

Enrolled House Bill 2031

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CHAPTER

AN ACT

Relating to a property value appeals board; creating new provisions; and amending ORS 305.102, 305.275, 305.280, 305.425, 305.525, 305.560, 305.565, 305.820, 306.120, 306.125, 306.152, 308.242, 308.260, 308.295, 308.296, 308.411, 308.584, 308.990, 308A.098, 309.020, 309.024, 309.025, 309.026, 309.067, 309.070, 309.072, 309.100, 309.110, 309.115, 309.120, 309.150, 309.200, 311.208, 311.223, 311.513, 311.806, 311.812, 321.219, 321.222 and 358.505.

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

SECTION 1. ORS 305.102 is amended to read:

305.102. The Department of Revenue shall adopt rules that it considers necessary to carry out the provisions of chapter 459, Oregon Laws 1991, relating to Local Budget Law, appeals to [*boards of property tax appeals*] **property value appeals boards**, administration of the property tax laws, imposition and collection of taxes on property or compliance by local taxing officials with the requirements of [*section 11b,*] Article XI, **section 11b**, of the Oregon Constitution.

SECTION 2. ORS 305.275 is amended to read:

305.275. (1) Any person may appeal under this subsection to the magistrate division of the Oregon Tax Court as provided in ORS 305.280 and 305.560, if all of the following criteria are met:

(a) The person must be aggrieved by and affected by an act, omission, order or determination of:

(A) The Department of Revenue in its administration of the revenue and tax laws of this state;

(B) A county [*board of property tax appeals*] **property value appeals board** other than an order of the board;

(C) A county assessor or other county official, including but not limited to the denial of a claim for exemption, the denial of special assessment under a special assessment statute, or the denial of a claim for cancellation of assessment; or

(D) A tax collector.

(b) The act, omission, order or determination must affect the property of the person making the appeal or property for which the person making the appeal holds an interest that obligates the person to pay taxes imposed on the property. As used in this paragraph, an interest that obligates the person to pay taxes includes a contract, lease or other intervening instrumentality.

(c) There is no other statutory right of appeal for the grievance.

(2) Except as otherwise provided by law, any person having a statutory right of appeal under the revenue and tax laws of the state may appeal to the tax court as provided in ORS 305.404 to 305.560.

(3) If a taxpayer may appeal to the [*board of property tax appeals*] **property value appeals board** under ORS 309.100, then no appeal may be allowed under this section. The appeal under this section is from an order of the board as a result of the appeal filed under ORS 309.100 or from an order of the board that certain corrections, additions to or changes in the roll be made.

(4) A county assessor who is aggrieved by an order of the county [*board of property tax appeals*] **property value appeals board** may appeal from the order as provided in this section, ORS 305.280 and 305.560.

SECTION 3. ORS 305.280 is amended to read:

305.280. (1) Except as otherwise provided in this section, an appeal under ORS 305.275 (1) or (2) shall be filed within 90 days after the act, omission, order or determination becomes actually known to the person, but in no event later than one year after the act or omission has occurred, or the order or determination has been made. An appeal under ORS 308.505 to 308.674 shall be filed within 90 days after the date the order is issued under ORS 308.584 (3). An appeal from a supervisory order or other order or determination of the Department of Revenue shall be filed within 90 days after the date a copy of the order or determination or notice of the order or determination has been served upon the appealing party by mail as provided in ORS 306.805.

(2) An appeal under ORS 323.416 or 323.623 or from any notice of assessment or refund denial issued by the Department of Revenue with respect to a tax imposed under ORS chapter 118, 308, 308A, 310, 314, 316, 317, 318, 321 or this chapter, or collected pursuant to ORS 305.620, shall be filed within 90 days after the date of the notice. An appeal from a proposed adjustment under ORS 305.270 shall be filed within 90 days after the date the notice of adjustment is final.

(3) Notwithstanding subsection (2) of this section, an appeal from a notice of assessment of taxes imposed under ORS chapter 314, 316, 317 or 318 may be filed within two years after the date the amount of tax, as shown on the notice and including appropriate penalties and interest, is paid.

(4) Except as provided in subsection (2) of this section or as specifically provided in ORS chapter 321, an appeal to the tax court under ORS chapter 321 or from an order of a county [*board of property tax appeals*] **property value appeals board** shall be filed within 30 days after the date of the notice of the determination made by the department or date of mailing of the order, date of publication of notice of the order, date the order is personally delivered to the taxpayer or date of mailing of the notice of the order to the taxpayer, whichever is applicable.

(5) If the tax court denies an appeal made pursuant to this section on the grounds that it does not meet the requirements of this section or ORS 305.275 or 305.560, the tax court shall issue a written decision rejecting the petition and shall set forth in the decision the reasons the tax court considered the appeal to be defective.

SECTION 4. ORS 305.425 is amended to read:

305.425. (1) All proceedings before the judge of the tax court shall be original, independent proceedings and shall be tried without a jury and de novo.

(2) If a statute provides for an appeal to or a review by the court of an order, act, omission or determination of the Department of Revenue, a [*board of property tax appeals*] **property value appeals board** or of any other administrative agency, the proceeding shall be an original proceeding in the nature of a suit in equity to set aside such order or determination or correct the act or omission. The time within which the statute provides that the proceeding shall be brought is a period of limitations and is not jurisdictional.

(3) All hearings and proceedings before the tax court judge shall be in accordance with the rules of practice and procedure promulgated by the court, which shall conform, as far as practical to the rules of equity practice and procedure in this state.

SECTION 5. ORS 305.525 is amended to read:

305.525. At the same time that a notice of assessment, letter of refund denial or determination or an order of the [*board of property tax appeals*] **property value appeals board** is given to any taxpayer, the Department of Revenue or [*board of property tax appeals*] **property value appeals board**, as the case may be, shall in writing also notify the taxpayer of the right of the taxpayer to appeal to the tax court under ORS 305.404 to 305.560.

SECTION 6. ORS 305.560 is amended to read:

305.560. (1)(a) Except for an order, or portion thereof, denying the discretionary waiver of penalty or interest by the Department of Revenue, an appeal under ORS 305.275 may be taken by filing a complaint with the clerk of the Oregon Tax Court at its principal office at Salem, Oregon, within the time required under ORS 305.280.

(b) The clerk of the tax court shall serve copies of all complaints and petitions on the Department of Revenue. Service upon the department shall be accomplished by the clerk of the tax court filing the copy of the complaint with the Director of the Department of Revenue. Except as otherwise provided by law, other service shall be accomplished as provided in the rules of practice and procedure promulgated by the tax court.

(c)(A) The complaint shall be entitled in the name of the person filing the same as plaintiff and the Department of Revenue, county, taxpayer or other person or entity as defendant. If the complaint relates to value of property for ad valorem property tax purposes and the county has made the appraisal, the complaint shall be entitled in the name of the person filing the same as plaintiff and the county assessor as defendant.

(B) If any, a copy of the order of the department or [*board of property tax appeals*] **property value appeals board** shall be attached to the complaint.

(2) The complaint shall state the nature of the plaintiff's interest, the facts showing how the plaintiff is aggrieved and directly affected by the order, act, omission or determination and the grounds upon which the plaintiff contends the order, act, omission or determination should be reversed or modified. A responsive pleading shall be required of the defendant.

(3) In any case in which the taxpayer is not the appealing party, a copy of the complaint shall be served upon the taxpayer by the appealing party by certified mail within the period for filing an appeal, and an affidavit showing such service shall be filed with the clerk of the tax court. A copy of the order of the department, if any, shall be attached to the complaint. The taxpayer shall have the right to appear and be heard.

(4)(a) At any time in the course of any appeal before the tax court, the department may intervene as a matter of right. A copy of any order or judgment issued by the tax court in any case in which the department is an intervenor shall be served upon the department in the manner provided in subsection (1)(b) of this section.

