

Enrolled
House Bill 2446

Sponsored by COMMITTEE ON REVENUE

CHAPTER

AN ACT

Relating to correction of erroneous material in Oregon tax law; creating new provisions; amending ORS 215.799, 285C.050, 285C.080, 285C.090, 285C.100, 285C.115, 285C.120, 285C.125, 285C.160, 285C.250, 285C.320, 285C.350, 285C.400, 285C.403, 285C.406, 285C.409, 285C.500, 305.215, 305.265, 305.380, 305.505, 305.685, 305.749, 305.753, 305.823, 305.850, 306.125, 307.020, 307.147, 307.241, 307.245, 307.385, 307.517, 307.518, 307.521, 307.540, 307.541, 307.650, 308.007, 308.010, 308.219, 308.256, 308.260, 308.290, 308.450, 308.462, 308.505, 308.515, 308.559, 308.610, 308.880, 308A.107, 308A.406, 309.024, 309.990, 310.204, 311.410, 311.660, 311.807, 311.850, 311.860, 312.214, 312.216, 312.230, 312.400, 314.011, 314.105, 314.115, 314.125, 314.260, 314.752, 317.005, 317.097, 317.259, 317.311, 318.020, 318.031, 320.005, 320.075, 320.080, 320.110, 320.120, 320.130, 320.140, 320.150, 320.990, 321.011, 321.045, 321.349, 321.367, 321.485, 321.684, 321.686, 321.824, 323.457, 323.525, 324.130, 329.385, 358.820, 670.605 and 670.610 and section 6, chapter 911, Oregon Laws 1989; and repealing ORS 310.050, 310.125, 314.210, 314.220, 314.230, 315.234, 317.022, 323.310 and 323.315.

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

SECTION 1. ORS 215.799 is amended to read:

215.799. (1) New and existing dwellings may be allowed on a lot or parcel subject to wildlife habitat special assessment **under ORS 308A.403 to 308A.430** as follows:

(a) Lawfully existing dwellings, pursuant to ORS 215.130 (5) to (11), may remain.

(b) For a lot or parcel without an existing dwelling, dwellings may be allowed if each dwelling for which the landowner seeks approval complies with all applicable requirements under the county's acknowledged zoning ordinance.

(2) The fact that a lot or parcel is subject to wildlife habitat special assessment may not make it easier or more difficult for a landowner to obtain approval for a dwelling on the lot or parcel.

NOTE: Adds statutory reference.

SECTION 2. ORS 285C.050 is amended to read:

285C.050. As used in ORS 285C.050 to 285C.250, unless the context requires otherwise:

(1) "Assessment date" and "assessment year" have the meanings given those terms in ORS 308.007.

(2) "Authorized business firm" means an eligible business firm that has been authorized under ORS 285C.140.

(3) "Business firm" means a person operating or conducting one or more trades or businesses but does not include any governmental agency, municipal corporation or nonprofit corporation.

(4) "County average annual wage" means:

(a) The most recently available average annual covered payroll for the county in which the enterprise zone is located, as determined by the Employment Department; or

(b) If the enterprise zone is located in more than one county, the highest county average annual wage as determined under paragraph (a) of this subsection.

(5) "Electronic commerce" means engaging in commercial or retail transactions predominantly over the Internet or a computer network, utilizing the Internet as a platform for transacting business, or facilitating the use of the Internet by other persons for business transactions, and may be further defined by the Economic and Community Development Department by rule.

(6) "Eligible business firm" means a firm engaged in an activity described under ORS 285C.135 [which] **that** may file an application for authorization under ORS 285C.140.

(7) "Employee" means a person who works more than 32 hours per week, but does not include a person with a temporary or seasonal job or a person hired solely to construct qualified property.

(8) "Enterprise zone" means one of the 30 areas designated or terminated and redesignated by order of the Governor under ORS 284.160 (1987 Replacement Part) before October 3, 1989, one of the 17 areas designated by the Director of the Economic and Community Development Department under ORS 285C.080, a federal enterprise zone area designated under ORS 285C.085, an area designated under ORS 285C.250 or a reservation enterprise zone designated under ORS 285C.306.

(9) "Federal enterprise zone" means any discrete area wholly or partially within this state that is designated as an empowerment zone, an enterprise community, a renewal community or some similar designation for purposes of improving the economic and community development of the area.

(10) "First-source hiring agreement" means an agreement between an authorized business firm and a publicly funded job training provider whereby the provider refers qualified candidates to the firm for new jobs and job openings in the firm.

(11) "In service" means being used or occupied or fully ready for use or occupancy for commercial purposes consistent with the intended operations of the business firm as described in the application for authorization.

(12) "Modification" means modernization, renovation or remodeling of an existing building, structure or real property machinery or equipment.

(13) "New employees hired by the firm":

(a) Includes only those employees of an authorized business firm engaged for a majority of their time in eligible operations.

(b) Does not include individuals employed in a job or position that:

(A) Is created and first filled after December 31 of the first tax year in which qualified property of the firm is exempt under ORS 285C.175;

(B) Existed prior to the submission of the relevant application for authorization; or

(C) Is performed primarily at a location outside of the enterprise zone.

[(14) "Nonurban enterprise zone" means:]

[(a) An enterprise zone located in an area of this state in which an urban enterprise zone could not be located; or]

[(b) A reservation enterprise zone designated under ORS 285C.306.]

[(15)] (14) "Publicly funded job training provider" includes but is not limited to a community college, a service provider under the federal Workforce Investment Act Title I-B (29 U.S.C. 2801 et seq.), or a similar program.

[(16)] (15) "Qualified business firm" means a business firm described in ORS 285C.200, the qualified property of which is exempt from property tax under ORS 285C.175.

[(17)] (16) "Qualified property" means property described under ORS 285C.180.

(17) "Rural enterprise zone" means:

(a) An enterprise zone located in an area of this state in which an urban enterprise zone could not be located; or

(b) A reservation enterprise zone designated under ORS 285C.306.

(18) "Sparsely populated county" means a county with a density of 100 or fewer persons per square mile, based on the most recently available population figure for the county from the Portland State University Center for Population Research and Census.

(19) "Sponsor" means:

(a) The city or county, or any combination of cities or counties, that received approval of an enterprise zone under ORS 284.150 and 284.160 (1987 Replacement Part), under ORS 285C.065 and 285C.075, under ORS 285C.085 or under ORS 285C.250;

(b) The tribal government, in the case of a reservation enterprise zone; or

(c) A city or county that joined the enterprise zone through a boundary change under ORS 285C.115 (7).

(20) "Tax year" has the meaning given that term in ORS 308.007.

(21) "Urban enterprise zone" means an enterprise zone in a metropolitan statistical area, as defined by the most recent federal decennial census, that is located inside a regional or metropolitan urban growth boundary.

(22) "Year" has the meaning given that term in ORS 308.007.

NOTE: Improves word usage.

SECTION 3. ORS 285C.080 is amended to read:

285C.080. (1) The Director of the Economic and Community Development Department may approve the designation of up to 17 areas as [*nonurban*] **rural** enterprise zones as provided in ORS 285C.065 and 285C.075.

(2) Areas designated as enterprise zones under this section shall be in addition to the 30 areas designated or redesignated as enterprise zones by order of the Governor under ORS 284.160 (1987 Replacement Part) before October 3, 1989, areas redesignated under ORS 285C.250, areas designated under ORS 285C.085 and areas designated under ORS 285C.306.

NOTE: Improves word usage.

SECTION 4. ORS 285C.090 is amended to read:

285C.090. (1) A proposed enterprise zone must be located in a local area in which:

(a) Fifty percent or more of the households have incomes below 80 percent of the median income of this state, as defined by the most recent federal decennial census;

(b) The unemployment rate is at least 2.0 percentage points greater than the comparable unemployment rate for this entire state, as defined by the most recently available data published or officially provided and verified by the United States Government, the Employment Department of this state, the Portland State University Center for Population Research and Census or special studies conducted under a contract with a regional academic institution; or

(c) The Economic and Community Development Department determines on a case-by-case basis using evidence provided by the cities or counties applying for designation of the proposed enterprise zone that there exists a level of economic hardship at least as severe as that described in paragraph (a) or (b) of this subsection. Such evidence shall be based on the most recently available data from official sources and may include, but is not limited to, a contemporary decline of the population in the proposed enterprise zone, the percentage of persons in the proposed enterprise zone below the poverty level relative to the percentage of the entire population of this state below the poverty level or the unemployment rate for the county or counties in which the proposed enterprise zone is located.

(2) An enterprise zone must consist of a total area of not more than 12 square miles in size. The area of the zone shall be calculated by excluding that portion of the zone that lies below the ordinary high water mark of a navigable body of water.

(3) Except as provided in subsection (4) of this section:

(a) An enterprise zone must have 12 miles or less as the greatest distance between any two points within the zone; and

(b) Unconnected areas of an enterprise zone may not be more than five miles apart.

(4) Unconnected areas of a [*nonurban*] **rural** enterprise zone may not be more than 15 miles apart when an unconnected area is entirely within a sparsely populated county, and the zone:

(a) Must have 20 miles or less as the greatest distance between any two points within the zone, if only a portion of the zone is contained within a sparsely populated county; or

(b) Must have 25 miles or less as the greatest distance between any two points within the zone, if the zone is entirely contained within a sparsely populated county.

(5) This section does not apply to the designation or redesignation of a reservation enterprise zone.

NOTE: Improves word usage.

SECTION 5. ORS 285C.100 is amended to read:

285C.100. (1) Notwithstanding ORS 285C.095, a city shall be designated for electronic commerce if the city:

(a) By resolution of the governing body of the city, declares itself a city designated for electronic commerce;

(b) As of January 1, 2002, has a population of more than 1,500 but less than 2,000;

(c) Is located less than 25 miles from a city with a population of more than 500,000; and

(d) Is located less than 10 miles from a city with a high concentration of high technology firms and with a population that, as of January 1, 2002, does not exceed 85,000.

(2) Only one city may be designated for electronic commerce under this section, and that designation shall be made without consideration of the numeric limitations imposed by ORS 285C.095.

(3)(a) A city does not need to sponsor an enterprise zone to be designated for electronic commerce under this section.

(b) The governing body of a city designated for electronic commerce under this section does not have to comply with the requirements of ORS 285C.090, but the governing body must take all actions that are required of a sponsor of a [*nonurban*] **rural** enterprise zone under ORS 285C.050 to 285C.250 with respect to business firms seeking exemption under ORS 285C.175.

(c) A business firm that is engaged in electronic commerce at a location inside a city designated for electronic commerce under this section and that seeks an exemption under ORS 285C.175 must take all actions required of a qualified business firm under ORS 285C.050 to 285C.250, except that the business firm does not need to be located within an enterprise zone.

(d) A business firm described in paragraph (c) of this subsection:

(A) Shall be an eligible business firm, the qualified property of which is exempt from taxation under ORS 285C.175 as if the qualified property were located in an enterprise zone under ORS 285C.095; and

(B) May claim the tax credit under ORS 315.507.

(4) For the purpose of determining the boundaries of a city designated for electronic commerce, "city" includes:

(a) Territory that is annexed into the city, as of the date of the annexation;

(b) Land within the urban growth boundary of the city; and

(c) Territory that is added to the urban growth boundary described in paragraph (b) of this subsection, as of the date the urban growth boundary is extended to such territory.

NOTE: Improves word usage.

SECTION 6. ORS 285C.115 is amended to read:

285C.115. (1) The sponsor of an enterprise zone may submit a request to the Economic and Community Development Department to change the boundary of the enterprise zone. A request shall include:

(a) A copy of the resolution of the governing body of the sponsor requesting the change;

(b) If subsection (7) of this section applies, a copy of the resolution described in subsection (7) of this section;

(c) A map clearly indicating the existing boundary and the proposed change thereto;

(d) A legal description of each area to be withdrawn from or added to the existing enterprise zone; and

(e) Other information required by the department.

(2) The amended enterprise zone shall:

(a) Add land zoned for use by eligible business firms that has or will have infrastructure facilities, road access, on-site water, on-site sewage disposal and necessary utility services;

(b) Continue to include any authorized business firms within the enterprise zone;

(c) Add residential areas or nonresidential areas that are adjacent to residential areas only if the level of economic hardship in the areas to be added is at least as severe as the conditions that existed at the time the original enterprise zone was designated or that currently exist in the original enterprise zone;

(d) Retain at least 50 percent of the lands in the original enterprise zone; and

(e) Meet the applicable total area and greatest distance requirements set forth in ORS 285C.090.

(3) If the enterprise zone is a reservation enterprise zone and the land to be added to the zone is not described in ORS 285C.306, the request for a boundary change, and the resulting boundary of the zone, must fully satisfy the provisions of this section.

(4) A request under subsection (1) of this section may include a proposal to:

(a) Remove only the land that is residential or not zoned or available for use by eligible business firms; or

(b) Change the name of the enterprise zone.

(5) The boundary of an urban enterprise zone may not be modified to include land located outside a regional or metropolitan urban growth boundary.

(6) A request to modify the boundary of a [*nonurban*] **rural** enterprise zone to include land located outside an urban growth boundary shall satisfy the requirements of subsections (1) and (2) of this section and shall satisfy any other criteria that the department may adopt by rule.

(7) If an area to be added to an enterprise zone is under the jurisdiction of a city or county that is not a sponsor of the enterprise zone, the governing body of that city or county shall submit a resolution requesting the change and requesting that the city or county become a sponsor. The resolution of the joining city or county shall be submitted jointly with the resolution adopted by the governing body of the existing sponsor. The resolution of the city or county may:

(a) Include a binding proposal for enhanced local public services, local incentives or local regulatory flexibility to be effective within the portion of the enterprise zone to be under the jurisdiction of that city or county; or

(b) Include a restriction described in ORS 285C.070 (4). A restriction made under this paragraph may be made without regard to the time limitation described in ORS 285C.070 (4)(c) and becomes final on the effective date of the boundary change.

(8) The department shall review the request for a boundary change. If the request is incomplete or does not satisfy the requirements of this section, the department shall seek additional information as necessary or shall return the request to the sponsor. If the request is returned, the sponsor may submit a revised request at any time. If the request is complete and does satisfy the requirements of this section, the Director of the Economic and Community Development Department shall order a change in the boundary of an enterprise zone based on the request of the sponsor and specify the effective date of the boundary change, which may not be earlier than the receipt of a completed request.

(9) A change in the boundary of an enterprise zone under this section does not change the termination date of the enterprise zone under ORS 285C.245 (2).

NOTE: Improves word usage.

SECTION 7. ORS 285C.120 is amended to read:

285C.120. (1) If the population density of a county increases to more than 100 persons per square mile, so that the county is no longer a sparsely populated county, any existing [*nonurban*] **rural** enterprise zone located wholly or partly within that county that was designated or that had its zone boundary changed shall continue to exist with that zone boundary until terminated. A boundary change under ORS 285C.115 that is subsequent to the date on which the county ceases to be a sparsely populated county may not add an area to the zone that:

(a) Is a separate area farther than five miles from the nearest point on the existing boundary;

(b) Increases the distance between the two points in the zone that are the farthest apart; or

(c) Creates a new line of distance to the farthestmost opposite point in the zone that is longer than the greatest distance between any two existing points in the zone.

(2) An applicant for designation under ORS 285C.065 or a sponsor requesting a change to a [*nonurban*] **rural** enterprise zone under ORS 285C.115 in a sparsely populated county may seek a waiver of the distance limitations imposed on the zone under ORS 285C.090 (4). The Director of the Economic and Community Development Department shall grant all or part of the waiver if:

(a) The proposed designation is to be made or the proposed boundary change satisfies all other requirements for a boundary change under ORS 285C.115; and

(b) The director determines, consistent with rules adopted by the Economic and Community Development Department, that designation of a separate enterprise zone is not a practical option under the particular circumstances, that the overall distances involved can be effectively administered and that the waiver will further the goals and purposes of ORS 285C.050 to 285C.250.

NOTE: Improves word usage.

SECTION 8. ORS 285C.125 is amended to read:

285C.125. [*In addition to any other powers granted by law,*] For the purposes of ORS 285C.050 to 285C.250, the Department of Revenue shall:

(1) Adopt any rules the Department of Revenue considers necessary to implement ORS 285C.125, 285C.130, 285C.140, 285C.145, 285C.165, 285C.175, 285C.180, 285C.185, 285C.190, 285C.220, 285C.225, 285C.230, 285C.235 and 285C.240.

(2) Assist the Economic and Community Development Department, county assessors and the sponsors of enterprise zones in their efforts to authorize or qualify eligible business firms.

(3) Assist an eligible business firm proposing to do business within an enterprise zone or doing business within an enterprise zone to obtain the benefits of applicable tax incentive or inducement programs administered or supervised by the Department of Revenue.

(4) Issue and print forms and worksheets to be used by business firms to make authorization applications or exemption claims.

NOTE: Eliminates excess language.

SECTION 9. ORS 285C.160 is amended to read:

285C.160. (1) An eligible business firm seeking authorization under ORS 285C.140 and the sponsor of the enterprise zone in which the firm intends to invest may enter into a written agreement to extend the period during which the qualified property is exempt from taxation under ORS 285C.175 if the firm complies with the terms of the agreement.

(2) The period for which the qualified property is to continue to be exempt must be set forth in the agreement and may not exceed two additional tax years.

(3) In order for an agreement under this section to extend the period of exemption, the agreement must be executed on or before the date on which the firm is authorized, and:

(a) If the enterprise zone is a [*nonurban*] **rural** enterprise zone or an urban enterprise zone located inside a metropolitan statistical area of fewer than 400,000 residents, the agreement must require that the firm meet both of the following:

(A) Annually compensate all new employees hired by the firm at an average rate of not less than 150 percent of the county average annual wage for each assessment year during the tax exemption period, as determined at the time of authorization.

(B) Any additional requirement that the sponsor may reasonably request.

(b) If the enterprise zone is an urban enterprise zone located inside a metropolitan statistical area of 400,000 residents or more, the agreement must require that the firm meet any additional requirement the sponsor may reasonably require.

(4) If a firm enters into an agreement under this section that includes a compensation requirement under subsection (3)(a)(A) of this section and the firm subsequently submits one or more statements of continued intent under ORS 285C.165, notwithstanding the terms of the agreement made under this section, for each statement of continued intent submitted, the county average annual wage under subsection (3)(a)(A) of this section shall be adjusted to a level that is current with the statement.

NOTE: Improves word usage.

SECTION 10. ORS 285C.250 is amended to read:

285C.250. (1) Within a reasonable period of time prior to the termination of enterprise zones under ORS 285C.245 (2), the Director of the Economic and Community Development Department shall competitively designate the same number of enterprise zones effective immediately after termination of the previous enterprise zones. The determination by the director as to the areas designated as enterprise zones shall be final.

(2) When an enterprise zone is terminated under ORS 285B.686 (4) to (6), the director may competitively designate a new enterprise zone. The sponsor of the enterprise zone terminated under ORS 285C.245 (4) or (5) is not eligible to apply for a new enterprise zone, except for a county government when the terminated zone was also jointly sponsored by one or more cities.

(3) Sponsors of existing enterprise zones that are due to terminate may reapply for designation under subsection (1) of this section.

(4) Any city or county may apply to the director for designation of an enterprise zone in accordance with the criteria set forth in ORS 285C.065 and 285C.090. In addition, the Economic and Community Development Department by rule shall determine the minimum level of economic hardship in any area to be included within an enterprise zone, any other criteria necessary to evaluate the need for the enterprise zone and the potential for accomplishing the purposes of ORS 285C.050 to 285C.250.

(5) All enterprise zones designated under this section shall terminate in accordance with ORS 285C.245 (2).

(6) When the director designates enterprise zones under this section, there is no limit on the relative number of urban or [*nonurban*] **rural** enterprise zones designated.

(7) The director may determine when to accept applications for any enterprise zone that terminates under subsection (2) of this section or is not designated under subsection (1) of this section for lack of qualified applicants.

NOTE: Improves word usage.

