

Senate Bill 863

Sponsored by COMMITTEE ON RULES

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 **as introduced**.

Authorizes school districts, upon district elector approval, to impose real estate transfer tax on transfers of real property within district. Permits district to establish rate of tax and minimum threshold below which tax would not be imposed. Establishes uniform tax base, collection, reporting and administrative procedures. Directs tax revenues to be deposited in school district general fund. Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to real estate transfer taxes; creating new provisions; amending ORS 205.110, 305.230,
3 305.380, 305.514, 306.815, 820.560, 820.570, 830.855 and 830.860; and prescribing an effective date.

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

5 **SECTION 1.** ORS 306.815 is amended to read:

6 306.815. (1) A city, county, district or other political subdivision or municipal corporation of this
7 state shall not impose, by ordinance or other law, a tax or fee upon the transfer of a fee estate in
8 real property, or measured by the consideration paid or received upon transfer of a fee estate in real
9 property.

10 (2) A tax or fee upon the transfer of a fee estate in real property does not include any fee or
11 charge that becomes due or payable at the time of transfer of a fee estate in real property, unless
12 that fee or charge is imposed upon the right, privilege or act of transferring title to real property.

13 (3) Subsection (1) of this section does not apply to any fee established under ORS 203.148.

14 (4) Subsection (1) of this section does not apply to any tax if the ordinance or other law im-
15 posing the tax is in effect and operative on March 31, 1997.

16 (5) Subsection (1) of this section does not apply to any tax or fee that is imposed upon the
17 transfer of a fee estate in real property if the fee that is imposed under ORS 205.323, for the re-
18 cording or filing of the instrument conveying the real property being transferred is less than \$11.

19 **(6) Subsection (1) of this section does not apply to any tax authorized by the electors of**
20 **a common or union high school district pursuant to section 3 of this 2003 Act.**

21 **SECTION 2.** As used in sections 2 to 30 of this 2003 Act:

22 (1) **"Real estate transfer tax" or "tax" means a school district real estate transfer tax**
23 **described under sections 5 to 30 of this 2003 Act.**

24 (2) **"School district" means a common or union high school district.**

25 **SECTION 3.** (1)(a) **Upon the approval of electors, a school district may impose a real es-**
26 **tate transfer tax at the rate established by electors and otherwise as prescribed in sections**
27 **5 to 30 of this 2003 Act.**

28 **(b) A school district may establish a threshold level of consideration that a real estate**
29 **transfer must exceed in order for the transfer to be subject to the tax. A school district may**
30 **not establish different rates to be imposed on different classes of property or create ex-**

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 **emptions, tax credits or other tax benefits.**

2 **(c) A school district may not impose a real estate transfer tax except as provided in**
3 **sections 5 to 30 of this 2003 Act.**

4 **(2) An election within a school district for the purpose of approving a real estate transfer**
5 **tax shall be called by resolution of the school district board and shall be held on a date**
6 **specified in ORS 255.345.**

7 **(3) In addition to meeting the applicable requirements for a ballot title under ORS chap-**
8 **ter 250, the ballot title for a measure proposing a school district real estate transfer tax shall**
9 **state:**

10 **(a) The rate of tax being proposed, expressed as a rate per \$1,000 of consideration;**

11 **(b) The length in years of the period during which the real estate transfer tax is to be**
12 **imposed, or a statement that the tax is to be imposed for an indefinite period into the future;**

13 **(c) The starting date for the real estate transfer tax; and**

14 **(d) An estimate of the amount of revenue expected to be raised annually from the real**
15 **estate transfer tax during the duration of the tax or during the first five years in which the**
16 **tax is to be imposed, whichever period is shorter.**

17 **(4) The statements required by subsection (3) of this section may not be included in de-**
18 **termining compliance with the 175-word limitation on ballot title statements in ORS 250.035.**

19 **SECTION 4. (1) A school district may impose a real estate transfer tax only if at least a**
20 **simple majority of school district electors who vote on a measure described in section 3 of**
21 **this 2003 Act approve the measure.**

22 **(2) If authorized by electors, a real estate transfer tax under sections 5 to 30 of this 2003**
23 **Act applies only to real property located within the school district.**

24 **SECTION 5. Sections 5 to 30 of this 2003 Act may be cited as the School District Real**
25 **Estate Transfer Tax Act.**

26 **SECTION 6. Unless the context requires otherwise, the definitions given in sections 7 to**
27 **14 of this 2003 Act govern the construction of sections 5 to 30 of this 2003 Act.**

28 **SECTION 7. (1) "Consideration" means the total price actually paid or delivered or re-**
29 **quired to be paid or delivered for the transfer of real property, or an estate or interest**
30 **therein, whether expressed in the transfer instrument and whether paid or required to be**
31 **paid in money, property or any other thing of value.**

32 **(2) "Consideration" includes, but is not limited to:**

33 **(a) The amount of any lien, mortgage, contract, indebtedness or encumbrance existing**
34 **against the property to which the property remains subject or that the purchaser or other**
35 **person agrees to pay or assume. If the transfer is of a fractional interest in real property,**
36 **the principal balance of any debt remaining unpaid on the date of transfer shall be multiplied**
37 **by the same fraction and the result added as a component of the total consideration.**

38 **(b) The amount of any indebtedness or obligation canceled or discharged by the trans-**
39 **action.**

40 **(3) "Consideration" does not include:**

41 **(a) Interest.**

42 **(b) The amount of any lien or encumbrance in favor of the United States, this state or**
43 **a municipal corporation or political subdivision of this state for taxes, special benefits or**
44 **improvements.**

45 **(4) In the case of a lease with an option to purchase, consideration shall be determined**

1 as provided in section 19 of this 2003 Act.

2 (5) In the case of certain sales or leases of mining property, consideration shall be de-
 3 termined as provided in section 19 of this 2003 Act.

4 (6) In the case of a transfer where the consideration is not separately stated or is not
 5 ascertainable on the date of transfer, consideration shall be determined as provided under
 6 section 20 of this 2003 Act.

7 (7) In the case of a transfer of a manufactured structure or floating home located outside
 8 this state, the consideration is the lesser of:

9 (a) The fair market value of the manufactured structure or floating home as of the date
 10 the manufactured structure or floating home was brought into this state, as determined in
 11 accordance with a current recognized value guide; or

12 (b) The consideration as otherwise determined under this section.

13 **SECTION 8.** (1) "Date of transfer" means the date shown on the instrument of transfer.

14 (2) "Department" means the Department of Revenue.

15 (3) "Floating home" has the meaning given that term in ORS 830.700 and includes only
 16 a floating home that is required to be registered or numbered by the state.

17 (4) "Manufactured structure" has the meaning given that term in ORS 801.333 and in-
 18 cludes any manufactured structure that is subject to property taxation or that would be
 19 subject to property taxation as of July 1 preceding the date of transfer if it was located in
 20 this state and was not inventory or otherwise exempt from taxation. Notwithstanding ORS
 21 801.333 (2), "manufactured structure" also includes a travel trailer or a special use trailer
 22 assessed under ORS 308.880.

23 (5)(a) "Mining property" means property that has or is believed to have minerals and that
 24 is sold, transferred or leased under terms that require the purchaser, transferee or lessee
 25 to explore or extract the minerals and to use the property for nothing else. "Mining
 26 property" includes all mining claims, whether patented or unpatented.

27 (b) As used in this subsection, "minerals" includes but is not limited to coal, oil, gas or
 28 geothermal resources, but does not include clay, sand or gravel, peat, gypsum, stone or
 29 limestone.

