

House Bill 3110

Sponsored by Representatives FARR, HUNT; Representatives BRUUN, BURLEY, GILMAN, KOMP, KRUMMEL, NOLAN, OLSON, SHIELDS

SUMMARY

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

Creates low income rental assistance program to be administered by Department of Revenue.
Appropriates moneys for low income rental assistance program.

A BILL FOR AN ACT

Relating to low income rental assistance; creating new provisions; amending ORS 18.512, 18.845, 179.640, 305.265, 305.380, 305.514, 305.620, 310.630, 310.651, 311.678, 314.400, 314.835, 314.840, 314.860 and 411.700; and appropriating money.

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

SECTION 1. ORS 310.630 is amended to read:

310.630. As used in ORS 310.630 to 310.706 **and sections 3 to 8 of this 2005 Act:**

(1) "Contract rent" means rental paid to the landlord for the right to occupy a homestead, including the right to use the personal property located therein. "Contract rent" does not include rental paid for the right to occupy a homestead that is exempt from taxation, unless payments in lieu of taxes of 10 percent or more of the rental exclusive of fuel and utilities are made on behalf of the homestead. "Contract rent" does not include advanced rental payments for another period and rental deposits, whether or not expressly set out in the rental agreement, or payments made to a nonprofit home for the elderly described in ORS 307.375. If a landlord and tenant have not dealt with each other at arm's length, and the Department of Revenue is satisfied that the contract rent charged was excessive, it may adjust the contract rent to a reasonable amount for purposes of ORS 310.630 to 310.706 **and sections 3 to 8 of this 2005 Act**.

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

(3) "Fuel and utility payments" includes payments for heat, lights, water, sewer and garbage made solely to secure those commodities or services for the homestead of the taxpayer. "Fuel and utility payments" does not include telephone service.

(4) "Gross rent" means contract rent paid plus the fuel and utility payments made for the homestead in addition to the contract rent, during the calendar year for which the claim is filed.

(5) "Homestead" means the taxable principal dwelling located in Oregon, either real or personal property, rented by the taxpayer, and the taxable land area of the tax lot upon which it is built.

(6) "Household" means the taxpayer, the spouse of the taxpayer and all other persons residing in the homestead during any part of the calendar year for which a claim is filed.

(7) "Household income" means the aggregate income of the taxpayer and the spouse of the taxpayer who reside in the household, that was received during the calendar year for which the claim is filed. "Household income" includes payments received by the taxpayer or the spouse of the taxpayer under the federal Social Security Act for the benefit of a minor child or minor children who

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

are members of the household.

(8) "Income" means "adjusted gross income" as defined in the federal Internal Revenue Code, as amended and in effect on December 31, 2002, even when the amendments take effect or become operative after that date, relating to the measurement of taxable income of individuals, estates and trusts, with the following modifications:

(a) There shall be added to adjusted gross income the following items of otherwise exempt income:

(A) The gross amount of any otherwise exempt pension less return of investment, if any.

(B) Child support received by the taxpayer.

(C) Inheritances.

(D) Gifts and grants, the sum of which are in excess of \$500 per year.

(E) Amounts received by a taxpayer or spouse of a taxpayer for support from a parent who is not a member of the taxpayer's household.

(F) Life insurance proceeds.

(G) Accident and health insurance proceeds, except reimbursement of incurred medical expenses.

(H) Personal injury damages.

(I) Sick pay which is not included in federal adjusted gross income.

(J) Strike benefits excluded from federal gross income.

(K) Worker's compensation, except for reimbursement of medical expense.

(L) Military pay and benefits.

(M) Veteran's benefits.

(N) Payments received under the federal Social Security Act which are excluded from federal gross income.

(O) Welfare payments, except as follows:

(i) Payments for medical care, drugs and medical supplies, if the payments are not made directly to the welfare recipient;

(ii) In-home services authorized and approved by the Department of Human Services; and

(iii) Direct or indirect reimbursement of expenses paid or incurred for participation in work or training programs.

(P) Nontaxable dividends.

(Q) Nontaxable interest not included in federal adjusted gross income.

(R) Rental allowance paid to a minister that is excluded from federal gross income.

(S) Income from sources without the United States that is excluded from federal gross income.

(b) Adjusted gross income shall be increased due to the disallowance of the following deductions:

(A) The amount of the net loss, in excess of \$1,000, from all dispositions of tangible or intangible properties.

(B) The amount of the net loss, in excess of \$1,000, from the operation of a farm or farms.

(C) The amount of the net loss, in excess of \$1,000, from all operations of a trade or business, profession or other activity entered into for the production or collection of income.

(D) The amount of the net loss, in excess of \$1,000, from tangible or intangible property held for the production of rents, royalties or other income.

(E) The amount of any net operating loss carryovers or carrybacks included in federal adjusted gross income.

(F) The amount, in excess of \$5,000, of the combined deductions or other allowances for depreciation, amortization or depletion.

(G) The amount added or subtracted, as required within the context of this section, for adjustments made under ORS 316.680 (2)(d) and 316.707 to 316.737.

(c) "Income" does not include any of the following:

(A) Any governmental grant which must be used by the taxpayer for rehabilitation of the homestead of the taxpayer.

(B) The amount of any payments made pursuant to ORS 310.630 to 310.706 **or sections 3 to 8 of this 2005 Act.**

(C) Any refund of Oregon personal income taxes that were imposed under ORS chapter 316.

