

A-Engrossed
House Bill 2485

Ordered by the Senate April 1
Including Senate Amendments dated April 1

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor John A. Kitzhaber, M.D., for Department of Revenue)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Clarifies that refund made for correction in property taxes owed as result of appeal is made to person who filed appeal. Aligns time limitation for property tax refunds with five-year time limitation for roll corrections.

Authorizes refunds due to proration of property taxes for destroyed or damaged property.

Extends certain property tax rules for manufactured structures to floating homes.

Raises maximum amount of delinquent property taxes due from any taxpayer that may be canceled by county.

Modifies provisions of section 5, chapter _____, Oregon Laws 2015 (Enrolled Senate Bill 611), relating to speed requirement for service provided by communication infrastructure of qualified project and period for which property of company that builds, maintains and operates qualified project may be granted exemption.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to property taxation; creating new provisions; amending ORS 308.425, 311.252, 311.795,
3 311.806 and 311.808 and section 5, chapter _____, Oregon Laws 2015 (Enrolled Senate Bill
4 611); and prescribing an effective date.

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

6 **SECTION 1.** ORS 311.806 is amended to read:

7 311.806. (1) Subject to subsection (2) of this section, the county governing body shall refund, out
8 of the refund reserve account provided in ORS 311.807, or the unsegregated tax collections account
9 provided in ORS 311.385, taxes on property collected by an assessor or tax collector pursuant to a
10 levy of the assessor or of any taxing district or tax levying body or pursuant to ORS 311.255, plus
11 interest as provided in ORS 311.812, in the following cases:

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

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

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

22 (d) Whenever a change in the value of property is made under ORS 309.115 upon resolution of

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 an appeal and no separate appeal of the value of the property was taken for the year of the change:

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

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

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

8 (f) Except as provided in ORS 310.143, to the owner of record on the tax roll at the time of re-
9 fund, whenever, through excusable neglect or through an error subject to correction under ORS
10 311.205, **other than ORS 311.205 (1)(b)(A)**, taxes on property are paid in excess of the amount le-
11 gally chargeable, limited to the amount of money collected in excess of the amount actually due;
12 [*or*]

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

15 [*(g)*] (h) Except as provided in ORS 311.808, to the payer of the tax whenever any person pays
16 taxes on the property of another by mistake of any kind; **or**

17 **(i) To the applicant entitled to proration of taxes under ORS 308.425 resulting in an**
18 **overpayment of taxes paid.**

19 (2)(a) Except as provided in paragraphs (b) and (c) of this subsection, a refund of taxes may
20 [*not*] be allowed or made [*after six years from the assessment date for the tax year for which the taxes*
21 *were collected*] **for any year or years not exceeding five years prior to the last certified roll.**
22 A refund under this subsection may be paid only to the extent that a refund under subsection (4)
23 of this section has not been paid.

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

28 (c) The county governing body shall order a refund of taxes to be paid as specified in subsection
29 (1) of this section without the filing of a written claim and without regard to the period [*specified*
30 *under*] **described in** paragraph (a) of this subsection upon receipt of a copy of an order by the De-
31 partment of Revenue, the Oregon Tax Court or the Supreme Court that constitutes a final determi-
32 nation that is not subject to appeal.

33 (3)(a) Upon request of the owner or an owner of any taxable property or the person in whose
34 name the property is assessed, or the owner of record on the tax roll at the time of refund, which-
35 ever is applicable, and with the approval of the tax collector, the county governing body may au-
36 thorize refunds payable under subsection (1)(a) to (e) of this section to be made by crediting the total
37 tax liability account of the requester with the amount of the refund. The total tax liability account
38 is the total amount of tax that has been extended or charged against a particular property tax ac-
39 count as limited by section 11b, Article XI of the Oregon Constitution.

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

1 Article XI of the Oregon Constitution, as listed on the certificate last prepared under ORS 311.105.

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

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

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

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

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

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

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

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

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

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

28 (7) As used in this section, "owner of record on the tax roll at the time of refund" means the
29 owner or an owner of the property or the person in whose name the property is assessed on the tax
30 roll last certified and delivered to the tax collector under ORS 311.105 and 311.115.

31 **SECTION 2.** ORS 308.425 is amended to read:

32 308.425. (1) If, during any tax year, any real or personal property is destroyed or damaged by
33 fire or act of God, the owner or purchaser under a recorded instrument of sale in the case of real
34 property, or the person assessed, person in possession or owner in the case of personal property,
35 may apply to the tax collector for proration of the taxes imposed on the property for the tax year.

36 (2) Application for proration of taxes under subsection (1) of this section shall be made not later
37 than the end of the tax year or 60 days after the date the property was destroyed or damaged,
38 whichever is later.

39 (3)(a)(A) For property that is totally destroyed, the tax collector shall collect only one-twelfth
40 of the taxes imposed on the property for the tax year, for each month or fraction of a month that
41 the property was in existence during the tax year. The tax collector shall cancel the remainder of
42 the taxes imposed on the property for the tax year.