SECTION 11. ORS 285C.320 is amended to read:

285C.320. (1) A reservation enterprise zone shall be considered to be a [*nonurban*] **rural** enterprise zone for purposes of ORS 285C.050 to 285C.250. The tribal government of the reservation shall be considered to be the sponsor of the reservation enterprise zone.

(2) Reservation enterprise zones may not be taken into account in determining the number of [*nonurban*] **rural** enterprise zones allowable in this state under ORS 285C.050 to 285C.250, and are not subject to numerical limitation under ORS 285C.050 to 285C.250.

(3) In order for property within a reservation enterprise zone to be exempt under ORS 285C.175, the business firm and property must meet all of the requirements applicable to business firms and property in any [*nonurban*] **rural** enterprise zone.

(4) As used in this section, "business firm" has the meaning given that term in ORS 285C.050.

NOTE: Improves word usage.

SECTION 12. ORS 285C.350 is amended to read:

285C.350. As used in ORS 285C.350 to 285C.370:

(1) "Applicant" means the city, county or group of counties applying for designation of territory as a rural renewable energy development zone.

(2) "Renewable energy" means electricity that is generated through use of a renewable energy resource, as defined in ORS 469.185.

(3) "Rural county" means a sparsely populated county, as defined in ORS [285C.120] **285C.050**.

NOTE: Corrects statutory reference in subsection (3).

SECTION 13. ORS 285C.400 is amended to read:

285C.400. As used in ORS 285C.400 to 285C.420:

(1) "Business firm" has the meaning given that term in ORS 285C.050.

(2) "Certified business firm" means a business firm that has been certified under ORS 285C.403.

(3) "County with chronically low income or chronic unemployment" means, based on the most recently revised annual average unemployment rate or annual per capita income levels available, a county in which:

(a) The median ratio of the per capita personal income of the county to the equivalent annual personal income figure of the entire United States for each year, as reported by the Bureau of Economic Analysis of the United States Department of Commerce, is equal to or less than 0.75 over the last 10 years;

(b) The median ratio of the unemployment rate of the county to the equivalent rate of the entire United States for each year is at least 1.3 over the last 20 years or over the last 10 years; or

(c) The population of the county has experienced a negative net migration, irrespective of natural population change, since the most recent federal decennial census occurring three or more years prior to the current estimated population figure for the county, based on available population statistics.

(4) "Facility" means the land, real property improvements and personal property that are used:

(a) At a location in a [*nonurban*] **rural** enterprise zone that is identified in the application for certification under ORS 285C.403; and

(b) In those business operations of the business firm that are the subject of the application for certification under ORS 285C.403.

(5) [*Nonurban enterprise zone*] "**Rural enterprise zone**" has the meaning given that term in ORS 285C.050.

NOTE: Improves word usage.

SECTION 14. ORS 285C.403 is amended to read:

285C.403. (1) Any business firm proposing to apply for the tax exemption provided under ORS 285C.409 shall, before the commencement of construction or installation of property or improvements at a location in a [*nonurban*] **rural** enterprise zone and before the hiring of employees, apply for certification with the sponsor of the zone and with the county assessor of the county or counties in which the zone is located. The application shall be made on a form prescribed by the Department of Revenue.

(2) The application shall contain the following information:

(a) A description of the firm's proposed business operations and facility in the [*nonurban*] **rural** enterprise zone;

(b) A description and estimated cost or value of the property or improvements to be constructed or installed at the facility;

(c) An estimate of the number of employees at the facility that will be hired by the firm;

(d) A commitment to meet the applicable requirements of ORS 285C.412;

(e) A commitment to satisfy all additional conditions agreed to pursuant to the written agreement between the [*nonurban*] **rural** enterprise zone sponsor and the business firm under subsection (3)(c) of this section; and

(f) Any other information considered necessary by the Department of Revenue.

(3) The sponsor and the county assessor shall certify the business firm by approving the application if the sponsor and the county assessor determine that all of the following requirements have been met:

(a) The governing body of the county and city in which the facility is located has adopted a resolution approving the property tax exemption for the facility.

(b) The business firm has committed to meet the applicable requirements of ORS 285C.412.

(c) The business firm has entered into a written agreement with the sponsor of the [*nonurban*] **rural** enterprise zone that may include any additional requirements that the sponsor may reasonably request, including but not limited to contributions for local services or infrastructure benefiting the facility. The written agreement shall state the number of consecutive tax years for which the facility, following commencement of operations, is to be exempt from property tax under ORS 285C.409. The agreement may not provide for a period of exemption that is less than seven consecutive tax years or more than 15 consecutive tax years. If the agreement is silent on the number of tax years for which the facility is to be exempt following placement in service, the exemption shall be for seven consecutive tax years.

(d) The facility is located in a county with chronically low income or chronic unemployment, based on the most recently revised annual data available when the written agreement with the zone sponsor is executed.

(4) The approval of an application by both the sponsor and the county assessor under subsection (3) of this section shall be prima facie evidence that the business firm will qualify for the property tax exemption under ORS 285C.409.

(5) The sponsor and the county assessor shall provide copies of an approved application to the applicant, the Department of Revenue and the Economic and Community Development Department.

(6) If the sponsor or the county assessor fails or refuses to certify the business firm, the business firm may appeal to the Oregon Tax Court under ORS 305.404 to 305.560. The business firm shall provide copies of the firm's appeal to the sponsor, the county assessor, the Economic and Community Development Department and the Department of Revenue.

NOTE: Improves word usage.

SECTION 15. ORS 285C.406 is amended to read:

285C.406. In order for a taxpayer to claim the property tax exemption under ORS 285C.409 or a corporate excise or income tax credit under ORS 317.124:

(1) The written agreement between the business firm and the [nonurban] rural enterprise zone sponsor that is required under ORS 285C.403 (3)(c) must be entered into prior to the termination of the enterprise zone under ORS 285C.245; and

(2) The business firm must obtain certification under ORS 285C.403 on or before December 31, 2006.

NOTE: Improves word usage.

SECTION 16. ORS 285C.409 is amended to read:

285C.409. (1) A facility of a certified business firm is exempt from ad valorem property taxation:

(a) For the first tax year following the calendar year in which the business firm is certified under ORS 285C.403 or after which construction or reconstruction of the facility commences, whichever event occurs later;

(b) For each subsequent tax year in which the facility is not yet in service as of the assessment date; and

(c) For a period of at least seven consecutive tax years but not more than 15 consecutive tax years, as provided in the written agreement between the business firm and the [nonurban] rural enterprise zone sponsor under ORS 285C.403 (3)(c), if the facility satisfies the requirements of ORS 285C.412. The period described in this paragraph shall commence as of the first tax year in which the facility is in service as of the assessment date.

(2) An exemption under this section may not be allowed for real or personal property that has received a property tax exemption under ORS 285C.170 or 285C.175.

(3) For each tax year that the facility is exempt from taxation under this section, the county assessor shall:

(a) Enter on the assessment and tax roll, as a notation, the real market value and assessed value of the facility.

(b) Enter on the assessment and tax roll, as a notation, the amount of tax that would be due if the facility were not exempt.

(c) Indicate on the assessment and tax roll that the property is exempt and is subject to potential additional taxes as provided in ORS 285C.420 by adding the notation "enterprise zone exemption (potential additional tax)."

(4) The amount determined under subsection (3)(b) of this section and the name of the business firm shall be reported to the Department of Revenue on or before December 31 of each tax year so that the department may compute the distributions described in ORS 317.131.

(5) The following property may not be exempt from property taxation under this section:

(a) Land.

(b) Any property that existed at the facility on an assessment date before the assessment date for the first tax year for which property of the firm is exempt under this section.

NOTE: Improves word choice.

SECTION 17. ORS 285C.500 is amended to read:
285C.500. As used in ORS 285C.500 to 285C.506:

- (1) "Business firm" has the meaning given that term in ORS 285C.050.
- (2) "County per capita personal income" means the per capita personal income level published by the Bureau of Economic Analysis of the United States Department of Commerce for a county.
- (3) "County unemployment rate" means the most recently available unemployment rate for the county, as determined by the Employment Department.
- (4) "Facility" means the land, real property improvements and personal property that are used by a business firm to conduct business operations, and that are the subject of an application for preliminary certification under ORS 285C.503 or annual certification under ORS 285C.506.
- (5) "Qualified location" means any area that is:
 - (a) **Zoned for industrial use or is** within the urban growth boundary of a city that has 15,000 or fewer residents [*or is land zoned for industrial use*]; and
 - (b) Located in a county that, during either of the two years preceding the date an application for preliminary certification is filed under ORS 285C.503, had both:
 - (A) A county unemployment rate that was in the highest quartile of county unemployment rates in this state; and
 - (B) A county per capita personal income that was in the lowest third of county per capita personal incomes in this state.
- (6) "Urban growth boundary" means an urban growth boundary contained in a city or county comprehensive plan that has been acknowledged by the Land Conservation and Development Commission pursuant to ORS 197.251 or an urban growth boundary that has been adopted by a metropolitan service district under ORS 268.390 (3).

NOTE: Clarifies language.

SECTION 18. ORS 305.215 is amended to read:

305.215. (1) Where there are conflicting claims to a personal exemption credit for a dependent allowed under the personal income tax laws, the Department of Revenue shall notify by certified mail each person claiming the same dependent, and shall set a time and place convenient to each claim insofar as it is practicable, for a joint determination of the conflicting claims. Each person so notified who appears shall bring the information from [*his or her*] **the person's** income tax returns or reports [*which support his or her*] **that supports the person's** claim, together with all records, data or other evidence providing the necessary supporting material to the information shown on the income tax return. All such material shall be available for inspection by the other claimant, notwithstanding any provision of ORS 314.835, 314.840 or 314.991. If either claimant [*shall fail or refuse*] **fails or refuses** to appear or bring such information in part or in whole, the department shall make its determination on the basis of all the information and evidence supplied. The provisions of this chapter relating to the administration of the personal income tax laws [*shall*] apply to the determination.

(2) If an appeal is taken to the Oregon Tax Court pursuant to ORS 305.560 by either claimant, each claimant shall make available to the court information from [*his or her*] **the person's** income tax returns or reports supporting that person's claim, together with all evidence or supporting data furnished to or subpoenaed by the Department of Revenue, as well as such other information as may be presented to the court in the manner otherwise provided for in the hearing of cases in the Oregon Tax Court. If either [*party*] claimant [*shall fail or refuse*] **fails or refuses** to appear or bring such information in part or in whole, the court shall make its determination on the basis of all the evidence introduced. All such evidence shall constitute a public record and shall be available to the parties and the court notwithstanding any provision of ORS 314.835, 314.840 or 314.991.

NOTE: Replaces gender-specific terms; corrects grammar and syntax.

SECTION 19. ORS 305.265 is amended to read:

305.265. (1) Except as provided in ORS 305.305, the provisions of this section apply to all reports or returns of tax or tax liability including claims under ORS 310.630 to 310.706 filed with the De-

partment of Revenue under the revenue and tax laws administered by it, except those filed under ORS [chapter 320] **320.005 to 320.150**.

(2) As soon as practicable after a report or return is filed, the department shall examine or audit it, if required by law or the department deems such examination or audit practicable. If the department discovers from an examination or an audit of a report or return or otherwise that a deficiency exists, it shall compute the tax and give notice to the person filing the return of the deficiency and of the department's intention to assess the deficiency, plus interest and any appropriate penalty. Except as provided in subsection (3) of this section, the notice shall:

(a) State the reason for each adjustment;

(b) Give a reference to the statute, regulation or department ruling upon which the adjustment is based; and

(c) Be certified by the department that the adjustments are made in good faith and not for the purpose of extending the period of assessment.

(3) When the notice of deficiency described in subsection (2) of this section results from the correction of a mathematical or clerical error and states what would have been the correct tax but for the mathematical or clerical error, such notice need state only the reason for each adjustment to the report or return.

(4) With respect to any tax return filed under ORS chapter 314, 316, 317 or 318, deficiencies shall include but not be limited to the assertion of additional tax arising from:

(a) The failure to report properly items or amounts of income subject to or which are the measure of the tax;

(b) The deduction of items or amounts not permitted by law;

(c) Mathematical errors in the return or the amount of tax shown due in the records of the department; or

(d) Improper credits or offsets against the tax claimed in the return.

(5)(a) The notice of deficiency shall be accompanied by a statement explaining the person's right to make written objections, the person's right to request a conference and the procedure for requesting a conference. The statement, and an accompanying form, shall also explain that conference determinations are routinely transmitted via regular mail and that a person desiring to have conference determinations transmitted by certified mail may do so by indicating on the form the person's preference for certified mail and by returning the form with the person's written objections as described in paragraph (b) of this subsection.

(b) Within 30 days from the date of the notice of deficiency, the person given notice shall pay the deficiency with interest computed to the date of payment and any penalty proposed. Or within that time the person shall advise the department in writing of objections to the deficiency, and may request a conference with the department, which shall be held prior to the expiration of the one-year period set forth in subsection (7) of this section.

(6) If a request for a conference is made, the department shall notify the person of a time and place for conference and appoint a conference officer to meet with the person for an informal discussion of the matter. After the conference, the conference officer shall send the determination of the issues to the person. The determination letter shall be sent by regular mail, or by certified mail if the person given notice has indicated a preference for transmission of the determination by certified mail. The department shall assess any deficiency in the manner set forth in subsection (7) of this section. If no conference is requested and written objections are received, the department shall make a determination of the issues considering such objections, and shall assess any deficiency in the manner provided in subsection (7) of this section. The failure to request or have a conference shall not affect the rights of appeal otherwise provided by law.

(7) If neither payment nor written objection to the deficiency is received by the department within 30 days after the notice of deficiency has been mailed, the department shall assess the deficiency, plus interest and penalties, if any, and shall send the person a notice of assessment, stating the amount so assessed, and interest and penalties. The notice of assessment shall be mailed within

one year from the date of the notice of deficiency unless an extension of time is agreed upon as described in subsection (8) of this section. The notice shall advise the person of the rights of appeal.

(8) If, prior to the expiration of any period of time prescribed in subsection (7) of this section for giving of notice of assessment, the department and the person consent in writing to the deficiency being assessed after the expiration of such prescribed period, such deficiency may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period agreed upon.

(9) The failure to hold a requested conference within the one-year period prescribed in subsection (5) of this section shall not invalidate any assessment of deficiency made within the one-year period pursuant to subsection (7) of this section or within any extension of time made pursuant to subsection (8) of this section, but shall invalidate any assessment of interest or penalties attributable to the deficiency. After an assessment has been made, the department and the person assessed may still hold a conference within 90 days from the date of assessment. If a conference is held, the 90-day period under ORS 305.280 (2) shall run from the date of the conference officer's written determination of the issues.

(10)(a) In the case of a failure to file a report or return on the date prescribed therefor (determined with regard to any extension for filing), the department shall determine the tax according to the best of its information and belief, assess the tax plus appropriate penalty and interest, and give written notice of the failure to file the report or return and of the determination and assessment to the person required to make the filing. The amount of tax shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be lawfully claimed upon the return.

(b) Notwithstanding subsection (14) of this section and ORS 305.280, and only to the extent allowed by rules adopted by the department, the department may accept the filing of a report or return submitted by a person who has been assessed a tax under paragraph (a) of this subsection.

(c) The department may reject a report or return:

(A) That is not verified as required by ORS 305.810;

(B) That the department determines is not true and correct as to every material matter as required by ORS 305.815; or

(C) If the department may impose a penalty under ORS 316.992 (1) with respect to the report or return.

(d) If the department rejects a report or return of a person assessed a tax under paragraph (a) of this subsection, the department shall issue a notice of rejection to the person. The person may appeal the rejection to the magistrate division of the Oregon Tax Court only if:

(A) The report or return was filed within 90 days of the date the department's assessment under paragraph (a) of this subsection was issued; and

(B) The appeal is filed within 90 days of the date shown on the notice of rejection.

(e) If the person assessed under paragraph (a) of this subsection submits a report or return to the department and appeals the assessment to the tax court, the department may request a stay of action from the court pending review of the report or return. If the department:

(A) Accepts the filing of the report or return, the appeal shall be dismissed as moot.

(B) Rejects the report or return, the stay of action on the appeal shall be lifted.

(f) If the department accepts the filing of a report or return, the department may reduce the assessment issued under paragraph (a) of this subsection. A report or return filed under this subsection that is accepted by the department, whether or not the assessment has been reduced, shall be considered a report or return described in subsection (1) of this section and shall be subject to the provisions of this section, including but not limited to examination and adjustment pursuant to subsection (2) of this section.

(g) The department may refund payments made with respect to a report or return filed and accepted pursuant to this subsection. If the report or return is filed within three years of the due date for filing the report or return, excluding extensions, the refund shall be made as provided by ORS 305.270 and 314.415. If the report or return is not filed within three years of the due date for filing

the report or return, excluding extensions, the refund shall be limited to payments received within the two-year period ending on the date the report or return is received by the department and payments received after the date the report or return is received by the department. Interest shall be paid at the rate established under ORS 305.220 for each month or fraction of a month from the date the report or return is received by the department to the time the refund is made.

(11) Mailing of notice to the person at the person's last-known address shall constitute the giving of notice as prescribed in this section.

(12) If a return is filed with the department accompanied by payment of less than the amount of tax shown on or from the information on the return as due, the difference between the tax and the amount submitted is considered as assessed on the due date of the report or return (determined with regard to any extension of time granted for the filing of the return) or the date the report or return is filed, whichever is later. For purposes of this subsection, the amount of tax shown on or from the information on the return as due shall be reduced by the amount of any part of the tax that is paid on or before the due date prescribed for payment of the tax, and by any credits against the tax that are claimed on the return. If the amount required to be shown as tax on a return is less than the amount shown as tax on the return, this subsection shall be applied by substituting the lesser amount.

(13) Every deficiency shall bear interest at the rate established under ORS 305.220 for each month or fraction of a month computed from the due date of the return to date of payment. If the return was falsely prepared and filed with intent to evade the tax, a penalty equal to 100 percent of the deficiency shall be assessed and collected. All payments received shall be credited first to penalty, then to interest accrued, and then to tax due.

(14) If the deficiency is paid in full before a notice of assessment is issued, the department is not required to send a notice of assessment, and the tax shall be considered as assessed as of the date which is 30 days from the date of the notice of deficiency or the date the deficiency is paid, whichever is the later. A partial payment of the deficiency shall constitute only a credit to the account of the person assessed. Assessments and billings of taxes shall be final after the expiration of the appeal period specified in ORS 305.280, except to the extent that an appeal is allowed under ORS 305.280 (3) following payment of the tax.

(15) Appeal may be taken to the tax court from any notice of assessment. The provisions of this chapter with respect to appeals to the tax court apply to any deficiency, penalty or interest assessed.

NOTE: Restates series reference.

SECTION 20. ORS 305.288 (7) is added to and made a part of ORS chapter 305.

NOTE: Adds subsection to appropriate chapter.

SECTION 21. ORS 305.380 is amended to read:

305.380. As used in ORS 305.385:

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

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

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

(4) "Tax" means a state tax imposed by ORS 401.792 to 401.816 **and 320.005 to 320.150** and ORS chapters 118, 314, 316, 317, 318, [320,] 321 and 323[;] **and** the elderly rental assistance program under ORS 310.630 to 310.706[;] and local taxes administered by the Department of Revenue under ORS 305.620.

NOTE: Restates series reference; conforms punctuation to legislative form and style.

SECTION 22. ORS 305.422 is added to and made a part of ORS 305.405 to 305.494.

NOTE: Adds section to appropriate series.

SECTION 23. ORS 305.505 is amended to read:

305.505. (1) The records of the tax court magistrate division shall include information as to the dates cases are filed and the dates decisions are issued.

(2) At the time of preparation biennially of consolidated budgets for submission to the Legislative Assembly under ORS 8.125, [for *petitions or appeals filed after September 1, 1997,*] the State Court Administrator shall prepare and submit to the Legislative Assembly general statistical information as to the amount of time required by the tax court magistrate division to reach its decisions.

NOTE: Deletes obsolete language.