30 **SECTION 9.** (1) "Person" means one or any combination of the following:

31 (a) Any individual, partnership, limited partnership, limited liability partnership, society,
 32 association, club, organization, institution, company, limited liability company, joint stock
 33 company, public service company, corporation (for-profit or not-for-profit, public or private),
 34 firm, cooperative, consortium, business trust, trust, trustee, estate, personal representative,
 35 guardian, conservator, custodian, receiver, trustee in bankruptcy, assignee, referee or any
 36 person acting in a fiduciary or representative capacity, whether appointed by a court or
 37 otherwise.

38 (b) Any bank, national bank, mortgage banking company, trust company, savings bank,
 39 federal savings bank, savings and loan association, federal savings and loan association, state
 40 credit union, private banker, investment company, pension fund, insurance company or
 41 mortgage company.

42 (c) Any other group, organization or entity (for-profit or not-for-profit, public or private),
 43 however organized, capable of holding a legal or beneficial interest in real property.

44 (2) "Person" does not include:

45 (a) A state, commonwealth, territory or possession of the United States, the District of

1 Columbia, a foreign country or any board, commission, agency or instrumentality (including
 2 but not limited to a federal credit union or a production credit association) of any entity
 3 listed in this paragraph.

4 (b) Any city, county, district, people’s utility district or other municipal or public corpo-
 5 ration or political subdivision of a state, commonwealth, territory or possession of the United
 6 States, the District of Columbia, a foreign country or any board, commission, agency or
 7 instrumentality of any entity listed in this paragraph.

8 **SECTION 10. “Real property” includes:**

- 9 (1) Land;
- 10 (2) Structures, improvements and fixtures;
- 11 (3) Standing timber or mining property;
- 12 (4) Manufactured structures or floating homes;
- 13 (5) Irrigation equipment that is located under the ground;
- 14 (6) Growing crops if conveyed with the land on which the crops are being grown; and
- 15 (7) Any improvements on leased land that is privately or publicly owned.

16 **SECTION 11. “Recording officer” means, as appropriate:**

17 (1) The county clerk or other county officer carrying out the duties described in ORS
 18 205.110, 205.130 and 205.160, of a county in which electors have authorized a real estate
 19 transfer tax through approval of a measure described in section 3 of this 2003 Act;

20 (2) The Department of Transportation; or

21 (3) The State Marine Board.

22 **SECTION 12. “Transfer” means:**

23 (1) Any sale, conveyance, grant, assignment, quitclaim or transfer of ownership of or ti-
 24 tle to real property or any estate or interest in real property for consideration.

25 (2) Any contract for sale, conveyance, grant, assignment, quitclaim or transfer of own-
 26 ership of or title to real property or for any estate or interest in real property for consid-
 27 eration.

28 (3) Any lease with an option to purchase real property or any estate or interest in real
 29 property for consideration.

30 (4) Any other contract under which possession of real property is given to the purchaser
 31 or to any other person by direction of the purchaser and under which title is retained by the
 32 seller as security for payment of the purchase price and consideration is given for the right
 33 of possession.

34 (5) A transaction in which consideration is given for a deed that names no grantee and
 35 equitable title passes to the purchaser. Subsequent delivery of the deed by the purchaser to
 36 a third person who is named in the deed as grantee is also a transfer.

37 (6) A sale as described in ORS 92.305 (subdivided or series partitioned lands) or in ORS
 38 100.005 (condominium units).

39 (7) A sale as defined in ORS 94.803 (time share estates).

40 (8) A transfer of a fixture, as described under ORS 79.0334, including a fixture with title
 41 held separately from the title to the land to which the fixture is attached.

42 (9) A sale of timber if, on the date of sale, the timber is standing.

43 (10) A transfer of real property:

44 (a) By any person to a general or limited partnership upon formation;

45 (b) By any person to an existing general or limited partnership in return for an interest

1 in the partnership;

2 (c) By a general or limited partnership to another person upon dissolution of the part-
3 nership or withdrawal of a member of the partnership;

4 (d) During the conversion of either a general partnership or a limited partnership into a
5 general partnership, a limited partnership, a corporation, a tenancy in common, a joint
6 tenancy or a tenancy by the entirety; or

7 (e) By a joint venture, which shall be considered a partnership for purposes of the tax
8 imposed under sections 5 to 30 of this 2003 Act.

9 (11) The transfer of real property between a corporation and its shareholders, officers,
10 corporate affiliates or other persons, including partnerships, except as provided under sec-
11 tion 13 of this 2003 Act.

12 (12) An exchange of real property for consideration. If real property is exchanged for
13 other real property, the transfer of each property is subject to the tax imposed under
14 sections 5 to 30 of this 2003 Act in the full amount of the consideration given.

15 **SECTION 13. "Transfer" does not include any of the following:**

16 (1) A transfer by or to a state, commonwealth, territory or possession of the United
17 States, the District of Columbia, a foreign country or any board, commission, agency or
18 instrumentality thereof or any city, county, district, people's utility district or other mu-
19 nicipal or public corporation or political subdivision of a state, commonwealth, territory or
20 possession of the United States, the District of Columbia, a foreign country or any board,
21 commission, agency or instrumentality thereof.

22 (2) A transfer to a private condemner, as defined in ORS 35.215, by appropriation or
23 judgment.

24 (3) An earnest money or preliminary sales agreement or a right of first refusal.

25 (4) A transfer for the creation or dissolution of a tenancy by the entirety or other joint
26 tenancy with right of survivorship if no consideration passes.

27 (5) The transfer of the vendor's interest in a contract for the sale of real property or any
28 estate or interest therein.

29 (6) A reconveyance of real property from a vendee to a vendor such that, immediately
30 upon completion of the reconveyance, the parties are in the same position they were in im-
31 mediately prior to the original conveyance, if the reconveyance occurs within 90 days of the
32 original conveyance.

33 (7) A mortgage, trust deed or other transfer of an interest in real property merely to
34 secure a debt, or the assignment of the mortgage, interest of the beneficiary or other secu-
35 rity interest.

36 (8) A cancellation or forfeiture of a vendee's interest in a contract for the sale of real
37 property whether or not the contract contains a forfeiture clause or a deed in lieu of forfei-
38 ture of the vendee's interest in a contract of sale when no consideration passes otherwise.

39 (9) The assumption by a grantee of the balance owing on an obligation that is secured
40 by a mortgage or trust deed. This subsection does not apply to transfers:

41 (a) Between a corporation and its shareholders, officers or affiliated corporations;

42 (b) Between a partnership and its members, another partnership or corporation owned
43 by the same members, joint venturers, joint tenants, tenants by the entirety or tenants in
44 common; or

45 (c) During the conversion of a joint tenancy, tenancy by the entirety, tenancy in com-

1 mon, joint venture, partnership or corporation from one form of ownership to another.

2 (10) A transfer by which a nominee who has received title to or an interest in real
3 property on behalf of a third-party principal transfers the property to the third party if:

4 (a) The tax imposed under sections 5 to 30 of this 2003 Act was paid at the time of the
5 first transaction;

6 (b) An affidavit is filed for the second transaction;

7 (c) The third-party principal was in legal existence at the time of the first transaction;

8 (d) The consideration used by the nominee to acquire the real property was provided by
9 the third-party principal; and

10 (e) The second transaction from the nominee to the third-party principal is not for a
11 greater consideration than that given in the first transaction.

12 (11) An option to purchase real property when the option does not accompany a lease.

13 (12) A transfer of any leasehold interest, including a lessee's interest as described under
14 ORS 92.305 (4) or 100.005 (26), or a timeshare estate or timeshare license as described under
15 ORS 94.803 except as provided under section 12 of this 2003 Act.