(9) "Payments for heat" means those payments made to secure the commodities or services to be used as the principal source of heat for the homestead of the taxpayer and includes payments for natural gas, oil, firewood, coal, sawdust, electricity, steam or other materials that are capable of use as a primary source of heat for the homestead.

(10) "Statement of gross rent" means a declaration by the applicant, under penalties of false swearing, that the amount of contract rent and fuel and utility payments designated is the actual amount both incurred and paid during the year for which *[elderly]* rental assistance is claimed.

(11) "Taxpayer" means an individual who is a resident of this state on December 31 of the year for which *[elderly]* rental assistance is claimed and whose homestead, as of the same December 31 and during all or a portion of the year ending on the same December 31, is rented and while rented is the subject, directly or indirectly, of property tax levied by this state or a political subdivision or of payments made in lieu of taxes.

SECTION 2. Sections 3 to 8 of this 2005 Act are added to and made a part of ORS chapter 310.

SECTION 3. (1) A low income rental assistance claimant who is eligible for low income rental assistance shall be granted the rental assistance in the amount determined under subsection (2) of this section. A claimant is eligible for low income rental assistance under this section if:

(a) The household income of the claimant does not exceed 100 percent of the federal poverty level;

(b) The gross rent of the claimant is in excess of 30 percent of household income; and

(c) The claimant files a claim with the Department of Revenue as required by section 5 of this 2005 Act.

(2) A claimant eligible for low income rental assistance under this section shall be paid by the Department of Revenue an amount, not to exceed \$1,500, that equals the positive difference between the claimant's gross rent and 30 percent of household income.

(3) The low income rental assistance payments required by subsection (2) of this section shall be made by the Department of Revenue during the month of October.

(4) The low income rental assistance granted under this section applies to gross rent paid in the calendar year for which the claim is filed.

(5) The Department of Revenue may not grant low income rental assistance under this section:

(a) For less than \$1, after offsets for all amounts owed to the state.

(b) For any year during which the claimant's needs were included in a payment made by the Department of Human Services pursuant to ORS 418.035 to 418.172. However, if it is determined that the claimant's needs were included in a payment made by the Department of Human Services under ORS 418.035 to 418.172 and the claimant is eligible for the period for

low income rental assistance in an amount greater than the payment, the Department of Revenue shall grant low income rental assistance in the amount of the difference.

(c) For any year for which the claimant also receives elderly rental assistance under ORS 310.630 to 310.706.

(6) Low income rental assistance allowed pursuant to this section is not subject to garnishment under ORS 18.600 to 18.850, except by a government entity.

SECTION 4. (1) A low income rental assistance claimant who has household assets that in combination exceed \$_____ in value as of December 31 of the year for which a claim for low income rental assistance is filed under section 5 of this 2005 Act is not eligible to receive the rental assistance for that year.

(2) For purposes of determining if the household assets of the claimant exceed the amount permitted under subsection (1) of this section, the values of the following assets shall be added together:

(a) Real property, but excluding the value of the homestead.

(b) Tangible personal property used in a trade or business in which the claimant has an ownership interest, but excluding under this paragraph the value of any assets described under paragraph (c) of this subsection.

(c) Intangible personal property, including but not limited to shares of stock, evidence of debt, funds on deposit, money on hand and money on deposit, all as defined under ORS 310.651, and excluding the value of any benefits or contributions made to a retirement or deferred compensation plan by or on behalf of the claimant.

(3) Any claim filed under section 5 of this 2005 Act shall be accompanied by a statement, signed by the claimant or representative of the claimant and verified upon oath or affirmation of the claimant or representative, stating that the household assets of the claimant, as of December 31 of the year for which the claim is filed, do not in combination exceed the amount set forth in subsection (1) of this section.

(4) For purposes of determining eligibility under this section, the household assets of the claimant and the spouse of the claimant shall be added together.

SECTION 5. (1) On or before July 1 following the year for which the claim for low income rental assistance is made, an individual claiming the rental assistance provided under section 3 of this 2005 Act shall file a claim with the Department of Revenue, together with a copy of the statement of gross rent. The claim shall be filed on a form prescribed and furnished by the department. The department shall prepare blank forms for the claims and shall distribute them throughout the state. The department may require from the low income rental assistance claimant any proof it considers necessary to determine if the claimant is eligible for rental assistance pursuant to section 3 of this 2005 Act. If the claimant is unable to file the claim of the claimant, the claim shall be filed by a duly authorized agent or by a guardian or other person charged with the care of the claimant or property of the claimant.

(2) A claim for low income rental assistance that is filed after July 1 shall be paid by the department at the time and to the extent that payments for timely filed claims made in the next succeeding year are made by the department.

(3) The department shall audit or examine the claim and, if it appears that the claimant is eligible for low income rental assistance, the department shall determine the amount to which the claimant is entitled under section 3 of this 2005 Act.

(4) If the department denies the claim in whole or in part, the department shall notify

1 the claimant. If the claim is allowed in whole or in part, the entire low income rental as-
 2 sistance shall be paid on or before November 15 of the year in which the claim is filed. The
 3 department shall make the payments required by this section from the suspense account
 4 referred to in section 7 of this 2005 Act. If necessary, the department may prorate the pay-
 5 ments as provided in section 7 of this 2005 Act.

6 **SECTION 6.** The Department of Revenue shall adopt the rules and prescribe the forms
 7 necessary to administer the low income rental assistance program established under section
 8 3 of this 2005 Act.