SECTION 24. ORS 305.685 is amended to read:

305.685. (1) There is created in the General Fund of the State Treasury the Multistate Tax Commission Revolving Account. Notwithstanding any other law, all moneys received by the Department of Revenue as a result of audits performed by the Multistate Tax Commission shall be deposited in the Multistate Tax Commission Revolving Account and are continuously appropriated **to the Department of Revenue for expenses of the Multistate Tax Commission.** As of June 30 of each year, all moneys in excess of \$150,000 in this account shall be forwarded to the State Treasurer for deposit as miscellaneous revenues of the General Fund of the State of Oregon.

(2) The Department of Revenue may transfer \$5,000 from the funds appropriated in section 1, [of] chapter 187, Oregon Laws 1975, to the Multistate Tax Commission Revolving Account. Such funds are continuously appropriated for reimbursement to the Multistate Tax Commission for out-of-state corporation audits made for the State of Oregon.

NOTE: Clarifies appropriations provision; conforms citation form to legislative form and style.

SECTION 25. ORS 305.749 is amended to read:

305.749. Except **as provided in** ORS 305.690 to 305.753 and as otherwise specifically provided, the following are applicable to the various checkoff programs established under ORS 496.380 and ORS chapter 316:

(1) Subject to subsection (4) of this section, the dollar amounts of contributions made by taxpayer checkoff on Oregon tax returns shall be remitted by the Department of Revenue to the State Treasurer, who shall deposit them to a suspense account established under ORS 293.445.

(2) Of the contributions so deposited, a portion is continuously appropriated for use to reimburse the General Fund for costs incurred in administering the various checkoff programs. No more than 10 percent of the moneys generated by each checkoff program per fiscal year ending June 30 may be appropriated under this subsection.

(3) The remainder of the contributions shall be credited by the department to each checkoff program in proportion to the total amounts checked off for the tax year, the proportions to be determined on the basis of tax returns processed as of the June 30 following the tax year. The amounts so credited to each of the checkoff programs are continuously appropriated to the department for payment to the checkoff designee, or shall be transferred by the department to the checkoff designee, as specified under the law governing the particular checkoff program. The department may adopt rules governing the crediting and payment or transfer of checkoff moneys. In addition to any other provision, if adopted, the rules shall specify the time that the contributions to a program so credited are to be paid or transferred by the department.

(4)(a) Space for designating the dollar amount of a contribution made to each checkoff program shall be printed on the Oregon tax return. The space shall provide for checkoff boxes for the program in the amounts of \$1, \$5, \$10 or other dollar amount.

(b) Overpayments of tax that are insufficient, due to ORS 293.250 or otherwise, to satisfy the total amount of checkoffs designated on a tax return shall be allocated among the designees on a pro rata basis as provided under ORS 305.745 (3).

(5)(a) If, as of June 30 of the calendar year immediately following the calendar year in which a particular tax year begins, the department determines that the total amount checked off for that tax year for a checkoff program is \$50,000 or less, the department shall notify a person administering the program or other appropriate person.

(b) If, as determined by the department under paragraph (a) of this subsection, the total amount checked off for a particular checkoff program is \$50,000 or less for each year in a period of two

consecutive tax years, a checkoff line and appropriate box for that program shall not be provided on the Oregon individual tax return for the tax year immediately following the later year of the two-year period nor for any tax year thereafter, except as otherwise provided by law.

(c) As used in this subsection, "total amount checked off" means the total amount checked off by taxpayers as reflected by tax returns for the tax year processed as of June 30 before any deduction for administrative costs as required under subsection (2) of this section has occurred but after any proration under subsection (4) of this section.

NOTE: Inserts missing language; corrects punctuation.

SECTION 26. ORS 305.753 is amended to read:

305.753. (1) The State Treasurer may solicit and accept from private and public sources and cause to be credited and paid to any entity gifts, grants and other donations, in money or otherwise, if the entity is currently listed or entitled to be listed on the Oregon tax return for checkoff.

(2) In accordance with ORS chapter 183, the Department of Revenue may adopt rules to carry out the purposes of ORS 305.690 to 305.753.

(3) Except **as provided in** ORS 305.749, ORS 305.690 to 305.753 do not apply to the Nongame Wildlife Fund established under ORS 496.385, the Alzheimer's Disease Research Fund established under section 3, chapter 902, Oregon Laws 1987, the subaccount created pursuant to section 36 (2), chapter 1084, Oregon Laws 1999, or its successor, or other checkoff program established by statute other than ORS 305.690 to 305.753.

NOTE: Inserts missing language.

SECTION 27. ORS 305.823 is amended to read:

305.823. [*On or after January 1, 1982, no*] **A** county, city, district or other political subdivision in this state [*shall*] **may not** levy or impose a tax on amounts paid for exchange access or other telephone services.

NOTE: Deletes obsolete language; conforms section to legislative form and style.

SECTION 28. ORS 305.850 is amended to read:

305.850. (1) Notwithstanding any provision to the contrary in ORS 9.320 and 305.610, the Director of the Department of Revenue may engage the services of a collection agency to collect any taxes, interest and penalties resulting from an assessment of taxes or additional taxes imposed by ORS chapter 118, 310, 314, 316, 317, 318, [320,] 321 or 323 **or ORS 320.005 to 320.150** and any other tax laws administered by the Department of Revenue. The director may engage the services of a collection agency by entering into an agreement to pay reasonable charges on a contingent fee or other basis.

(2) The director shall cause to be collected, in the same manner as provided in subsection (1) of this section, assessments, taxes and penalties due under ORS chapter 656. All amounts collected pursuant to this subsection shall be credited as provided in ORS 293.250.

(3) The director may assign to the collection agency, for collection purposes only, any of the taxes, penalties, interest and moneys due the state.

(4) The collection agency may bring such action or take such proceedings, including but not limited to attachment and garnishment proceedings, as may be necessary.

NOTE: Restates series reference.

SECTION 29. ORS 306.125 is amended to read:

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

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

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

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

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

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

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

NOTE: Clarifies appropriations provision; deletes archaic language; corrects punctuation and syntax.

SECTION 30. ORS 307.020 is amended to read:

307.020. (1) **As used in the property tax laws of this state, unless otherwise specifically provided:**

[(1)] (a) "Intangible personal property" or "intangibles" *[means and]* includes but is not limited to:

[(a)] (A) Money at interest, bonds, notes, claims, demands and all other evidences of indebtedness, secured or unsecured, including notes, bonds or certificates secured by mortgages.

[(b)] (B) All shares of stock in corporations, joint stock companies or associations.

[(c)] (C) Media constituting business records, computer software, files, records of accounts, title records, surveys, designs, credit references, and data contained therein. "Media" includes, but is not limited to, paper, film, punch cards, magnetic tape and disk storage.

[(d)] (D) Goodwill.

[(e)] (E) Customer lists.

[(f)] (F) Contracts and contract rights.

[(g)] (G) Patents, trademarks and copyrights.

[(h)] (H) Assembled labor force.

[(i)] (I) Trade secrets.

[(2)] Unless otherwise specifically provided, "personal property" or "personal estate," as used in the laws of this state relating to assessment and taxation of property as such, means "tangible personal property" as defined in subsection (3) of this section.]

(b) **"Personal property" means "tangible personal property."**

[(3)] (c) "Tangible personal property" *[means and]* includes **but is not limited to** all chattels and movables, such as boats and vessels, merchandise and stock in trade, furniture and personal effects, goods, livestock, vehicles, farming implements, movable machinery, movable tools and movable equipment.

[(4)] (2) *[The provisions of this section shall]* **Subsection (1) of this section does not apply to any person, company, corporation or association covered by ORS 308.505 to 308.665.**

NOTE: Corrects lead-in clause; reorganizes structure of section.

SECTION 31. ORS 307.147 is amended to read:

307.147. (1) For purposes of this section:

(a) "Internal Revenue Code" means the federal Internal Revenue Code as amended and in effect on December 31, 2002.

(b) "Nonprofit corporation" means a corporation that:

(A) Is organized not for profit, pursuant to ORS chapter 65 or any predecessor of ORS chapter 65; or

(B) Is organized and operated as described under section 501(c) of the Internal Revenue Code.

(c) "Senior services center" means property that:

(A) Is owned or being purchased by a nonprofit corporation; *[and]*

(B) Is actually and exclusively used to provide services and activities (including parking) primarily to or for persons over 50 years of age; *[and]*

(C) Is open generally to all persons over 50 years of age; *[and]*

(D) Is not used primarily for fund-raising activities; and

(E) Is not a residential or dwelling place.

(2) Upon compliance with ORS 307.162, a senior services center is exempt from ad valorem property taxation.

NOTE: Deletes superfluous conjunctions.

SECTION 32. ORS 307.241 is amended to read:

307.241. The purpose of ORS 307.241 to 307.245 is to assist private nonprofit corporations to provide permanent housing, recreational and social facilities, and care to elderly persons. The Legislative Assembly finds that the housing and related facilities furnished by private nonprofit corporations provide inherent benefits that justify the funded property tax exemption provided by ORS [307.242] **307.241** to 307.245.

NOTE: Corrects series reference.

SECTION 33. ORS 307.245 is amended to read:

307.245. The funded property tax exemption granted under ORS 307.241 to [307.244 shall] **307.245** may not be granted in any year following a year for which the corporation has failed to satisfy the county assessor or the Department of Revenue that the exemption granted in the previous year has been reflected by a reduction in the amount of rent that would otherwise be paid for occupancy of the facility by its residents.

NOTE: Corrects series reference; conforms word choice to legislative form and style.

SECTION 34. ORS 307.385 is amended to read:

307.385. Not later than December 15 of each year, a corporation[*which*] **that** has received a real property exemption for the current year under ORS 307.370 [to 307.380,] shall credit the account of each resident of a facility whose living unit was taken into account in determining the real property exemption [*in an*]. **The amount of the credit must** equal [*to*] the amount of real property taxes [*which*] **that** would have been assessed and collected against the corporation for that portion of the assessed value of such living unit included in computing the corporation's exemption. The county assessor shall furnish the corporation with [*such*] **the** information [*as is*] necessary for the corporation to make [*such*] **the** computation. Prior to the following February 1, the corporation shall satisfy the assessor that credit has been given each applicable resident as required by this section. If the corporation fails to satisfy the assessor that the applicable resident has received the credit, the assessor must deny [*it*] **the corporation** any property tax exemption under ORS 307.370 to 307.385 or 308.490 in the next assessment year, beginning January 1.

NOTE: Corrects series reference; corrects grammar; clarifies antecedent.

SECTION 35. **ORS 307.515 to 307.537 are added to and made a part of ORS chapter 307.**

NOTE: Adds series to appropriate chapter.

SECTION 36. ORS 307.517 is amended to read:

307.517. (1) Property or a portion of the property that meets the following criteria shall be exempt from taxation as provided in ORS [307.517] **307.515** to 307.523:

(a) The property:

(A) Is offered for rent; or

(B) Is held for the purpose of developing low income rental housing.

- (b) The property, if occupied, is occupied solely by low income persons.
- (c) The required rent payment reflects the full value of the property tax exemption.
- (d) The exemption has been approved as provided in ORS 307.523.
- (e) The housing units on the property were constructed after the local governing body adopted the provisions of ORS 307.515 to 307.523.

(2) For the purposes of subsection (1) of this section, a person that has only a leasehold interest in property is deemed to be a purchaser of that property if:

(a) The person is obligated under the terms of the lease to pay the ad valorem taxes on the real and personal property used in this activity on that property; or

(b) The rent payable has been established to reflect the savings resulting from the exemption from taxation.

NOTE: Corrects series reference.

SECTION 37. ORS 307.518 is amended to read:

307.518. (1) Property or a portion of property that meets all of the following criteria shall be exempt from taxation as provided under ORS [307.519] **307.515** to 307.523:

(a) If unoccupied, the property:

(A) Is offered for rental solely as a residence for low income persons; or

(B) Is held for the purpose of developing low income rental housing.

(b) If occupied, the property is occupied solely as a residence for low income persons.

(c) An exemption for the property has been approved as provided under ORS 307.523, pursuant to an application filed before January 1, 2010.

(d) The property is owned or being purchased by a nonprofit corporation organized in a manner that meets the criteria for a public benefit corporation, as described under ORS 65.001 (37) or for a religious corporation, as described under ORS 65.001 (39).

(e) The property is owned or being purchased by a nonprofit corporation that expends no more than 10 percent of its annual income from residential rentals for purposes other than the acquisition, maintenance or repair of residential rental property for low income persons or for the provision of on-site child care services for the residents of the rental property.

(2) For the purposes of this section, a nonprofit corporation that has only a leasehold interest in property is considered to be a purchaser of that property if:

(a) The nonprofit corporation is obligated under the terms of the lease to pay the ad valorem taxes on the real and personal property used in the rental activity on that property; or

(b) The rent payable has been established to reflect the savings resulting from the exemption from taxation.

(3) A partnership shall be considered a nonprofit corporation for purposes of this section if:

(a) A nonprofit corporation is a general partner of the partnership; and

(b) The nonprofit corporation is responsible for the day-to-day operation of the property that is the subject of the exemption under ORS [307.519] **307.515** to 307.523.

NOTE: Corrects series reference.

SECTION 38. ORS 307.521 is amended to read:

307.521. (1) To qualify for an exemption provided by ORS 307.515 to 307.523, the person shall file an application for exemption with the governing body. The exemption shall be for a period of 20 years. The application shall be filed as set forth in ORS 307.523. The application shall include the following information, if applicable:

(a) A description of the property or a portion of the property for which the exemption is requested;

(b) A description of the purpose of the project and whether all or a portion of the property is being used for that purpose;

(c) A certification of income levels of low income occupants;

(d) A description of how the tax exemption will benefit project residents;

(e) If the exemption is an exemption described under ORS 307.518, evidence satisfactory to the governing body that the corporation is nonprofit and meets the criteria for a public benefit corporation or a religious corporation; and

(f) A description of the plans for development of the property if the property is being held for future low income rental housing development.

(2) The applicant shall verify the information in the application by oath or affirmation.

(3) Prior to accepting an application under ORS 307.515 to 307.523, a local jurisdiction shall adopt standards and guidelines to be utilized in considering applications and making determinations required by ORS 307.515 to 307.537. The standards and guidelines shall establish policy governing basic requirements for approving an application. Policies considered may include, but are not limited to:

(a) Rent regulatory agreements or other enforcement mechanisms to demonstrate that the required rent payment reflects the full value of the property tax exemption.

(b) Enforcement mechanisms to *[insure]* **ensure** that housing *[receiving exemptions under ORS 307.515 to 307.537 are]* **that is exempt under ORS 307.515 to 307.523** is maintained in decent, safe and sanitary conditions for the occupants.

(c) Methodology and timing for submitting evidence of use of rentals received from low income persons.

NOTE: Corrects series reference; corrects grammar; corrects word choice.

SECTION 39. ORS 307.540 is amended to read:

307.540. As used in ORS *[307.541 to 307.547]* **307.540 to 307.548:**

(1) "Governing body" means the city or county legislative body having jurisdiction over the property for which an exemption may be applied for under ORS *[307.541 to 307.547]* **307.540 to 307.548.**

(2) "Low income" means income at or below 60 percent of the area median income as determined by the State Housing Council based on information from the United States Department of Housing and Urban Development.

NOTE: Corrects series reference.

SECTION 40. ORS 307.541 is amended to read:

307.541. (1) Property that meets all of the following criteria shall be exempt from taxation as provided in ORS *[307.541 to 307.547]* **307.540 to 307.548:**

(a) The property is owned or being purchased by a corporation that is exempt from income taxes under section 501(c) (3) or (4) of the Internal Revenue Code, as amended before December 1, 1984.

(b) Upon liquidation, the assets of the corporation are required to be applied first in payment of all outstanding obligations, and the balance remaining, in cash and in kind, to be distributed to corporations exempt from taxation and operated exclusively for religious, charitable, scientific, literary or educational purposes or to the State of Oregon.

(c) The property is:

(A) Occupied by low income persons; or

(B) Held for future development as low income housing.

(d) The property or portion of the property receiving the exemption, if occupied, is actually and exclusively used for the purposes described in section 501(c) (3) or (4) of the Internal Revenue Code, as amended before December 1, 1984.

(e) The exemption has been approved as provided in ORS 307.547.

(2) For the purposes of subsection (1) of this section, a corporation that has only a leasehold interest in property is deemed to be a purchaser of that property if:

(a) The corporation is obligated under the terms of the lease to pay the ad valorem taxes on the real and personal property used in this activity on that property; or

(b) The rent payable by the corporation has been established to reflect the savings resulting from the exemption from taxation.

(3) A partnership shall be treated the same as a corporation to which this section applies if the corporation is:

- (a) A general partner of the partnership; and
- (b) Responsible for the day-to-day operation of the property that is the subject of the exemption [under ORS 307.541 to 307.547].

NOTE: Corrects series reference; deletes unnecessary statutory citation.

SECTION 41. ORS 307.650 is amended to read:

307.650. The city or county may approve [the] **an** application **filed under ORS 307.640** if [it] **the city or county** finds that:

(1) In the case of the construction, addition or conversion of multiple-unit housing:

(a) The owner has agreed to include in the construction, addition or conversion as a part of the multiple-unit housing one or more design elements benefiting the general public as specified by the city or the county, including but not limited to open spaces, parks and recreational facilities, common meeting rooms, child care facilities, transit amenities and transit or pedestrian design elements.

(b) The proposed construction, addition or conversion project is or will be, at the time of completion, in conformance with all local plans and planning regulations, including special or district-wide plans developed and adopted pursuant to ORS chapters 195, 196, 197, 215 and 227, that are applicable at the time the application is approved.

(2) In the case of housing that is or becomes subject to a low income housing assistance contract with an agency or subdivision of this state or the United States, it is important to the community to preserve or establish the housing as low income housing and it is probable that the housing would not be produced, **be** established or remain as low income housing without the exemption being granted.

(3) The owner has complied with all standards and guidelines adopted by cities or counties pursuant to ORS 307.610 (4).

NOTE: Specifies type of application and type of entity approving application; corrects syntax.

SECTION 42. ORS 308.007 is amended to read:

308.007. (1) As used in the statute laws of this state, unless the context or a specially applicable definition requires otherwise, for purposes of property taxation:

(a) "Assessment date" means the day of the assessment year on which property is to be assessed under ORS 308.210 or 308.250.

(b) "Assessment year" means calendar year.

(c) "Tax year" or "fiscal year" means a period of 12 months beginning on July 1.

(d) "Year" means the assessment year.

(2) **For purposes of property taxation**, unless the context requires otherwise, [:]

[a] the assessment year beginning January 1 corresponds to the tax year beginning July 1 of the same calendar year[; and]

[b] *The term "year" means the assessment year.*

NOTE: Conforms definitions to legislative form and style; states applicability of provision.

SECTION 43. ORS 308.010 is amended to read:

308.010. (1) A registered appraiser [shall be one] **is an individual** who has successfully qualified and is employed pursuant to county civil service or state merit system requirements, or who is currently certified by the Oregon Department of Administrative Services as having successfully passed an examination for Property Appraiser I or analogous merit system classification prepared by the Oregon Department of Administrative Services and conducted and graded by the Oregon Department of Administrative Services or the appropriate county civil service body. [Said] **The** examination shall be approved by a standing five-member committee of the Oregon State Association of County Assessors selected by [said] **the** association for that purpose. In no event shall the qualifications for Property Appraiser I be less than those applicable to state appraisal personnel of similar classification. The Department of Revenue may revoke a registration of an appraiser for fraud or deceit in appraising or in the securing of a certificate or for incompetence.

(2) Any person who is a registered appraiser shall upon application be given a written certificate thereof by the particular civil service body that designated the necessary requirements or conducted the particular examination for the applicant.

(3) The Oregon Department of Administrative Services shall set education and experience requirements and formulate appropriate tests for the positions of Property Appraiser II and Property Appraiser III, which positions shall have the basic requirement of being a Property Appraiser I.