16 (13) The sale or offer for sale of a membership camping contract, as described under ORS
17 94.953.

18 (14) The creation or transfer of a license to use real property. This subsection is not in-
19 tended to exempt the creation or transfer of an easement.

20 (15)(a) The act by itself of causing land to be subdivided or series partitioned, as de-
21 scribed under ORS 92.305 to 92.495.

22 (b) The act, by itself, of creating unit ownership as described under ORS chapter 100.

23 (c) The act, by itself, of creating a planned community as described under ORS 94.550 to
24 94.783.

25 (d) The act, by itself, of creating timeshare estates as described under ORS 94.803 to
26 94.945.

27 (e) The partition of property by tenants in common by agreement or as a result of court
28 decree.

29 (16) A transfer, conveyance or assignment of real property or any estate or interest
30 therein from one spouse to another in accordance with the terms of a decree of dissolution
31 or in fulfillment of a property settlement agreement incidental thereto.

32 (17) A transfer or conveyance made pursuant to an order of sale by the court in any
33 mortgage, trust deed or lien foreclosure proceeding or upon execution of a judgment, a deed
34 in lieu of foreclosure to satisfy a mortgage or lien or a conveyance by trustee's deed pursu-
35 ant to foreclosure of a trust deed by advertisement and sale.

36 (18) A conveyance by an authorized mortgagee made to one of the following pursuant to
37 a contract of insurance or guaranty with one of the following:

38 (a) The Federal Housing Administration, the United States Department of Veterans Af-
39 fairs, the Farm Service Agency, the Federal National Mortgage Association, the Government
40 National Mortgage Association or the Federal Home Loan Mortgage Corporation;

41 (b) Any department, bureau, board, commission or agency of the United States or the
42 State of Oregon or any corporation wholly owned, directly or indirectly, by the United States
43 or the State of Oregon; or

44 (c) A private mortgage insurer or guarantor in settlement of an insurance claim.

45 (19)(a) A transfer by gift, devise or inheritance to a conservator, receiver, trustee in

1 **bankruptcy or assignee for the benefit of creditors; or**

2 **(b) Other transfer for which no consideration is given.**

3 **(20) A transfer of a lot, plot, burial space or grave in a cemetery or burial park, or a**
4 **crypt, vault or niche, all as defined in ORS 97.010.**

5 **(21)(a) A transfer through corporate merger or consolidation if the transfer is accom-**
6 **plished by means of stock transfers.**

7 **(b) A corporate dissolution, except when the shareholders assume or agree by contract**
8 **to assume the liabilities of the dissolving corporation. The consideration in the case of as-**
9 **sumption of liabilities is the amount of the liabilities assumed.**

10 **(c) A transfer between a parent corporation and its wholly owned subsidiary or between**
11 **two or more subsidiaries, each of which is wholly owned by the same parent corporation, if**
12 **no consideration is exchanged between the corporate entities.**

13 **(d) A transfer to a newly formed beneficiary corporation from an incorporator to the**
14 **newly formed corporation if:**

15 **(A) The tax imposed under sections 5 to 30 of this 2003 Act was paid on the transfer to**
16 **the incorporator; and**

17 **(B) There is documentation to substantiate that the transfer was made to the**
18 **incorporator on behalf of the corporation during the process of incorporation.**

19 **(22) A conveyance into a revocable trust if the beneficiaries of the trust are the grantor,**
20 **the spouse of the grantor or the lineal descendants of the grantor, or any combination**
21 **thereof, or a conveyance by the trustee to the original grantor, the grantor's spouse or a**
22 **lineal descendant, or any combination thereof, if no consideration is given for the conveyance**
23 **by the trustee.**

24 **(23)(a) A transfer to a corporation or partnership that is wholly owned by any or all of**
25 **the following:**

26 **(A) The transferor;**

27 **(B) The spouse of the transferor; or**

28 **(C) The children of the transferor.**

29 **(b) Notwithstanding paragraph (a) of this subsection, if within five years after the date**
30 **of transfer the transferee corporation or partnership voluntarily transfers the real property,**
31 **or the transferor, spouse or children, or any combination thereof, voluntarily transfers the**
32 **shares or partnership interest, and the transfer results in the creation of a beneficial inter-**
33 **est in the real property, shares or partnership interest for a person other than the**
34 **transferor, spouse or children, the tax shall become due and payable on the date of original**
35 **transfer as otherwise provided under sections 5 to 30 of this 2003 Act.**

36 **(24) A transfer to a contractor for the purpose of constructing an improvement to the**
37 **real property transferred, with an agreement to reconvey the property after construction**
38 **of the improvement.**

39 **(25) A conveyance made under a post-petition chapter 11 plan that is exempt under 11**
40 **U.S.C. 1146.**

41 **(26) A transfer in compliance with the terms of any lease or contract upon which the tax**
42 **as imposed under sections 5 to 30 of this 2003 Act has been paid, including, but not limited**
43 **to, a conveyance in fulfillment of the contract.**

44 **(27) The sale of a manufactured structure or floating home located outside this state if**
45 **the sale was to an individual who was a nonresident of this state on the date of sale, the**

1 manufactured structure or floating home was used by the nonresident individual in another
 2 state and the date of sale is more than 30 days prior to the date that the manufactured
 3 structure or floating home is brought into this state for use in this state.

4 (28) The sale in this state of a manufactured structure or floating home to a nonresident
 5 individual for use outside this state even if the delivery is in this state if:

6 (a) The manufactured structure will be taken directly from the point of delivery in this
 7 state to a point outside this state under authority of a trip permit and will not be used in
 8 this state more than 90 days in any annual period or the floating home will not be used in
 9 this state more than 45 days in any annual period; and

10 (b) The manufactured structure will be titled, licensed or registered, if required, in the
 11 state of residence of the nonresident individual and will not be required to be titled, licensed
 12 or registered to the nonresident individual in this state or the floating home will not be ti-
 13 tled, registered, licensed or numbered by this state but will be titled, registered, licensed or
 14 numbered by the state of residence of the nonresident individual.

15 (29) The rerecording of an instrument to make a correction or a change, including but
 16 not limited to the following:

17 (a) Correcting a legal description;

18 (b) Changing the terms of a contract; or

19 (c) Correcting the spelling of a name of a party, but only if an affidavit described in
 20 section 21 of this 2003 Act is filed at the time of the rerecording, the affidavit refers to the
 21 instrument and to the affidavit that was filed for the prior transaction in the manner pro-
 22 vided by rule of the Department of Revenue, the affidavit explains completely the necessity
 23 for the rerecording and there is no additional consideration.

24 (30)(a) A transfer to or from individual Indians or Indian tribes if the federal government
 25 acts as trustee on behalf of the individual Indian or tribe.

26 (b) A sale of timber made by an individual Indian or Indian tribe holding a trust allotment
 27 if, after the execution of the contract, the individual Indian or tribe received a beneficial
 28 interest in the land.

29 (31) A transfer by a nonprofit corporation as defined in ORS 65.001 to a low income per-
 30 son. For purposes of this subsection, "low income" means an income not exceeding 80 per-
 31 cent of the prevailing median income, based on family size, within this state.

32 (32) Transfers of real property to effect a mere change in the identity, form or place of
 33 an organization.

34 (33) A transfer of property subject to the tax under sections 5 to 30 of this 2003 Act to
 35 an individual in which:

36 (a) The property is to be the transferee's personal residence; and

37 (b) The development of the property was funded in whole or part by the Oregon Housing
 38 Fund created under ORS 458.620.

39 **SECTION 14.** "Transferor" means a person who sells or transfers real property.