(b) The tax court, in its discretion, may permit other interested persons to intervene by filing a complaint in such manner and under such conditions as the court may deem appropriate.

SECTION 7. ORS 305.565 is amended to read:

305.565. (1) Except as provided in subsection (2) of this section, proceedings for the collection of any taxes, interest or penalties resulting from an assessment of additional taxes imposed by ORS chapter 118, 310, 314, 316, 317, 318, 321 or this chapter shall be stayed by the taking or pendency of any appeal to the tax court.

(2) Notwithstanding subsection (1) of this section, the Department of Revenue may proceed to collect any taxes, interest or penalties described in subsection (1) of this section if the department determines that collection will be jeopardized if collection is delayed or that the taxpayer has taken a frivolous position in the appeal. For purposes of this subsection:

(a) Collection of taxes, interest or penalties will be jeopardized if the taxpayer designs quickly to depart from the state or to remove the taxpayer's property from the state, or to do any other act tending to prejudice or to render wholly or partially ineffectual proceedings to collect the tax.

(b) A taxpayer's position in an appeal is frivolous if that position is of the kind described in ORS 316.992 (5).

(3) No proceeding for the apportionment, levy or collection of taxes on any property shall be stayed by the taking or pendency of any appeal to the tax court, or from an order of the county [*board of property tax appeals*] **property value appeals board** or the Oregon Tax Court, unless the assessor or tax collector either as a party to the suit or an intervenor, requests a stay and it appears to the satisfaction of the court that a substantial public interest requires the issuance of a stay.

(4) The tax court may, as a condition of a stay, require the posting of a bond sufficient to guarantee payment of the tax. Payment of taxes while appeal is pending shall not operate as a waiver of the appeal or of a right to refund of taxes found to be excessively charged or assessed.

SECTION 8. ORS 305.820 is amended to read:

305.820. (1) Any writing or remittance required by law to be filed with or made to the Department of Revenue, county [*board of property tax appeals*] **property value appeals board**, county assessor or tax collector (designated in this section as the “addressee”) which is:

(a) Transmitted through the United States mail or by private express carrier, shall be deemed filed or received on the date shown by the cancellation mark or other record of transmittal, or on the date it was mailed or deposited if proof satisfactory to the addressee establishes that the actual mailing or deposit occurred on an earlier date.

(b) Filed electronically pursuant to a rule of the department adopted under ORS 306.265 and 309.104 that authorizes the electronic filing and that meets the specifications and requirements of the rule, shall be deemed to be filed and received on the date actually received by the addressee, or on the date stated on the electronic acknowledgment of receipt that is sent by the addressee.

(c) Lost in transmission through the United States mail or private express carrier, shall be deemed filed and received on the date it was mailed or deposited for transmittal if the sender:

(A) Can establish by competent evidence satisfactory to the addressee that the writing or remittance was deposited on or before the date due for filing in the United States mail, or with a private express carrier, and addressed correctly to the addressee; and

(B) Files with the addressee a duplicate of the lost writing or remittance within 30 days after written notification is given by the addressee of its failure to receive such writing or remittance.

(2) Whenever any writing or remittance is required by law to be filed or made on a day which falls on a Saturday, or on a Sunday or any legal holiday, the time specified shall be extended to include the next business day.

(3) As used in this section:

(a) “Private express carrier” means a carrier described under ORS 293.660.

(b) “Writing or remittance” includes, but is not limited to, “report,” “tax return,” “claim for credit,” “claim for refund,” “statement,” “notice of appeal,” “petition for review,” “notice of election,” “documentary proof,” a claim for exemption, a claim for deferral, a return of property, a claim for cancellation of an assessment, an application for a special assessment, and remittances.

SECTION 9. ORS 306.120 is amended to read:

306.120. The Department of Revenue shall:

(1) Issue regulations, bulletins, manuals, instructions and directions to county assessors, county [*boards of property tax appeals*] **property value appeals boards** and tax collectors as to the methods best calculated to secure uniformity according to law, in the system of assessment and collection of taxes.

(2) Carry on a continuing study with the object of equalizing for the purposes of assessment and taxation property values within the counties and between the counties.

SECTION 10. ORS 306.125 is amended to read:

306.125. (1) The Department of Revenue is authorized to institute programs for the appraisal of property in counties of the state and to make appraisals for the use of county assessors and [*boards of property tax appeals*] **property value appeals boards** in assessing property and reviewing assessment rolls, and may install, and assist in the preparation and maintenance of, maps, plats or standardized record systems, as prescribed by the department, in the offices of assessors and tax collectors.

(2) The department and county courts are authorized to enter into agreements for the sharing of the expenses of such appraisals and installations including salaries and expenses of department employees engaged therein.

(3) Counties entering into agreements pursuant to this section may pay to the Department of Revenue from time to time:

(a) Moneys to be disbursed by the department as part of the county's share in the expenses authorized under this section and agreed to under such agreements; and

(b) Moneys to reimburse the department where department disbursements under such agreements, whether from the department's appropriations from the State General Fund or from moneys credited to the Assessment and Taxation County Account, have exceeded its proportionate share of expenses and a rebalancing of expense-sharing accounts is deemed desirable or necessary.

(4)(a) All moneys received by the Department of Revenue under subsection (3) of this section shall be immediately turned over to the State Treasurer, who shall deposit the moneys in the General Fund to the credit of an account to be known as the Assessment and Taxation County Account, and such account hereby is continuously appropriated to the Department of Revenue for the purposes of this section and ORS 306.117.

(b) The Department of Revenue may use the moneys to the credit of the Assessment and Taxation County Account, or any part thereof, for expenditures in connection with appraisals and installations contracted for, including cash advances for travel and living expenses of employees, and including payments to any county made to rebalance expense-sharing accounts, from time to time, where a county's disbursements under agreements entered into pursuant to this section have exceeded its proportionate share of expenses under such agreement. Any moneys received in reimbursement of these cash advances shall be deposited in the Assessment and Taxation County Account. Refunds of unexpended receipts may be made to the counties.

SECTION 11. ORS 306.152 is amended to read:

306.152. Once each year the Department of Revenue shall conduct a training session of not more than four days' duration dedicated to the schooling of persons whose names appear in the pools described in ORS 309.067 in the functions of the [*board of property tax appeals*] **property value appeals board**.

SECTION 12. ORS 308.242 is amended to read:

308.242. (1) The assessor may not make changes in the roll after September 25 of each year except as provided in subsections (2) and (3) of this section or as otherwise provided by law.

(2) After the assessment roll has been certified and on or before December 31, the assessor may make changes in valuation judgment that result in a reduction in the value of property, if so requested by the taxpayer or upon the assessor's own initiative. Corrections under this section to accounts appraised by the Department of Revenue pursuant to ORS 306.126 and 308.505 to 308.674 may not be made without the approval of the department.

(3)(a) If a petition for reduction has been filed with the [*board of property tax appeals*] **property value appeals board**, the assessor may change the roll if the assessor and the petitioner stipulate to a change in valuation judgment that results in a reduction in value. The stipulation may be made at any time up until the convening of the board.

(b) Stipulations agreed to by the assessor and the petitioner under this subsection shall be delivered to the clerk of the board prior to the convening of the board.

(c) As used in this subsection, "stipulation" means a written agreement signed by the petitioner and the assessor that specifies a reduction in value to be made to the assessment and tax roll.

(4) Any change in value made under subsection (2) or (3) of this section shall be made in the manner specified in ORS 311.205 and 311.216 to 311.232.

SECTION 13. ORS 308.260 is amended to read:

308.260. (1) Any ship, vessel or other watercraft shall be assessed and taxed in the manner provided in this section if:

(a) On or after January 1 of any assessment year, the ship, vessel or other watercraft is docked or moored in any waters subject to the jurisdiction of the State of Oregon; and

(b) The ship, vessel or other watercraft is employed or used as a plant for the reduction or processing, but excluding canning, of deep-sea fish.