(4)(a) Each person who is registered as an appraiser under this section, under rules adopted by the Department of Revenue, shall participate in a continuing education program that increases technical competency. The education programs shall include any of the following:

- (A) Basic mass appraisal and advanced mass appraisal.
- (B) Residential, rural, special assessment, commercial or light-industrial appraisal.
- (C) Property tax exemptions.
- (D) Personal property appraisal.
- (E) Ratio analysis.
- (F) Computer applications.

(b) The Department of Revenue shall determine the hourly value to be assigned to each education program and shall by rule fix the number of hours that each person must have completed prior to the date indicated under paragraph (c) of this subsection.

(c) Each person registered as an appraiser under this section shall submit evidence satisfactory to the Department of Revenue that the person has completed continuing education requirements in accordance with rules adopted by the Department of Revenue under this subsection. The evidence must be submitted on or before December 31 of the year in which the continuing education requirements were completed.

(d) If the person does not submit the evidence required under paragraph (c) of this subsection, the Department of Revenue shall revoke the registration.

(e) The Department of Revenue may adopt conditions under which continuing education requirements may be waived. However, continuing education requirements may not be waived by the Department of Revenue for more than three consecutive years except for military service, retirement, disability[,] or absence from the state or for other instances of individual hardship as determined by the Department of Revenue.

NOTE: Corrects archaic language; corrects syntax.

SECTION 44. ORS 308.219 is amended to read:

308.219. (1) **This section applies** if the assessment and tax rolls do not constitute a written record *[which] that* can be read by[,] and is available to the public~~], for each tax year, the system of records shall include the following:~~.

[(1)] (2) At the same time as the certification required under ORS 311.105 the assessor shall print out the entire assessment and tax roll, including the roll as prepared on September 25, with all corrections, changes and additions to the roll *[which] that* have occurred to the date the roll is delivered to the tax collector pursuant to ORS 311.115.

[(2)] (3) The assessment and tax roll shall be printed out in full, as of the June 30 *[which] that* is the end of the fiscal year for which the roll was prepared. As of each June 30, thereafter, the tax collector shall print out those accounts not collected in full or canceled as of the preceding June 30. The printout shall contain a record of all payments, corrections, additions and changes *[which] that* have occurred since the date of the last printing of the roll.

[(3)] (4) The printouts required by subsection [(2)] (3) of this section shall constitute the roll or part thereof as of the date of the particular printout. Such printouts and the source documents *[which] that* are the basis for the roll shall be retained as otherwise provided by law. The material *[which] that* is not available to and cannot be read by the general public and *[which] that* otherwise constitutes the roll up to the date of the printout may be destroyed one year after the printout is made.

[(4)] (5) Additional printouts shall be made by the assessor or tax collector as the assessor or tax collector deems necessary for proper administration of the tax laws.

[(5)] (6) The Department of Revenue may by rule require that the printouts include information in addition to that required by subsections [(1) and (2)] (2) and (3) of this section.

[(6)] (7) Preparation of a microfiche record of the roll shall constitute a printout.

NOTE: Sets out applicability provisions; conforms structure to legislative form and style.

SECTION 45. ORS 308.256 is amended to read:

308.256. *[The rules for assessment, taxation and exemption of watercraft are as follows:]*

(1) Watercraft of water transportation companies shall be assessed as provided in ORS 308.505 to 308.665.

(2) *[Floating reduction and processing plants]* **Watercraft described in ORS 308.260** shall be assessed as provided in ORS 308.260.

(3) The following watercraft shall be exempt from taxation:

(a) Watercraft not owned or operated by water transportation companies, as *[defined]* **described** in ORS 308.515, and *[which]* **that** are customarily engaged in the transportation of persons or property for hire wholly outside the boundaries of this state.

(b) Watercraft owned or operated by water transportation companies, as *[defined]* **described** in ORS 308.515, and not assessed by the Department of Revenue, *[which]* **that** are customarily engaged in the transportation of persons or property for hire wholly or in part outside the boundaries of this state. The exemption under this paragraph does not apply to watercraft that engage in the transportation for hire of persons on offshore trips that originate and terminate at the same port, and that have a valid marine document issued by the United States Coast Guard or any other federal agency that succeeds *[to]* **the United States Coast Guard** in the duty of issuing marine documents, *which craft shall be subject to registration by the State Marine Board*.

(c) The assessed value of the property of a water transportation company, as *[defined]* **described** in ORS 308.515, *[which]* **that** is not subject to assessment by the Department of Revenue under the provisions of ORS 308.550 (3).

(4)(a) Watercraft over 16 feet in length in the process of original construction, or undergoing major remodeling, renovation, conversion, reconversion or repairs on January 1 *[shall be]* **are** exempt from taxation. For the purposes of this subsection, the term “major” shall include all remodeling, renovation, conversion, reconversion or repairs to a watercraft in which the expenditures for parts, materials, labor and accessorial services exceed 10 percent of the market value of *[such]* **the** watercraft immediately prior to *[such]* **the** remodeling, renovation, conversion, reconversion or repairs.

(b) Watercraft subject to assessment by the Department of Revenue under ORS 308.505 to 308.665 *[shall be]* **are** exempt under paragraph (a) of this subsection only if on or before the due date for filing the statement described in ORS 308.520 for the year for which exemption is claimed, the owner or operator files with the department sufficient documentary evidence that the property qualifies for the exemption.

(c) The owner or operator of watercraft subject to local assessment shall file the documentary evidence required under paragraph (b) of this subsection with the county assessor on or before April 1 of the year for which exemption is claimed.

(5) All other watercraft not otherwise specifically exempt from taxation nor licensed in lieu thereof shall be assessed in the county in which they are customarily moored when not in service or if there is no customary place of moorage in the county in which their owner or owners reside or, if neither situs applies, then in the county in which any one of the owners maintains a place of business.

(6) Watercraft *[falling under]* **described in** subsection (5) of this section shall be assessed at assessed value, except as follows:

(a) Ships and vessels whose home ports are in the State of Oregon and *[which]* **that** ply the high seas or between the high seas and inland water ports or *[termini]* **terminals** shall be assessed at four percent of the assessed value thereof.

(b) Vessels *[which]* **that** are self-propelled, offshore oil drilling rigs whose home ports are in the State of Oregon shall be assessed at four percent of the assessed value thereof.

(c) All other ships and vessels whose home ports are in the State of Oregon shall be assessed at 40 percent of the assessed value thereof.

(7) The assessor shall cancel the assessment in whole or proportionate part on all parts and materials in the inventory of shipyards and ship repair facilities as of January 1 of the [year of] assessment **year**, but only upon receipt prior to April 1 of the [year of] assessment **year** of sufficient documentary proof that prior to April 1 of the [year of] assessment [such] **year the** parts or materials so assessed were physically attached to or incorporated in watercraft undergoing major remodeling, renovation, conversion, reconversion or repairs as [defined] **described** in subsection (4) of this section, within the boundaries of this state.

NOTE: Corrects grammar; conforms section to legislative form and style.

SECTION 46. ORS 308.260 is amended to read:

308.260. (1) [Notwithstanding ORS 308.256,] Any ship, vessel or other watercraft shall be assessed and taxed in the manner provided in this section if:

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

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

(2) Immediately on docking or mooring, the owner or person in charge of a ship, vessel or other watercraft described in subsection (1) of this section shall notify the county assessor. The county assessor shall assess it, together with all machinery and equipment thereon, at its assessed value determined under ORS 308.146 and 308.232. Upon determination of value, the owner or person in charge shall [pay to the tax collector as follows]:

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

(b) If the assessor is unable to compute the exact amount at the time the property is assessed, either [(A)] **pay to the tax collector** the amount estimated by the assessor to be needed to pay the taxes, special assessments, fees and other charges to become due, or [(B)] deposit with the tax collector a bond with a good and sufficient undertaking in the amount that the assessor considers adequate to [insure] **ensure** payment of the taxes to become due. [In no event shall] The bond amount **may not** exceed twice the amount of the taxes, special assessments, fees and other charges computed by the assessor under this subsection.

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

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

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

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

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

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

NOTE: Removes circularity in statutory reference; conforms section to legislative form and style; inserts omitted words.

SECTION 47. ORS 308.290 is amended to read:

308.290. (1)(a) Every person and the managing agent or officer of any firm, corporation or association owning, or having in possession or under control taxable personal property shall make a return of the property for ad valorem tax purposes to the assessor of the county in which such property has its situs for taxation[; *however*,]. As between a mortgagor and mortgagee or a lessor and lessee, **however**, the actual owner and the person in possession may agree between them as to who shall make the return and pay the tax, and the election shall be followed by the person in possession of the roll who has notice of the election. Upon the failure of either party to file a personal property tax return on or before March 1 of any year, both parties shall be jointly and severally subject to the provisions of ORS 308.296.

(b) Every person and the managing agent or officer of any firm, corporation or association owning or in possession of taxable real property shall make a return of the property for ad valorem tax purposes when so requested by the assessor of the county in which such property is situated.

(2)(a) Each return of personal property shall contain a full listing of such property and a statement of its real market value, including a separate listing of those items claimed to be exempt as imports or exports. Each statement shall contain a listing of the additions or retirements made since the prior January 1, indicating the book cost and the date of acquisition or retirement. Each return shall contain the name, assumed business name, if any, and address of the owner of the personal property and, if it is a partnership, the name and address of each general partner or, if it is a corporation, the name and address of its registered agent.

(b) Each return of real property shall contain a full listing of the several items or parts of such property specified by the assessor and a statement exhibiting their real market value. Each return shall contain a listing of the additions and retirements made during the year indicating the book cost, book value of the additions and retirements or the appraised real market value of retirements as specified in the return by the assessor.

(c) There shall be annexed to each return the affidavit or affirmation of the person making the return that the statements contained in the return are true. All returns shall be in such form as the assessor, with the approval of the Department of Revenue, may prescribe. Prior to December 31 preceding the assessment year, the department or assessor shall cause blank forms for the returns to be prepared and distributed by mail, but failure to receive or secure the form shall not relieve the person, managing agent or officer from the obligation of making any return required by this section.

(3) All returns shall be filed on or before March 1 of each year, but the assessor, upon written request filed with the assessor prior to that date and for good cause shown in the request, shall allow for an extension of time within which to file the return to April 15. The department shall adopt rules for the granting of extensions under this subsection.

(4)(a) In lieu of the returns required under subsection (1)(a) or (b) of this section, every person and the managing agent or officer of any firm, corporation or association owning or having in possession or under control taxable real and personal property that is either principal **industrial property** or secondary industrial property as defined by ORS 306.126 (1) and is appraised by the department shall file a combined return of the real and personal property with the department.

(b) The contents and form of the return shall be as prescribed by rule of the department. Any form shall comply with ORS 308.297. Notwithstanding ORS 308.875, a manufactured structure that is a part of an industrial property shall be included in a combined return.

(c) In order that the assessor may comply with ORS 308.295, the department shall provide a list to the assessor of all combined returns **that are** required to be filed with the department under this subsection but **that** were not filed on or before the due date or within the time allowed by an extension.

(d) If the department has delegated appraisal of the property to the assessor under ORS 306.126 (3), the department shall notify the person otherwise required to file the combined return under this subsection as soon as practicable after the delegation that the combined return is required to be filed with the county assessor.

(e) Notwithstanding subsection (1) or (3) of this section, a combined return of real and personal property that is industrial property appraised by the department shall be filed with the department on or before March 1 of the year.

(5)(a) Any person required to file a return under subsection (4) of this section may apply to the Department of Revenue for an extension of the time within which to file the return to April 15. An extension granted under this subsection shall continue in effect for each subsequent year unless canceled by the person or revoked by the department. An extension granted under this subsection shall apply to returns required to be filed with either the county assessor or the department. The department shall provide for notification of county assessors of the granting of extensions under this subsection.

(b) The Department of Revenue shall, by rule, establish procedures and criteria for the granting of extensions provided for under paragraph (a) of this subsection. The department shall adopt such rules after consultation with an advisory committee selected by the department that represents the interests of county assessors and affected taxpayers.

(6) No return shall be controlling on the assessor or on the Department of Revenue in any respect in the assessment of any property. On any failure to file the required return, the property shall be listed and evaluated from the best information obtainable from other sources.

(7)(a) All returns filed under the provisions of this section and ORS 308.525 and 308.810 shall be confidential records of the office in which such returns are filed.

(b) Notwithstanding paragraph (a) of this subsection, a return described in paragraph (a) of this subsection may be disclosed to:

(A) The Department of Revenue or its representative;

(B) The representatives of the Secretary of State or to an accountant engaged by a county under ORS 297.405 to 297.555 for the purpose of auditing the county's personal property tax assessment roll (including adjustments to returns made by the Department of Revenue);

(C) The county tax collector or the tax collector's representative for the purpose of collecting delinquent personal property taxes;

(D) Any reviewing authority to the extent the return being disclosed relates to an appeal brought by a taxpayer;

(E) [*The Department of Human Services,*] The Division of Child Support of the Department of Justice or a district attorney to the extent the return being disclosed relates to a case for which [*the Department of Human Services,*] the Division of Child Support or the district attorney is providing support enforcement services under ORS 25.080; or

(F) The Legislative Revenue Officer for the purpose of preparation of reports, estimates and analyses required by ORS 173.800 to 173.850.

(c) Notwithstanding paragraph (a) of this subsection:

(A) The Department of Revenue may exchange property tax information with the authorized agents of the federal government and the several states on a reciprocal basis.

(B) Information regarding the valuation of leased property reported on a property return filed by a lessor under this section may be disclosed to the lessee or other person in possession of the property. Information regarding the valuation of leased property reported on a property return filed by a lessee under this section may be disclosed to the lessor of the property.

(8) If the assessed value of any personal property in possession of a lessee is less than the maximum amount of the assessed value of taxable personal property for which ad valorem property taxes may be canceled under ORS 308.250, the person in possession of the roll may disregard an election made under subsection (1) of this section and assess the owner or lessor of the property.

NOTE: Eliminates obsolete reference to agency that is no longer charged with described function.

SECTION 48. ORS 308.450 is amended to read:

308.450. As used in ORS 308.450 to 308.481:

(1) "Distressed area" means a primarily residential area of a county or city [*designated by a county or city which, by reason of*] **that is designated as a distressed area by the county or city**

because the area is detrimental to the safety, health and welfare of the community due to the following factors:

(a) Deterioration[,];

(b) Inadequate or improper facilities[,];

(c) The existence of unsafe or abandoned structures, including but not limited to a significant number of vacant or abandoned single or multifamily residential units[,]; or

(d) Any combination of these or similar factors[*, is detrimental to the safety, health and welfare of the community. Each city or county that adopts, by resolution or ordinance, ORS 308.450 to 308.481, shall adopt rules specifying the process for determining the boundaries of a distressed area and for distressed area boundary changes. At no time shall the cumulative land area within the boundaries of distressed areas within a city or county, whichever is appropriate, determined for purposes of ORS 308.450 to 308.481, exceed 20 percent of the total land area of the city or county.*]

(2) "Governing body" means the city or county legislative body having jurisdiction over the property for which a limited assessment may be applied for under ORS 308.450 to 308.481.

(3) "*Rehabilitation improvements*" means modifications to existing structures which are made to achieve a condition of substantial compliance, as defined in subsection (5) of this section.]

(4) (3) "Rehabilitated residential property" means land and the improvements thereon:

(a) [Which] **That** are either single or multifamily residential units or are not residential units but [which] **that** will become residential units through rehabilitation improvements;

(b) [Which] **That** fail to comply with one or more standards of the state or local building or housing codes applicable at the time the application is filed;

(c)(A) [Which] **That** are not less than 25 years of age on January 1, 1986, and on which sums have been expended after September 13, 1975, and prior to January 1, 2008, for the purpose of making rehabilitation improvements, and which sums in the aggregate equal or exceed five percent of the assessed value of the land and improvements thereon as reflected in the last certified assessment roll next preceding the date on which the application for limited assessment is filed with the governing body pursuant to ORS 308.462; or

(B) On which, regardless of the age of the residential property, sums have been expended or the renovation completed after October 3, 1989, and prior to January 1, 2008, for the purpose of making rehabilitation improvements, and which sums in the aggregate equal or exceed 50 percent of the assessed value of the land and improvements thereon as reflected in the last certified assessment roll next preceding the date on which the applications for limited assessment is filed with the governing body pursuant to ORS 308.462;

(d) **In** which [provide] at least 50 percent of [their] accommodations **are** for residential **use** and not **for** transient occupancy; and

(e) If owner-occupied, [which] **that** are located within a distressed area.

(4) "**Rehabilitation improvements**" means **modifications to existing structures that are made to achieve a condition of substantial compliance.**

(5) "Substantial compliance" means compliance with local building or housing code requirements. It [shall] **does** not mean that all heating, plumbing and electrical systems **must** be replaced with systems meeting current standards for new construction, notwithstanding that the cost of rehabilitation may exceed 50 percent of the value of the structure before rehabilitation.

NOTE: Removes substantive material from definition; beautifies ORS. See sections 49 and 50.

SECTION 49. Section 50 of this 2005 Act is added to and made a part of ORS 308.450 to 308.481.

NOTE: Adds new section to appropriate series. See sections 48 and 50.

SECTION 50. (1) Each city or county that adopts, by resolution or ordinance, ORS 308.450 to 308.481, shall adopt rules specifying the process for determining the boundaries of a distressed area and for distressed area boundary changes.

(2) The cumulative land area within the boundaries of distressed areas within a city or county, whichever adopts the provisions of ORS 308.450 to 308.481, may not exceed 20 percent of the total land area of the city or county.

NOTE: Enacts substantive material removed from ORS 308.450 as separate section. See sections 48 and 49.

SECTION 51. ORS 308.462 is amended to read:

308.462. To qualify for the limited assessment provided by ORS 308.450 to 308.481, the owner shall:

(1) Prior to commencement of rehabilitation improvements, secure from the governing body or its duly authorized agent, verification of noncompliance with code as *[defined]* **described** in ORS 308.450 *[(4)(b)]* **(3)(b)**;

(2) File an agreement with the governing body, where required by the governing body, between the owner and the governing body to negotiate rental rates to be charged for the rehabilitated rental units during the period of the limited assessment; and

(3) File an application for limited assessment with the governing body *[which]* **that** contains any information the governing body deems necessary to determine whether *[or not]* the property qualifies for limited assessment.

NOTE: Corrects statutory reference (see section 36, amending ORS 308.450); corrects grammar; corrects word choice.

SECTION 52. ORS 308.505 is amended to read:

308.505. As used in ORS 308.505 to 308.665:

(1) "Car" includes any vehicle adapted to the rails of a railroad.

(2) **"Communication" includes telephone communication, telegraph communication and data transmission services by whatever means provided.**

[(2)] **(3)** "Person," "company," "corporation" or "association" includes any person, group of persons, whether organized or unorganized, firm, joint stock company, association, cooperative or mutual organization, people's utility district, joint operating agency as defined in ORS 262.005, syndicate, copartnership or corporation engaged in performing or maintaining any business or service or in selling any commodity as enumerated in ORS 308.515 whether or not such activity is pursuant to any franchise.

[(3)] **(4)** "Property having situs in this state" includes all property, real and personal, of a company, owned, leased, used, operated or occupied by it and situated wholly within the state, and, as determined under ORS 308.550, 308.555 and 308.640, such proportion of the movable, transitory or migratory personal property owned, leased, used, operated or occupied by such company, including but not limited to watercraft, aircraft, rolling stock, vehicles and cars, and construction equipment, as is used partly within and partly without the state.

[(4)] **(5)** "Transportation" includes the carrying, conveying or moving of passengers, commodities, *[express]* **freight**, mail, rolling stock, cars, vehicles, equipment or any other property from one place to another.

[(5)] **(6)** "Vehicle" means any wheeled or tracked device used in transportation under, on or in connection with the physical surface of the earth.

[(6)] **"Communication" includes telephone communication, telegraph communication and data transmission services by whatever means provided.**

NOTE: Corrects terminology; conforms structure to legislative form and style.

