **As used in this section, “property” means:**

(a)(A) **All property within a single tax account, other than specially assessed property; and**

(B) **Specially assessed property.**

(b) **“Specially assessed property” means any portion of a property tax account that is subject to special assessment under a program codified in ORS chapter 308A or 321.**

[(1)] (2) If, during any tax year, any real or personal property is destroyed or damaged by fire or act of God, the [owner or purchaser under a recorded instrument of sale in the case of real property, or the person assessed, person in possession or owner in the case of personal property,] **property owner, as**

1 **defined in ORS 308.146**, may apply to the tax collector for proration of the
 2 taxes imposed on the property for the tax year.

3 [(2)] Application **under this subsection** for proration of taxes [*under*
 4 *subsection (1) of this section*] shall be made not later than the end of the tax
 5 year or 60 days [*after*] **following** the date **on which** the property was de-
 6 stroyed or damaged, whichever is later. **If the application is approved, the**
 7 **tax collector shall prorate the taxes imposed on the property in ac-**
 8 **cordance with this section.**

9 (3) Notwithstanding subsection (2) of this section, if the tax collec-
 10 tor of a county that is included in the geographical area covered by a
 11 state of emergency declared by the Governor due to fire or act of God,
 12 or subject to actions taken under the authority of the Governor under
 13 ORS 476.510 to 476.610, knows or has reason to believe that property
 14 located in the county has been destroyed or damaged by the fire or act
 15 of God, the tax collector may prorate the taxes imposed on the prop-
 16 erty in accordance with this section.

17 [(3)(a)(A) *For property that is totally destroyed, the tax collector shall col-*
 18 *lect only one-twelfth of the taxes imposed on the property for the tax year, for*
 19 *each month or fraction of a month that the property was in existence during*
 20 *the tax year. The tax collector shall cancel the remainder of the taxes imposed*
 21 *on the property for the tax year.*]

22 [(B)] (4) For property that is **destroyed or damaged as described in**
 23 **subsection (2) or (3) of this section**, the tax collector shall collect only
 24 one-twelfth of the taxes imposed on the property for the tax year, for each
 25 month [*or fraction of a month*] **during the tax year** that preceded the month
 26 [*during*] in which the property was **destroyed or damaged**.

27 (5)(a) **For the month in which property as defined in subsection**
 28 **(1)(a)(A) of this section was destroyed or damaged, and for each suc-**
 29 **ceeding month of the tax year, the tax collector shall collect that**
 30 **percentage of one-twelfth of the taxes imposed on such property that**
 31 **the real market value of the property after the destruction or damage**

bears to the real market value of the property before the destruction or damage as reflected in the last certified assessment roll. The county assessor shall advise the tax collector of the value percentage required under this paragraph.

(b) For the month in which *[the]* specially assessed property was destroyed or damaged, and for each succeeding month of the tax year *[thereafter in which the property remains damaged]*, the tax collector shall collect that percentage of one-twelfth of the taxes imposed on the specially assessed property that the lesser of the real market value or the assessed value of the specially assessed property after the destruction or damage *[(whichever is less)]* bears to the assessed value of the specially assessed property before the destruction or damage. The county assessor shall advise the tax collector of the value percentage required under this paragraph.

(6) The tax collector shall cancel any taxes not to be collected *[due to this paragraph]* under subsections (4) and (5) of this section.

[(b)] (7) If proration under this *[subsection]* section results in an overpayment of taxes paid, the amount of the overpayment shall be refunded in the manner prescribed in ORS 311.806.

[(4)] (8) *[That portion of the property that is damaged property and that is subsequently repaired]* Property that is added to a property tax account to repair or replace property that was destroyed or damaged as described in subsection (2) or (3) of this section shall be considered to be new property or new improvements to property under ORS 308.153 for the assessment year in which the repairs or replacements are first taken into account.

(9) The Department of Revenue may adopt rules that establish procedures for the implementation of this section.

SECTION 2. ORS 311.806 is amended to read:

311.806. (1) Subject to subsections (2) and (3) of this section, the county governing body shall refund, out of the refund reserve account provided in ORS 311.807, or the unsegregated tax collections account provided in ORS

311.385, taxes on property collected by an assessor or tax collector pursuant to a levy of the assessor or of any taxing district or tax levying body or pursuant to ORS 311.255, plus interest as provided in ORS 311.812, in the following cases:

(a) To the person described in ORS 309.100 (1) and in whose name a petition was filed, whenever a change in the value of property is ordered by a county board of property tax appeals and no appeal is taken or can be taken from the board's order, or whenever ordered by the Oregon Tax Court or the Supreme Court and the order constitutes a final determination of the matter;

(b) To the person who has sought and obtained an order from the Department of Revenue under ORS 306.115, whenever a change in the value of property is ordered by the department and no appeal is taken or can be taken from the order of the department;

(c) To the person who meets the criteria described in ORS 305.275 and in whose name an appeal is filed under ORS 305.275, whenever ordered by the Oregon Tax Court or Supreme Court and the order constitutes a final determination of the matter;

(d) Whenever a change in the value of property is made under ORS 309.115 upon resolution of an appeal and no separate appeal of the value of the property was taken for the year of the change:

(A) To the person in whose name the appeal was filed, for each year after the year for which the appeal was filed in which that person was listed as the owner or an owner or the person in whose name the property was assessed; and

(B) To the owner of record on the tax roll at the time of refund, each year thereafter;

(e) To the owner of record on the tax roll at the time of refund, whenever taxes are collected against real or personal property not within the jurisdiction of the tax levying body;

(f) Except as provided in ORS 310.143, to the owner of record on the tax roll at the time of refund, whenever, through excusable neglect or through

an error subject to correction under ORS 311.205, other than ORS 311.205 (1)(b)(A), taxes on property are paid in excess of the amount legally chargeable, limited to the amount of money collected in excess of the amount actually due;

(g) To the person in whose name the appeal was filed under ORS 305.275 if the officer makes a correction under ORS 311.205 (1)(b)(A) in the tax owed to which the appeal relates;

(h) Except as provided in ORS 311.808, to the payer of the tax whenever any person pays taxes on the property of another by mistake of any kind;

(i) To the *[applicant]* **property owner** entitled to proration of taxes under ORS 308.425 resulting in an overpayment of taxes paid; or

(j) To the purchaser of business personal property in the circumstances described in ORS 311.642 (4), upon notification of the county governing body by the tax collector who accepted the refundable compromise payment.