9 **SECTION 7.** (1) Amounts necessary to make the payments authorized by section 3 of this
 10 2005 Act shall be transferred to a suspense account established under ORS 293.445 from the
 11 appropriation made by the Legislative Assembly to fund the low income rental assistance
 12 program established under sections 3 to 8 of this 2005 Act. Moneys in the suspense account
 13 are continuously appropriated to the Department of Revenue to carry out the purposes of
 14 the low income rental assistance program.

15 (2) If any portion of the payments described in subsection (1) of this section are author-
 16 ized to be offset against an outstanding liability of the claimant, the Department of Revenue
 17 shall transfer from the suspense account referred to in subsection (1) of this section to the
 18 General Fund an amount equal to the amount to be offset, in lieu of the assistance payment
 19 otherwise due the claimant.

20 (3) Of the total amount transferred to the suspense account referred to in subsection (1)
 21 of this section for the biennium, the department shall allocate a portion to each fiscal year.
 22 The allocation shall be the department's best estimate of the most efficient use of the mon-
 23 eys in the suspense account so as to minimize any reductions in the payments required un-
 24 der section 3 of this 2005 Act for each fiscal year.

25 (4) On or before November 1 of each fiscal year of each biennium, the Department of
 26 Revenue shall determine the amount of money needed to make the payments under section
 27 3 of this 2005 Act for that fiscal year. If the sum of the obligations is greater than the
 28 amounts transferred to the suspense account referred to in subsection (1) of this section and
 29 allocated to that fiscal year for those obligations under subsection (3) of this section, the
 30 payments required under section 3 of this 2005 Act shall be proportionally reduced so that
 31 the state does not accrue a debt in excess of the amount credited. A claim for payment may
 32 not accrue to a taxpayer under section 3 of this 2005 Act or to a county under ORS 307.244
 33 in excess of the amount determined under this subsection.

34 (5) If the amount allocated to the first fiscal year of a biennium under subsection (3) of
 35 this section exceeds the amount of actual payments made under section 3 of this 2005 Act,
 36 the excess amount shall be available for payments under section 3 of this 2005 Act in the
 37 second fiscal year of the biennium.

38 **SECTION 8.** (1) Unless the context requires otherwise, the provisions of ORS chapters
 39 305 and 314 as to the audit and examination of reports and returns, determination of defi-
 40 ciencies, assessments, claims for refund, conferences and appeals to the Oregon Tax Court,
 41 and procedures relating thereto, shall apply to sections 3 to 8 of this 2005 Act.

42 (2) No interest shall be allowed on low income rental assistance payments to be made by
 43 the Department of Revenue under section 3 of this 2005 Act.

44 (3) No low income rental assistance payment shall be made under section 3 of this 2005
 45 Act to a taxpayer who fails to file a claim under section 5 of this 2005 Act within three years

1 after the due date of the claim.

2 **SECTION 9.** (1) There is appropriated to the Department of Revenue, for the biennium
3 beginning July 1, 2005, out of the General Fund, the amount of \$_____ for the purpose of
4 funding the low income rental assistance program established under sections 3 to 8 of this
5 2005 Act.

6 (2) All moneys received by the Department of Revenue under this section shall be paid
7 into the State Treasury and deposited in the suspense account referred to in section 7 of this
8 2005 Act. Such moneys are continuously appropriated to the Department of Revenue for the
9 purposes of sections 3 to 8 of this 2005 Act.

10 **SECTION 10.** ORS 305.265 is amended to read:

11 305.265. (1) Except as provided in ORS 305.305, the provisions of this section apply to all reports
12 or returns of tax or tax liability *[including]* or claims under ORS 310.630 to 310.706 or **sections 3**
13 **to 8 of this 2005 Act** filed with the Department of Revenue under the revenue and tax laws ad-
14 ministered by it, except those filed under ORS chapter 320.

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

21 (a) State the reason for each adjustment;

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

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

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

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

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

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

35 (c) Mathematical errors in the return or the amount of tax shown due in the records of the de-
36 partment; or

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

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

45 (b) Within 30 days from the date of the notice of deficiency, the person given notice shall pay

1 the deficiency with interest computed to the date of payment and any penalty proposed. Or within
2 that time the person shall advise the department in writing of objections to the deficiency, and may
3 request a conference with the department, which shall be held prior to the expiration of the one-year
4 period set forth in subsection (7) of this section.

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

15 (7) If neither payment nor written objection to the deficiency is received by the department
16 within 30 days after the notice of deficiency has been mailed, the department shall assess the defi-
17 ciency, plus interest and penalties, if any, and shall send the person a notice of assessment, stating
18 the amount so assessed, and interest and penalties. The notice of assessment shall be mailed within
19 one year from the date of the notice of deficiency unless an extension of time is agreed upon as
20 described in subsection (8) of this section. The notice shall advise the person of the rights of appeal.

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

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

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

41 (b) Notwithstanding subsection (14) of this section and ORS 305.280, and only to the extent al-
42 lowed by rules adopted by the department, the department may accept the filing of a report or re-
43 turn submitted by a person who has been assessed a tax under paragraph (a) of this subsection.

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

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

1 (B) That the department determines is not true and correct as to every material matter as re-
2 quired by ORS 305.815; or

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

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

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

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

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

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

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

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

22 (g) The department may refund payments made with respect to a report or return filed and ac-
23 cepted pursuant to this subsection. If the report or return is filed within three years of the due date
24 for filing the report or return, excluding extensions, the refund shall be made as provided by ORS
25 305.270 and 314.415. If the report or return is not filed within three years of the due date for filing
26 the report or return, excluding extensions, the refund shall be limited to payments received within
27 the two-year period ending on the date the report or return is received by the department and
28 payments received after the date the report or return is received by the department. Interest shall
29 be paid at the rate established under ORS 305.220 for each month or fraction of a month from the
30 date the report or return is received by the department to the time the refund is made.