SECTION 53. ORS 308.515 is amended to read:

308.515. (1) The Department of Revenue shall make an annual assessment~~], upon an assessment roll to be prepared by the division of the department charged with property tax administration, of the following property having~~ **of any property that has** a situs in this state~~:] and that,~~

[(a)] except as provided in subsection *[(2)]* **(3)** of this section, *[any property]* **is** used or held for *[its own]* future use by any company in performing or maintaining any of the following businesses or services or in selling any of the following commodities, whether in domestic or interstate commerce or both, and whether mutually, or for hire, sale or consumption by other persons:

(a) Railroad transportation;

(b) Railroad switching and terminal;

(c) Electric rail and trackless trolley transportation;

- (d) Private railcar transportation;
- (e) Air transportation;
- (f) Water transportation upon inland [*waters*] **water** of the State of Oregon;
- (g) Air or railway express;
- (h) Communication;
- (i) Heating;
- (j) Gas;
- (k) Electricity;
- (L) Pipeline;
- (m) Toll bridge[.]; **or**

[(b)] (n) Private railcars of all companies not [*included in paragraph (a) of this subsection, where such cars*] **otherwise listed in this subsection, if the private railcars** are rented, leased or used in railroad transportation for hire.

(2) The assessment described in subsection (1) of this section shall be made on an assessment roll that is prepared by the division of the department charged with property tax administration.

[(2)] (3) There [*shall*] **may** not be assessed under subsection (1) of this section:

(a) Any property used by or for water transportation companies whose watercraft ply exclusively [(A)] on the high seas, or [(B)] between the high seas and inland water ports or [*termini*] **terminals**, or [(C) a combination of (A) and (B), or (D) as ferries operating directly across interstate rivers] **any combination thereof.**

(b) Any property used by or for water transportation companies exclusively for hire by other persons for booming and rafting[;], dredging[;], log or marine salvage[;], ship berthing, maintenance, sludge removal, cleaning or repair[;], marine or water-based construction[;], or guide service.

(c) Any property used by or for interstate ferries **or by or for water transportation companies as ferries operating directly across interstate rivers.**

(d) Any property of the National Railroad Passenger Corporation [*so*] **as** long as federal law prohibits [*such company*] **the National Railroad Passenger Corporation** from paying [*ad valorem*] **property** taxes. [*All unpaid ad valorem taxes levied prior to October 15, 1983, are void and the taxes shall be removed from the assessment and tax rolls.*]

(e) Any aircraft that is required to be registered under ORS 837.040 for all or any part of the calendar year, and [*which*] **that** is not used to provide scheduled passenger service.

[(3)] (4) For the purposes of this section, ORS 308.256 and 308.550, “inland water” [*or “inland waters” shall mean*] **means** all water or waters within the State of Oregon, all interstate rivers touching Oregon and all tidewaters extending to the ocean bars.

[(4)] (5) Any corporation included within subsection (1) of this section, to the extent that it actively engages in any business or service not described therein or not incidental to any business or service or sale of a commodity described therein, [*shall*] **may** not to that extent be deemed a corporation whose properties are assessed under ORS 308.505 to 308.665.

[(5)] (6) Any company, to the extent that it furnishes undiluted liquefied or industrial gas in bottles, tanks or similar containers, whether or not through pipe in a gaseous form, is not a gas company under subsection (1) of this section.

(7) A company is not an electric company under subsection (1) of this section if:

(a) The company generates electricity primarily for the company’s own use, but makes incidental sales of the company’s surplus electricity; or

(b)(A) The company’s generating facility is primarily fueled by wood waste or other biomass fuel;

(B) The generating facility has a maximum capacity of 20 megawatts; and

(C) The company, if selling the generated electricity, does so only directly to an electric utility for the utility’s distribution to utility customers.

[(6)] (8) [*The provisions of*] ORS 308.505 to 308.665 shall be construed to subject [*to assessment by the department the*] property owned, leased or occupied by a legal entity not yet engaged in a business, service or sale of a commodity [*enumerated*] **that is described** in this section, [*which*] **to**

assessment by the department, if the property is intended for operation or use in *[such a]* **the** business, service or sale of a commodity.

[(7)] **(9)** As used in this section, “electric utility” has the meaning given that term in ORS 758.505.

NOTE: Corrects punctuation, tabulation and grammar; deletes obsolete material; eliminates unnecessary definition; conforms section to legislative form and style.

SECTION 54. ORS 308.559 is amended to read:

308.559. (1) As used in this section:

(a) “Facility” includes all buildings or areas designed and used exclusively for major work at or near an airport, except passenger or freight terminals.

(b) “Major work” includes all remodeling, renovation, conversion, reconversion, repairs or scheduled maintenance performed at a facility in which the total labor expended for the work exceeds 10 work hours.

[(c) “Period of time” means the total time during which aircraft are awaiting or undergoing major work in a facility.]

(2)(a) Any aircraft used or held for use by an air transportation company is exempt from ad valorem property taxation *[during]* **for the total** period of time *[it is]* **the aircraft is awaiting or** undergoing major work at a facility located in Oregon.

(b) *[No exemption shall]* **An exemption may not** be granted under this section unless the air transportation company provides separate traffic statistics and other documentation demonstrating the major work to the Department of Revenue as part of a report filed either within the time required under ORS 308.520 or as extended under ORS 308.535. If the department determines that insufficient records and other information have been provided by the air transportation company to substantiate the period of time that **the** aircraft *[are]* **is** claimed to be *[involved in]* **awaiting or undergoing** major work in a facility, the department may deny the exemption.

(3)(a)(A) To the extent that an air transportation company demonstrates in a report described in paragraph (b) of this subsection~~,~~ that an increase in Oregon air traffic or an upgrade of aircraft type serving Oregon is a rerouting necessary to accommodate major work at a facility, the department shall exempt that portion of the allocation that results solely from the rerouting.

(B) The airline transportation company shall provide **the department with** prior written notice of any rerouting *[to the department]*.

(b) Any exemption under this subsection shall be reviewed annually by the department using documentation provided by the air transportation company as part of the annual report filed either within the time required by ORS 308.520 or as extended under ORS 308.535.

NOTE: Eliminates unnecessary definition; clarifies language.

SECTION 55. ORS 308.610 is amended to read:

308.610. Upon completion of the review of the roll as provided in ORS 308.580 to *[308.605]* **308.610**, the Director of the Department of Revenue shall take and subscribe to an oath similar to the oath required for assessors under ORS 308.320. The oath shall be filed with the Secretary of State.

NOTE: Corrects series reference.

SECTION 56. ORS 308.880, as amended by section 68, chapter 655, Oregon Laws 2003, is amended to read:

308.880. (1) The owner of any travel trailer described in ORS 801.565 *[which]* **that** is being used either as a permanent home or for other than recreational purposes may apply to the assessor in the county in which it has situs to have the travel trailer assessed for ad valorem taxation. If the assessor determines that *[a]* **the** travel trailer is being used either as a permanent home or for other than recreational uses, the assessor shall place the travel trailer on the assessment and tax rolls the same as if it were a manufactured structure. The assessor shall accept the travel trailer plate for the vehicle and return the plate to the Department of Transportation, and shall, as appropriate, record the travel trailer in the county deed records or assist in obtaining an ownership document

for the travel trailer under ORS 446.571. Any travel trailer placed on the assessment and tax rolls under this section is considered a manufactured structure for all purposes.

(2) The owner of any special use trailer described in ORS 801.500 that is eight and one-half feet or less in width may apply to the assessor of the county in which it has situs to have the special use trailer assessed for ad valorem taxation. If the assessor determines that the special use trailer is eight and one-half feet or less in width and is permanently situated in one place, the assessor shall place the special use trailer on the assessment and tax rolls in the same way as if it were a manufactured structure. The assessor shall accept any special use trailer plate for the vehicle and return the plate to the Department of Transportation, and shall, as appropriate, record the special use trailer in the county deed records or assist in obtaining an ownership document for the special use trailer under ORS 446.571. Any special use trailer placed on the assessment and tax rolls under this section is considered a manufactured structure for all purposes.

NOTE: Corrects word choice; corrects grammar.

SECTION 57. ORS 308A.107 is amended to read:

308A.107. (1) The value for farm use, maximum assessed value and assessed value shall be determined under this section for both:

(a) Exclusive farm use zone farmland that qualifies for special assessment under ORS 308A.062; and

(b) Nonexclusive farm use zone farmland that qualifies for special assessment under ORS 308A.068.

(2) The value for farm use for each property subject to special assessment under this section shall equal the applicable value derived from the tables created pursuant to ORS 308A.092 for the tax year multiplied by the acreage of the property within the applicable class and area.

(3)(a) The maximum assessed value for property subject to special assessment under this section shall be determined as provided in this subsection.

(b) The county assessor shall develop tables for each tax year that provide, for each class and area, a maximum assessed value per acre that is equal to 103 percent of the assessed value per acre for the preceding tax year or 100 percent of the maximum assessed value per acre for the preceding tax year, whichever is greater.

(4) Property subject to special assessment under this section shall have an assessed value for the tax year equal to **the acreage of the property that is within the same class and area multiplied by** the lesser of the value per acre applicable to the property under subsection (2) of this section or under subsection (3) of this section [*and multiplying the value by the acreage of the property within the applicable class and area*].

(5) If property subject to special assessment under this section consists of different classes, the assessed value of the property shall be the sum of the assessed values computed for each applicable class under subsection (4) of this section.

(6) Property that newly qualifies for farm use special assessment shall, for the first tax year for which the special assessment applies, have:

(a) A value for farm use as determined under subsection (2) of this section;

(b) A maximum assessed value as determined under the tables developed under subsection (3) of this section; and

(c) An assessed value as determined under subsections (4) and (5) of this section.

NOTE: Clarifies meaning.

SECTION 58. ORS 308A.406 is amended to read:

308A.406. As used in ORS 308A.403 to 308A.430:

(1) "Cooperating agency" means the State Department of Fish and Wildlife, the United States Fish and Wildlife Service, the Natural Resources Conservation Service of the United States Department of Agriculture, the Oregon State University Extension Service or other persons with wildlife habitat conservation and management training considered appropriate for the preparation of a wildlife habitat conservation and management plan, as established by rules [*of the State De-*

partment of Fish and Wildlife] adopted by the State Fish and Wildlife Commission under ORS 308A.409.

(2) "Department" means the State Department of Fish and Wildlife.

(3) "Lot" has the meaning given that term in ORS 92.010.

(4) "Parcel" has the meaning given that term in ORS 215.010.

(5) "Wildlife habitat conservation and management plan" or "plan" means a plan developed by a cooperating agency and landowner that specifies the conservation and management practices, including farm and forest uses consistent with the overall intent of the plan, that will be conducted to preserve and improve wildlife habitat on an affected lot or parcel.

NOTE: Corrects source of specified rules.

SECTION 59. ORS 309.024 is amended to read:

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

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

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

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

NOTE: Tabulates section to facilitate referencing.

SECTION 60. ORS 309.990 is amended to read:

309.990. Any person who willfully and knowingly presents or furnishes to the Director of the Department of Revenue, or any member of the director's staff, any statement required by the director, or representatives or agents of the director, under ORS 309.360[,] that is false or fraudulent is guilty of perjury. [and,] Upon conviction, **the person** shall be punished as provided by law for [such] **the crime of perjury**.

NOTE: Corrects punctuation; clarifies language.

SECTION 61. ORS 310.050 and 310.125 are repealed.

NOTE: Repeals obsolete statutes.

SECTION 62. ORS 310.204 is amended to read:

310.204. In order to determine if ad valorem property taxes are used to support a hospital facility and therefore are subject to section 11 (6), Article XI of the Oregon Constitution, the term "hospital facility" means a facility with an organized medical staff, with permanent facilities that include inpatient beds, and with medical services, including physician services and continuous nursing services under the supervision of registered nurses, [to provide] **providing** diagnosis and medical or surgical treatment primarily for but not limited to acutely ill patients and accident victims.

NOTE: Clarifies language.

SECTION 63. ORS 311.410 is amended to read:

311.410. (1) Real property or personal property [which] **that** is subject to taxation on July 1 shall remain taxable and taxes levied thereon for the ensuing tax year shall become due and payable, notwithstanding any subsequent transfer of the property to an exempt ownership or use. Taxes that are unpaid as of the termination of a lease, lease purchase agreement or other instrument resulting in the taxation of the property shall remain a lien on the property as of the day prior to the ter-

mination of the lease, lease purchase agreement or other instrument. Real or personal property exempt from taxation on July 1 shall remain exempt for the ensuing tax year, notwithstanding any transfer within *[such]* **the tax** year to a taxable ownership or use.

(2) *[No]* **A** sale or transfer of personal property or any part *[thereof shall]* **of personal property does not** affect the lien under ORS 311.405 (3)(a)(A), (4) or (5). Taxes on personal property transferred from a tax exempt to a taxable ownership or use shall be a lien on any and all of the personal property assessed to the person and on any and all of the taxable personal property of the person assessed from and including the date of transfer until paid. *[Such]* **The** liens shall be *[in all other respects]* subject to *[the provisions of]* this section and ORS 311.405 *[relating to liens on personal property]*.

(3) Notwithstanding ORS 311.405 (4) or (5), real or personal property is exempt if *[it]* **the property** is transferred or changed from a taxable to an exempt ownership or use at any time before July 1 of any year. However, if *[such]* **the** property is *[exempted under any provision of ORS 307.010 to 307.691, which]* **exempt under a provision of ORS chapter 307 that** requires the filing of a claim for exemption, the transfer *[shall]* **does** not operate to render *[such]* **the** property exempt from taxation for the ensuing tax year unless the required claim for exemption is filed on or before the date specified in the applicable statute or within 30 days after the date of acquisition or, if relevant under the applicable exemption statute, the change of use of the property, whichever is later. This section *[is not intended to]* **does not** limit other statutes that prescribe filing dates for claiming an exemption.

(4) Real property *[which]* **that** is the subject of eminent domain proceedings instituted by a public body shall, for the purposes of this section, be deemed to have been transferred as of the date of payment therefor, the date of entry into possession by the public body or the date of entry of judgment in *[such]* **the eminent domain** proceedings, whichever is earlier.

NOTE: Corrects grammar; conforms section to legislative form and style; corrects series reference.

SECTION 64. ORS 311.660 is amended to read:

311.660. *[(1)]* The State of Oregon shall not for any fiscal year collect a state property tax, either directly or by apportionment among the several counties, in any greater amount than it may be necessary to collect by means of such a property tax for that year to pay bonded indebtedness or the interest thereon.

[(2) This section shall first apply to the fiscal year beginning July 1, 1958.]

NOTE: Deletes obsolete provision.

SECTION 65. ORS 311.807 is amended to read:

311.807. (1) *[Beginning in the 1991-1992 tax year,]* The county treasurer may maintain an account designated as the refund reserve account. The refund reserve account shall consist of the funds deposited by the treasurer under subsection (2) of this section and any funds deposited under ORS 311.160, plus interest earned thereon.

(2)(a) Each year, the treasurer may deposit in the refund reserve account, from the unsegregated tax collections account, an amount equal to 100 percent of the anticipated annual refunds for the county.

(b) Any deposit into the refund reserve account from taxes collected in November shall not exceed two-thirds of the total anticipated annual refunds for the county.

(3) The moneys in the refund reserve account shall first be used to pay refunds determined to be due under ORS 311.806.

(4) If the moneys in the refund reserve account are insufficient to pay refunds at any time, refunds shall be made out of the unsegregated tax collections account. If funds are not available in either the refund reserve account or the unsegregated tax collections account, the county governing body may delay payment of the refunds until such time as sufficient funds are available.

(5) If, at the end of the fiscal year, the balance in the refund reserve account exceeds the amount necessary to pay estimated refunds, the treasurer shall distribute the excess to the unsegregated tax collections account.

(6) The Department of Revenue shall provide by rule the method to be used to calculate anticipated annual refunds for the county.

NOTE: Deletes obsolete provision.

SECTION 66. ORS 311.850 is amended to read:

311.850. The Legislative Assembly finds that the construction of a facility may have substantial economic impact upon units of local government obligated to furnish services [*and facilities*], **buildings or other resources** in the area in which the facility is being constructed. The Legislative Assembly further finds that this impact may occur in advance of the time when sufficient real market value occasioned by construction of the facility is added to the assessment and tax roll to bear the facility's portion of the costs of the governmental services [*and facilities its*], **buildings or other resources that the facility's** construction necessitates. The purposes of ORS 311.850 to 311.870 is to provide a method for prepaying ad valorem **property** taxes during the period of planning and construction of the facility, in order that units of local government may provide the services [*and facilities*], **buildings or other resources** necessitated without imposing an undue burden upon other properties subject to taxation within the unit, and to provide for repayment of the amounts prepaid.

NOTE: Eliminates double meaning of same term.

SECTION 67. ORS 311.860 is amended to read:

311.860. (1) Any person proposing to construct a facility who has applied for and obtained the necessary preliminary construction permits or certificates and the governing body of any taxing unit obligated to furnish services [*and facilities*], **buildings or other resources** in the area in which the construction is to take place may enter into an agreement to carry out the purposes of ORS 311.850. An agreement entered into under this section shall contain provisions pertaining to and in accordance with the following:

(a) The payment of moneys **to the taxing unit** by the person proposing to construct the facility [*to the taxing unit prior in time*]. **The person shall make the payment prior** to or during the period of the construction.

(b) The amounts of the payments to be made by the person proposing to construct the facility and the dates for making the payments.

(c) A reduction in real market value for the facility for purposes of computing the rate of levy of the taxing unit entering into the agreement for each year of a period of years, not to exceed 10, commencing on or in the course of completion of the construction of the facility. The amount of reduction allowed by the agreement shall be a percentage amount, not to exceed 50 percent, of the real market value of the facility as of any assessment date affected by the reduction, and may be fixed or graduated over the period of years for which the reduction is allowed. The total reduction allowed by the agreement shall result in a tax benefit for the facility that is estimated to be equivalent to the total amount of payments made under the agreement to the taxing unit, plus interest at the maximum rate of eight percent per annum from the date of each payment. [*; however,*] In no event, **however**, shall the total reduction in real market value during the period of years of reduction cause a total reduction in taxes [*which*] **that** exceeds the total amount of moneys previously paid plus interest.

(2) A copy of an agreement entered into under this section shall be filed with the county assessor of each county in which a taxing unit [*which*] **that** is a party to the agreement is located.

(3) Prior to April 1 preceding the first tax year for which the exemption granted by ORS 311.865 applies, the governing body of the taxing unit that is a party to the agreement may certify to the county assessor that all payments have been made to the taxing unit in accordance with the terms of the agreement. The county assessor [*shall*] **may** not grant the exemption for any year unless the county assessor has received such certificate. Review of denial of an exemption under this section shall be as provided by ORS 305.275.

NOTE: Eliminates double meaning of same term; corrects grammar and syntax; conforms section to legislative form and style.

SECTION 68. ORS 312.214 is amended to read:

312.214. [(1)] Notwithstanding any other provisions of law, [and] for all purposes of ORS 312.214 to 312.230[,] it is [hereby] declared to [have been and to] be the public policy of this state that:

(1) When a county has acquired or hereafter acquires real property by foreclosure for delinquent taxes, [its] **the county's** title to [such] **the** property shall have the utmost stability; and

(2) [that] Once real property has become or hereafter shall become subject to foreclosure for taxes, there has been imposed and there hereafter shall be imposed upon all persons owning or claiming to own, or having or claiming to have, any interest in [such] **the** real property, by reason of their delinquency, a continuing duty to investigate and ascertain whether [such] **the** real property did become or hereafter shall become included in tax foreclosure proceedings, regardless of any defects, jurisdictional or otherwise, that may have appeared or shall hereafter appear in [such] **the** foreclosure proceedings.

[(2) If any subsection, sentence, clause or word of ORS 312.214 to 312.230 shall be held to be unconstitutional, the invalidity of such subsection, sentence, clause or word shall not affect the validity of any other portion of ORS 312.214 to 312.230, it being the intent of this Legislative Assembly to enact the remainder of ORS 312.214 to 312.230, notwithstanding such part so declared unconstitutional should or may be so declared.]

NOTE: Conforms section to legislative form and style; deletes redundant subsection (see ORS 174.040).