(2)(a) Except as provided in paragraphs (b) and (c) of this subsection, a refund of taxes may be allowed or made for any year or years not exceeding five years prior to the last certified roll. A refund under this subsection may be paid only to the extent that a refund under subsection (5) of this section has not been paid.

(b) A refund of taxes may be allowed or made under subsection (1)(f) to (i) of this section after the period described in paragraph (a) of this subsection if, before the expiration of the period, a written claim for refund of the taxes is filed by the taxpayer with the county governing body.

(c) The county governing body shall order a refund of taxes to be paid as specified in subsection (1) of this section without the filing of a written claim and without regard to the period described in paragraph (a) of this subsection upon receipt of a copy of an order by the Department of Revenue, the Oregon Tax Court or the Supreme Court that constitutes a final determination that is not subject to appeal.

(3)(a) Before refunding taxes in a case described in subsection (1)(a) to (g) or (j) of this section, or under ORS 311.465, 311.815 or 311.821, the county

governing body shall credit with the amount of the refund any amount due, as determined in accordance with ORS 311.505, of the total tax liability account of the person to which the refund is owed. Any amount remaining after crediting the total tax liability account shall be paid as specified in subsection (1) of this section, paragraph (b)(B) of this subsection or ORS 311.465, 311.815 or 311.821, as applicable.

(b) Upon request of the owner or an owner of any taxable property or the person in whose name the property is assessed, or the owner of record on the tax roll at the time of refund, whichever is applicable, and with the approval of the tax collector, the county governing body may authorize:

(A) Refunds payable under subsection (1)(h) or (i) of this section to be made by crediting with the amount of the refund the total tax liability account of the requester.

(B) After the total tax liability account of the property on which the tax is assessed has been satisfied, refunds payable under subsection (1) of this section to be made by crediting with the remaining amount of the refund any other total tax liability account.

(4)(a) In the case of a refund or credit payable to a single requester that results from an order constituting a final determination of a matter as described under subsection (1)(a), (b) or (c) of this section, a county governing body may elect to pay the refund or apply the credit in equal periodic installments over not more than the five-year period that begins on the date that the order is issued if the amount to be refunded or credited exceeds the lesser of \$250,000 or one-quarter of one percent of the total amount of taxes on property imposed within the county within the limits of Article XI, section 11b, of the Oregon Constitution, as listed on the certificate last prepared under ORS 311.105.

(b) If a county governing body elects to pay a refund or credit under the provisions of paragraph (a) of this subsection, and the election will result in a hardship to a requester, the requester may appeal the election to the tax court as provided in ORS 305.404 to 305.560.

1 (5)(a) The tax collector shall refund taxes paid on a property value, a
2 claim for exemption or a claim for cancellation of a property tax if:

3 (A) A county board of property tax appeals or the Oregon Tax Court is-
4 sues a decision that could result in a refund if the decision is upheld on
5 appeal;

6 (B) The final resolution is pending further appeal; and

7 (C) The county governing body orders a refund of taxes paid under this
8 subsection.

9 (b) An order by a county governing body or a recommendation of an
10 assessor or tax collector in regard to this subsection may not be considered
11 in determining matters in controversy on appeal, including property value
12 or tax liability.

13 (c) Interest may not be paid on any refund under this subsection prior to
14 final resolution of the appeal. If, after taking into account the amount re-
15 funded under this subsection, the final resolution of the controversy after
16 appeal results in a refund due, interest shall be determined and paid as pro-
17 vided in ORS 311.812.

18 (d) If, after taking into account the amount refunded under this sub-
19 section, the final resolution of the controversy after appeal results in addi-
20 tional taxes due on the property, the additional taxes shall be billed and
21 collected as provided in ORS 311.513.

22 (6) Immediately upon payment of the refund and any interest thereon, the
23 tax collector shall make the necessary correcting entries in the records of
24 the office of the tax collector. ORS 294.305 to 294.565 do not apply to refunds
25 made out of the refund reserve account or the unsegregated tax collections
26 account.

27 (7) A refund is not required under this section for any tax year if the
28 amount of the refund would be \$10 or less. Any amount not refunded under
29 this subsection shall be distributed to taxing districts in the same manner
30 that other taxes are distributed.

31 (8) As used in this section:

1 (a) “Owner of record on the tax roll at the time of refund” means the
2 owner or an owner of the property or the person in whose name the property
3 is assessed on the tax roll last certified and delivered to the tax collector
4 under ORS 311.105 and 311.115.

5 (b) “Total tax liability account” means the total amount of tax that has
6 been extended or charged against a particular property tax account as lim-
7 ited by Article XI, section 11b, of the Oregon Constitution.

8 **SECTION 3. The amendments to ORS 308.425 and 311.806 by sections**
9 **1 and 2 of this 2021 Act apply to property tax years beginning on or**
10 **after July 1, 2020.**

11 **SECTION 4. This 2021 Act takes effect on the 91st day after the date**
12 **on which the 2021 regular session of the Eighty-first Legislative As-**
13 **sembly adjourns sine die.**