(2) Immediately on docking or mooring, the owner or person in charge of a ship, vessel or other watercraft described in subsection (1) of this section shall notify the county assessor. The county assessor shall assess it, together with all machinery and equipment thereon, at its assessed value

determined under ORS 308.146 and 308.232. Upon determination of value, the owner or person in charge shall:

(a) Pay the exact amount of taxes, special assessments, fees and charges, if the assessor is able to compute the exact amount; or

(b) If the assessor is unable to compute the exact amount at the time the property is assessed, either pay to the tax collector the amount estimated by the assessor to be needed to pay the taxes, special assessments, fees and other charges to become due, or deposit with the tax collector a bond with a good and sufficient undertaking in the amount that the assessor considers adequate to ensure payment of the taxes to become due. The bond amount may not exceed twice the amount of the taxes, special assessments, fees and other charges computed by the assessor under this subsection.

(3) It shall be unlawful to operate a floating reduction or processing plant until the county assessor has been notified and the tax paid as provided in this section. If the owner or person in charge fails to notify the assessor, or proceeds to operate the plant before full payment of the tax, the owner or person in charge shall forfeit to the county, for the use of the several taxing jurisdictions interested, a sum equal to twice the amount of the tax. The forfeiture may be recovered by the assessor in an action brought in the name of the county in any court having jurisdiction over the action. In the action, the penalty shall be preferred before all other debts or claims.

(4) No mistake in the name of the owner of any floating reduction or processing plant shall affect the right to collect the tax or to recover the penalty under this section.

(5) The county assessor is authorized to levy, collect and remit to the tax collector, or the tax collector is authorized to collect, taxes under conditions described in this section. Either the assessor or tax collector is authorized to allow any discount or rebate otherwise provided by law for payment of taxes before the regular due date or dates. ORS 311.370 shall apply to all taxes collected before the regular due date or dates.

(6) Appeals of assessments of floating reduction or processing plants shall:

(a) Be heard by the county [*board of property tax appeals*] **property value appeals board** in the same manner as assessments of other properties are appealed; and

(b) Be made as provided in ORS 308.146 and 308.232.

SECTION 14. ORS 308.295 is amended to read:

308.295. (1) Each person, business, firm, corporation or association required by ORS 308.290 to file a return, other than a return reporting only taxable personal property, that has not filed a return within the time fixed in ORS 308.290, is delinquent.

(2) A delinquent taxpayer, except a taxpayer described in subsection (3) of this section, is subject to a penalty of \$1 for each \$1,000 (or fraction thereof) of assessed value of the property as determined under ORS 308.146, but the penalty may not be less than \$10 or more than \$250.

(3) A delinquent taxpayer required by ORS 308.290 to file a return reporting state-appraised industrial property, as defined in ORS 306.126, is subject to a penalty of \$10 for each \$1,000 (or fraction thereof) of assessed value of the property as determined under ORS 308.146, but the penalty may not be less than \$10 or more than \$5,000.

(4) If a delinquency penalty provided in this section is imposed, the tax statement for the year in which the penalty is imposed shall reflect the amount of the penalty and shall constitute notice to the taxpayer.

(5)(a) Unless the penalty is the subject of an appeal under ORS 311.223, the county [*board of property tax appeals*] **property value appeals board**, upon application of the taxpayer, may waive the liability:

(A) For all or a portion of the penalty upon a proper showing of good and sufficient cause; or

(B) For all of the penalty if the year for which the return was filed was both the first year that a return was required to be filed by the taxpayer and the first year for which the taxpayer filed a return.

(b) Unless the taxpayer files a timely application in the same manner as an appeal under ORS 309.100, the board may not consider an application made under this subsection.

(c) An appeal may not be taken from the determination of the board under this subsection.

(6) If the board waives all or a portion of a penalty already imposed and entered on the roll, the person in charge of the roll shall cancel the waived penalty and enter the cancellation on the roll as an error correction under ORS 311.205 and, if the waived penalty has been paid, it shall be refunded without interest under ORS 311.806.

(7)(a) Upon application of the taxpayer, the assessor may waive the liability for property tax late filing penalties under this subsection if the taxpayer:

(A) Has never filed a personal property tax return in this state;

(B) Has failed to file a property tax return for one or more consecutive years;

(C) Has not previously received relief from property tax late filing penalties under this subsection; and

(D) Files an application for relief from property tax late filing penalties that satisfies the requirements of paragraph (b) of this subsection.

(b) An application for relief from property tax late filing penalties shall include a statement by the taxpayer setting forth the basis for relief from property tax late filing penalties and a statement under oath or affirmation that the basis for relief from property tax late filing penalties as stated in the application is true.

(c) The county assessor may allow the application for relief from property tax late filing penalties if the assessor finds the reasons given by the taxpayer in the application are sufficient to excuse the failure to file the property tax returns at issue in the application. If the assessor allows the application, the assessor may deny or grant relief from property tax late filing penalties in whole or in part. The determination of the assessor whether to grant the application or deny the application in whole or in part and whether to permit the taxpayer to pay the owing tax penalties, if any, in installments is final. The assessor shall notify the taxpayer of the decision.

(d) Nothing in this subsection affects the obligation of the taxpayer to file property tax returns or to pay property taxes owing from the current or delinquent tax years.

SECTION 15. ORS 308.296 is amended to read:

308.296. (1) Each person, business, firm, corporation or association required by ORS 308.290 to file a return reporting only taxable personal property, that has not filed a return within the time fixed in ORS 308.290, shall be subject to a penalty as provided in this section.

(2) A taxpayer who files a return to which this section applies after March 15, but on or before June 1, is subject to a penalty equal to five percent of the tax attributable to the taxable personal property of the taxpayer.

(3) A taxpayer who files a return to which this section applies after June 1, but on or before August 1, is subject to a penalty equal to 25 percent of the tax attributable to the taxable personal property of the taxpayer.

(4) A taxpayer who files a return to which this section applies after August 1, or who fails to file a return, shall be subject to a penalty equal to 50 percent of the tax attributable to the taxable personal property of the taxpayer.

(5) If a delinquency penalty provided in this section is imposed, the tax statement for the year in which the penalty is imposed shall reflect the amount of the penalty and shall constitute notice to the taxpayer.

(6)(a) Unless the penalty is the subject of an appeal under ORS 311.223, the county [*board of property tax appeals*] **property value appeals board**, upon application of the taxpayer, may waive the liability:

(A) For all or a portion of the penalty upon a proper showing of good and sufficient cause; or

(B) For all of the penalty if the year for which the return was filed was both the first year that a return was required to be filed by the taxpayer and the first year for which the taxpayer filed a return.

(b) Unless the taxpayer files a timely application in the same manner as an appeal under ORS 309.100, the board may not consider an application made under this subsection.

(c) An appeal may not be taken from the determination of the board under this subsection.

(7) If the board waives all or a portion of a penalty already imposed and entered on the roll, the person in charge of the roll shall cancel the waived penalty and enter the cancellation on the roll as an error correction under ORS 311.205 and, if the waived penalty has been paid, it shall be refunded without interest under ORS 311.806.

(8)(a) Upon application of the taxpayer, the assessor may waive the liability for property tax late filing penalties under this subsection if the taxpayer:

(A) Has never filed a personal property tax return in this state;

(B) Has failed to file a property tax return for one or more consecutive years;

(C) Has not previously received relief from property tax late filing penalties under this subsection; and

(D) Files an application for relief from property tax late filing penalties that satisfies the requirements of paragraph (b) of this subsection.

(b) An application for relief from property tax late filing penalties shall include a statement by the taxpayer setting forth the basis for relief from property tax late filing penalties and a statement under oath or affirmation that the basis for relief from property tax late filing penalties as stated in the application is true.

