

Enrolled
House Bill 3275

Sponsored by Representative PHAM; Representatives CAMPOS, FAHEY, MEEK, Senator JAMA (at the request of Proud Ground)

CHAPTER

AN ACT

Relating to permanently affordable owner-occupied housing; creating new provisions; amending ORS 307.162; and prescribing an effective date.

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

SECTION 1. (1) As used in this section and section 2 of this 2021 Act:

(a) “Affordable housing covenant” and “eligible covenant holder” have the meanings given those terms under ORS 456.270.

(b) “Condominium unit” or “unit” has the meaning given that term under ORS 100.005.

(c) “Permanent” means for a period of not less than 99 years.

(2) Upon compliance with ORS 307.162, land owned by an eligible covenant holder that is burdened by an affordable housing covenant requiring permanent affordability is exempt from ad valorem property taxation if, for any property tax year:

(a) The improvements on the land constitute owner-occupied housing;

(b) Owner-occupied housing is being constructed or rehabilitated on the land for a reasonable period;

(c) The land is being held for a reasonable period for the construction of owner-occupied housing;

(d) The owner-occupied housing on the land is unoccupied while offered for sale as owner-occupied housing; or

(e) The owner is required to be absent from the owner-occupied housing on the land by reason of health or active military service.

(3)(a) Upon compliance with ORS 307.162, 27 percent of the assessed value of an owner-occupied condominium unit burdened by an affordable housing covenant requiring permanent affordability is exempt from ad valorem property taxation.

(b) An owner-occupied condominium unit that otherwise remains eligible shall continue to receive the partial property tax exemption granted under this subsection if, for any property tax year:

(A) The unit is being rehabilitated for a reasonable period and will constitute owner-occupied housing after the rehabilitation is complete;

(B) The unit is unoccupied while offered for sale as owner-occupied housing; or

(C) The owner is required to be absent from the unit by reason of health or active military service.

(4)(a) Except as provided in paragraph (b) of this subsection, for purposes of subsections (2)(b) and (c) and (3)(b)(A) of this section, “reasonable period” means a period not exceeding seven years.

(b) If, before the end of the sixth consecutive property tax year for which land or an owner-occupied condominium unit is granted an exemption or partial exemption in the circumstances described in subsection (2)(b) or (c) or (3)(b)(A) of this section, the eligible covenant holder or owner believes that the construction, rehabilitation or holding period, as applicable, will continue past the end of the next following property tax year, the eligible covenant holder or owner may claim a three-year extension by filing a notice of extension with the county assessor.

(c) The extension becomes effective if the notice of extension is filed on or before April 1 preceding the first property tax year for which the extension is claimed and is accompanied by a filing fee equal to the greater of \$200 or one-tenth of one percent of the real market value of the land or the owner-occupied condominium unit as of the most recent assessment date.

(5) Each year that a parcel of land or an owner-occupied condominium unit is granted exemption or partial exemption under this section, the county assessor shall enter on the assessment and tax roll that the property is exempt or partially exempt and is subject to potential additional taxes as provided under section 2 of this 2021 Act by adding the notation “potential additional taxes.”

(6) ORS 315.037 does not apply to this section.

SECTION 2. (1) This section applies if the county assessor determines that:

(a) An eligible covenant holder whose land has been granted exemption under section 1 (2) of this 2021 Act has failed to take reasonable, timely measures to enforce, against the owner of the improvements that make the land eligible for the exemption:

(A) The affordable housing covenant by which the land is burdened; or

(B) Under the lease agreement between the eligible covenant holder and the owner of the improvements, the requirements of section 1 of this 2021 Act; or

(b) An owner-occupied condominium unit granted partial property tax exemption under section 1 (3) of this 2021 Act is used in a way that does not comply with the affordable housing covenant by which the unit is burdened or the requirements of section 1 of this 2021 Act.

(2)(a) A determination under subsection (1) of this section has the effect of:

(A) In the case of land, immediately terminating the property tax exemption.

(B) In the case of an owner-occupied condominium unit, immediately terminating the partial property tax exemption.

(b) Upon termination of exemption:

(A) The land or unit shall be assessed and taxed as other property similarly situated is assessed and taxed; and

(B) Notwithstanding ORS 311.235, there shall be added to the general property tax roll for the property tax year next following the termination, to be collected and distributed in the same manner as other ad valorem property taxes:

(i) With respect to the land, an amount equal to the amount of property taxes that would have been due on the land had it not been exempt from property taxes for each of the preceding consecutive property tax years during which it was exempt, not to exceed five years.

(ii) With respect to the condominium unit, an amount equal to the difference between the property taxes assessed against the condominium unit and the property taxes that would otherwise have been assessed against the condominium unit had it not been granted partial exemption from property taxes for each of the preceding consecutive property tax years during which it was partially exempt, not to exceed five years.

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

SECTION 3. ORS 307.162 is amended to read:

307.162. (1)(a) Before any real or personal property may be exempted from taxation under ORS 307.092, 307.110 (3)(h), 307.115, 307.118, 307.130 to 307.140, 307.145, 307.147, 307.150, 307.160, 307.181 (3), 307.513 or 307.580 **or section 1 of this 2021 Act** for any tax year, the institution, [or] organization **or person** entitled to claim the exemption must file a claim with the county assessor, on or before April 1 preceding the tax year for which the exemption is claimed. The claim must contain statements, verified by the oath or affirmation of the president or other proper officer of the institution or organization **or the person**, that:

(A) List all real property claimed to be exempt and show the purpose for which the real property is used; and

(B) Cite the statutes under which exemption for personal property is claimed.

(b) If the ownership of all property, other than property described in ORS 307.110 (3)(h) **or section 1 of this 2021 Act**, included in the claim filed with the county assessor for a prior year remains unchanged, a new claim is not required.