SECTION 69. ORS 312.216 is amended to read:

312.216. In order to accomplish and place into effect the public policy so declared in ORS 312.214 [(1)], and notwithstanding any other provisions of law excepting those relating to persons under disability as provided in ORS 12.160, all persons owning or claiming to own, or having or claiming to have, any interest in any real property heretofore or hereafter subject to foreclosure for delinquent taxes indisputably and conclusively shall be deemed to have taken notice of the following:

(1) That any real property [which] **that** they owned or claimed to own, or in which they had or claim to have had any interest, and any real property [which] **that** they hereafter may own or claim to own or in which they hereafter shall have or claim any interest has been assessed and hereafter will be assessed each year;

(2) That the tax levied against such real property became and hereafter will become due and delinquent at a fixed time;

(3) That the tax became and was[,] and hereafter will become and be a lien upon such real property;

(4) That if such tax was not paid or hereafter shall not be paid within the time fixed by law, the lien has been or hereafter will be enforced by foreclosure proceedings at the time and in the manner provided by law;

(5) That since the enactment of chapter 408, General Laws of Oregon 1919, and following its effective date (May 29, 1919), such foreclosure proceedings have been and hereafter will be proceedings in rem; and

(6) That by reason of their delinquency in the matter of the payment of their taxes, there has been impressed upon and there hereafter shall be impressed upon them a continuing duty to investigate and ascertain whether or not such real property has been or hereafter shall become included in tax foreclosure proceedings, regardless of any defects, jurisdictional or otherwise, that may have appeared or hereafter shall appear in such foreclosure proceedings.

NOTE: Corrects subsection reference (see section 54, amending ORS 312.214); corrects grammar and punctuation.

SECTION 70. ORS 312.230 is amended to read:

312.230. (1) Every action, suit or proceeding, commenced for the purpose of determining the validity of a sale of real property on foreclosure for delinquent taxes, or to quiet title against such sale, or to remove the cloud thereof, or to recover possession of the property, shall be commenced within two years from the date of the judgment of foreclosure and sale to the county[, or within six months from June 1, 1961, whichever is the later].

(2) Notwithstanding any other provisions of law, in every such action, suit or proceeding any person claiming to be the owner of the property, as against the county or grantee, shall pay into court with the first pleading the amount charged against the property in the judgment of foreclosure, plus the amount or amounts that would otherwise have been assessed and levied against said property as taxes from the date of the said judgment to the time of the filing of such action, suit or proceeding, together with any penalties and interest that would have accrued thereon as by statute provided. In every such action, suit or proceeding any person claiming to be the owner of the property as against any person holding title from the county, shall pay into court with the first pleading the amount charged against the property in the judgment of foreclosure, together with interest thereon at the rate of six percent per year from the date of the judgment to the date of filing the pleading.

(3) For all purposes this section shall be construed as a statute of prescription as well as a statute of limitation.

NOTE: Deletes obsolete provision.

SECTION 71. ORS 312.400 is amended to read:

312.400. (1) Whenever the city treasurer posts or publishes notice of sale of any property described in the request made under ORS 312.390 for any delinquent city assessment or lien thereon, the city treasurer shall give notice of the proposed sale to the mortgagee or other lienholder who filed the request by registered mail or by certified mail with return receipt addressed to the mortgagee or other lienholder at the address given in the request.

(2) At the time the notice is mailed, the city treasurer shall note the fact of the mailing [*in ink*] on the record of such assessment or lien in the possession of the city treasurer and shall make a certificate of the mailing and keep it on file in the office of the city treasurer. The certificate so filed is conclusive evidence that the notice was mailed.

(3) The notice shall be mailed not less than 21 days prior to the date fixed for the sale and shall be addressed to the mortgagee or other lienholder specified in the request.

(4) The notice shall contain:

- (a) The name of the owner or reputed owner of the property.
- (b) The description of the property.
- (c) The date fixed for the sale.
- (d) A description of the city assessment or lien and the amount unpaid thereon.
- (e) The amount necessary to be paid to prevent the sale of the property.

NOTE: Deletes obsolete provision.

SECTION 72. Section 73 of this 2005 Act is added to and made a part of ORS chapter 314.

NOTE: Adds section to appropriate chapter.

SECTION 73. Notwithstanding ORS 314.013, for purposes of ORS chapter 316, a person serving as a referee or assistant referee in a youth or adult recreational soccer match shall be considered to be an independent contractor.

NOTE: Applies existing exception to correct provision of law. See sections 115, amending ORS 670.605, and 116, amending ORS 670.610.

SECTION 74. ORS 314.011 is amended to read:

314.011. (1) As used in this chapter, unless the context requires otherwise, "department" means the Department of Revenue.

(2)[(a)] As used in this chapter[,]:

(a) Any term has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes, unless a different meaning is clearly required or the term is specifically defined in this chapter.

(b) Except where the Legislative Assembly has provided otherwise, a reference to the laws of the United States or to the Internal Revenue Code refers to the laws of the United States or to the Internal Revenue Code as they are amended and in effect:

(A) On December 31, 2002; or

(B) If related to the definition of taxable income and attributable to a change in the laws of the United States or in the Internal Revenue Code that is enacted after December 31, 2005, as applicable to the tax year of the taxpayer.

(c) A reference to the laws of the United States or to the Internal Revenue Code refers to the laws of the United States or to the Internal Revenue Code as they are amended and in effect and applicable for the tax year of the taxpayer, if the reference relates to:

(A) Pension, profit-sharing or stock bonus plans, deferred compensation plans, employee stock ownership plans, individual retirement accounts (including Roth individual retirement accounts), medical savings accounts, education IRAs, qualified tuition savings programs or other tax-deferred or tax-exempt savings programs benefiting individuals; or

(B) The allowance and amount of a deduction under section 167 or 168 or another provision of the Internal Revenue Code, to the allowance and amount of a deduction for expensing depreciable assets under section 179 of the Internal Revenue Code or to the adjusted basis of an asset that is depreciated or expensed for federal tax purposes.

(d) With respect to ORS 314.105, 314.256 (relating to proxy tax on lobbying expenditures), 314.260 (1)(b), 314.265 (1)(b), 314.302, 314.306, 314.330, 314.360, 314.362, 314.385, 314.402, 314.410, 314.412, 314.525, 314.742 (7), 314.750 and 314.752 and other provisions of this chapter, except those described in paragraphs (b) and (c) of this subsection, any reference [*in this chapter*] to the laws of the United States or to the Internal Revenue Code means the laws of the United States relating to income taxes or the Internal Revenue Code as they are amended on or before December 31, 2002, even when the amendments take effect or become operative after that date, except where the Legislative Assembly has specifically provided otherwise.

(3) Insofar as is practicable in the administration of this chapter, the department shall apply and follow the administrative and judicial interpretations of the federal income tax law. When a provision of the federal income tax law is the subject of conflicting opinions by two or more federal courts, the department shall follow the rule observed by the United States Commissioner of Internal Revenue until the conflict is resolved. Nothing contained in this section limits the right or duty of the department to audit the return of any taxpayer or to determine any fact relating to the tax liability of any taxpayer.

(4) When portions of the Internal Revenue Code incorporated by reference as provided in subsection (2) of this section refer to rules or regulations prescribed by the Secretary of the Treasury, then such rules or regulations shall be regarded as rules adopted by the department under and in accordance with the provisions of this chapter, whenever they are prescribed or amended.

(5)(a) When portions of the Internal Revenue Code incorporated by reference as provided in subsection (2) of this section are later corrected by an Act or a Title within an Act of the United States Congress designated as an Act or Title making technical corrections, then notwithstanding the date that the Act or Title becomes law, those portions of the Internal Revenue Code, as so corrected, shall be the portions of the Internal Revenue Code incorporated by reference as provided in subsection (2) of this section and shall take effect, unless otherwise indicated by the Act or Title (in which case the provisions shall take effect as indicated in the Act or Title), as if originally included in the provisions of the Act being technically corrected. If, on account of this subsection, any adjustment is required to an Oregon return that would otherwise be prevented by operation of law or rule, the adjustment shall be made, notwithstanding any law or rule to the contrary, in the manner provided under ORS 314.135.

(b) As used in this subsection, "Act or Title" includes any subtitle, division or other part of an Act or Title.

NOTE: States applicability of terms.

SECTION 75. ORS 314.105 is amended to read:

314.105. [(1)] For purposes of ORS 314.105 to 314.135[*the term*]:

(1) "Determination" means:

(a) A decision by the Oregon Tax Court [*which*] **that** has become final;

(b) A closing agreement made under ORS 305.150;

(c) A final disposition by the Department of Revenue of a claim for refund. For purposes of this paragraph, a claim for refund shall be deemed finally disposed of by the department as to items with respect to which the claim was allowed, on the date of allowance of refund or credit or on the date of mailing notice of disallowance (by reason of offsetting items) of the claim for refund, and as to items with respect to which the claim was disallowed, in whole or in part, or as to items applied by the department in reduction of the refund or credit, on expiration of the time for instituting suit with respect thereto (unless suit is instituted before the expiration of such time); or

(d) Under regulations prescribed by the department, an agreement for purposes of ORS 314.105 to 314.135 signed by the department and by any person, relating to the liability of such person (or the person for whom the person acts) in respect of a tax for any taxable period.

[2] *For purposes of ORS 314.105 to 314.135, the term "Taxpayer" means any person or entity subject to a tax under the applicable revenue law.*

[3] (2) *[For purposes of ORS 314.105 to 314.135, the term] "Related taxpayer" means a taxpayer who, with the taxpayer with respect to whom a determination is made, stood, in the taxable year with respect to which the erroneous inclusion, exclusion, omission, allowance, or disallowance was made, in one of the following relationships:*

- (a) Husband and wife;
- (b) Grantor and fiduciary;
- (c) Grantor and beneficiary;
- (d) Fiduciary and beneficiary, legatee, or heir;
- (e) Decedent and decedent's estate;
- (f) Partner;
- (g) Member of an affiliated group of corporations as defined in section 1504 of the Internal Revenue Code; or
- (h) Shareholder of an S corporation, as defined in section 1361 of the Internal Revenue Code.

(3) **"Taxpayer" means any person or entity subject to tax under an applicable revenue law.**

NOTE: Conforms section to legislative form and style; corrects grammar.

SECTION 76. ORS 314.115 is amended to read:

314.115. (1) If a determination [*as defined in ORS 314.105*] is described in [*one or more of the paragraphs of*] ORS 314.125 and, on the date of the determination, correction of the effect of the error referred to in the applicable [*subsection*] **provision** of ORS 314.125 is prevented by the operation of any law or rule of law[,] other than ORS 314.105 to 314.135 and other than ORS 305.150, then the effect of the error shall be corrected by an adjustment made in the amount and in the manner specified in ORS 314.135.

(2) Except in cases described in ORS 314.125 (3)(b) and (4), an adjustment shall be made under this section only if:

(a) In case the amount of the adjustment would be credited or refunded in the same manner as an overpayment under ORS 314.135, there is adopted in the determination a position maintained by the Department of Revenue; or

(b) In case the amount of the adjustment would be assessed and collected in the same manner as a deficiency under ORS 314.135, there is adopted in the determination a position maintained by the taxpayer with respect to whom the determination is made, and the position maintained by the department in the case described in paragraph (a) of this subsection or maintained by the taxpayer in the case described in this paragraph is inconsistent with the erroneous inclusion, exclusion, omission, allowance, disallowance, recognition, or nonrecognition, as the case may be.

(3) In the case of a determination described in ORS 314.125 (3)(b) (relating to certain exclusions from income), adjustment shall be made under this section only if assessment of a deficiency for the taxable year in which the item is includable or against the related taxpayer was not barred, by any law or rule of law, at the time the department first maintained, in a notice of deficiency sent pursuant to ORS 305.265 or before the Oregon Tax Court, that the item described in ORS 314.125 (3)(b)

should be included in the gross income of the taxpayer for the taxable year to which the determination relates.

(4) In the case of a determination described in ORS 314.125 (4) (relating to disallowance of certain deductions and credits), adjustment shall be made under ORS 314.105 to 314.135 only if credit or refund of the overpayment attributable to the deduction or credit described in ORS 314.125 [which] **that** should have been allowed to the taxpayer or related taxpayer was not barred, by any law or rule of law, at the time the taxpayer first maintained before the department or before the Oregon Tax Court, in writing, that the taxpayer was entitled to such deduction or credit for the taxable year to which the determination relates.

(5) In case the amount of the adjustment would be assessed and collected in the same manner as a deficiency (except for cases described in ORS 314.125 (3)(b)), the adjustment shall not be made with respect to a related taxpayer unless the related taxpayer stands in such relationship to the taxpayer at the time the latter first maintains the inconsistent position in a return, claim for refund, or complaint in the Oregon Tax Court for the taxable year with respect to which the determination is made, or if such position is not so maintained, then at the time of determination.

NOTE: Eliminates redundancy; corrects grammar.

SECTION 77. ORS 314.125 is amended to read:

314.125. The circumstances under which the adjustment provided in ORS 314.115 is authorized are as follows:

(1) The determination requires the inclusion in gross income of an item [which] **that** was erroneously included in the gross income of the taxpayer for another taxable year or in the gross income of a related taxpayer.

(2) The determination allows a deduction or credit [which] **that** was erroneously allowed to the taxpayer for another taxable year or to a related taxpayer.

(3)(a) The determination requires the exclusion from gross income of an item included in a return filed by the taxpayer or with respect to which tax was paid and [which] **that** was erroneously excluded or omitted from the gross income of the taxpayer for another taxable year, or from the gross income of a related taxpayer; or

(b) The determination requires the exclusion from gross income of an item not included in a return filed by the taxpayer and with respect to which the tax was not paid but [which] **that** is includable in the gross income of the taxpayer for another taxable year or in the gross income of a related taxpayer.

(4) The determination disallows a deduction or credit [which] **that** should have been allowed to, but was not allowed to, the taxpayer for another taxable year, or to a related taxpayer.

(5) The determination allows or disallows any of the additional deductions allowable in computing the taxable income of estates or trusts, or requires or denies any of the inclusions in the computation of taxable income of beneficiaries, heirs[,] or legatees, specified in [subparts A to E, inclusive (sections 641 and following, relating to estates, trusts, and beneficiaries) of part I of subchapter J] **sections 641 to 679** of the Internal Revenue Code, or corresponding provisions of subsequent internal revenue laws, and the correlative inclusion or deduction, as the case may be, has been erroneously excluded, omitted[,] or included, or disallowed, omitted[,] or allowed, as the case may be in respect of the related taxpayer.

(6) The determination allows or disallows a deduction (including a credit) in computing the taxable income (or, as the case may be, net income, normal tax net income[,] or surtax net income) of a corporation, and a correlative deduction or credit has been erroneously allowed, omitted[,] or disallowed, as the case may be, in respect of a related taxpayer described in ORS 314.105 [(3)(g)] **(2)(g)**.

(7)(a) The determination determines the basis of property, and in respect of any transaction on which such basis depends, or in respect of any transaction [which] **that** was erroneously treated as affecting such basis, there occurred, with respect to a taxpayer described in paragraph (b) of this subsection, any of the errors described in paragraph (c) of this subsection.

(b) The taxpayer with respect to whom the erroneous treatment occurred must be:

(A) The taxpayer with respect to whom the determination is made;

(B) A taxpayer who acquired title to the property in the transaction and from whom, mediately or immediately, the taxpayer with respect to whom the determination is made derived title; or

(C) A taxpayer who had title to the property at the time of the transaction and from whom, mediately or immediately, the taxpayer with respect to whom the determination is made derived title, if the basis of the property in the hands of the taxpayer with respect to whom the determination is made is determined under section 1015(a) of the Internal Revenue Code.

(c) With respect to a taxpayer described in paragraph (b) of this subsection, there was an erroneous inclusion in, or omission from, gross income, there was an erroneous recognition, or nonrecognition, of gain or loss, or there was an erroneous deduction of an item properly chargeable to capital account or an erroneous charge to capital account of an item properly deductible.

NOTE: Corrects statutory reference (see section 75, amending ORS 314.105); rephrases reference to federal law; corrects grammar; conforms section to legislative form and style.

SECTION 78. ORS 314.210, 314.220 and 314.230 are repealed.

NOTE: Repeals obsolete statutes.

SECTION 79. ORS 314.260 is amended to read:

314.260. (1)(a) An entity described in section 860D of the Internal Revenue Code (a real estate mortgage investment conduit or REMIC) *[shall not be]* **is not** subject to a tax under ORS chapter 316, 317 or 318 (and *[shall]* **may** not be treated as a corporation, partnership or trust for purposes of ORS chapter 316, 317 or 318).

(b) If a REMIC engages in a prohibited transaction as defined in section 860F(a)(2) of the Internal Revenue Code, the REMIC shall be subject to a tax equal to six and six-tenths percent of the net income derived from the prohibited transaction. The tax imposed under this paragraph shall be assessed and collected under *[the applicable provisions of]* this chapter and ORS chapter 305 and shall be credited to the General Fund to be made available for general governmental expenses.

(2) The income of any REMIC shall be taxable to the holders of the interests in the REMIC under ORS chapter 316, 317 or 318, whichever is applicable.

(3) Taxable income or loss[,] with respect to income received as the holder of any interest in a REMIC shall be determined under sections 860A to 860G of the Internal Revenue Code, *as defined in ORS 316.012 or 317.010 and 317.018, as otherwise determined and modified under ORS chapter 316, 317 or 318, whichever is applicable, to the REMIC interest holder*].

(4) To determine *[that]* **the** portion of the income of a REMIC *[which]* **that** is taxable to a non-resident holder of an interest in the REMIC, there shall be included only that part derived from or connected with sources in this state, as such part is determined under rules adopted by the Department of Revenue in accordance with the general rules in ORS 316.352 (1987 Replacement Part).

NOTE: Eliminates redundant definition; eliminates excess words; corrects syntax and punctuation.

SECTION 80. ORS 314.752 is amended to read:

314.752. (1) Except as provided in ORS 314.740 (5)(b), the tax credits allowed or allowable to a C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are allowable to the shareholders of the S corporation.

(2) In determining the tax imposed under ORS chapter 316, as provided under ORS 314.734, on income of the shareholder of an S corporation, there shall be taken into account the shareholder's pro rata share of business tax credit (or item thereof) that would be allowed to the corporation (but for subsection (1) of this section) or recapture or recovery thereof. The credit (or item thereof), recapture or recovery shall be passed through to shareholders in pro rata shares as determined in the manner prescribed under section 1377(a) of the Internal Revenue Code.

(3) The character of any item included in a shareholder's pro rata share under subsection (2) of this section shall be determined as if such item were realized directly from the source from which realized by the corporation, or incurred in the same manner as incurred by the corporation.

(4) If the shareholder is a nonresident and there is a requirement applicable for the business tax credit that in the case of a nonresident *[that]* the credit be allowed in the proportion provided in ORS 316.117, then that provision shall apply to the nonresident shareholder.

(5) As used in this section, "business tax credit" means a tax credit granted to personal income taxpayers to encourage certain investment, to create employment, economic opportunity or incentive or for charitable, educational, scientific, literary or public purposes that is listed under this subsection as a business tax credit or is designated as a business tax credit by law or by the Department of Revenue by rule and includes but is not limited to the following credits: ORS 285C.309 (tribal taxes on reservation enterprise zones), ORS 315.104 (forestation and reforestation), ORS 315.134 (fish habitat improvement), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (farmworker housing), ORS 315.204 (dependent care assistance), ORS 315.208 (dependent care facilities), ORS 315.213 (contributions for child care), *[ORS 315.234 (child development program contributions),]* ORS 315.254 (youth apprenticeship sponsorship), ORS 315.304 (pollution control facility), ORS 315.324 (plastics recycling), ORS 315.354 and ORS 469.207 (energy conservation facilities), ORS 315.504 (Oregon Capital Corporation), ORS 315.507 (electronic commerce), ORS 315.511 (advanced telecommunications facilities), ORS 315.604 (bone marrow transplant expenses) and ORS 317.115 (fueling stations necessary to operate an alternative fuel vehicle).

NOTE: Deletes reference to repealed statute (see section 70, repealing ORS 315.234); corrects syntax.