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

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

43 (13) Every deficiency shall bear interest at the rate established under ORS 305.220 for each
44 month or fraction of a month computed from the due date of the return to date of payment. If the
45 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.

SECTION 11. 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 ORS chapters 118, 314, 316, 317, 318, 320, 321 and 323[;], the elderly rental assistance program under ORS 310.630 to 310.706[;], **the low income rental assistance program under sections 3 to 8 of this 2005 Act** and local taxes administered by the Department of Revenue under ORS 305.620.

SECTION 12. ORS 305.514 is amended to read:

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

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

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

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

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

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

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

(c) A proceeding for the refund or the revision of taxes imposed by ORS chapter 118 where the amount in controversy does not exceed \$5,000, exclusive of interest and penalties.

(d) A proceeding for the elderly rental assistance authorized under ORS 310.635 without limitation to the amount in controversy.

(e) A proceeding for the low income rental assistance authorized under sections 3 to 8

1 **of this 2005 Act without limitation to the amount in controversy.**

2 [(e)] (f) A proceeding for refund or the revision of taxes imposed by ORS chapter 323 where the
3 amount in controversy does not exceed \$5,000, exclusive of interest and penalties.

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

8 [(g)] (h) A proceeding for refund or to set aside interest or penalties assessed in connection with
9 any tax administered by the Department of Revenue, where the amount in controversy does not
10 exceed \$5,000. This paragraph does not apply to the denial of a request for the discretionary waiver
11 of interest or penalties.

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

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

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

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

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

29 **SECTION 13.** ORS 305.620 is amended to read:

30 305.620. (1) Any state agency or department may enter into agreements with any political sub-
31 division of this state for the collection, enforcement, administration and distribution of local taxes
32 of the political subdivision imposed upon or measured by gross or net income, wages or net earnings
33 from self-employment or local general sales and use taxes.

34 (2) The department or agency shall prescribe the rules by which the agreements entered into
35 under subsection (1) of this section are administered.

36 (3) The department or agency shall prescribe the rules by which the taxes described by sub-
37 section (1) of this section are administered, collected, enforced and distributed.

38 (4) A political subdivision may appear as an intervenor at any conference held by the Depart-
39 ment of Revenue or conference, hearing or proceeding held by another department or agency in
40 connection with a local tax administered by the department or agency. The political subdivision may
41 be represented by its own counsel. The department or agency shall adopt rules governing the pro-
42 cedures to be followed by the political subdivision in making an appearance.

43 (5) Costs incurred by the department or agency in the administration, enforcement, collection
44 and distribution of taxes under the agreements entered into under subsection (1) of this section shall
45 be first deducted from the taxes collected before distribution is made to the political subdivision

1 which is a party to the agreement.

2 (6) The Oregon Tax Court shall have exclusive jurisdiction to review determinations of the De-
3 partment of Revenue or orders of another department or agency relating to the collection, enforce-
4 ment, administration and distribution of local taxes under agreements entered into under subsection
5 (1) of this section.

6 (7) A proceeding for refund or to set aside additional taxes or taxes assessed when no return
7 was filed may be initiated before the state agency or department or as provided in ORS 305.514
8 [(1)(f)] (1)(g).

9 (8) An appeal from a determination or an order may be taken by the taxpayer or by the political
10 subdivision whose taxes are in issue, by filing an original and two certified copies of a complaint
11 with the clerk of the Oregon Tax Court at its principal office at the state capital, Salem, Oregon,
12 within 60 days after the notice of the determination of the Department of Revenue or the order of
13 the department or agency is sent to the taxpayer or the political subdivision. The filing of the
14 complaint in the Oregon Tax Court shall constitute perfection of the appeal. Service of the tax-
15 payer's complaint shall be accomplished by the clerk of the tax court by filing a certified copy of
16 the complaint with the administrative head of the department or agency and a certified copy with
17 the political subdivision. Service of the political subdivision's complaint shall be accomplished by the
18 clerk of the tax court by filing a certified copy of the complaint with the administrative head of the
19 department or agency and mailing a certified copy of the complaint to the taxpayer. The complaint
20 of a taxpayer shall be entitled in the name of the person filing as plaintiff and the department or
21 agency as defendant. The complaint of a political subdivision shall be entitled in the name of the
22 political subdivision as plaintiff and the taxpayer and the department or agency as defendants. A
23 copy of the order of the department or agency shall be attached to the original complaint. All pro-
24 cedures shall be in accordance with ORS 305.405 to 305.494.

25 **SECTION 14.** ORS 310.651 is amended to read:

26 310.651. For purposes of ORS 310.652 **and section 4 of this 2005 Act:**

27 (1) "Evidence of debt" means all bonds, notes, demands, claims, deposits or investments however
28 evidenced and whether secured by mortgage, deed of trust, judgment or otherwise or not so secured,
29 and includes but is not limited to:

30 (a) Personal and business notes receivable.

31 (b) Mortgage notes receivable.

32 (c) Commercial paper.

33 (d) Conditional sales contracts (written agreements whereby title to the property remains with
34 the seller until the goods are paid for).

35 (e) Notes and other receivables, evidenced by written agreement, due from affiliated companies.

36 (f) Participation certificates.

37 (g) Bonds and debentures of both domestic and foreign corporations.

38 (h) Bonds and evidence of debt of other states and their political subdivisions.