(c) The county assessor may allow the application for relief from property tax late filing penalties if the assessor finds the reasons given by the taxpayer in the application are sufficient to excuse the failure to file the property tax returns at issue in the application. If the assessor allows the application, the assessor may deny or grant relief from property tax late filing penalties in whole or in part. The determination of the assessor whether to grant the application or deny the application in whole or in part and whether to permit the taxpayer to pay the owing tax penalties, if any, in installments is final. The assessor shall notify the taxpayer of the decision.

(d) Nothing in this subsection affects the obligation of the taxpayer to file property tax returns or to pay property taxes owing from the current or delinquent tax years.

SECTION 16. ORS 308.411 is amended to read:

308.411. (1) Except as limited by subsections (2) to (9) of this section, the real market value of an industrial plant shall be determined for ad valorem tax purposes under ORS 308.205, 308.232 and 308.235 utilizing the market data approach (sales of comparable properties), the cost approach (reproduction or replacement cost of the plant) or the income approach (capitalization of income) or by two or more approaches. The assessed value of an industrial plant shall be determined under ORS 308.146.

(2) The owner of a plant may elect to have the plant appraised and valued for ad valorem property tax purposes excluding the income approach to valuation. An owner making an election under this subsection must further determine which of the following paragraphs is applicable to the election:

(a) If this paragraph applies to the election, the owner may not be required to provide any itemization of income or expense of the industrial plant for use in making an appraisal of the plant for ad valorem property tax purposes; or

(b) If this paragraph applies to the election, the owner may not be required to provide any itemization of income of the industrial plant for use in making an appraisal of the plant for ad valorem property tax purposes, but may be required to provide an itemization of operating expenses of the industrial plant for use in measuring functional obsolescence in a market data approach or cost approach to valuation.

(3) Not less than 30 days prior to the making of a physical appraisal or reappraisal of an industrial plant by the Department of Revenue or by a county assessor, the department or assessor shall notify the owner of the plant by mail, return receipt requested, of the intention to physically appraise the plant. The notice shall inform the owner of the date the appraisal is to commence. In commencing the appraisal and to aid the owner in making an election under subsection (2) of this section, the department's or assessor's appraisers first shall make a preliminary survey of the plant as to the methods and approaches to the valuation of the plant to be used in the appraisal. The owner or owner's representative shall immediately thereafter meet with the appraisers, and within

two days after the meeting may give written notice to the appraisers that the owner elects to have the plant valued in accordance with subsection (2) of this section. The written notice shall state which paragraph of subsection (2) of this section is applicable to the election. Failure to make the election precludes the owner from making the election for the tax year in which the valuation determined by the physical appraisal is first used on the assessment and tax rolls of the county.

(4) If an owner does not make an election under subsection (2) of this section, the owner shall make available to the assessor or department all information requested by the assessor or department needed to determine the real market value for the plant. At the request of the owner, the information shall be made the confidential records of the office of the assessor or of the department, subject to the provisions of ORS 305.420 and 305.430.

(5) If an owner makes an election under subsection (2) of this section, the owner may not in any proceedings involving the assessment of the industrial plant for the tax year for which the election was made, before the county [*board of property tax appeals*] **property value appeals board** or the Oregon Tax Court, be entitled to introduce evidence relating to the use of the income approach to valuation of the plant or introduce any information protected under the election.

(6)(a) On or before December 31 of the tax year in which the election under subsection (2) of this section first applies to an assessment and tax roll, or on or before December 31 of any subsequent tax year, if the owner is dissatisfied with the election under subsection (2) of this section, the owner may revoke or revise the election.

(b) If the election is revoked, the owner may request the Department of Revenue or the county assessor, whichever is applicable, to revalue the plant for the next tax year using the appraisal methods set forth in subsection (1) of this section.

(c) If the election is revised, the paragraph of subsection (2) of this section that was not applicable to the election shall become applicable to the election in lieu of the paragraph applicable before revision. If the election is revised, the owner may request the Department of Revenue or the county assessor, whichever is applicable, to revalue the plant for the next tax year in accordance with the revised election.

(d) If a revocation or revision of an election is sought, the owner shall demonstrate that the determination of real market value requires taking into consideration the utilization of the income approach to valuation or the measurement of functional obsolescence using operating expense information. Thereafter, at the request of the department or the assessor, the owner shall make available to the department or the assessor all information requested by the department or the assessor as provided in subsection (4) of this section within 30 days following the department's or the assessor's request. If the owner fails to provide the information and a revocation had been sought, the election under subsection (2) of this section shall continue. If the owner fails to provide the information and a revision had been sought, the paragraph of subsection (2) that applied prior to the attempted revision shall continue to apply to the election. Under either circumstance, in any proceedings involving the assessment of the industrial plant for subsequent tax years, before the county [*board of property tax appeals*] **property value appeals board** or the Oregon Tax Court, the owner may not introduce evidence relating to the income approach to valuation or introduce any information protected under the election. If the department or assessor makes such a redetermination of the valuation as may, in their opinion, be necessary, the department or assessor shall furnish to the owner prior to the following May 1 a statement of the value of the plant as redetermined by the department or the assessor, with an explanation of the adjustments made.

(7) After any physical appraisal of an industrial plant or after the appraisal is updated for use on the assessment and tax rolls for a subsequent year, but in any event prior to May 1 of the assessment year for which the appraisal or update applies, the owner may request a conference with the department or with the assessor concerning the determination of real market value under the physical appraisal or updating of the appraisal. If the request for a conference is made, the department or the assessor shall give written notice to the owner of the time and place for the conference for an informal discussion of the valuation.

(8) Except as provided in this section, no owner of an industrial plant shall be required to make available to the assessor or department, any itemization of income and expense of the industrial plant for use in an income approach to valuation in making an appraisal of an industrial plant for purposes of ad valorem property taxation. However, information furnished pursuant to subsection (4) of this section is available to the county assessor and to the department for purposes of preparing valuations of other industrial plants, subject to the provisions of ORS 308.413.

(9) Nothing in this section shall preclude the request for and use of information from an owner of an industrial plant concerning cost items, whether materials, labor or otherwise, for use in the reproduction cost approach to the valuation of the plant. In no event shall the application of subsection (2) of this section operate to value an industrial plant below its real market value for ad valorem property tax purposes under ORS 308.232. The election of an owner under subsection (2) of this section to forgo the consideration of the income approach to valuation shall constitute an irrevocable waiver of any subsequent claim that the failure of the assessor or the department to consider the income approach resulted in a valuation in excess of the real market value of the plant under ORS 308.232.

(10) If the owner of an industrial plant has made an election under subsection (2) of this section, a subpoena for the production of information for the industrial plant that is protected by the election may not be issued while that election is in effect.

(11) Notwithstanding subsection (3) of this section concerning the time for making an election under subsection (2) of this section, if the owner of an industrial plant receives notice under ORS 305.392 that a subpoena will be issued for income or expense information for the industrial plant, and the owner has not previously made an election under subsection (2) of this section that is in effect, the owner may make the election allowed under subsection (2) of this section within the 60-day period specified in ORS 305.392. Any owner making an election under this subsection may not revoke or revise that election until after the industrial plant is next assessed for ad valorem tax purposes.

(12) Notwithstanding subsection (2) of this section, nothing in this section is intended to exclude the capitalization of market rents from the appraisal of buildings.

(13) The department may adopt any rules necessary to carry out the purposes of this section.

SECTION 17. ORS 308.584 is amended to read:

308.584. (1) A person or company receiving a notice of tentative assessment under ORS 308.582 may make a request for a conference on the reduction in valuation or modification of the apportionment of a tentative assessment set forth in the notice.

(2) The request shall be made to the Director of the Department of Revenue on or before June 15 of the assessment year. If the Department of Revenue failed to properly mail the notice described in ORS 308.582 to the person or company, a request for a conference may be made on or before June 25 of the assessment year, but may not be made thereafter.