40 **SECTION 15.** (1) An excise tax is imposed upon each transfer of real property that occurs
 41 in a school district in which electors have authorized a real estate transfer tax. The rate of
 42 the tax shall be the rate authorized by the electors.

43 (2) In the case of the transfer of a manufactured structure or floating home located
 44 outside of a school district in which electors have authorized a real estate transfer tax that
 45 is brought into the school district for use in the school district immediately after the

1 transfer, an excise tax is imposed upon the use of the manufactured structure or floating
2 home. The rate of the tax shall be the rate authorized by electors.

3 **SECTION 16.** A real estate transfer that occurs on or after the starting date for a real
4 estate transfer tax authorized by school district electors and that is made pursuant to a
5 contract entered into prior to the starting date, is exempt from the tax imposed under sec-
6 tion 15 of this 2003 Act.

7 **SECTION 17.** (1) If a transfer is pursuant to an installment sale of the real property, the
8 amount of tax due under section 15 of this 2003 Act may be paid in installments. Each in-
9 stallment shall be due at the time that an installment payment is due to the transferor. The
10 amount of each installment shall equal that portion of the total amount of tax that corre-
11 sponds to the proportion that the installment payment due to the transferor bears to the
12 total amount of installment payments due to the transferor.

13 (2) A taxpayer electing to pay the real estate transfer tax under this section shall make
14 the election by filing the election with the recording officer at the time the affidavit is filed
15 under section 21 of this 2003 Act.

16 (3) The election shall be made on such form as is prescribed by the Department of Re-
17 venue. The election form shall include a schedule listing payment amounts and dates. The
18 department may by rule require taxpayers making the election to file a copy of the install-
19 ment sales contract applicable to the transfer when making the election.

20 (4) In the event an installment of tax is not paid as provided on the election filed with
21 the recording officer, the entire unpaid amount of the tax shall be considered delinquent and
22 shall be treated like other unpaid tax under sections 5 to 30 of this 2003 Act.

23 **SECTION 18.** (1) Except as provided in sections 17 and 19 of this 2003 Act, or as required
24 by the context of sections 5 to 30 of this 2003 Act, the tax imposed under sections 5 to 30 of
25 this 2003 Act is due and payable immediately on the date of transfer.

26 (2)(a) If the tax is not paid within 30 days after the date of transfer, the tax shall bear
27 interest at the rate established for deficiencies under ORS 305.220 for each month or fraction
28 of a month from the date of transfer until the date of payment.

29 (b) If the tax is paid within 30 days after the date of transfer, no interest shall be
30 charged.

31 (c) The tax is due on the date of transfer whether or not the instrument of transfer is
32 recorded or filed on the date of transfer or within 30 days after the date of transfer.

33 (3) The tax shall be paid to and collected by the recording officer.

34 (4) Upon collection of the tax and receipt of the affidavit described in section 21 of this
35 2003 Act, the recording officer shall cause a stamp evidencing satisfaction of the lien for the
36 tax to be affixed to the instrument of transfer. If the transfer is of a manufactured structure
37 or floating home, the stamp shall be affixed to the affidavit. If another method of evidencing
38 payment of the tax and extinguishment of the lien on the instrument or on the affidavit is
39 adopted by the Department of Revenue by rule, that method shall be used in lieu of the
40 stamp.

41 (5) An instrument of transfer of real property that is subject to the tax may not be ac-
42 cepted for recording unless the tax imposed under sections 5 to 30 of this 2003 Act has been
43 paid and the affidavit required under section 21 of this 2003 Act has been filed.

44 (6) A registration card or certificate of title to a manufactured structure may not be is-
45 sued until the Department of Transportation has determined that any tax imposed under

1 sections 5 to 30 of this 2003 Act has been paid and the affidavit required under section 21 of
2 this 2003 Act has been filed. A trip permit authorizing a manufactured structure to be moved
3 upon the highways of this state may not be issued under ORS 803.600 and 820.560 unless the
4 Department of Transportation determines that any tax imposed under sections 5 to 30 of this
5 2003 Act has been paid and the affidavit required under section 21 of this 2003 Act has been
6 filed.

7 (7) A certificate of title to a floating home may not be issued under ORS 830.855 and
8 830.860 until the State Marine Board has determined that any tax due under sections 5 to 30
9 of this 2003 Act has been paid and the affidavit required under section 21 of this 2003 Act has
10 been filed.

11 (8) Notwithstanding subsections (5) to (7) of this section, if the tax is not due upon the
12 transfer, the instrument of transfer and affidavit may not be accepted by the recording of-
13 ficer until a suitable notation describing the reason the tax is not due is entered on the in-
14 strument or affidavit by the recording officer.

15 **SECTION 19.** (1)(a) In the case of a lease with an option to purchase, the tax imposed
16 under sections 5 to 30 of this 2003 Act is not due and payable until the date that the option
17 is exercised. However, the tax may be paid on or after the date the lease is entered into and
18 before the date the option is exercised, but if so paid, a refund of the tax does not bear in-
19 terest.

20 (b) If the option is exercised, the amount paid for the option shall be part of the consid-
21 eration.

22 (c) If the option is not exercised or is surrendered prior to its expiration date, the
23 amount paid for the option may not be subject to the tax imposed under sections 5 to 30 of
24 this 2003 Act.

25 (d) If periodic payments are required under the lease-option agreement, the determi-
26 nation of whether the payments are part of the consideration rather than rent shall use the
27 criteria used for making the same determination for federal income tax purposes.

28 (2)(a) The following are subject to tax as follows:

29 (A) A conditional sale of mining property in which the buyer has the right to terminate
30 the contract at any time shall be taxable upon the consideration received by the conditional
31 seller for execution of the contract at the time of the contract.

32 (B) A lease and option to buy mining property in which the lessee has the right to ter-
33 minate the lease at any time shall be taxable upon the consideration received by the lessor
34 for execution of the lease at the time of the lease.

35 (b) The tax on any additional consideration given for a contract or lease described in this
36 subsection shall be due and payable to the recording officer on the earliest of the following
37 dates:

38 (A) The date of termination;

39 (B) The date that all of the consideration due to the seller has been paid and all that
40 remains to complete the transaction is to deliver the deed to the buyer; or

41 (C) The date that the buyer unequivocally exercises an option to purchase the property.

42 (3) Any tax or portion of tax not paid on the due date as specified in this section shall
43 bear interest at the rate established for deficiencies under ORS 305.220 from the due date
44 of the tax or portion of tax until paid.

45 **SECTION 20.** (1) In any case in which the consideration given upon the transfer of real

1 property is not separately stated or is not ascertainable on the date of transfer, consider-
2 ation shall be the real market value as reflected upon the most recent assessment and tax
3 rolls.

4 (2) Alternatively, the parties to the transfer may request that the Department of Re-
5 venue ascertain the consideration given upon the transfer of the real property. The depart-
6 ment may do any one of the following to ascertain the consideration given:

7 (a) Require security for payment of the tax.

8 (b) Require an appraisal that shall be performed by an appraiser employed by or under
9 contract with the county in which the real property is located. The results of the appraisal
10 are prima facie evidence of the consideration given.

11 (c) Enter into a settlement agreement fixing the consideration for purposes of the tax.

12 (3) The department may by rule require persons making a request under subsection (2)
13 of this section to pay a fee to the department to recoup department expenses in ascertaining
14 the consideration given for the transfer.

15 **SECTION 21.** (1) The Department of Revenue shall prescribe and furnish to the recording
16 officer a form that shall be used to prepare a real estate transfer tax affidavit.