39 (i) Bonds, debentures and capital notes (not certificates of deposit) issued by banks and other
40 organizations in direct competition with banks.

41 (j) Cashiers' checks, treasurers' checks, certified checks, purchase drafts and similar instruments
42 drawn for the benefit or convenience of any party or parties other than banks.

43 (k) Investment contracts and accumulation plans issued by investment syndicates, investment
44 brokers and other similar companies.

45 (L) Loans, advances, demands, claims and other receivables which are evidenced by written

1 agreement.

2 (2) "Funds on deposit" means all funds accrued or accruing by virtue of the death of the insured
3 or the original maturity of a policy contract where the party or parties entitled to receive such
4 funds might withdraw same at their option upon stipulated notice.

5 (3) "Money on deposit" means money, whether actually within or without this state, having a
6 business, commercial or taxable situs in this state, without deduction for any indebtedness or li-
7 abilities of the taxpayer, and includes but is not limited to:

8 (a) Amounts in checking and savings accounts.

9 (b) Certificates of deposit.

10 (c) Payroll and escrow accounts.

11 (d) Deposits as of any one or more of the four quarterly valuation dates.

12 (e) Deposits of trustees, executors, administrators and other fiduciaries.

13 (f) Social Security and withholding tax accounts.

14 (g) Accommodation loan accounts.

15 (h) Deposits of savings and loan or building and loan associations.

16 (i) Deposits of insurance companies.

17 (4) "Money on hand" includes but is not limited to:

18 (a) Currency and bills of exchange.

19 (b) Money in cash registers.

20 (c) Petty cash.

21 (d) Deposits in transit.

22 (e) Money in safe deposit boxes.

23 (5) "Shares of stock" includes but is not limited to:

24 (a) Capital stock, common stock and preferred stock of both domestic and foreign corporations.

25 (b) Shares of stock held in brokerage accounts, including shares purchased on margin.

26 (c) Unregistered stock, restricted stock, letter stock and stocks owned in "closed" corporations.

27 (d) Shares in mutual funds and investment trusts.

28 (e) Shares of stock in banks (including national banks).

29 (f) Shares of stock in holding companies, including financial holding companies, bank holding
30 companies and insurance holding companies.

31 (g) Stocks held by trustees or guardians which should be reported under the names of the ben-
32 eficiary.

33 (h) Stocks held by executors or administrators of estates which should be reported in the name
34 of the estate.

35 (i) Stocks owned by minor children which should be reported under the minor's name, in care
36 of the parent or guardian.

37 (j) Stocks owned by investment clubs which should be reported in the name of the investment
38 club.

39 (k) Stocks acquired by purchase, gift, inheritance or any other means, even if the stock certif-
40 icates have not been received and are not in the taxpayer's possession as of the asset determination
41 date.

42 (L) Shares of stock owned by or registered to residents of this state even though the stock
43 certificates may be physically located in another state.

44 **SECTION 15.** ORS 311.678 is amended to read:

45 311.678. (1) On or before December 15 of each year, the Department of Revenue shall send a

notice to each taxpayer who has claimed deferral of property taxes for the current tax year. The notice shall:

(a) Inform the taxpayer that the property taxes have or have not been deferred in the current year.

(b) Show the total amount of deferred taxes remaining unpaid since initial application for deferral and the interest accruing therein to November 15 of the current year.

(c) Inform the taxpayer that voluntary payment of the deferred taxes may be made at any time to the Department of Revenue.

(d) Contain any other information that the department considers necessary to facilitate administration of the homestead deferral program, including but not limited to the right of the taxpayer to submit any elderly rental assistance amount received under ORS 310.630 to 310.706 **or a low income rental assistance amount received under sections 3 to 8 of this 2005 Act** to reduce the total amount of the deferred taxes and interest.

(2) The department shall give the notice required under subsection (1) of this section by an unsealed postcard or other form of mail sent to the residence address of the taxpayer as shown in the claim for deferral or as otherwise determined by the department to be the correct address of the taxpayer.

SECTION 16. ORS 314.400 is amended to read:

314.400. (1) In the case of a failure:

(a) To pay a tax at the time the tax becomes due, there shall be added to the amount of tax that is shown as tax on the report or return filed by the taxpayer a delinquency penalty of five percent of the amount of such tax; or

(b) To file a report or return of tax or tax liability or of income at the time prescribed for the filing of the report or return, there shall be added to the amount required to be shown as tax on the report or return a delinquency penalty of five percent of the amount of the tax.

(2) If the failure to file a report or return continues for a period in excess of three months after the due date:

(a)(A) There shall be added to the amount of tax required to be shown on the report or return a failure to file penalty of 20 percent of the amount of such tax; and

(B) Thereafter the Department of Revenue may send a notice and demand to the person to file a report or return within 30 days of the mailing of the notice. If after such notice and demand no report or return is filed within the 30 days, the department may determine the tax according to the best of its information and belief, assess the tax with appropriate penalty and interest plus an additional penalty of 25 percent of the tax deficiency determined by the department and give written notice of the determination and assessment to the person required to make the filing.

(b) But the report or return is filed before a notice of determination and assessment is issued by the department, the failure to file penalty referred to in paragraph (a)(A) of this subsection shall be added to the amount of tax shown on the report or return.

(3) A penalty equal to 100 percent of any deficiency determined by the department shall be assessed and collected if:

(a) There is a failure to file a report or return with intent to evade the tax;

(b) A report or return was falsely prepared and filed with intent to evade the tax; *[or]*

(c) A false claim was intentionally filed under ORS 310.635, 310.657 and 310.706[.]; **or**

(d) A false claim was intentionally filed under section 5 of this 2005 Act.