(3) The director shall hold a conference under this section as soon as is practicable following the date a request is made and shall issue an order modifying the valuation or apportionment of an assessment or affirming the tentative assessment on or before August 1 of the tax year.

(4) A conference with the director is an administrative remedy that must be exhausted before an appeal of the valuation or apportionment of an assessment may be made to the Oregon Tax Court. The valuation or apportionment of an assessment under ORS 308.505 to 308.674 may not be appealed to the tax court if the person or company does not file a timely request for a conference under this section prior to seeking an appeal before the tax court.

(5) Subject to subsection (4) of this section, an appeal to the tax court may be made under ORS 305.280.

(6) A petition may not be filed with a county [*board of property tax appeals*] **property value appeals board** for a reduction in value of property assessed under ORS 308.505 to 308.674 or with respect to any other matter arising under ORS 308.505 to 308.674.

SECTION 18. ORS 308.990 is amended to read:

308.990. (1) Violation of ORS 308.320 (3) or of ORS 308.330 is a Class A misdemeanor. The judgment of conviction of any assessor for such a violation shall of itself work a forfeiture of the office of the assessor.

(2) Any taxpayer or managing officer thereof who fails to furnish, after written demand so to do by the assessor or the county [*board of property tax appeals*] **property value appeals board** having jurisdiction or the Department of Revenue, any information or, upon like demand, fails to produce any books, records, papers or documents required by ORS 308.285 or 308.335 to be furnished by the taxpayer or managing officer to the county assessor, the county [*board of property tax appeals*] **property value appeals board** or the Department of Revenue, commits a Class A misdemeanor.

(3) Any person, firm, association or corporation, or agent or managing officer thereof, who presents or furnishes to the Director of the Department of Revenue any statement, required by ORS 308.335 or required by the director under the authority of ORS 308.335, that is willfully false or fraudulent, commits a Class A violation.

(4) Any person who willfully presents or furnishes to the director any statement required by ORS 308.505 to 308.674 that is false or fraudulent commits perjury and, upon conviction, shall be punished as otherwise provided by law for such crime.

(5) Subject to ORS 153.022, any willful violation of ORS 308.413 or of any rules adopted under ORS 308.413 is a Class A misdemeanor.

SECTION 19. ORS 308A.098 is amended to read:

308A.098. Data utilized by a county assessor in arriving at the values for farm use of farmland under ORS 308A.092 shall be made available by the county assessor to the county [*board of property tax appeals*] **property value appeals board** in the event of any consideration of a petition involving the assessed value of farmland by the [*board of property tax appeals*] **property value appeals board** under ORS 309.100.

SECTION 20. ORS 309.020 is amended to read:

309.020. (1) Except as provided by subsections (3) and (4) of this section:

(a) The [*board of property tax appeals*] **property value appeals board** shall consist of those persons selected by the county clerk from the pool of board members appointed under ORS 309.067. The clerk shall complete the selection prior to the commencement of the board session as provided in ORS 309.026. The board shall consist of one member of the pool described in ORS 309.067 (1)(a) and two members of the pool described in ORS 309.067 (1)(b).

(b) Additional [*boards of property tax appeals*] **property value appeals boards** may be selected by the county clerk if necessary for the efficient conduct of business. Each additional board shall consist of one member of the pool described in ORS 309.067 (1)(a), or under subsection (5) of this section, and two members of the pool described in ORS 309.067 (1)(b).

(2) The term of each member of a county [*board of property tax appeals*] **property value appeals board** shall begin on the date of appointment and shall end on the June 30 next following appointment or when the member resigns or is replaced under subsection (4) of this section, whichever occurs first.

(3) The chairperson of the board shall be the member of the county governing body, if present. If the governing body member is replaced as provided under subsection (4) of this section, the governing body member's replacement shall be the chairperson unless the board votes unanimously to elect one of the other nonoffice-holding members present as chairperson of the board. A quorum shall be a minimum of two members.

(4) In the event of the inability or unwillingness of any member to serve, such indisposition continuing for more than seven consecutive days, the member shall be replaced in the manner of an original appointment.

(5) In any county:

(a) The county governing body may appoint one nonoffice-holding county resident to serve on a board instead of appointing a member of the county governing body.

(b) Any nonoffice-holding county resident appointed to the pool may serve on any board as needed for the efficient conduct of business.

(6) A particular member of a board shall not participate in the determination of a petition after the hearing if the board member did not hear and consider, as a member of the board, the evidence presented at the hearing.

SECTION 21. ORS 309.024 is amended to read:

309.024. (1) The [*board of property tax appeals*] **property value appeals board** shall keep a written or audio record of all proceedings. Notwithstanding ORS 192.650, no written minutes need be made.

(2) The county clerk, as described in ORS 306.005, shall serve as clerk of the board. The clerk or deputy clerk shall attend sessions of the board at the discretion of the board as approved by the clerk.

(3) The district attorney or the county counsel, at the discretion of the county clerk, shall be the legal advisor of the board unless there is a potential conflict of interest in the district attorney or county counsel serving as the legal advisor. If there is a potential conflict of interest, the county clerk may appoint independent counsel to serve as the legal advisor of the board. The legal advisor of the board, or the legal advisor's deputy, may attend all sessions of the board.

(4) At the discretion of the county clerk, the board may hire one or more appraisers registered under ORS 308.010, or licensed or certified under ORS 674.310, and not otherwise employed by the county, and other necessary personnel for the purpose of aiding the board in carrying out its functions and duties under ORS 309.026. The boards of the various counties may make such reciprocal arrangements for the exchange of appraisers with other counties as will most effectively carry out the functions and duties of the boards.

SECTION 22. ORS 309.025 is amended to read:

309.025. (1) Before the date the [*board of property tax appeals*] **property value appeals board** convenes, the clerk of the board shall give public notice that the board will meet at a specified time and place to hear the appeals specified in ORS 309.026.

(2)(a) The notice provided under this section shall be given by posting notices in six conspicuous places in the county.

(b) Proof of notice shall be made by affidavit of the clerk of the board, setting out the time, manner and place of posting the notices. The affidavit must be filed in the office of the county clerk on or before the day on which the board convenes.

(3) Persons interested may appear at the time and place appointed in the notice.

SECTION 23. ORS 309.026 is amended to read:

309.026. (1) The [*board of property tax appeals*] **property value appeals board** may convene on or after the first Monday in February of each year, but not later than the date necessary for the board to complete the functions of the board by April 15. The board shall meet at the courthouse or courthouse annex. If the meeting place is other than the courthouse or annex, notice of the meeting place shall be posted daily in the courthouse. The board shall continue its sessions from day to day, exclusive of legal holidays, until the functions provided in subsections (2) and (3) of this section are completed.

(2) The board shall hear petitions for the reduction of:

(a) The assessed value or specially assessed value of property as of January 1 or as determined under ORS 308.146 (6)(a);

(b) The real market value of property as of January 1 or as determined under ORS 308.146 (6)(a);

(c) The maximum assessed value of property as of January 1 or as determined under ORS 308.146 (5)(a) or (8)(a); and

(d) Corrections to value made under ORS 311.208.

(3) The board shall hear petitions for the reduction of value as provided in subsection (2) of this section, but only if the value that is the subject of the petition was added to the roll prior to December 1 of the tax year.

(4) The board shall consider applications to waive liability for all or a portion of the penalty imposed under ORS 308.295 or 308.296.

(5) The board shall adjourn no later than April 15.

SECTION 24. ORS 309.067 is amended to read:

309.067. (1) The county governing body shall appoint:

(a) A pool of members of the county governing body or the governing body's designees who are eligible and willing to serve as members of the county [*board of property tax appeals*] **property value appeals board**.

(b) A pool of nonoffice-holding residents of the county who are not employees of the county or of any taxing district within the county and who are eligible and willing to serve as members of the county [*board of property tax appeals*] **property value appeals board**.