17 (2) A real estate transfer tax affidavit shall contain or indicate all of the following:

18 (a) The identification and current mailing address of the transferor and of the transferee.

19 (b) A description and tax lot or assessor account number for the real property trans-
20 ferred.

21 (c) The date of transfer.

22 (d) The type of instrument of transfer and the nature of the transfer.

23 (e) The amount of the consideration.

24 (f) A description of any personal property involved in the transfer.

25 (g) Whether the real property is exempt, partially exempt or subject to special assess-
26 ment for ad valorem property tax purposes and the statutory basis of the exemption, partial
27 exemption or special assessment.

28 (h) A form for verification of the affidavit.

29 (i) Any other information that the department may require by rule.

30 (3) In the case of a manufactured structure that is transferred with the land upon which
31 it is located, the recording officer may require the completion of two affidavits, both real
32 property and manufactured structure, or a single real property affidavit. At the recording
33 officer's option, a separate manufactured structure affidavit need not be required if the real
34 property affidavit lists the make, model, year, size and serial number of the manufactured
35 structure. The manufactured structure information shall be contained as a separate item
36 with the property description portion of the affidavit.

37 (4) The affidavit in the form prescribed under this section shall be verified by at least one
38 of the parties to the transfer in the manner provided under and subject to the penalty pre-
39 scribed under ORS 305.810, 305.815 and 305.990 (4).

40 (5) A recording officer may not accept an affidavit that is incomplete. The recording of-
41 ficer shall require that the appropriate documentation be furnished to substantiate the in-
42 formation contained in or accompanying the affidavit.

43 (6) An affidavit is due on the date of transfer. If an affidavit is not filed with a recording
44 officer, the department may require that an affidavit be filed with the department. For pur-
45 poses of the revenue and tax laws of this state, an affidavit may be considered a return.

1 (7) An affidavit filed under this section shall be retained for four years after the date the
2 affidavit is filed.

3 **SECTION 22.** (1) If the tax imposed under sections 5 to 30 of this 2003 Act is not paid
4 within 30 days after the date of transfer, or if the required affidavit is not filed within 30 days
5 after the date of transfer, or if there is both a failure to pay the tax and to file the affidavit,
6 in addition to the interest charged under section 18 of this 2003 Act, a penalty in the amount
7 specified under ORS 314.400 (1) shall be added to the amount of tax and shall bear interest
8 from the due date of the tax until paid.

9 (2) If the failure to pay the tax or to file the affidavit, or both, continues for a period of
10 more than 90 days after the due date of the tax, ORS 314.400 (2) and (4) shall apply.

11 **SECTION 23.** (1) The recording officer shall issue a receipt evidencing payment of a tax
12 imposed under sections 5 to 30 of this 2003 Act. The receipt shall include the date of payment
13 of the tax, identification of the parties and the amount of tax paid, in addition to any other
14 information required by the Department of Revenue to appear on the receipt.

15 (2) Subject to rules adopted by the department, the recording officer shall retain a copy
16 of each issued receipt to be made available or forwarded to the department. Copies of re-
17 cepts shall be retained for a period of four years from the date of issuance, unless the de-
18 partment requests a longer period of retention.

19 (3) The receipt shall be evidence of the satisfaction of the lien imposed by section 24 of
20 this 2003 Act and may be recorded in the manner prescribed for the recording of a satisfac-
21 tion of a judgment lien.

22 **SECTION 24.** (1) The tax imposed under sections 5 to 30 of this 2003 Act shall be an ob-
23 ligation of the transferor and the transferee.

24 (2) The tax and any interest thereon or penalties attributable thereto shall be a lien upon
25 the real property transferred from the day preceding the date of transfer until the date the
26 tax is paid. The lien may be foreclosed in the manner provided under ORS 314.419.

27 (3) The tax, interest and penalties shall constitute a personal debt due the State of
28 Oregon from the transferor and may be collected by the Department of Revenue, together
29 with interest and costs, by appropriate judicial proceeding. The debt shall arise on the day
30 preceding the date of transfer.

31 (4) The tax, interest and penalties may be collected by the department in the same
32 manner as income taxes are collected under ORS chapters 305 and 314. The department may
33 issue a warrant as provided under ORS 314.430 and record the warrant in the County Clerk
34 Lien Record maintained under ORS 205.130. A warrant issued under this section has the
35 same force and effect as a warrant issued under ORS 314.430. If the warrant is not recorded
36 in the County Clerk Lien Record, the warrant is not considered a lien.

37 (5) The lien for the tax, interest and penalties shall have the same validity and priority
38 as provided an income tax lien under ORS 314.421 and 314.423.

39 (6) An action or proceeding (including issuance of a warrant) for collection of the tax
40 shall be instituted or commenced before the expiration of seven years from the date the tax
41 was due, except as follows:

42 (a) If there is a showing of fraud or a misrepresentation of a material fact, an action or
43 proceeding may be instituted or commenced after the expiration of the seven-year period.

44 (b) If an affidavit is not filed and the transfer is not otherwise reported to a recording
45 officer, an action or proceeding may be instituted or commenced after the expiration of the

1 seven-year period.

2 (7) If the department finds that a transferor intends to quickly depart from this state
3 or to remove the property of the transferor from this state, or to do any other act tending
4 to prejudice or to render wholly or partially ineffectual proceedings to collect the tax, in-
5 terest and penalties unless proceedings be brought without delay:

6 (a) The department shall declare the tax, interest and penalties immediately due and
7 payable and shall cause notice of such findings and declaration to be given to the transferor.

8 (b) Simultaneously, the department, on the basis of the affidavit or the best information
9 available to it, shall determine the amount of tax, interest and penalties due and payable
10 (whether or not the time otherwise allowed by law for paying the tax has expired) and give
11 notice to the taxpayer of the amount of tax, interest and penalties so determined.

12 (c) On the date that the notice and findings are issued to the taxpayer or are mailed to
13 the last known address of the taxpayer, the tax, interest and penalties are due and payable.

14 (d) In any proceeding in court brought to enforce payment of tax, interest and penalties
15 made due and payable under this subsection, the findings of the department, made as pro-
16 vided in this subsection, whether or not made after notice to the transferor, are for all
17 purposes presumptive evidence of the transferor's design. The certificate of the department
18 of the mailing or issuing of the notice and findings specified in this subsection is presumptive
19 evidence that the notice and findings were mailed or issued.

20 (8) Any proceeding mentioned in this section is in addition to all other existing remedies.

21 **SECTION 25.** (1) The Department of Revenue may adopt rules that require uniformity in
22 application, procedure, reporting and collection of the real estate transfer tax and that oth-
23 erwise carry out the provisions of sections 5 to 30 of this 2003 Act.

24 (2) Sections 5 to 30 of this 2003 Act shall be considered a revenue or tax law of this state.

25 (3) It being the intention of the Legislative Assembly that sections 5 to 30 of this 2003
26 Act shall be administered as uniformly as possible with the other revenue and tax laws of
27 this state, except where the context requires otherwise, ORS chapters 305 and 314, as
28 amended, or as they may hereafter be amended, together with other general revenue and tax
29 laws administered by the department, are applicable to the tax imposed under sections 5 to
30 30 of this 2003 Act.

31 (4) For purposes of this section and unless the context requires otherwise:

32 (a) An affidavit as described in section 21 of this 2003 Act may be considered a return.

33 (b) A recording officer may be considered an officer or employee of the department.

34 (c) The tax imposed under sections 5 to 30 of this 2003 Act may be treated in the same
35 manner as a tax imposed upon or measured by net income.