(4) Interest shall be collected on the unpaid tax at the rate established under ORS 305.220 for

1 each month or fraction of a month, computed from the time the tax became due, during which the
2 tax remains unpaid.

3 (5) Each penalty imposed under this section is in addition to any other penalty imposed under
4 this section. However, the total amount of penalty imposed under this section and ORS 305.265 (13)
5 with respect to any deficiency shall not exceed 100 percent of the deficiency.

6 (6) For purposes of subsections (1) and (2) of this section, the amount of tax required to be
7 shown or that is shown on the report or return shall be reduced by the amount that is paid on or
8 before the date prescribed for payment of the tax and by the amount of any credit against the tax
9 that is claimed on the report or return. If the amount required to be shown as tax on the report or
10 return is less than the amount that is actually shown as tax on the report or return, this subsection
11 shall be applied by substituting the lower amount.

12 (7) Notwithstanding subsection (1) of this section, the five percent penalty for failure to pay the
13 tax at the time the tax becomes due shall not be imposed if:

14 (a) The taxpayer pays the full amount of the tax plus accrued interest within 30 days of the date
15 shown on the department's notice sent to the taxpayer; and

16 (b)(A) The taxpayer had filed an amended individual tax return or an amended corporate return
17 of income or excise tax accompanied by less than full payment of the tax shown on the return plus
18 accrued interest; or

19 (B) The taxpayer's individual income tax return or corporate income or excise tax return had
20 been timely filed, including extensions, and a difference exists in the amount of tax paid on or before
21 the due date:

22 (i) As shown on the return; and

23 (ii) As shown in the records of the department.

24 **SECTION 17.** ORS 314.835 is amended to read:

25 314.835. (1) Except as otherwise specifically provided in rules adopted under ORS 305.193 or in
26 other law, it shall be unlawful for the Department of Revenue or any officer or employee of the
27 department to divulge or make known in any manner the amount of income, expense, deduction,
28 exclusion or credit or any particulars set forth or disclosed in any report or return required in the
29 administration of ORS 310.630 to 310.706, **required in the administration of sections 3 to 8 of this**
30 **2005 Act**, required in the administration of any local tax pursuant to ORS 305.620, or required under
31 a law imposing a tax upon or measured by net income. It shall be unlawful for any person or entity
32 to whom information is disclosed or given by the department pursuant to ORS 314.840 (2) or any
33 other provision of state law to divulge or use such information for any purpose other than that
34 specified in the provisions of law authorizing the use or disclosure. No subpoena or judicial order
35 shall be issued compelling the department or any of its officers or employees, or any person who
36 has acquired information pursuant to ORS 314.840 (2) or any other provision of state law to divulge
37 or make known the amount of income, expense, deduction, exclusion or credit or any particulars set
38 forth or disclosed in any report or return except where the taxpayer's liability for income tax is to
39 be adjudicated by the court from which such process issues.

40 (2) As used in this section:

41 (a) "Officer," "employee" or "person" includes an authorized representative of the officer, em-
42 ployee or person, or any former officer, employee or person, or an authorized representative of such
43 former officer, employee or person.

44 (b) "Particulars" includes, but is not limited to, a taxpayer's name, address, telephone number,
45 Social Security number, employer identification number or other taxpayer identification number and

the amount of refund claimed by or granted to a taxpayer.

SECTION 18. ORS 314.840 is amended to read:

314.840. (1) The Department of Revenue may:

(a) Furnish any taxpayer, representative authorized to represent the taxpayer under ORS 305.230 or person designated by the taxpayer under ORS 305.193, upon request of the taxpayer, representative or designee, with a copy of the taxpayer's income tax return filed with the department for any year, or with a copy of any report filed by the taxpayer in connection with the return, or with any other information the department considers necessary.

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

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

(d) Disclose a taxpayer's name, address, telephone number, refund amount, amount due, Social Security number, employer identification number or other taxpayer identification number to the extent necessary in connection with collection activities or the processing and mailing of correspondence or of forms for any report, return or claim required in the administration of ORS 310.630 to 310.706 or **sections 3 to 8 of this 2005 Act**, any local tax under ORS 305.620, or any law imposing a tax upon or measured by net income.

(2) The department also may disclose and give access to information described in ORS 314.835 to:

(a) The Governor of the State of Oregon or the authorized representative of the Governor:

(A) With respect to an individual who is designated as being under consideration for appointment or reappointment to an office or for employment in the office of the Governor. The information disclosed shall be confined to whether the individual:

(i) Has filed returns with respect to the taxes imposed by ORS chapter 316 for those of not more than the three immediately preceding years for which the individual was required to file an Oregon individual income tax return.

(ii) Has failed to pay any tax within 30 days from the date of mailing of a deficiency notice or otherwise respond to a deficiency notice within 30 days of its mailing.

(iii) Has been assessed any penalty under the Oregon personal income tax laws and the nature of the penalty.

(iv) Has been or is under investigation for possible criminal offenses under the Oregon personal income tax laws. Information disclosed pursuant to this paragraph shall be used only for the purpose of making the appointment, reappointment or decision to employ or not to employ the individual in the office of the Governor.