43 [(b)] (B) For property that is damaged, the tax collector shall collect only one-twelfth of the
44 taxes imposed on the property for the tax year, for each month or fraction of a month that preceded
45 the month during which the property was damaged. For the month in which the property was dam-

1 aged, and for each month of the tax year thereafter in which the property remains damaged, the tax
 2 collector shall collect that percentage of one-twelfth of the taxes imposed on the property that the
 3 real market value or the assessed value of the property after the damage (whichever is less) bears
 4 to the assessed value of the property before the damage. The assessor shall advise the tax collector
 5 of the value percentage required under this paragraph. The tax collector shall cancel any taxes not
 6 to be collected due to this paragraph.

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

9 (4) That portion of the property that is damaged property and that is subsequently repaired shall
 10 be considered to be new property or new improvements to property under ORS 308.153 for the as-
 11 sessment year in which the repairs or replacements are first taken into account.

12 **SECTION 3. (1) The amendments to ORS 311.806 (2) by section 1 of this 2015 Act apply**
 13 **to refunds allowed on or after the effective date of this 2015 Act.**

14 **(2) The amendments to ORS 308.425 by section 2 of this 2015 Act apply to applications for**
 15 **proration of taxes filed on or after the effective date of this 2015 Act.**

16 **SECTION 4.** ORS 311.252 is amended to read:

17 311.252. (1) If a mortgagee is required or authorized to pay the ad valorem taxes on a manu-
 18 factured structure **or a floating home** or on real property that is subject to the mortgage by a
 19 provision contained in the mortgage instrument, upon written request sent to the tax collector, the
 20 tax collector shall send a copy of the statement required to be mailed to the taxpayer under ORS
 21 311.250 to the mortgagee. The request by the mortgagee for the sending of the copy shall be made
 22 to the tax collector on or before October 1 of each year and shall state that the mortgagee has the
 23 duty or is authorized to pay the taxes for the owner of the property.

24 (2) The tax collector and any mortgagee referred to in subsection (1) of this section may agree
 25 that a computer record containing the information required by the Department of Revenue may be
 26 delivered to the mortgagee instead of a copy of the tax statement required by subsection (1) of this
 27 section.

28 (3) For the purposes of this section, the holder of a perfected security interest in a manufactured
 29 structure **or a floating home** is considered a "mortgagee" and the perfected security interest is
 30 considered a "mortgage."

31 **SECTION 5.** ORS 311.808 is amended to read:

32 311.808. A refund of property taxes under ORS 311.806 [(1)(g)] (1)(h) may not be made on real
 33 property [or], a manufactured structure [when] **or a floating home if** all of the following conditions
 34 are present:

35 (1) A mortgagee has requested the tax statement for the property under ORS 311.252 and has
 36 paid the tax on the property.

37 (2) The tax roll shows payment of the taxes, and thereafter the property is sold to a bona fide
 38 purchaser.

39 **SECTION 6.** ORS 311.795 is amended to read:

40 311.795. (1) A county governing body may cancel all delinquent taxes and the interest and pen-
 41 alties thereon accrued upon property donated to any incorporated city or town or any park and
 42 recreation district organized and operating under ORS chapter 266 for parks, playgrounds or a city
 43 hall. This section does not apply if the city, town or park and recreation district makes any payment
 44 to the owner, either directly or indirectly, for the property.

45 (2) A county governing body may cancel all delinquent real property taxes and interest and

1 penalties due thereon from any taxpayer where the total of the same is [*less than \$5*] **\$10 or less**,
2 when in the judgment of the county governing body the cost of collecting the same will be greater
3 than the amount to be collected.

4 (3) A county governing body may cancel all delinquent personal property taxes and the interest
5 and penalties thereon due from any taxpayer where the total of the same is [*less than \$5*] **\$10 or less**
6 and in the judgment of the county governing body the cost of collecting the same will be greater
7 than the amount to be collected.

8 (4) Property taxes that are deferred under the homestead deferral program established under
9 ORS 311.666 to 311.701, special assessments for local improvements that are deferred under ORS
10 311.702 to 311.735 or property taxes that are deferred under the disaster area tax deferral program
11 established under ORS 311.740 to 311.780 are not delinquent taxes for purposes of this section. A
12 county governing body may not cancel any deferred taxes, deferred special assessments or interest
13 or penalties that accrue with respect to deferred taxes or deferred special assessments described in
14 this subsection.

15 **SECTION 7.** If Senate Bill 611 becomes law, section 5, chapter _____, Oregon Laws 2015
16 (Enrolled Senate Bill 611), is amended to read:

17 **Sec. 5.** (1) Subject to section 2 [*of this 2015 Act*], **chapter _____, Oregon Laws 2015 (En-**
18 **rolled Senate Bill 611)**, the property of a company described in ORS 308.515 (1) shall be granted
19 an exemption under subsection (5) of this section if the company builds, maintains and operates a
20 qualified project in Oregon.