36 **SECTION 26.** (1) An application for a refund of an erroneous payment or overpayment
37 of the tax imposed under sections 5 to 30 of this 2003 Act shall be made on a form prescribed
38 by the Department of Revenue and furnished to the recording officer. An application may
39 be made only by the transferor or other person who paid the tax, or an authorized repre-
40 sentative of the transferor or other taxpayer.

41 (2) An application for a refund of tax, together with the appropriate substantiation or
42 documentation, shall be filed with the recording officer or office of the recording officer who
43 collected the tax.

44 (3) The recording officer may void the affidavit and receipt and, at the request of the
45 recording officer, the department may pay the refund if one or more of the following cir-

1 **cumstances exist:**

- 2 (a) **Rescission of a transfer prior to closing;**
- 3 (b) **Overpayment of tax through error in computation; or**
- 4 (c) **Nonpayment of consideration by the transferee.**

5 (4) **If the transferor or other taxpayer submits the application for refund and the re-**
 6 **recording officer denies or partially denies an application for refund first filed under subsection**
 7 **(2) of this section, the recording officer shall verify the information on the application and**
 8 **forward it to the department with a copy of the affidavit and any other substantiation or**
 9 **documentation furnished by the taxpayer.**

10 (5) **The department may refund the tax under any of the following circumstances:**

11 (a) **The transfer is rescinded, resulting in the retransference to the transferor and the**
 12 **consideration restored to the transferee;**

13 (b) **The transfer is rescinded in whole or in part as finally determined by a court and a**
 14 **copy of the court order or decree is submitted to the department;**

15 (c) **The transfer is exempt and the taxpayer failed to claim the exemption; or**

16 (d) **Any of the grounds upon which a recording officer may make a refund under this**
 17 **section.**

18 (6)(a) **The department shall approve, partially deny or wholly deny the application for**
 19 **refund.**

20 (b) **If the application for refund is denied or partially denied, the department shall issue**
 21 **an order denying or partially denying the refund and stating the grounds for denial, and mail**
 22 **or deliver a copy of the order to the applicant. An appeal may be taken from the denial by**
 23 **the applicant in the manner and within the time described under ORS 305.275 and 305.280.**

24 (c) **If the department approves a refund or partial refund of tax, the department shall**
 25 **issue an order approving the refund or partial refund and mail or deliver a copy of the order**
 26 **to the recording officer and to the county treasurer. The county treasurer shall pay the re-**
 27 **fund or partial refund from the refund reserve account referred to in section 28 of this 2003**
 28 **Act. In either case, the refund shall be paid to the applicant or applicants without interest.**
 29 **If the recording officer is the county clerk, the payment shall be noted in the county real**
 30 **estate transfer tax records.**

31 (7) **A refund approved by the recording officer or by the department may not be paid:**

32 (a) **If the instrument of transfer has not been recorded or a new certificate of title or**
 33 **registration has not been issued, until the stamp or other indication that the tax has been**
 34 **paid on the transfer instrument or affidavit and receipt is voided; or**

35 (b) **If the instrument of transfer has been recorded or a new certificate of title or regis-**
 36 **tration has been issued, until an instrument of transfer that reverses the effect of the**
 37 **transfer is recorded or issued.**

38 (8) **A refund may not be paid if the application for the refund is not filed within three**
 39 **years after the date of transfer.**

40 **SECTION 27. (1) The Department of Revenue shall administer the tax imposed by**
 41 **sections 5 to 30 of this 2003 Act. The Department of Revenue shall designate the recording**
 42 **officer of each county in which a school district whose electors have authorized the tax is**
 43 **located to act as the department's agent to collect the tax. In the case of a transfer of a**
 44 **manufactured structure for which the certificate of title has not been surrendered or has**
 45 **been surrendered and reissued, the Department of Revenue shall designate the Department**

1 of Transportation to act as its agent to collect the tax. In the case of a transfer of a floating
2 home, the Department of Revenue shall designate the State Marine Board to act as its agent
3 to collect the tax. In the case of a manufactured structure or a floating home, the tax need
4 not be collected by the Department of Transportation or the State Marine Board if proof of
5 payment of the tax to the recording officer of the county is presented with the application
6 for a new certificate of title.

7 (2) The Department of Revenue shall prescribe any forms needed for administering
8 sections 5 to 30 of this 2003 Act and may require periodic reports concerning collection of
9 the tax from the recording officers, as described in section 28 of this 2003 Act.

10 **SECTION 28.** (1) No later than the fifth day of each calendar month, each recording of-
11 ficer shall prepare and file a report with the school district imposing the tax and with the
12 Department of Revenue. The report shall be in such form and contain such information as
13 the department may prescribe, and shall summarize for the preceding month the affidavits
14 filed under section 21 of this 2003 Act and the receipts issued under section 23 of this 2003
15 Act by the recording officer.

16 (2) All revenues from tax imposed under sections 5 to 30 of this 2003 Act for the pre-
17 ceding month shall be transferred to the county treasurer at the time the report described
18 in subsection (1) of this section is filed. The county treasurer may withhold amounts the
19 treasurer deems necessary to make refunds in a refund reserve account. The remaining
20 balance of the revenues shall be deposited in the general fund of the school district imposing
21 the tax and may be used for any purpose for which school district general fund moneys may
22 be used.

23 **SECTION 29.** (1) Any person who fails to pay the tax imposed under sections 5 to 30 of
24 this 2003 Act and any person who violates any provision of sections 5 to 30 of this 2003 Act,
25 or any reasonable rule adopted pursuant to sections 5 to 30 of this 2003 Act by the Depart-
26 ment of Revenue, shall be punished, upon conviction, as described under ORS 305.990 (4).

27 (2) A person or an officer or employee of a corporation or a member or employee of a
28 partnership may not, with the intent to evade any requirement of sections 5 to 30 of this 2003
29 Act:

30 (a) Fail to pay the tax imposed by sections 5 to 30 of this 2003 Act or fail to make, render,
31 sign or verify an affidavit or to supply any information required by sections 5 to 30 of this
32 2003 Act;

33 (b) Make, render, sign or verify any false or fraudulent affidavit or other writing; or

34 (c) Supply any false or fraudulent information.

35 (3) If any affidavit or other writing required under sections 5 to 30 of this 2003 Act is not
36 filed within three years after the due date of the tax, there shall be imposed a penalty equal
37 to 100 percent of the tax liability determined after any credits or prepayments. The total
38 amount of penalties imposed for any taxable year under this subsection, section 22 of this
39 2003 Act and ORS 305.265 (13) may not exceed 100 percent of the tax liability.

40 (4) Except when specifically provided otherwise, any penalty provided by or made appli-
41 cable to the tax imposed by sections 5 to 30 of this 2003 Act, or to any provision of sections
42 5 to 30 of this 2003 Act or applicable rules of the department, is in addition to any other
43 criminal or civil penalty provided by law.

44 **SECTION 30.** The failure to do any act required by sections 5 to 30 of this 2003 Act shall
45 be considered an act committed in part at the office of the Department of Revenue in Salem,

1 **Oregon.**

2 **SECTION 31.** ORS 205.110 is amended to read:

3 205.110. (1) The county clerk in each county shall keep and maintain the records of the county
4 governing body.

5 (2) The county clerk of any county in which the county court has judicial functions shall, for
6 the county court:

7 (a) Keep the seal of the court, and affix it in all cases required by law.

8 (b) Record the proceedings of the court.

9 (c) Keep the records, files, books and papers pertaining to the court.

10 (d) File all papers delivered to the clerk for that purpose in any action or proceeding in the
11 court.

12 (e) Attend the terms of the court, administer oaths and receive the verdict of a jury in any
13 action or proceeding therein, in the presence and under the direction of the court.