(B) For use by an officer or employee of the Oregon Department of Administrative Services duly authorized or employed to prepare revenue estimates, or a person contracting with the Oregon Department of Administrative Services to prepare revenue estimates, in the preparation of revenue estimates required for the Governor's budget under ORS 291.201 to 291.226, or required for submission to the Emergency Board, or if the Legislative Assembly is in session, to the Joint Committee on Ways and Means, and to the Legislative Revenue Officer under ORS 291.342, 291.348 and 291.445. The Department of Revenue shall disclose and give access to the information described in ORS 314.835 for the purposes of this subparagraph only if:

(i) The request for information is made in writing, specifies the purposes for which the request is made and is signed by an authorized representative of the Oregon Department of Administrative Services. The form for request for information shall be prescribed by the Oregon Department of

1 Administrative Services and approved by the Director of the Department of Revenue.

2 (ii) The officer, employee or person receiving the information does not remove from the premises
3 of the Department of Revenue any materials that would reveal the identity of a personal or corpo-
4 rate taxpayer.

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

6 (c) The proper officer of any state or the District of Columbia, or their authorized represen-
7 tatives, for tax purposes only, if such state or district has a provision of law which meets the re-
8 quirements of any applicable provision of the Internal Revenue Code as to confidentiality.

9 (d) The Multistate Tax Commission or its authorized representatives, for tax purposes only.
10 However, the Multistate Tax Commission may make such information available to the Commissioner
11 of Internal Revenue or the proper officer of any state or the District of Columbia, or their author-
12 ized representatives, for tax purposes only, if the state or district has a provision of law which meets
13 the requirements of any applicable provision of the Internal Revenue Code as to confidentiality.

14 (e) The Attorney General, assistants and employees in the Department of Justice, or other legal
15 representative of the State of Oregon, to the extent the department deems disclosure or access
16 necessary for the performance of the duties of advising or representing the department pursuant to
17 ORS 180.010 to 180.240 and the tax laws of this state.

18 (f) Employees of the State of Oregon, other than of the Department of Revenue or Department
19 of Justice, to the extent the department deems disclosure or access necessary for such employees
20 to perform their duties under contracts or agreements between the department and any other de-
21 partment, agency or subdivision of the State of Oregon, in the department's administration of the
22 tax laws.

23 (g) Other persons, partnerships, corporations and other legal entities, and their employees, to
24 the extent the department deems disclosure or access necessary for the performance of such others'
25 duties under contracts or agreements between the department and such legal entities, in the de-
26 partment's administration of the tax laws.

27 (h) The Legislative Revenue Officer or authorized representatives upon compliance with ORS
28 173.850. Such officer or representative shall not remove from the premises of the department any
29 materials that would reveal the identity of any taxpayer or any other person.

30 (i) The Department of Consumer and Business Services, to the extent the department requires
31 such information to determine whether it is appropriate to adjust those workers' compensation
32 benefits the amount of which is based pursuant to ORS chapter 656 on the amount of wages or
33 earned income received by an individual.

34 (j) Any agency of the State of Oregon, or any person, or any officer or employee of such agency
35 or person to whom disclosure or access is given by state law and not otherwise referred to in this
36 section, including but not limited to the Secretary of State as Auditor of Public Accounts under
37 section 2, Article VI of the Oregon Constitution; the Department of Human Services pursuant to
38 ORS 314.860 and 418.135; the Division of Child Support of the Department of Justice and district
39 attorney regarding cases for which they are providing support enforcement services under ORS
40 25.080; the State Board of Tax Practitioners, pursuant to ORS 673.710; and the Oregon Board of
41 Accountancy, pursuant to ORS 673.415.

42 (k) The Director of the Department of Consumer and Business Services to determine that a
43 person complies with ORS chapter 656 and the Director of the Employment Department to determine
44 that a person complies with ORS chapter 657, the following employer information:

45 (A) Identification numbers.

(B) Names and addresses.

(C) Inception date as employer.

(D) Nature of business.

(E) Entity changes.

(F) Date of last payroll.

(L) The Director of Human Services to determine that a person has the ability to pay for care that includes services provided by the state institutions as described in ORS 179.321 or the Department of Human Services or to collect any unpaid cost of care as provided by ORS chapter 179.

(m) Employees of the Employment Department to the extent the Department of Revenue deems disclosure or access to information on a combined tax report filed under ORS 316.168 is necessary to performance of their duties in administering the tax imposed by ORS chapter 657.

(n) The State Fire Marshal to assist the State Fire Marshal in carrying out duties, functions and powers under ORS 453.307 to 453.414, the employer or agent name, address, telephone number and standard industrial classification, if available.

(o) Employees of the Department of State Lands for the purposes of identifying, locating and publishing lists of taxpayers entitled to unclaimed refunds as required by the provisions of chapter 694, Oregon Laws 1993. The information shall be limited to the taxpayer's name, address and the refund amount.

(p) In addition to the disclosure allowed under ORS 305.225, state or local law enforcement agencies to assist in the investigation or prosecution of the following criminal activities:

(A) Mail theft of a check, in which case the information that may be disclosed shall be limited to the stolen document, the name, address and taxpayer identification number of the payee, the amount of the check and the date printed on the check.

(B) The counterfeiting, forging or altering of a check submitted by a taxpayer to the Department of Revenue or issued by the Department of Revenue to a taxpayer, in which case the information that may be disclosed shall be limited to the counterfeit, forged or altered document, the name, address and taxpayer identification number of the payee, the amount of the check, the date printed on the check and the altered name and address.

(q) The United States Postal Inspection Service or a federal law enforcement agency, including but not limited to the United States Department of Justice, to assist in the investigation of the following criminal activities:

(A) Mail theft of a check, in which case the information that may be disclosed shall be limited to the stolen document, the name, address and taxpayer identification number of the payee, the amount of the check and the date printed on the check.