SECTION 81. ORS 315.234 is repealed.

NOTE: Repeals obsolete statute.

SECTION 82. The repeal of ORS 315.234 by section 81 of this 2005 Act does not affect the allowance of a credit under ORS 315.234 that is claimed in a tax year beginning before January 1, 2002.

NOTE: States applicability of repeal.

SECTION 83. ORS 317.005 is amended to read:

317.005. This chapter may be cited as the Corporation Excise Tax Law *[of 1929]*.

NOTE: Conforms short title to legislative form and style.

SECTION 84. ORS 317.022 is repealed.

NOTE: Repeals obsolete statute.

SECTION 85. ORS 317.097 is amended to read:

317.097. (1) A credit against taxes otherwise due under this chapter for the taxable year shall be allowed to a lending institution in an amount equal to the difference between:

(a) The amount of finance charge charged by the lending institution during the taxable year at an annual rate less than the market rate for a loan that is made before January 1, 2010, that complies with the requirements of this section; and

(b) The amount of finance charge that would have been charged during the taxable year by the lending institution for the loan for housing construction, development or rehabilitation measured at the annual rate charged by the lending institution for nonsubsidized loans made under like terms and conditions at the time the loan for housing construction, development or rehabilitation is made.

(2) The maximum **amount of credit for the** difference between the amounts described in subsection (1)(a) and (b) of this section *[shall]* **may** not exceed four percent of the average unpaid balance of the loan during the tax year for which the credit is claimed.

(3) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any credit remaining unused in such next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise, any credit not used in that second succeeding tax year may be carried forward and used in the third succeeding tax year, and any credit not used in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried

forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year thereafter.

(4) In order to be eligible for the tax credit allowed under subsection (1) of this section, the loan shall be:

(a) Made to an individual or individuals who own the dwelling, participate in an owner-occupied community rehabilitation program and are certified by the local government or its designated agent as having an income level at the time the loan is made of less than 80 percent of the area median income; or

(b)(A) Made to a qualified borrower;

(B) Used to finance construction, rehabilitation or development of housing; and

(C) Accompanied by a written certification by the Housing and Community Services Department that the:

(i) Housing created by the loan is or will be occupied by households earning less than 80 percent of the area median income; and

(ii) Full amount of savings from the reduced interest rate provided by the lending institution is or will be passed on to the tenants in the form of reduced housing payments, regardless of other subsidies provided to the housing project.

(5) A loan made to refinance a loan that meets the criteria stated in subsection (4) of this section shall be treated the same as a loan that meets the criteria stated in subsection (4) of this section.

(6) In order to be eligible for the tax credit allowed under subsection (1) of this section, the loan also shall be accompanied by a written certification by the Housing and Community Services Department that:

(a) Specifies the period, as determined by the Housing and Community Services Department, during which the loan is eligible for the tax credit under subsection (1) of this section; and

(b) States that the loan is within the limitation imposed by subsection (7) of this section.

(7)(a) The Housing and Community Services Department may certify loans that are eligible under subsection (4) of this section if the total credits attributable to all loans eligible for credits under subsection (1) of this section and then outstanding do not exceed \$6 million for any year. In making loan certifications, the Housing and Community Services Department shall attempt to distribute the tax credits statewide, but shall concentrate the tax credits in those areas of the state that are determined by the State Housing Council to have the greatest need for affordable housing.

(b) The certification under subsection (6) of this section shall state the period for which the credit will be allowed, which [*shall*] **may** not exceed 20 years.

(8) The credit allowed in this section [*shall not be*] **is not** affected by the applicant's receipt of a credit under section 42 of the Internal Revenue Code (low-income housing tax credit program).

(9) A loan meeting the requirements of subsections (4) and (6) of this section may be sold to a qualified assignee with or without the lending institution's retaining servicing of the loan so long as a designated lending institution maintains records annually verified by a loan servicer that establish the amount of tax credit earned by the taxpayer throughout each year of eligibility.

(10) As used in this section:

(a) "Annual rate" means the yearly interest rate specified on the note, and not the annual percentage rate, if any, disclosed to the applicant to comply with the federal Truth in Lending Act.

(b) "Finance charge" means the total of all [*interests*] **interest**, loan fees, **interest on any loan fees financed by the lending institution**, and other charges related to the cost of obtaining credit [*and includes any interest on any loan fees financed by the lending institution*].

(c) "Lending institution" means any insured institution, as that term is defined in ORS 706.008, [*or*] any mortgage banking company that maintains an office in this state[. "*Lending institution*" also includes] **or** any community development corporation that is organized under the Oregon Nonprofit Corporation Law.

(d) "Qualified assignee" means any investor participating in the secondary market for real estate loans.

(e) "Qualified borrower" means any borrower that is a sponsoring entity that has a controlling interest in the real property that is financed by the loan described in subsection (4) of this section. Such a controlling interest includes, but is not limited to, a controlling interest in the general partner of a limited partnership that owns the real property.

(f) "Sponsoring entity" means a nonprofit corporation, state governmental entity, local unit of government as defined in ORS 466.706, housing authority or any **other** person, [as defined in ORS 174.100, including, but not limited to, an employer making housing available to low-income employees and other low-income persons,] provided that the person has agreed to restrictive covenants imposed by a nonprofit corporation, state governmental entity, local unit of government or housing authority.

(11) Notwithstanding any other provision of law, a lending institution that is a community development corporation organized under the Oregon Nonprofit Corporation Law may transfer any part or all of any tax credit arising under subsection (1) of this section to one or more other lending institutions that are stockholders or members of the community development corporation or that otherwise participate through the community development corporation in the making of one or more loans that generate the tax credit under subsection (1) of this section.

(12) The lending institution shall file an annual statement with the Housing and Community Services Department, specifying that it has conformed with all requirements imposed by law to qualify for this tax credit.

(13) The Housing and Community Services Department and the Department of Revenue may adopt rules to carry out the provisions of this section.

NOTE: Clarifies meaning; conforms language to legislative form and style.

SECTION 86. Section 6, chapter 911, Oregon Laws 1989, as amended by section 14, chapter 746, Oregon Laws 1995, section 1, chapter 548, Oregon Laws 2001, and section 15, chapter 739, Oregon Laws 2003, is amended to read:

Sec. 6. ORS 317.152 to 317.154 [and the amendments to ORS 318.031 by section 5, chapter 911, Oregon Laws 1989,] apply to amounts paid or incurred in tax years beginning on or after January 1, 1989, and before January 1, 2012.

NOTE: Corrects statutory reference.

SECTION 87. ORS 317.259 is amended to read:

317.259. Federal taxable income, adopted under ORS 317.013 and 317.018, [except as specifically otherwise provided by law, shall be modified only pursuant to the provisions contained in ORS 317.267 to 317.386 and 317.720 and no others] **shall be modified as provided by law.** Each modification authorized under law shall be allowed only to the extent that the modification is allocated and apportioned to Oregon income, **except as otherwise specifically provided by law.**

NOTE: Eliminates unnecessary series; clarifies meaning.

SECTION 88. ORS 317.311 is amended to read:

317.311. Section 243 of the Tax Reform Act of 1986 (P.L. 99-514) [shall] **does** not apply for purposes of determining taxable income under this chapter.

NOTE: Corrects word choice.

SECTION 89. ORS 318.020 is amended to read:

318.020. (1) There hereby is imposed upon every corporation for each taxable year a tax at the rate provided in ORS 317.061 upon its Oregon taxable income derived from sources within this state, other than income for which the corporation is subject to the tax imposed by [the Corporation Excise Tax Law of 1929 (ORS chapter 317)] according to or measured by its Oregon taxable income.

(2) Income from sources within this state includes income from tangible or intangible property located or having a situs in this state and income from any activities carried on in this state, regardless of whether carried on in intrastate, interstate or foreign commerce.

(3) Income that constitutes net long-term capital gain described in ORS 317.063 shall be taxed at the rate imposed under ORS 317.063.

NOTE: Eliminates redundancy.

SECTION 90. ORS 318.031 is amended to read:

318.031. It being the intention of the Legislative Assembly that this chapter and [*the Corporation Excise Tax Law of 1929*] **ORS chapter 317** shall be administered as uniformly as possible (allowance being made for the difference in imposition of the taxes [*and the operative date of this chapter*]), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are incorporated into and made a part of this chapter: ORS **285C.309**, 315.104, 315.134, 315.156, 315.204, 315.208, 315.213, [315.234,] 315.254, 315.304, 315.504, **315.507**, 315.511 and 315.604 (all only to the extent applicable for a corporation) and ORS [285C.309, 315.507, 317.010, 317.013, 317.018 to 317.022, 317.030, 317.035, 317.038, 317.080, 317.124 to 317.131, 317.152 to 317.154, 317.259 to 317.303, 317.310 to 317.386, 317.476 to 317.485, 317.488, 317.510 to 317.635 and 317.705 to 317.725] **chapter 317**.

NOTE: Deletes reference to repealed statute (see section 70, repealing ORS 315.234); eliminates unnecessary series and series citation.

SECTION 91. ORS 320.005 is amended to read:

320.005. As used in [*this chapter*] **ORS 320.005 to 320.150**, unless the context requires otherwise:

(1) "Amusement device" means a video lottery game terminal, including but not limited to any electronic, mechanical-electronic or nonmechanical device that:

- (a) Displays a ticket through the use of a video display screen;
- (b) Is available for consumer play upon the payment of consideration;
- (c) Determines winners through the element of chance; and
- (d) Displays possible prizes on the device.

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

(3) "Net receipts" has the meaning given the term "net receipts from video lottery games" under ORS 461.547.

(4) "Operate" means to make an amusement device available for use by the public for gain, benefit or advantage.

(5)(a) "Person" means every individual, partnership (limited or not), corporation (for-profit or not-for-profit), company, cooperative, joint stock company, joint venture, firm, business trust, association, organization, institution, club, society, receiver, assignee, trustee in bankruptcy, auctioneer, syndicate, trust, trustee, estate, personal representative or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise.

(b) "Person" includes this or another state, a municipal corporation, quasi-municipal corporation or political subdivision of this or another state, and the agencies, departments and institutions of this or another state, irrespective of the nature of the activities engaged in or functions performed, but does not include the United States or a foreign government or any agency, department or instrumentality of the United States or of any foreign government.

(6) "Tax year" means a period of 12 months beginning July 1 and ending the following June 30.

NOTE: Restates series reference.

SECTION 92. ORS 320.075 is amended to read:

320.075. (1) Each person responsible by law or contract for the operation of an amusement device in this state, together with any officer or partner thereof, shall be liable jointly and severally for the taxes imposed under [*this chapter*] **ORS 320.005 to 320.150** and for any penalties arising under [*this chapter*] **ORS 320.005 to 320.150**.

(2) If an amusement device is operated in this state without a tax imposed by [*this chapter*] **ORS 320.005 to 320.150** having been paid on or before 30 days after the date the tax is due, a penalty of \$200 shall be imposed.

(3) The penalty imposed in subsection (2) of this section shall be waived if the sole reason the tax was not paid is because of the failure of the Oregon State Lottery to act under the agreement described in ORS 320.150.

NOTE: Restates series reference.

SECTION 93. ORS 320.080 is amended to read:

320.080. (1) If any tax or penalty imposed by [*this chapter*] **ORS 320.005 to 320.150** is not paid as required by [*this chapter*] **ORS 320.005 to 320.150** within 30 days after the date that the written notice and demand for payment required under ORS 305.895 is mailed, the Department of Revenue

shall issue a warrant directed to the sheriff of any county of the state commanding the sheriff to levy upon and sell the real and personal property of the person or persons named in the warrant and liable for the tax found within the county, for the payment of the amount thereof with the added penalty and the cost of executing the warrant, and to return the warrant to the department and pay to it the money collected by virtue thereof by a time to be therein specified not more than 30 days from the date of the warrant. A copy of the warrant shall be mailed or delivered to the taxpayer by the department at the taxpayer's last-known address.

(2) The sheriff shall, within five days after the receipt of the warrant, record with the clerk of the county a copy thereof. Thereupon the clerk shall enter in the County Clerk Lien Record the names of the persons mentioned in the warrant, and the amount of the tax and penalty for which the warrant is issued and the date when such copy is recorded. Thereupon the amount of the warrant so recorded shall become a lien upon the title to any interest in real property or personal property of the persons against whom it is issued in the same manner as a judgment that creates a judgment lien under ORS chapter 18. The sheriff shall thereupon proceed upon the same in all respects, with like effect and in the manner prescribed by law in respect to execution issued against property upon judgment of a court of record, and the sheriff is entitled to the same fees for services in executing the warrant to be collected in the same manner. If a warrant is returned not satisfied in full, the department shall have the same remedies to enforce the claim for taxes as if the people of the state had recovered judgment for the amount of the tax.

NOTE: Restates series reference.

SECTION 94. ORS 320.110 is amended to read:

320.110. The Department of Revenue may adopt rules necessary for the administration and enforcement of *[this chapter]* **ORS 320.005 to 320.150.**

NOTE: Restates series reference.

SECTION 95. ORS 320.120 is amended to read:

320.120. (1) The Department of Revenue may employ the agents necessary for the administration and enforcement of *[this chapter]* **ORS 320.005 to 320.150.** Agents of the department charged with the enforcement of *[this chapter]* **ORS 320.005 to 320.150** have all the power and authority of police officers in the performance of such duties.

(2) The Oregon State Lottery and the agents and employees of the Oregon State Lottery may not be considered agents of the department charged with the enforcement of *[this chapter]* **ORS 320.005 to 320.150.**

NOTE: Restates series reference.

SECTION 96. ORS 320.130 is amended to read:

320.130. The state police, sheriffs, constables, police and other law enforcement officers within the State of Oregon shall enforce all provisions of *[this chapter]* **ORS 320.005 to 320.150** and shall assist the Department of Revenue.

NOTE: Restates series reference.

SECTION 97. ORS 320.140 is amended to read:

320.140. Nothing in *[this chapter]* **ORS 320.005 to 320.150** shall be construed as licensing, authorizing or legalizing the ownership, possession, display or operation, in violation of any law of this state, of any amusement device.

NOTE: Restates series reference.

SECTION 98. ORS 320.150 is amended to read:

320.150. The Department of Revenue and the Oregon State Lottery Commission shall enter into an agreement pursuant to which the Oregon State Lottery shall assist the department in the collection of excise taxes imposed under *[this chapter]* **ORS 320.005 to 320.150** on amusement devices operated under the authority of the Oregon State Lottery Commission pursuant to ORS 461.215 and 461.217 and any other functions of the department under *[this chapter]* **ORS 320.005 to 320.150** as may be provided under the agreement. The agreement is not intended to preclude performance by the department of collection functions as from time to time may be required, nor is the agreement intended to preclude the performance of functions by the Oregon State Lottery, under less formal

arrangements made with the department, with respect to the tax imposed under [*this chapter*] **ORS 320.005 to 320.150** if the functions are not specifically mentioned in the agreement. The collection of taxes under [*this chapter*] **ORS 320.005 to 320.150** by the Oregon State Lottery [*shall*] **does** not render the Oregon State Lottery or the agents and employees of the Oregon State Lottery responsible for collection of the tax.

NOTE: Restates series reference; corrects syntax.

SECTION 99. ORS 320.990 is amended to read:

320.990. Violation of any provision of [*this chapter*] **ORS 320.005 to 320.150** by any person is punishable, upon conviction, by a fine of not more than \$500, or by imprisonment in the county jail for not more than six months, or by both. Justice courts have concurrent jurisdiction with the circuit courts of any prosecution provided for in this subsection.

NOTE: Restates series reference.

SECTION 100. ORS 321.011 is amended to read:

321.011. The prevention and suppression of forest fires on forestlands for the preservation of forest resources and the continuous growth of timber on lands suitable therefor are declared to be the public policy of the State of Oregon. The Legislative Assembly recognizes that:

(1) The forested areas situated within eastern Oregon predominate in Ponderosa pine trees and associated species, and that the forested areas situated within western Oregon predominate in Douglas fir and associated species;

(2) [*that*] Because of this difference in species, different forest fire protection problems exist in eastern and western Oregon, and different logging conditions and circumstances in each necessitate varied forest practices in the disposal of forest slashings and debris; and

(3) [*that,*] Therefore, in order to give recognition to such differences and their effect on the accomplishment of the public policy stated in this section, certain classifications of forestlands within the State of Oregon are established by ORS 321.005 to 321.185 and 321.560 to 321.600.

NOTE: Conforms structure to legislative form and style.

SECTION 101. ORS 321.045 is amended to read:

321.045. (1) The taxes levied under ORS 321.015 shall be due and payable annually, on or before the last day of January, for the preceding year. The tax shall be delinquent if not paid by the due date, which shall be determined without regard to any extension of time for filing the return.

(2) Subject to the provisions relating to estimated tax payments provided in subsections (4) and (5) of this section, on or before the last day of January, each taxpayer shall make out a return on the form prescribed by the Department of Revenue showing the amount of the tax for which the taxpayer is liable for the preceding year and the other information the department considers necessary to correctly determine the tax due and shall mail or deliver the return, together with a remittance for the amount of the tax, to the office of the department. The return shall be signed and verified by the taxpayer or a duly authorized agent of the taxpayer. Whenever in its judgment good cause exists, the department may allow upon written application made on or before the due date further time not exceeding 30 days for filing a return.

(3) All payments received under ORS 321.005 to 321.185 and 321.560 to 321.600 shall be credited, first, to penalty and interest accrued, and then to tax due.

(4) [*Commencing January 1, 1994,*] Each taxpayer expecting to incur a liability pursuant to this section in excess of \$1,500 for any calendar year shall, on forms prescribed by the Department of Revenue, make and file with the department on or before the last day of the month following the end of each calendar quarter an estimate of the taxpayer's tax liability for the year. At least one-quarter of the estimated tax shall be remitted to the department with each estimated tax report and the balance shall be remitted to the department on or before the due date of the tax return required by subsection (2) of this section, without regard for any extension of the due date thereof.

(5) If the amount remitted with an estimated tax report filed on or before the due date thereof is at least 25 percent of the tax of the taxpayer as due for the calendar year preceding the year for which the report is made or at least 20 percent of the taxpayer's tax liability as due for the year for which the report is made, or 100 percent of the tax liability on the actual merchantable forest

products harvested for the calendar quarter preceding the due date of the estimated tax report, no penalty or interest shall be charged. Otherwise a penalty in the form of interest at the rate established under ORS 305.220 for each month or fraction thereof shall be assessed for the period of delinquency calculated on the difference between the payment made and the payment *[which]* **that** would have been due had the taxpayer estimated the liability for the quarter in an amount equal to the liability as due for such quarter. The provisions of ORS chapters 305 and 314 relating to penalties and interest shall not apply to the estimated tax payments described in this section.

NOTE: Deletes obsolete language; corrects grammar.

SECTION 102. ORS 321.349 is amended to read:

321.349. (1) Subject to subsection (2) of this section, land that is changed from farm use special assessment under ORS 308A.050 to 308A.128 to special assessment as forestland under ORS 321.257 to 321.390, at the election of the owner made under rules adopted by the Department of Revenue, shall not be valued under ORS 308.205, 308.232 and 321.257 to 321.390 for the tax year of the change and years thereafter in which such special forestland assessment is in effect for the land, but shall be valued under ORS 308A.050 to 308A.128, if:

(a) The land has been assessed under ORS 308A.050 to 308A.128 for at least the 10 consecutive years immediately prior to the year for which the change is first effective;

(b) The planting of the timber takes place after October 15, 1983, and qualifies for the current tax year for special assessment as forestland under ORS 321.257 to 321.390;

(c) The timber on the land is of an average age of less than 40 years; and

(d) The land is held by an owner having a total ownership of forestland in western Oregon not in excess of 2,000 acres, as determined under subsection (3) of this section.

(2) If timber on land valued under subsection (1) of this section reaches, for any tax year, an average age of 40 years or more, this section shall cease to apply. However, without application and without any additional tax, interest or penalty, the land shall for that tax year and for each year thereafter for which the land is qualified, be valued under ORS 308.205, 308.232 and 321.257 to 321.390.