14 (f) Under the direction of the court enter its orders and judgments.

15 (g) Authenticate, by certificate or transcript, as may be required, the records, files or pro-
16 ceedings of the court, or any paper pertaining thereto, and filed with the clerk.

17 (h) Exercise the powers and perform the duties conferred upon the clerk by statute.

18 (i) In the performance of duties pertaining to the court, conform to the direction of the court.

19 (3) The county clerk may take and certify the proof and acknowledgment of a conveyance of real
20 property or any other written instrument authorized or required to be proved or acknowledged.

21 **(4) The county clerk in each county in which the electors of a school district have au-**
22 **thorized a real estate transfer tax under section 3 of this 2003 Act shall administer the real**
23 **estate transfer tax imposed under sections 5 to 30 of this 2003 Act.**

24 **SECTION 32.** ORS 305.230 is amended to read:

25 305.230. Notwithstanding ORS 9.320:

26 (1) Any person who is duly qualified to practice law or public accountancy in this state or the
27 authorized employee of a taxpayer who is regularly employed by the taxpayer in tax matters may
28 represent the taxpayer before a tax court magistrate or the Department of Revenue in any confer-
29 ence or proceeding with respect to the administration of any tax.

30 (2) Any person who is duly licensed by the State Board of Tax Practitioners or who is exempt
31 from such licensing requirement as provided for and limited by ORS 673.610 may represent a tax-
32 payer before a tax court magistrate or the department in any conference or proceeding with respect
33 to the administration of any tax on or measured by net income.

34 (3) Any shareholder of an S corporation, as defined in section 1361 of the Internal Revenue
35 Code, as amended and in effect on December 31, 2000, may represent the corporation in any pro-
36 ceeding before a tax court magistrate or the department in the same manner as if the shareholder
37 were a partner and the S corporation were a partnership. The S corporation must designate in
38 writing a tax matters shareholder authorized to represent the S corporation.

39 (4) Any person who is licensed as a real estate broker or principal real estate broker under ORS
40 696.022 or is a state certified appraiser or state licensed appraiser under ORS 674.310 or is a reg-
41 istered appraiser under ORS 308.010 may represent a taxpayer before a tax court magistrate or the
42 department in any conference or proceeding with respect to the administration of **the real estate**
43 **transfer tax imposed by sections 5 to 30 of this 2003 Act** or any ad valorem property tax.

44 (5) A general partner who has been designated by members of a partnership as their tax matters
45 partner under ORS 305.242 may represent those partners in any conference or proceeding with re-

1 spect to the administration of any tax on or measured by net income.

2 (6) In a small claims procedure, a taxpayer may be represented by any of the persons described
3 in subsections (1) to (5) of this section or by any other person permitted by the tax court.

4 (7) No person shall be recognized as representing a taxpayer pursuant to this section unless
5 there is first filed with the magistrate or department a written authorization, or unless it appears
6 to the satisfaction of the magistrate or department that the representative does in fact have au-
7 thority to represent the taxpayer. A person recognized as an authorized representative under rules
8 or procedures adopted by the tax court shall be considered an authorized representative by the de-
9 partment.

10 (8) A taxpayer represented by someone other than an attorney is bound by all things done by
11 the authorized representative, and may not thereafter claim any proceeding was legally defective
12 because the taxpayer was not represented by an attorney.

13 (9) Prior to the holding of a conference or proceeding before the tax court magistrate or de-
14 partment, written notice shall be given by the magistrate or department to the taxpayer of the
15 provisions of subsections (6) and (8) of this section.

16 **SECTION 33.** ORS 305.380 is amended to read:

17 305.380. As used in ORS 305.385:

18 (1) "Agency" means any department, board, commission, division or authority of the State of
19 Oregon, or any political subdivision of this state which imposes a local tax administered by the
20 Department of Revenue under ORS 305.620.

21 (2) "License" means any written authority required by law or ordinance as a prerequisite to the
22 conduct of a business, trade or profession.

23 (3) "Provider" means any person who contracts to supply goods, services or real estate space
24 to an agency.

25 (4) "Tax" means a state tax imposed by ORS chapters 118, 314, 316, 317, 318, 320, 321 and 323
26 and sections 10 to 20, chapter 533, Oregon Laws 1981, as amended by chapter 16, Oregon Laws 1982
27 (first special session); the elderly rental assistance program under ORS 310.630 to 310.706; [and] lo-
28 cal taxes administered by the Department of Revenue under ORS 305.620; **and school district real**
29 **estate transfer taxes under sections 5 to 30 of this 2003 Act.**

30 **SECTION 34.** ORS 305.514 is amended to read:

31 305.514. (1) A plaintiff may elect to file a small claims procedure in the following classes of
32 cases:

33 (a) A proceeding for refund or to set aside additional taxes assessed or taxes assessed when no
34 return was filed in any case involving taxes imposed under ORS chapters 314, 316, 317 and 318, with
35 respect to any year for which the amount in controversy does not exceed \$5,000, exclusive of in-
36 terest and penalties.

37 (b) A proceeding by a taxpayer in any property tax case in which a taxpayer has the right to
38 appeal and that involves only the question of the assessed or specially assessed value of real or
39 personal property, where a board of property tax appeals (by order of the board), an assessor or a
40 tax collector has determined that the assessed or specially assessed value of:

41 (A) A parcel of land is not in excess of \$250,000;

42 (B) The improvement on a parcel of land is not in excess of \$250,000;

43 (C) Both a parcel of land and the improvement are not in excess of \$250,000; or

44 (D) Personal property is not in excess of \$250,000.

45 (c) A proceeding for the refund or the revision of taxes imposed by ORS chapter 118 where the

1 amount in controversy does not exceed \$5,000, exclusive of interest and penalties.

2 (d) A proceeding for the elderly rental assistance authorized under ORS 310.635 without limita-
3 tion to the amount in controversy.

4 (e) A proceeding by a taxpayer in any case authorized by ORS 321.560 where the amount in
5 controversy does not exceed \$5,000, exclusive of interest and penalties.

6 (f) A proceeding for refund or the revision of taxes imposed by the Tobacco Products Tax Act
7 where the amount in controversy does not exceed \$5,000, exclusive of interest and penalties.

8 (g) A proceeding for refund or to set aside additional taxes assessed or taxes assessed when no
9 return was filed in any case involving taxes administered by a state agency or department under
10 ORS 305.620 with respect to any year in which the amount in controversy does not exceed \$5,000,
11 exclusive of interest and penalties.

12 (h) A proceeding for refund or to set aside interest or penalties assessed in connection with any
13 tax administered by the Department of Revenue, where the amount in controversy does not exceed
14 \$5,000. This paragraph does not apply to the denial of a request for the discretionary waiver of in-
15 terest or penalties.

16 **(i) A proceeding for a refund of real estate transfer tax imposed by sections 5 to 30 of**
17 **this 2003 Act when the amount in controversy does not exceed \$2,500, exclusive of interest**
18 **and penalties.**

19 (2) Under a small claims procedure, the hearing shall not be recorded and the parties shall have
20 no right to appeal the determination of the magistrate.

21 (3)(a) If the plaintiff elects a small claims procedure in a property tax case involving only the
22 question of the assessed or specially assessed value of real property, the plaintiff may elect, in lieu
23 of a hearing in the magistrate division, to have the property appraised as provided in this sub-
24 section.

25 (b) The election by the taxpayer may be included in the petition, or may be made by a separate
26 petition in a form and filed as prescribed by the rules of the tax court. The clerk of the court shall
27 give notice of the election by the taxpayer to the applicable county assessor.