(2) The number of names placed in pools shall be sufficient to meet the projected needs for board members for the term of appointment for which the pools are prepared.

(3) The pools shall contain the names, addresses and telephone numbers of the persons in the pools and shall include a brief description of the training under ORS 309.022 in which the person has or will have participated before any term as a board member begins. The pools of appointed persons shall be filed in the records of the county clerk.

(4) A newly filed pool of names shall take precedence over any previously filed pool of names. The county governing body shall designate the date when a newly filed pool of names shall become effective. After a newly prepared pool of names becomes effective, board members shall not be selected from a previously filed pool of names.

(5) The appointment of pools described in this section shall be made by the county governing body on or before October 15 of each year or at any other time upon the request of the county clerk at a regular meeting of the governing body or at a special meeting called by the chairperson of the county governing body.

(6) Appointments made under this section shall be in writing and shall designate the pool to which the member was appointed.

SECTION 25. ORS 309.070 is amended to read:

309.070. Before proceeding to the functions and duties required by this chapter, each member of the [*board of property tax appeals*] **property value appeals board** shall take and subscribe to an oath to faithfully and honestly discharge the duties of the board. The oath shall be administered by a member of the board and shall be filed with the county clerk.

SECTION 26. ORS 309.072 is amended to read:

309.072. The meetings, qualification, sittings and adjournment of the [*boards of property tax appeals*] **property value appeals boards** shall be recorded in the journal of the county governing body.

SECTION 27. ORS 309.100 is amended to read:

309.100. (1) Except as provided in ORS 305.403, the owner or an owner of any taxable property or any person who holds an interest in the property that obligates the person to pay taxes imposed on the property, may petition the [*board of property tax appeals*] **property value appeals board** for relief as authorized under ORS 309.026. As used in this subsection, an interest that obligates the person to pay taxes includes a contract, lease or other intervening instrumentality.

(2) Petitions filed under this section shall be filed with the clerk of the board during the period following the date the tax statements are mailed or otherwise delivered for the current tax year and ending December 31.

(3) Each petition shall:

(a) Be made in writing.

(b) State the facts and the grounds upon which the petition is made.

(c) Be signed and verified by the oath of a person described in subsection (1) or (4) of this section.

(d) State the address to which notice of the action of the board shall be sent. The notice may be sent to a person described in subsection (1) or (4) of this section.

- (e) State if the petitioner or a representative desires to appear at a hearing before the board.
- (4)(a) The following persons may sign a petition and appear before the board on behalf of a person described in subsection (1) of this section:
- (A) A relative, as defined by rule adopted by the Department of Revenue, of an owner of the property.
 - (B) A person duly qualified to practice law or public accountancy in this state.
 - (C) A legal guardian or conservator who is acting on behalf of an owner of the property.
 - (D) A real estate broker or principal real estate broker licensed under ORS 696.022.
 - (E) A state certified appraiser or a state licensed appraiser under ORS 674.310 or a registered appraiser under ORS 308.010.
 - (F) The lessee of the property.
 - (G) An attorney-in-fact under a general power of attorney executed by a principal who is an owner of the property.
- (b) A petition signed by a person described in this subsection, other than a legal guardian or conservator of a property owner, an attorney-in-fact described in paragraph (a)(G) of this subsection or a person duly qualified to practice law in this state, shall include written authorization for the person to act on behalf of the owner or other person described in subsection (1) of this section. The authorization shall be signed by the owner or other person described in subsection (1) of this section.
- (c) In the case of a petition signed by a legal guardian or conservator, the board may request the guardian or conservator to authenticate the guardianship or conservatorship.
- (d) In the case of a petition signed by an attorney-in-fact described in paragraph (a)(G) of this subsection, the petition shall be accompanied by a copy of the general power of attorney.
- (5) If the petitioner has requested a hearing before the board, the board shall give such petitioner at least five days' written notice of the time and place to appear. If the board denies any petition upon the grounds that it does not meet the requirements of subsection (3) of this section, it shall issue a written order rejecting the petition and set forth in the order the reasons the board considered the petition to be defective.
- (6) Notwithstanding ORS 9.160 or 9.320, the owner or other person described in subsection (1) of this section may appear and represent himself or herself at the hearing before the board, or may be represented at the hearing by any authorized person described in subsection (4) of this section.

SECTION 28. ORS 309.110 is amended to read:

309.110. (1) The disposition of every petition before a [*board of property tax appeals*] **property value appeals board**, other than a petition that is resolved by stipulation under ORS 308.242, and the board's determination thereon shall be recorded by formal order and entered in the record of the board. A copy of the order as to each petition shall be sent, by mail, to the petitioner at the post-office address given in the petition. When a copy of a board's order is personally delivered to the petitioner, the requirement to mail a copy of the order is waived. A copy of each order shall be delivered to the assessor and the officer in charge of the roll on the same day that the order is mailed or delivered to the petitioner. The orders of a board shall specify what changes shall be made in the tax roll, if any, and shall direct the officer in charge of the roll to make them. The legal advisor of the board shall be available to aid a board in the preparation of its orders.

(2) If a petition is filed with the board that is resolved by stipulation under ORS 308.242 prior to the date the board convenes, the stipulation shall be entered into the record of the board. The requirements for recording by formal order, mailing and delivery under subsection (1) of this section do not apply to a stipulation entered into the record under this subsection. For all other purposes, a petition that is resolved by stipulation under ORS 308.242 prior to the date the board convenes shall be treated as if the petition had been withdrawn.

(3)(a) A board may issue amended orders to correct clerical errors or errors of jurisdiction appearing in its original orders.

(b) A board may authorize a board member or clerk of the board to amend board orders on behalf of the board for the purpose of correcting clerical errors.

(4) Amended orders correcting an error of jurisdiction may be issued only during a board's session, or by call of the chairperson.

(5) An amended order correcting a clerical error or an error of jurisdiction must be made on or before June 30 of the year in which the original order was issued by the board.

(6) The provisions of subsection (1) of this section shall apply to amended orders, unless the context requires otherwise. Amended orders shall be mailed to the petitioner and delivered to the assessor and the officer in charge of the roll not later than five days after the adjournment of a board's meetings or five days after the date the order is amended, whichever is later.

(7) The order of a board, other than an order relating to an application to excuse liability for the penalty imposed under ORS 308.295, may be appealed to the magistrate division of the Oregon Tax Court.

(8) As used in this section:

(a) "Clerical error" means an error in an order that either arises from an error in the minutes of a board or is a failure to correctly reflect the minutes of a board and that, had it been discovered prior to the order being issued, would have been corrected as a matter of course. In order to be a clerical error, the information necessary to make the correction must be contained in the minutes of the board. Such errors include, but are not limited to, arithmetic and copying errors and omission or misstatement of identification of property.

(b) "Error of jurisdiction" means an error in an order resulting from a board's failure to correctly apply the board's authority as granted under ORS 309.026.

SECTION 29. ORS 309.115 is amended to read:

309.115. (1) If the Department of Revenue, the [board of property tax appeals] **property value appeals board** or the tax court or other court enters an order correcting the real market value of a separate assessment of property and there is no further appeal from that order, except as provided under subsection (2) or (3) of this section, the value so entered shall be the real market value entered on the assessment and tax rolls for the five assessment years next following the year for which the order is entered.

(2) Notwithstanding subsection (1) of this section, the following adjustments may be made to the real market value during the period described in subsection (1) of this section:

(a) Annual trending or indexing applied to all properties of the same property class in the county, or within clearly defined areas of the county under this chapter.

(b) Annual trending or depreciation factors applied to similar property.

(c) Additions or retirements based upon returns filed under ORS 308.290.

(d) Additions, retirements or economic trending from the annual valuations under ORS 308.505 to 308.674.

(e) Increases directly related to additions, remodeling or rehabilitation made to property.