(3) In computing a forestland owner's acreage for purposes of subsection (1) of this section, *[all]* **total ownership** of the owner's forestland, as defined in ORS 321.257, in western Oregon shall be included. *[As used in this subsection, "total ownership" includes (a) forestland owned by the owner individually; and (b) forestland owned by any corporate or other group owner in which the owner holds a share of ownership of 10 percent or more. No]*

(4)(a) **An** owner may **not** have forestland valued under subsection (1) of this section if the owner, or any individual having a share in the owner, has a spouse, brother, sister, ancestor or lineal descendant who is an owner, or who holds a share in an owner having forestland valued under subsection (1) of this section.

(b) *[However,]* The county assessor may grant exceptions to *[this requirement]* **paragraph (a) of this subsection** if the owner satisfactorily demonstrates that the combination of ownership with the indicated relatives arose from bona fide business reasons other than a desire to circumvent the 2,000 acre limitation imposed under subsection (1) of this section.

(5) **As used in this section, "total ownership" includes:**

(a) **Forestland owned by an owner individually; and**

(b) **Forestland owned by any corporate or other group or entity in which an owner of the corporation, group or entity owns a 10 percent or greater interest, directly or indirectly, in the corporation, group or entity.**

NOTE: Corrects application of definition; eliminates multiple meaning of same term; conforms section to legislative form and style.

SECTION 103. ORS 321.367 is amended to read:

321.367. (1) The State Forester shall identify all of the forestlands that fail to meet the minimum stocking required under ORS 527.610 to 527.770 *[and 527.992]* and that are therefore underproductive as described under ORS 526.455.

(2) At any time the State Forester has reason to believe that forestland is not being managed as forestland, the State Forester shall review the owner's management plan, if any, and inspect the property. Subject to subsection (5) of this section, the State Forester shall advise the owner as prescribed in subsection (3) of this section if the State Forester determines the land is not being managed in accordance with a plan that provides for:

- (a) Regeneration of all suitable nonstocked land;
- (b) Maintenance of a free-to-grow condition;
- (c) Protection from fire, insects, disease, animal damage, undesirable vegetative competition; and
- (d) Final harvest.

(3)(a) The State Forester shall advise the owner that the land is not being managed in accordance with a plan that meets the criteria set forth in subsection (2) of this section and that a plan for the land that does meet the criteria must be developed and activated within one year after the date of the advisement.

(b) At the request of the owner, the State Forester shall assign a forester or provide a listing of foresters to assist the owner in developing and implementing an appropriate management plan for the land.

(c) As soon as practicable after the time indicated in the advisement has expired, the State Forester shall view the land to determine if the land is being managed in accordance with a plan that meets the criteria set forth in subsection (2) of this section. If, upon inspection, the State Forester finds that the land is not being so managed, the State Forester shall notify the owner and the county assessor.

(4) The county assessor, upon receipt of the notice from the State Forester, shall cease to treat that land as forestland under ORS 321.257 to 321.390 and shall value the land as prescribed under ORS 308.146 and 308.232.

(5) If at the time that the State Forester views the land under subsection (3)(c) of this section, it is determined that a change in ownership has occurred, the State Forester shall notify the new owner as required under subsection (3) of this section in the manner of the original notification.

(6) When the owner of land disqualified from forestland assessment provides satisfactory information to the State Forester of subsequent action taken to correct the deficiency resulting in the disqualification of land, or provides an acceptable management plan to correct such deficiency, the State Forester shall so indicate to the county assessor. The assessor shall then assess the land under ORS 321.257 to 321.390, if the land is otherwise qualified for such assessment.

(7) The State Forester shall adopt rules necessary to carry out the purposes of this section.

NOTE: Deletes incorrect reference.

SECTION 104. ORS 321.485 is amended to read:

321.485. (1) The revenue from the taxes imposed by ORS 321.405 to 321.487 (2001 Edition) shall be remitted by the Department of Revenue to the State Treasurer, who shall deposit it in a suspense account, separate and distinct from the General Fund, established under the provisions of ORS 293.445 that shall be known as the Eastern Oregon Timber Tax Account. Interest earned on cash balances invested by the State Treasurer shall be credited to this account. Moneys are appropriated continuously from the Eastern Oregon Timber Tax Account for use in reimbursing the General Fund for expenses incurred in the collection of taxes imposed by ORS 321.405 to 321.487 (2001 Edition) and other expenses associated with administering forest taxes and for costs incurred by the State Forestry Department in carrying out the provisions of ORS 526.425 by providing assistance to non-industrial private forest landowners in eastern Oregon.

(2) Notwithstanding the provisions of ORS 291.238, the amount of moneys necessary to pay refunds of the taxes imposed under ORS 321.405 to 321.487 (2001 Edition) is appropriated continuously to the department from the suspense account referred to in subsection (1) of this section, and shall be used by the department for the payment of all refunds of taxes imposed under ORS 321.405 to 321.487 [which] (2001 Edition) that have been audited and approved by the department. Any penalties, interest and taxes then due from the taxpayer shall be applied in that order in computing any refund, and only the balance due the taxpayer, if any, shall be refunded.

(3) Moneys remaining in the Eastern Oregon Timber Tax Account following the appropriations described in subsections (1) and (2) of this section shall be distributed as follows:

(a) Sixty-five percent of moneys that are derived from the harvest of timber on land subject to assessment under ORS 321.811 (8) to (11) (2001 Edition) shall be distributed as follows:

(A) Ninety-three percent of the amount distributed under this paragraph shall be transferred to and is continuously appropriated to the State School Fund for the purposes for which State School Fund moneys may be spent.

(B) Seven percent of the amount distributed under this paragraph shall be transferred to and is continuously appropriated to the Community College Support Fund established under ORS 341.620.

(b) Thirty-five percent of moneys that are derived from the harvest of timber on land subject to assessment under ORS 321.811 (8) to (11) (2001 Edition) shall be distributed to county general funds of eastern Oregon counties.

(c) The balance of the account shall be distributed as follows:

(A) Ninety-three percent of the amount distributed under this paragraph shall be transferred to and is continuously appropriated to the State School Fund for the purposes for which State School Fund moneys may be spent.

(B) Seven percent of the amount distributed under this paragraph shall be transferred to and is continuously appropriated to the Community College Support Fund established under ORS 341.620.

(4)(a) Moneys that are to be distributed to eastern Oregon counties under subsection (3)(b) of this section shall be distributed to each eastern Oregon county in the proportion that the assessed value of forestland in the county in the preceding fiscal year bears to the total assessed value of forestland for the preceding fiscal year.

(b) The Department of Revenue may adopt rules to further implement the distribution calculation described in this subsection.

(5) All moneys distributed to counties pursuant to subsection (4) of this section are continuously appropriated to the counties to which the moneys are distributed. On or before August 15 of each fiscal year, the department shall determine the amount distributable to counties from the Eastern Oregon Timber Tax Account as of May 1 of the preceding fiscal year, and shall remit to the counties the amounts so determined. The department shall certify to the county assessor the amount remitted to the county under this subsection.

(6) The amount of Eastern Oregon Timber Tax Account moneys to be transferred for a fiscal year under subsection (3)(a) and (c) of this section shall be determined as of May 1 of the fiscal year and transferred on or before May 15 of the fiscal year in which the distribution is being made.

(7) A working balance may be retained in the Eastern Oregon Timber Tax Account for the payment of administrative expenses described in subsection (1) of this section.

NOTE: Clarifies application of series; corrects grammar.

SECTION 105. ORS 321.684 is amended to read:

321.684. (1) The Department of Revenue may:

(a) Furnish to any taxpayer or authorized representative, upon request of the taxpayer or authorized representative, a copy of the taxpayer's forest products harvest tax report or return required by ORS 321.045[*, 321.322, 321.435,*] **or** 321.741 [*or 321.950*] that is filed with the department for any year, or a copy of any report filed by the taxpayer in connection with the return.

(b) Publish a list of taxpayers who are entitled to unclaimed tax refunds.

(c) Publish statistics classified so as to prevent the identification of taxable value or any particulars contained in any report or return.

(d) Disclose a taxpayer's name, address and Social Security number or employer identification number to the extent necessary in connection with the processing and mailing of forms for any report or return required in the administration of ORS 321.045 and 321.741.

(e) Disclose to the State Forester, upon request of the forester, for the purpose of soliciting nominations and recommendations referred to in ORS 526.610, the names of producers meeting producer class qualifications established under ORS 526.610 who filed forest products harvest tax returns.

(f) Disclose appraisal data collected to make determinations of specially assessed value of forestland under ORS 321.201 to 321.222 to any member of a forestland value advisory committee the department has convened under ORS 321.213.

(2) The department also may disclose and give access to information described in ORS 321.682 to:

(a) The Commissioner of Internal Revenue or authorized representative, for tax purposes only.

(b) The United States Forest Service, Bureau of Land Management and the State Forestry Department pursuant to their regulatory programs and for investigative purposes related to timber theft.

(c) The Attorney General, assistants and employees in the Department of Justice or other legal representative of the State of Oregon, to the extent the department considers disclosure or access necessary for the performance of the duties of advising or representing the department pursuant to ORS 321.045 and 321.741.

(d) Employees of the State of Oregon, other than the Department of Revenue or Department of Justice, to the extent the department considers disclosure or access necessary for such employees to perform their duties under contracts or agreements between the department and any other department, agency or subdivision of the State of Oregon in the department's administration of the tax laws.

(e) The Legislative Revenue Officer or the authorized representative of the Legislative Revenue Officer upon compliance with ORS 173.850. The officer or representative may not remove from the premises of the department any materials that would reveal the identity of any taxpayer or any other person or the volume of harvest and value reported on individual returns and reports.

(f) Any agency of the State of Oregon, or any person, or any officer or employee of the agency or person to whom disclosure or access is given by state law and not otherwise referred to in this section, including but not limited to the Secretary of State as Auditor of Public Accounts under section 2, Article VI of the Constitution of the State of Oregon.

(3) Each officer or employee of the department and each person described or referred to in subsection (2)(b) to (f) of this section to whom disclosure or access to the tax information is given under subsection (2) of this section or any other provision of state law, prior to beginning employment or the performance of duties involving such disclosure or access, shall be advised in writing of the provisions of ORS 321.682 and 321.686 relating to penalties for the violation of ORS 321.682, and shall, as a condition of employment or performance of duties, execute a certificate for the department, in a form prescribed by the department, stating in substance that the person has read these provisions of law, that the person has had them explained and that the person is aware of the penalties for the violation of ORS 321.682.

NOTE: Deletes reference to repealed statutes.

SECTION 106. ORS 321.686 is amended to read:

321.686. Violation of ORS 321.682 is subject to a fine not exceeding \$5,000 or, if **committed by** an officer or employee of the state, dismissal or removal from office or employment, or both fine and dismissal or removal from office or employment.

NOTE: Clarifies meaning.

SECTION 107. ORS 321.824 is amended to read:

321.824. (1) Lands assessed by the Department of Revenue pursuant to ORS 308.505 to 308.665 or 308.805 to 308.820 may not be assessed under ORS 321.805 to 321.855.

(2) Land used exclusively for growing cultured Christmas trees may not be assessed under ORS 321.805 to 321.855.

(3) Land that is used to grow hardwood timber, including but not limited to hybrid cottonwood, may not be assessed under ORS 321.805 to 321.855 if:

(a) The land is prepared using intensive cultivation methods and is cleared of competing vegetation for at least three years after tree planting;

(b) The timber is of a species marketable as fiber for inclusion in the furnish for manufacturing paper products;

- (c) The timber is harvested on a rotation cycle within 12 years after planting; and
- (d) The land and timber are subject to intensive agricultural practices such as fertilization, insect and disease control, cultivation and irrigation.

[4] *Timber harvested from small tract forestland qualified under ORS 321.700 to 321.754 is not subject to ORS 321.405 to 321.487.*

[5] (4) Nothing contained in ORS 321.805 to 321.855 shall prevent:

(a) The collection of ad valorem property taxes *[which]* **that** became a lien against timber prior to July 1, 1962.

(b) The collection of taxes, charges or assessments made pursuant to law for protection.

(c) The collection of taxes levied under the provisions of ORS 321.005 to 321.185 and 321.560 to 321.600.

NOTE: Deletes obsolete provision; corrects grammar.

SECTION 108. ORS 323.310 and 323.315 are repealed.

NOTE: Repeals obsolete statutes.

SECTION 109. ORS 323.457 is amended to read:

323.457. (1) Moneys received under *[this section and]* ORS 323.031 shall be paid over to the State Treasurer to be held in a suspense account established under ORS 293.445. Amounts necessary to pay the expenses incurred by the Department of Revenue and to reimburse the Oregon State Police and the Department of Justice for the administration and enforcement of this section and ORS 323.031 are continuously appropriated to the Department of Revenue from the suspense account. After the payment of administrative and enforcement expenses and refunds:

(a) 29.37/30 of the moneys shall be credited to the Oregon Health Plan Fund established under ORS 414.109;

(b) 0.14/30 of the moneys are continuously appropriated to the Oregon Department of Administrative Services for distribution to the cities of this state;

(c) 0.14/30 of the moneys are continuously appropriated to the Oregon Department of Administrative Services for distribution to the counties of this state;

(d) 0.14/30 of the moneys are continuously appropriated to the Department of Transportation to be distributed and transferred to the Elderly and Disabled Special Transportation Fund established under ORS 391.800; and

(e) 0.21/30 of the moneys shall be credited to the Tobacco Use Reduction Account established under ORS 431.832.

(2)(a) Moneys distributed to cities and counties under this section *[and ORS 323.031]* shall be distributed to each city or county using the proportions used for distributions made under ORS 323.455.

(b) Moneys shall be distributed to cities, counties and the Elderly and Disabled Special Transportation Fund at the same time moneys are distributed to cities, counties and the Elderly and Disabled Special Transportation Fund under ORS 323.455.

NOTE: Deletes incorrect statutory citations.

SECTION 110. ORS 323.457, as amended by section 5e, chapter 804, Oregon Laws 2003, is amended to read:

323.457. (1) Moneys received under *[this section and]* ORS 323.031 shall be paid over to the State Treasurer to be held in a suspense account established under ORS 293.445. After the payment of refunds:

(a) 29.37/30 of the moneys shall be credited to the Oregon Health Plan Fund established under ORS 414.109;

(b) 0.14/30 of the moneys are continuously appropriated to the Oregon Department of Administrative Services for distribution to the cities of this state;

(c) 0.14/30 of the moneys are continuously appropriated to the Oregon Department of Administrative Services for distribution to the counties of this state;

(d) 0.14/30 of the moneys are continuously appropriated to the Department of Transportation to be distributed and transferred to the Elderly and Disabled Special Transportation Fund established under ORS 391.800; and

(e) 0.21/30 of the moneys shall be credited to the Tobacco Use Reduction Account established under ORS 431.832.

(2)(a) Moneys distributed to cities and counties under this section [*and ORS 323.031*] shall be distributed to each city or county using the proportions used for distributions made under ORS 323.455.

(b) Moneys shall be distributed to cities, counties and the Elderly and Disabled Special Transportation Fund at the same time moneys are distributed to cities, counties and the Elderly and Disabled Special Transportation Fund under ORS 323.455.

NOTE: Deletes incorrect statutory citations.

SECTION 111. ORS 323.525 is amended to read:

323.525. (1) The Department of Revenue may require any person subject to ORS 323.500 to 323.645 to place with the department an amount of security that the department determines is necessary to ensure compliance with ORS 323.500 to 323.645.

(2) The amount of the security shall be fixed by the department but, except as provided in subsection (3) of this section, may not be greater than twice the estimated tax liability of a person for the reporting period under ORS 323.500 to 323.645, determined in a manner the department considers proper.

(3) In **the** case of a person who, pursuant to ORS 323.535, has appealed the decision of the department to suspend or revoke a license, the amount of the security may not be greater than twice the tax liability of the person for the reporting period under ORS 323.500 to 323.645, determined in a manner the department considers proper, or \$10,000, whichever is greater.

(4) The limitations provided in this section apply regardless of the type of security placed with the department. The required amount of the security may be increased or decreased by the department subject to the limitations provided in this section.

NOTE: Corrects syntax.

SECTION 112. ORS 324.130 is amended to read:

324.130. (1) Any person engaged in the production within this state of oil or gas[,] shall, on or before the 45th day following the preceding quarterly period, file with the Department of Revenue a statement under oath, upon forms prescribed by the department, giving, along with other information required, the following:

(a) **The** name of the property[,] **and the** description by subdivision of quarter section, section, township and range;

(b) The gross amount of oil or gas produced and saved;

(c) The name of the purchaser and the price [*received therefor*] **paid by the purchaser;** and

(d) The formation from which the oil or gas is produced.

(2) Each report required by this section shall be filed on separate forms as to product and county.

NOTE: Clarifies meaning; corrects punctuation.

SECTION 113. ORS 329.385 is amended to read:

329.385. (1) The Department of Education shall prepare operating guides for child development programs and for student-parent programs applicable to programs under [*ORS 315.234, 318.031 and*] this section that are consistent with requirements imposed by the State Board of Education.

(2) The Department of Education shall review applications for approval of child development programs and student-parent programs and may approve up to 20 child development and up to 20 student-parent programs after considering:

(a) The educational adequacy and type of programs.

(b) The number of students and children who are to be served by the program.

(c) The availability of trained personnel and facilities.

(d) The need for the programs in the applying district.

(3) In approving applications for child development programs, the department shall require that the school district use the contributions described in ORS 315.234 **(2003 or earlier edition)** [and 318.031] for child development curriculum and in the formulation and initiation of on-site child development centers. Each center must be able to accommodate not more than 30 full-time equivalent spaces for children, distributed according to needs of the community.

(4) In approving applications for student-parent programs, the department shall require that the school district use the contributions described in ORS 315.234 **(2003 or earlier edition)** [and 318.031] for appropriate education for student-parents leading to graduation and in the formulation and development of appropriate on-site child care facilities. Each facility must be able to accommodate not more than 30 full-time equivalent spaces for children, distributed according to the needs of the student-parents.

(5) As used in this section:

(a) "Child development program" means an educational program that conforms to standards adopted by the State Board of Education and that consists of an education component and a child care component.

(b) "Student-parent program" means an educational program that conforms to standards adopted by the State Board of Education and that consists of education for the student-parent and child care for the student-parent's child.

NOTE: Deletes or corrects references to repealed statute (see section 81, repealing ORS 315.234).

SECTION 114. ORS 358.820 is amended to read:

358.820. Any city having a population of 250,000 or more may, when authorized as provided in ORS 358.840, levy each year a tax of not to exceed fifteen-hundredths of one mill on each dollar of assessed valuation of property subject to taxation by the city[, *within or without the six percent limitation,*] for the purpose of maintaining and employing one major symphony orchestra, one band[,] and one junior symphony orchestra. **At the election of the governing body of the city, the levy may be:**

(1) Within the permanent rate limit for the city, but may not increase that limit; or

(2) A local option tax described in ORS 280.040 to 280.145.

NOTE: Replaces obsolete language with language corresponding to currently applicable constitutional property tax limitation.

SECTION 115. ORS 670.605 is amended to read:

670.605. In accordance with ORS chapter 183, those agencies responsible for the administration of ORS 671.510 to 671.710 and ORS chapters [316,] 656, 657 and 701 jointly shall adopt rules to carry out the provisions of ORS 670.600.

NOTE: Deletes obsolete chapter reference.

SECTION 116. ORS 670.610 is amended to read:

670.610. Notwithstanding ORS 670.600, for purposes of ORS [chapters 316 and] **chapter** 653, a person serving as a referee or assistant referee in a youth or adult recreational soccer match shall be considered to be an independent contractor.

NOTE: Deletes obsolete chapter reference.

Passed by House February 21, 2005

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Chief Clerk of House

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Speaker of House

Passed by Senate May 10, 2005

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President of Senate

Received by Governor:

.....M,....., 2005

Approved:

.....M,....., 2005

.....
Governor

Filed in Office of Secretary of State:

.....M,....., 2005

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Secretary of State