28 (c) If the taxpayer elects as provided under this paragraph to have the real property appraised,
29 there shall be no hearing in the magistrate division and the magistrate shall appoint an independent
30 fee appraiser to appraise the property. The appraisal by the appointed appraiser shall be in writing
31 and signed by the appraiser. For the purpose of the proceeding, the appraisal shall constitute the
32 real market or specially assessed value of the property and shall be incorporated in the determi-
33 nation of the magistrate of the property's assessed or specially assessed value.

34 (d) The taxpayer shall pay to the appraiser appointed under paragraph (c) of this subsection a
35 reasonable fee for the appraisal services rendered by the appraiser.

36 **SECTION 35.** ORS 820.560 is amended to read:

37 820.560. In addition to the requirements for trip permits under ORS 803.600, trip permits for
38 manufactured structures shall meet the requirements under this section. All of the following apply
39 to trip permits for manufactured structures:

40 (1) The permit shall be of a color and size of print to be as easily identified as a vehicle regis-
41 tration plate issued under the vehicle code.

42 (2) Permits shall be prominently displayed on the rear of the manufactured structure being
43 moved.

44 (3) A copy of the permit shall be sent to the Department of Transportation. The department shall
45 maintain records of trip permits as provided in ORS 802.200 and shall notify the assessor of the

1 county where the manufactured structure had situs prior to the move and the assessor of the county
2 to which the manufactured structure will be moved.

3 (4) Permits shall be issued to dealers and transporters in bulk prior to the time of movement.

4 (5) Permits may be completed by the person moving the manufactured structure.

5 (6) Permits shall be completed prior to movement.

6 (7) The copy for the department shall be submitted to the department within 10 days after the
7 time of movement.

8 (8) No trip permit shall be issued for movement of a manufactured structure until payment is
9 made to the county of all property taxes and special assessments as provided in ORS 308.865 **and**
10 **any real estate transfer tax due under sections 5 to 30 of this 2003 Act.** The department shall
11 accept [*a receipt*] **receipts** issued under ORS 308.866 **and section 23 of this 2003 Act** as sufficient
12 proof of payment of taxes from a person who applies for a trip permit to move a mobile modular unit.

13 (9) Permits shall contain such information as required by the department.

14 (10) Permits shall contain:

15 (a) The name of the owner of the manufactured structure;

16 (b) The registration plate number of the manufactured structure or the vehicle identification
17 number of the manufactured structure if a registration plate has not been issued;

18 (c) The location of the place from which the manufactured structure was moved;

19 (d) The street address or map and tax lot number of the place to which the manufactured
20 structure is to be moved; and

21 (e) The number of the applicable building or land use permits required by the local government
22 having jurisdiction over the destination of the manufactured structure, including but not necessarily
23 limited to a storage permit number, an installation permit number or a development permit number.
24 Information required by this paragraph may be furnished by either the owner of the manufactured
25 structure or the person who is transporting the manufactured structure.

26 (11) Prior to the completion of a permit or movement of the manufactured structure, the owner
27 must furnish **to** the department **both of the following:**

28 (a) A statement from the tax collector **for the county** in which the manufactured structure has
29 situs that all taxes have been paid. The statement shall be furnished by the tax collector under ORS
30 308.865.

31 (b) **A statement from the recording officer, as defined in section 11 of this 2003 Act, for**
32 **the county in which the manufactured structure has situs or from the department that:**

33 (A) **The structure is not subject to a real estate transfer tax under sections 5 to 30 of**
34 **this 2003 Act; or**

35 (B) **Any real estate transfer tax that may be imposed under sections 5 to 30 of this 2003**
36 **Act, including penalties and interest, has been paid or, if the installment election under**
37 **section 17 of this 2003 Act is applicable, is not delinquent.**

38 (12) The requirements of subsection (10)(e) of this section need not be met if:

39 (a) The person moving the manufactured structure is transporting the manufactured structure
40 from the place of manufacture, from a dealer or from private property to the place of business of a
41 manufactured structure dealer holding a certificate under ORS 822.020; or

42 (b) The manufactured structure is being moved out of the state.

43 **SECTION 36.** ORS 820.570 is amended to read:

44 820.570. (1) A person commits the offense of violating trip permit requirements for manufactured
45 structures if the person does any of the following:

1 (a) Moves a manufactured structure on a highway of this state without a trip permit for the
2 movement. This paragraph does not apply to movements of manufactured structures by vehicle
3 transporters as permitted under ORS 822.310.

4 (b) Fails to prominently display a trip permit on the rear of a manufactured structure being
5 moved when a trip permit is required for the move under this section.

6 (c) Moves a manufactured structure when a permit is required under this section without a copy
7 of the permit being sent to the Department of Transportation.

8 (d) Moves a manufactured structure when a permit is required under this section without the
9 permit being completed prior to the movement.

10 (e) Moves a manufactured structure when a permit is required under this section without a copy
11 of the permit being remitted to the department within 10 days after the time of movement.

12 (f) Issues a trip permit for movement of a manufactured structure before payment is made to the
13 county of all property taxes and special assessments as provided in ORS 308.865.

14 **(g) Issues a trip permit for movement of a manufactured structure that is subject to a**
15 **real estate transfer tax under sections 5 to 30 of this 2003 Act:**

16 **(A) Before payment is made to the recording officer, as defined in section 11 of this 2003**
17 **Act, of all real estate transfer tax imposed, including interest and penalties thereon; or**

18 **(B) If the manufactured structure is subject to a real estate transfer tax installment**
19 **election under section 17 of this 2003 Act and the tax is delinquent.**

20 (2) The offense described under this section, violating trip permit requirements for manufactured
21 structures, is a Class B traffic violation.

22 **SECTION 37.** ORS 830.855 is amended to read:

23 830.855. (1) The owner of a floating home or boathouse that is used principally on the waters
24 of this state shall apply to the State Marine Board for an identifying plate. The application shall
25 include the true name of the owner, the residence or business address of the owner, a description
26 of the floating home or boathouse, the location of the floating home or boathouse and any other
27 information required by the board. The application shall be signed by the owner and be accompanied
28 by a fee of \$20.

29 (2) Subject to ORS 830.860 **and compliance with sections 5 to 30 of this 2003 Act**, if the ap-
30 plication is in order, the board shall issue to the owner a certificate of title. The title shall contain
31 the name and address of the owner, a description of the floating home or boathouse, the issue date,
32 the location of the floating home or boathouse and a statement that the title is valid and effective
33 only so long as ownership and location remain the same.

34 **SECTION 38.** ORS 830.860 is amended to read:

35 830.860. (1) A certificate of title for a floating home or boathouse is valid and effective only as
36 long as ownership and location remain the same.

37 (2) The State Marine Board shall require the surrender of the certificate of title before issuing
38 a new certificate of title unless the floating home was abandoned by a tenant under ORS chapter
39 90. **If the floating home is subject to a real estate transfer tax under sections 5 to 30 of this**
40 **2003 Act, the board shall require that a copy of the affidavit required under section 21 of this**
41 **2003 Act be filed with the board before a new certificate of title is issued.**

42 (3) The identifying plate issued by the board shall remain the same when a new certificate of
43 title is issued.

44 (4) Application for a new certificate of title shall be made in the manner provided in ORS
45 830.855. The application shall be accompanied by a fee of \$20. The board shall issue the new cer-

1 tificate of title in the manner provided in ORS 830.855.

2 **SECTION 39. This 2003 Act takes effect on the 91st day after the date on which the**
3 **regular session of the Seventy-second Legislative Assembly adjourns sine die.**

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