(f) Changes directly related to subdividing or partitioning the property.

(g) Changes directly related to rezoning the property and using the property consistent with the rezoning.

(h) Property damaged, destroyed or otherwise subject to loss of real market value.

(i) Changes indicated by a subsequent sale of the property.

(3) In the case of state-appraised industrial property as defined in ORS 306.126, subsection (1) of this section does not apply to changes in real market value as a result of:

(a) Annual trending or depreciation factors applied by type of property to industrial or personal property;

(b) Additions or retirements based upon returns filed under ORS 308.290; or

(c) Property damaged, destroyed or otherwise subject to loss of real market value.

(4) If, during the five-year period described in subsection (1) of this section, another order correcting the real market value of the property subject to subsection (1) of this section is entered, subsection (1) of this section shall apply for the five assessment years next following the year the later order is entered.

SECTION 30. ORS 309.120 is amended to read:

309.120. Corrections, additions to, or changes in the roll shall be entered in the roll by the officer in charge of the roll in a manner clearly showing that the assessor's prior entry, if any, has been superseded, and showing the entry ordered by the [board of property tax appeals] **property value appeals board**, indicating the change substantially "as ordered by the county [board of property tax appeals] **property value appeals board**." The entries shall be a part of the record of the action of the board.

SECTION 31. ORS 309.150 is amended to read:

309.150. Appeals of the value of personal property, on which the tax is required to be paid as provided in ORS 311.465 and 311.480, shall be heard by a [board of property tax appeals] **property value appeals board** in the same manner that other assessments of property are heard.

SECTION 32. ORS 309.200 is amended to read:

309.200. (1) Between January 1 and December 31 of each year the county assessor shall collect sales data for a ratio study.

(2) The assessor shall prepare and complete a certified ratio study in the time and manner provided by the rules adopted by the Department of Revenue. A copy of the sales data collected and used as the basis for conclusions relating to real market value shall be included with the ratio study. The assessor shall file a certified copy of the sales data and ratio study with the department, as prescribed by department rule.

(3) Not later than October 15 of each year the assessor shall file with the clerk of the [board of property tax appeals] **property value appeals board** a copy of the ratio study.

SECTION 33. ORS 311.208 is amended to read:

311.208. (1) The assessor shall notify the property owner of record or other person claiming to own the property or occupying the property or in possession of the property, if:

(a) A correction is made that applies only to the current roll;

(b) The correction is made after roll certification under ORS 311.105 and prior to December 1 of the current tax year; and

(c) The correction increases the value of the property.

(2) If a correction described in subsection (1) of this section results in additional taxes being added to the current roll, the additional taxes shall be due and payable without interest if paid prior to the 16th of the month next following the date the notice was sent under this section.

(3) If the additional taxes described in subsection (2) of this section are not paid prior to the 16th of the month next following the date the notice was sent under this section, the additional taxes shall be considered for all purposes of collection and enforcement of payment as having become delinquent on the date the taxes would normally have become delinquent if the taxes had been timely extended on the roll.

(4) The notice described in subsection (1) of this section shall:

(a) Be mailed prior to December 1 to the last-known address of the person described in subsection (1) of this section;

(b) Specify the date and the amount of the correction;

(c) If additional tax is imposed, specify the date by which the additional tax may be paid without interest; and

(d) Notify the owner of the owner's appeal rights as determined under subsection (6) of this section.

(5) The correction shall be made by the officer in charge of the roll in the manner described in ORS 311.205 (2), (3) and (5).

(6) A correction made under this section may be appealed as follows:

(a) For state-appraised industrial property as defined in ORS 306.126, the owner must file an appeal with the tax court in the manner provided in ORS 305.403 not later than December 31 of the current tax year.

(b) For all other property, the owner must file a petition with the county [board of property tax appeals] **property value appeals board** in the manner provided in ORS 309.100 not later than December 31 of the current tax year.

SECTION 34. ORS 311.223 is amended to read:

311.223. (1) If the person or party notified as provided in ORS 311.219 does not appear or if the person or party appears and fails to show good and sufficient cause why the assessment shall not be made, the assessor shall proceed to correct the assessment or tax roll or rolls from which the property was omitted. The assessor shall add the property to the tax roll or rolls, with the proper valuation, and extend on the tax roll or rolls taxes at the consolidated rate under ORS 310.147 that is applicable in the code area in which the property was located for each year as to which it was omitted. To carry out the correction of a tax roll or rolls the assessor shall send a written statement to the tax collector instructing the tax collector to make the necessary changes on the tax roll. The statement shall contain all of the information needed by the tax collector to make the changes in the roll and it shall be dated and signed by the assessor or the deputy of the assessor. The tax collector shall then correct the tax roll.

(2) Immediately after the assessor corrects the assessment or tax roll, the assessor shall file in the office of the assessor a statement of the facts or evidence on which the assessor based the correction and notify the taxpayer by written notice, sent by first class mail to the taxpayer's last-known address, of:

(a) The date and amount of the correction;

(b) If a penalty for failing to timely file a real, combined or personal property return as required by ORS 308.290 is being imposed under ORS 308.295 or 308.296, the amount of the penalty;

(c) An explanation of the collection procedures applicable to the corrected amount, or applicable to the penalty; and

(d) An explanation of the taxpayer's right to appeal under subsection (4) of this section and the procedures for making the appeal.

(3) To enable the assessor to comply with this section, the assessor is invested with all the powers of the county clerk under the law in force during the years for which correction may be made under ORS 311.216 to 311.232 and thereafter.

(4) Any person aggrieved by an assessment made under ORS 311.216 to 311.232 may appeal to the tax court within 90 days after the correction of the roll as provided in ORS 305.280 and 305.560. If a penalty under ORS 308.295 or 308.296 is imposed for failing to timely file a real, combined or personal property return with respect to the assessment under ORS 311.216 to 311.232, the imposition of the penalty may be appealed to the tax court. The appeal of the penalty must be brought within the same period of time as an assessment under ORS 311.216 to 311.232 may be appealed to the tax court. An appeal of the value assigned under this section, or of any penalty described in subsection (2)(b) of this section, may not be made to the *[board of property tax appeals]* **property value appeals board** under ORS 309.100.

SECTION 35. ORS 311.513 is amended to read:

311.513. (1) Whenever any property value or claim for exemption or cancellation of a property tax assessment is appealed to the *[board of property tax appeals]* **property value appeals board** or to the tax court and the final resolution of the controversy results in additional taxes due on the property, the additional taxes becoming due shall be payable without interest if paid in the period prior to the 16th of the month next following the correction of the assessment and tax roll.

(2) If the additional taxes described in this section are not paid prior to the date specified in subsection (1) of this section, the additional taxes shall be considered for all purposes of collection and enforcement of payment as having been delinquent on the date the taxes would normally have become delinquent if the additional taxes had been timely extended on the roll, except that any interest shall be computed prospectively from the 16th of the month following the correction of the roll.

SECTION 36. 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 collec-

tor 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*] **property value appeals board** 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 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.

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

(A) A county [*board of property tax appeals*] **property value appeals board** or the Oregon Tax Court issues a decision that could result in a refund if the decision is upheld on appeal;

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

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

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

(c) Interest may not be paid on any refund under this subsection prior to final resolution of the appeal. If, after taking into account the amount refunded under this subsection, the final resolution of the controversy after appeal results in a refund due, interest shall be determined and paid as provided in ORS 311.812.

(d) If, after taking into account the amount refunded under this subsection, the final resolution of the controversy after appeal results in additional taxes due on the property, the additional taxes shall be billed and collected as provided in ORS 311.513.

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

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

(8) As used in this section:

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

(b) "Total tax liability account" means the total amount of tax that has been extended or charged against a particular property tax account as limited by Article XI, section 11b, of the Oregon Constitution.