21 (2) A project is qualified under this section if:

22 (a) The project requires capital investment in newly constructed or installed real or tangible
23 personal property constituting infrastructure that enables the company to offer communication ser-
24 vices, including [*a capacity of at least*] **the capacity to provide, at least, approximately** one gigabit
25 per second symmetrical service, to a majority of the residential customers of the company's
26 broadband services; and

27 (b) With respect to communication services offered by the company using the infrastructure, the
28 company does not deny access to the communication services to any group of residential customers
29 because of the income level of the residential customers in the local service area in which the res-
30 idential customers reside.

31 (3)(a) A company seeking the exemption granted under this section must submit an application
32 to the Public Utility Commission, with a copy to the Department of Revenue, on or before January
33 15 preceding the first property tax year for which the exemption is sought.

34 (b) The application must include:

35 (A) A certification that the project meets the requirements of subsection (2) of this section; and

36 (B) An application fee of \$50,000.

37 (c) The application fee shall be distributed evenly to the commission and the department to re-
38 imburse the commission for the costs of reviewing the application and the department for the costs
39 of appraising the property of the company submitting the application.

40 (4)(a) On or before March 1 of the year in which the application is submitted under subsection
41 (3) of this section, the commission shall determine whether the project is a qualified project.

42 (b) During the period in which the commission is making a determination under this subsection:

43 (A) The commission may discuss the information included in the application with the company
44 and the department;

45 (B) The commission shall consult with any city with which the company has entered into a

1 franchise fee agreement to provide services to which the application relates;

2 (C) The company may amend the application; and

3 (D) Upon request of the company, the commission may grant an extension of not more than two
4 weeks for a determination under this subsection.

5 (c) If the commission determines that the project is not a qualified project, the application may
6 not be approved. The commission shall notify the company of the negative determination and state
7 the reasons.

8 (d) If the commission determines that the project is a qualified project:

9 (A) The application shall be approved.

10 (B) The commission shall notify the company, the department and the assessor of each county
11 in which the project is located of the approval.

12 (C) Subject to section 2 [of this 2015 Act], **chapter _____, Oregon Laws 2015 (Enrolled**
13 **Senate Bill 611)**, the property of the company shall be granted the exemption under subsection (5)
14 of this section beginning with the first property tax year that begins after the date of the determi-
15 nation.

16 (5)(a) The property of a company described in subsection (1) of this section shall be granted an
17 exemption for a property tax year in an amount equal to the positive value, if any, obtained by
18 subtracting from the real market value of the company's real property and tangible and intangible
19 personal property, including property that would otherwise be assessed under section 8 [of this 2015
20 Act], **chapter _____, Oregon Laws 2015 (Enrolled Senate Bill 611)**, that is allocated to Oregon
21 and included in the unit subject to central assessment, reduced by the portion of the value of any
22 exemption elected under ORS 307.126 that is allocated to Oregon, an amount equal to the greater
23 of \$250 million or the real market value of the company's real and tangible personal property lo-
24 cated in Oregon as of the assessment date, without reduction for any exemption elected under ORS
25 307.126.

26 (b) The exemption shall be granted for [the lesser of 20 consecutive property tax years or] the
27 period during which an owner maintains and operates the qualified project.

28 (6) If the amount determined under subsection (5)(a) of this section is not positive, subject to
29 section 2 [of this 2015 Act], **chapter _____, Oregon Laws 2015 (Enrolled Senate Bill 611)**, the
30 real market value of the company's real property and tangible and intangible personal property,
31 excluding property that is assessed under section 8 [of this 2015 Act], **chapter _____, Oregon**
32 **Laws 2015 (Enrolled Senate Bill 611)**, allocated to Oregon and included in the unit subject to
33 central assessment, reduced by the portion of the value of any exemption elected under ORS 307.126
34 that is allocated to Oregon, shall be the real market value of the company's property allocated to
35 Oregon for the property tax year.

36 (7)(a) If the property of a company is granted an exemption under this section for a property tax
37 year, the property is not eligible for any other exemption from ad valorem property taxation for the
38 property tax year.

39 (b) Notwithstanding paragraph (a) of this subsection:

40 (A) An exemption granted under ORS 307.126 to property that is granted an exemption under
41 this section shall be allowed in the manner provided under this section and ORS 307.126.

42 (B) An exemption granted under this section for a property tax year has no effect on the benefits
43 that the property of the company or the company may be granted under ORS chapter 285C or ORS
44 307.123 for the property tax year.

45 **SECTION 8. This 2015 Act takes effect on the 91st day after the date on which the 2015**

1 **regular session of the Seventy-eighth Legislative Assembly adjourns sine die.**

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