(c) When the property designated in the claim for exemption is acquired after March 1 and before July 1, the claim for that year must be filed within 30 days from the date of acquisition of the property.

(2)(a) Notwithstanding subsection (1) of this section, a claim may be filed under this section for the current tax year:

(A) On or before December 31 of the tax year, if the claim is accompanied by a late filing fee of the greater of \$200, or one-tenth of one percent of the real market value as of the most recent assessment date of the property to which the claim pertains.

(B) On or before April 1 of the tax year, if the claim is accompanied by a late filing fee of \$200 and the claimant demonstrates good and sufficient cause for failing to file a timely claim, is a first-time filer or is a public entity described in ORS 307.090.

(b)(A) Notwithstanding subsection (1) of this section, a claimant that demonstrates good and sufficient cause for failing to file a timely claim, is a first-time filer or is a public entity described in ORS 307.090 may file a claim under this section for the five tax years prior to the current tax year:

(i) Within 60 days after the date on which the county assessor mails notice of additional taxes owing under ORS 311.206 for the property to which the claim filed under this subparagraph pertains; or

(ii) At any time if no notice is mailed.

(B) A claim filed under this paragraph must be accompanied by a late filing fee of the greater of \$200, or one-tenth of one percent of the real market value as of the most recent assessment date of the property to which the claim pertains, multiplied by the number of prior tax years for which exemption is claimed.

(c) If a claim filed under this subsection is not accompanied by the late filing fee or if the late filing fee is not otherwise paid, an exemption may not be allowed for the tax years sought by the claim. A claim may be filed under this subsection notwithstanding that there are no grounds for hardship as required for late filing under ORS 307.475.

(d) The value of the property used to determine the late filing fee under this subsection and the determination of the county assessor relative to a claim of good and sufficient cause are appealable in the same manner as other acts of the county assessor.

(e) A late filing fee collected under this subsection must be deposited in the county general fund.

(3)(a) In a claim for exemption of property described in ORS 307.110 (3)(h), the county or city, town or other municipal corporation or political subdivision of this state that is filing the claim must substantiate that the property is used for affordable housing or that it is leased or rented to persons of lower income, as applicable.

(b) A claim filed under this subsection must be filed annually on a form prescribed by the Department of Revenue.

(4) As used in this section:

(a) "First-time filer" means a claimant that:
(A) Has never filed a claim for the property that is the subject of the current claim; and
(B) Did not receive notice from the county assessor on or before December 1 of the tax year for which exemption is claimed regarding the potential property tax liability of the property.

(b)(A) "Good and sufficient cause" means an extraordinary circumstance beyond the control of the taxpayer or the taxpayer's agent or representative that causes the failure to file a timely claim.

(B) "Good and sufficient cause" does not include hardship, reliance on misleading information unless the information is provided by an authorized tax official in the course of the official's duties, lack of knowledge, oversight or inadvertence.

(c) "Ownership" means legal and equitable title.

(5)(a) Notwithstanding subsection (1) of this section, if an institution or organization owns property that is exempt from taxation under a provision of law listed in subsection (1) of this section and fails to file a timely claim for exemption under subsection (1) of this section for additions or improvements to the exempt property, the additions or improvements may nevertheless qualify for exemption.

(b) The organization must file a claim for exemption with the county assessor to have the additions or improvements to the exempt property be exempt from taxation. The claim must:

(A) Describe the additions or improvements to the exempt property;

(B) Describe the current use of the property that is the subject of the application;

(C) Identify the tax year and any preceding tax years for which the exemption is sought;

(D) Contain any other information required by the department; and

(E) Be accompanied by a late filing fee equal to the product of the number of tax years for which exemption is sought multiplied by the greater of \$200 or one-tenth of one percent of the real market value as of the most recent assessment date of the property that is the subject of the claim.

(c) Upon the county assessor's receipt of a completed claim and late filing fee, the assessor shall determine for each tax year for which exemption is sought whether the additions or improvements that are the subject of the claim would have qualified for exemption had a timely claim been filed under subsection (1) of this section. Any property that would have qualified for exemption had a timely claim been filed under subsection (1) of this section is exempt from taxation for each tax year for which the property would have qualified.

(d) A claim for exemption under this subsection may be filed only for tax years for which the time for filing a claim under subsections (1) and (2)(a) of this section has expired. A claim filed under this subsection, however, may serve as the claim required under subsection (1) of this section for the current tax year.

(e) A late filing fee collected under this subsection must be deposited in the county general fund.

(6) For each tax year for which an exemption granted pursuant to subsection (2) or (5) of this section applies:

(a) Any tax, or interest attributable thereto, that was paid with respect to the property that is declared exempt from taxation must be refunded. Refunds must be made without interest from the unsegregated tax collections account established under ORS 311.385.

(b) Any tax, or interest attributable thereto, that remains unpaid as of the date the exemption is granted must be abated.

(7) If an institution, [or] organization **or person** owns property that is exempt from taxation under a provision of law listed in subsection (1) of this section and changes the use of the property to a use that would not entitle the property to exemption from taxation, the institution or organization must notify the county assessor of the change to a taxable use within 30 days.

SECTION 4. Sections 1 and 2 of this 2021 Act and the amendments to ORS 307.162 by section 3 of this 2021 Act apply to property tax years beginning on or after July 1, 2022.

SECTION 5. This 2021 Act takes effect on the 91st day after the date on which the 2021 regular session of the Eighty-first Legislative Assembly adjourns sine die.

Passed by House June 1, 2021

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate June 17, 2021

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2021

Approved:

.....M.,....., 2021

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2021

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Shemia Fagan, Secretary of State