SECTION 37. ORS 311.812 is amended to read:

311.812. (1) Except as provided in subsection (2) of this section, interest may not be paid upon any tax refunds made under ORS 311.806.

(2) Interest as provided in subsection (3) of this section shall be paid on the following refunds:

(a) A refund resulting from the correction under ORS 308.242 (2) or (3) or 311.205 of an error made by the assessor, Department of Revenue or tax collector.

(b) A refund resulting from a written stipulation of the county assessor or the county tax collector if the written stipulation constitutes a final determination that is not subject to appeal.

(c) Any refund ordered by the Department of Revenue if no appeal is taken or can be taken from the department's order.

(d) Refunds ordered by the Oregon Tax Court or the Supreme Court if the order constitutes a final determination of the matter.

(e) Refunds of taxes collected against real or personal property not within the jurisdiction of the tax levying body.

(f) Refunds due to reductions in value ordered by a county [*board of property tax appeals*] **property value appeals board** where no appeal is taken.

(g) Refunds due to reductions in value made pursuant to ORS 309.115.

(h) Refunds due to a claim for a veteran's exemption for a prior tax year that is filed pursuant to ORS 307.262.

(3)(a) The interest provided by subsection (2) of this section shall be paid at the rate of one percent per month, or fraction of a month, computed from the time the tax was paid or from the time the first installment thereof was due, whichever is the later. If a discount is given at the time the taxes are paid, interest shall be computed only on the net amount of taxes to be refunded. If any portion of a refund described in subsection (2) of this section results from an assessment based on inaccurate information contained in a report filed by a taxpayer, interest shall be computed on only the portion of the refund that is not attributable to the inaccurate information contained in the taxpayer report.

(b) As used in this subsection, "report" means a return, statement or any other information provided by a taxpayer in writing to the department or county assessor.

SECTION 38. ORS 321.219 is amended to read:

321.219. (1) At any time following certification of the specially assessed values under ORS 321.216 and before July 1 of the tax year, five or more taxpayers owning in the aggregate not less than five percent of the total forestland in a single land market area may appeal any or all of the specially assessed values so certified.

(2) Appeals under this section shall be made to the Oregon Tax Court by filing a joint petition with the tax court in the manner provided for appeals from orders of the county [*boards of property tax appeals*] **property value appeals boards**. The petition shall designate one of the taxpayers as the representative of all of the taxpayers, and all proceedings before the tax court and any appeal from its determination shall be conducted procedurally as though the designated representative were the only petitioner.

(3) Notice of the appeal shall be made in the manner prescribed by the Department of Revenue by rule. The notice shall designate the specially assessed values appealed and include a statement of the provisions of subsections (4) and (5) of this section.

(4) Unless an appeal is resolved prior to September 15 of the tax year and results in a change in a specially assessed value that was certified under ORS 321.216, then notwithstanding the appeal of a certified specially assessed value, the certified specially assessed values shall be entered on the assessment and tax roll for the year and the property taxes for the tax year shall be imposed on those values.

(5) If a decision by the tax court, or by the Oregon Supreme Court following an appeal of a tax court decision:

(a) Results in a decrease in a specially assessed value certified under ORS 321.216, any refund of tax arising as a result of the decision shall be made by reducing the tax imposed on forestland affected by the decision in the first tax year following the decision.

(b) Results in an increase in a specially assessed value certified under ORS 321.216, any additional taxes becoming due shall be payable without interest if paid prior to the 16th day of the month following the month in which the final order of the court is issued. If the additional taxes

are not paid within this period, the additional taxes shall thereafter be considered delinquent and shall bear interest at the rate provided in ORS 311.505.

SECTION 39. ORS 321.222 is amended to read:

321.222. Any appeal of forestland value that does not involve an appeal of a specially assessed value certified under ORS 321.216 shall be made to the [board of property tax appeals] **property value appeals board** in the manner prescribed in ORS 309.100.

SECTION 40. ORS 358.505, as amended by section 3, chapter 50, Oregon Laws 2022, is amended to read:

358.505. (1)(a) Except as provided in paragraphs (b) and (c) of this subsection, for property certified for special assessment as historic property under ORS 358.490, the county assessor shall for 10 consecutive tax years list on the assessment and tax roll a specially assessed value that equals the real market value of the property at the time application was made under ORS 358.487.

(b) If the property certified for special assessment as historic property is a condominium unit being assessed upon initial sale by the developer, the county assessor shall for the tax years of the remaining term of historic property special assessment list on the assessment and tax roll a specially assessed value that equals the real market value of the property for the tax year in which the initial sale took place.

(c) For property certified under ORS 358.490 for a second term of special assessment as historic property under ORS 358.540, the county assessor shall, for 10 consecutive tax years after the date of the filing of the application under ORS 358.487 for the second term, list on the assessment and tax roll a specially assessed value that equals the real market value of the property for the assessment year in which the application is made.

(2)(a)(A) Notwithstanding ORS 308.149 (2), and except as provided in subparagraph (B) of this paragraph, for the first tax year of an initial or second 10-year period of historic property special assessment, the maximum assessed value of property subject to historic property special assessment shall equal the specially assessed value of the property as determined under subsection (1) of this section multiplied by the ratio, not greater than 1.00, of the maximum assessed value the property would have had from the prior year if the property were not specially assessed over the real market value of the property from the prior year.

(B) If the property was specially assessed or exempt in the prior year, for the first tax year of an initial or second 10-year period of historic property special assessment, the maximum assessed value of the property subject to historic property special assessment shall equal the specially assessed value of the property multiplied by the ratio of the maximum assessed value the property would have had if disqualified from the special assessment or exemption in the prior year over the real market value of the property from the prior year.

(b) For each tax year after the first tax year during which the property is subject to special assessment as historic property, the property's maximum assessed value equals 103 percent of the property's assessed value from the prior year or 100 percent of the property's maximum assessed value from the prior year, whichever is greater.

(3) The assessed value of property that is classified as historic property for the tax year shall equal the least of:

- (a) The property's specially assessed value as determined under subsection (1) of this section;
- (b) The property's maximum assessed value as determined under subsection (2) of this section;

or

- (c) The property's real market value as of the assessment date for the tax year.

(4) The entitlement of property to the special assessment provisions of this section shall be determined as of July 1. If the property becomes disqualified on or after July 1, its assessment for that year shall continue as provided in this section.

(5) Assessed value, as defined and determined under ORS 308.146, shall be determined for property classified as historic property by the county assessor each year. The assessed value so determined for any year shall be subject to appeal to the county [board of property tax appeals] **property value appeals board** within the time and in the manner provided in ORS chapter 309 and shall be

subject to appeal thereafter to the Oregon Tax Court and to the Oregon Supreme Court within the time and in the manner provided for appeals of value determination for purposes of ad valorem property taxation.

SECTION 41. (1) The amendments to statutes by sections 1 to 40 of this 2023 Act are intended to change the name of the “board of property tax appeals” to the “property value appeals board.”

(2) For the purpose of harmonizing and clarifying statutory law, the Legislative Counsel may substitute for words designating the “board of property tax appeals,” wherever they occur in statutory law, other words designating the “property value appeals board.”

SECTION 42. Section 41 of this 2023 Act is repealed on January 2, 2034.

SECTION 43. (1) The amendments to statutes by sections 1 to 40 of this 2023 Act become operative on July 1, 2024.

(2) The Department of Revenue, any board of property tax appeals or any county assessor or other county official may take any action before the operative date specified in subsection (1) of this section that is necessary to enable timely compliance with the amendments to statutes by sections 1 to 40 of this 2023 Act.

Passed by House February 9, 2023

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Timothy G. Sekerak, Chief Clerk of House

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Dan Rayfield, Speaker of House

Passed by Senate April 24, 2023

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Rob Wagner, President of Senate

Received by Governor:

.....M.,....., 2023

Approved:

.....M.,....., 2023

.....
Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2023

.....
Shemia Fagan, Secretary of State