(B) The counterfeiting, forging or altering of a check submitted by a taxpayer to the Department of Revenue or issued by the Department of Revenue to a taxpayer, in which case the information that may be disclosed shall be limited to the counterfeit, forged or altered document, the name, address and taxpayer identification number of the payee, the amount of the check, the date printed on the check and the altered name and address.

(r) The United States Financial Management Service, for purposes of facilitating the reciprocal offsets described in ORS 305.612.

(s) A municipal corporation of this state for purposes of assisting the municipal corporation in the administration of a tax of the municipal corporation that is imposed on or measured by income, wages or net earnings from self-employment. Any disclosure under this paragraph may be made only pursuant to a written agreement between the Department of Revenue and the municipal corporation

1 that ensures the confidentiality of the information disclosed.

2 (3)(a) Each officer or employee of the department and each person described or referred to in
3 subsection (2)(a), (e) to (k) or (m) to (p) of this section to whom disclosure or access to the tax in-
4 formation is given under subsection (2) of this section or any other provision of state law, prior to
5 beginning employment or the performance of duties involving such disclosure or access, shall be
6 advised in writing of the provisions of ORS 314.835 and 314.991, relating to penalties for the vio-
7 lation of ORS 314.835, and shall as a condition of employment or performance of duties execute a
8 certificate for the department, in a form prescribed by the department, stating in substance that the
9 person has read these provisions of law, that the person has had them explained and that the person
10 is aware of the penalties for the violation of ORS 314.835.

11 (b) The disclosure authorized in subsection (2)(q) of this section shall be made only after a
12 written agreement has been entered into between the Department of Revenue and the person de-
13 scribed in subsection (2)(q) of this section to whom disclosure or access to the tax information is
14 given, providing that:

15 (A) Any information described in ORS 314.835 that is received by the person pursuant to sub-
16 section (2)(q) of this section is confidential information that may not be disclosed, except to the ex-
17 tent necessary to investigate or prosecute the criminal activities described in subsection (2)(q) of
18 this section;

19 (B) The information shall be protected as confidential under applicable federal and state laws;
20 and

21 (C) The United States Postal Inspection Service or the federal law enforcement agency shall
22 give notice to the Department of Revenue of any request received under the federal Freedom of In-
23 formation Act, 5 U.S.C. 552, or other federal law relating to the disclosure of information.

24 (4) The Department of Revenue may recover the costs of furnishing the information described
25 in subsection (2)(k), (L) and (n) to (p) of this section from the respective agencies.

26 **SECTION 19.** ORS 314.860 is amended to read:

27 314.860. (1) The Department of Revenue may disclose certain information relative to applicants
28 for elderly rental assistance **or low income rental assistance** to the Director of Human Services
29 or to employees of the Department of Human Services. The information disclosed by the Department
30 of Revenue shall be confined to the names, addresses and Social Security numbers of applicants
31 under ORS 310.630 to 310.706 **or sections 3 to 8 of this 2005 Act** for the current and preceding
32 calendar year. The information requested shall be confined to those names, addresses and Social
33 Security numbers which will assist in the collection of debts due and owing to the State of Oregon
34 arising from client-caused overpayments of public assistance and shall be used solely for such pur-
35 pose and shall not be used or disclosed for any other purpose. Any person who violates this prohi-
36 bition against disclosure, upon conviction, is punishable as provided in ORS 314.991 (2).

37 (2) Disclosure under this section shall be given only upon written request of the Director of
38 Human Services. The form for the request shall be prescribed by the Director of Human Services
39 and approved by the Director of the Department of Revenue.

40 (3) The Department of Revenue shall keep on file the requests for disclosure made pursuant to
41 this section. The requests constitute a public record within the meaning of ORS 192.410 to 192.505.

42 **SECTION 20.** ORS 411.700 is amended to read:

43 411.700. (1) In the determination of eligibility and the amount of need with respect to a recipient
44 or applicant of public assistance under ORS chapters 412, 413 and 414, the Department of Human
45 Services may disregard such amounts of income and resources as are required by federal law or

1 rules adopted pursuant thereto or as are authorized by the Legislative Assembly including the fol-
2 lowing:

3 (a) Any elderly rental assistance payments provided by ORS 310.635, **any low income rental**
4 **assistance payments provided by section 3 of this 2005 Act** or refunds in lieu of such relief shall
5 be disregarded in determining eligibility and need.

6 (b) Any increase in the amount of assistance that is authorized by section 4, Public Law 93-233
7 (87 Stat. 953) and which is also being paid on March 5, 1974, shall be disregarded in determining
8 eligibility and need.

9 (2) Any increase in the amount of assistance provided under Title XVI of the Social Security
10 Act to meet changes in the cost of living that is an increase over that amount being paid on January
11 1, 1977, pursuant to an Act of Congress and which will first be paid after January 1, 1977, shall be
12 disregarded in determining eligibility and need.

13 (3) When considering an application for public assistance, the department shall exempt from
14 consideration as a resource up to \$10,000 equity value of any licensed and unlicensed vehicles owned
15 by the applicant or recipient.

16 (4) The department shall implement subsection (3) of this section statewide to the extent possible
17 that is consistent with federal regulation to maintain state eligibility for federal participation in
18 public assistance programs. In the event the department determines that this policy has a net fiscal
19 cost to the state, the department shall present the fiscal analysis to the Emergency Board for addi-
20 tional funding or direction to modify or suspend the policy.

21 **SECTION 21.** ORS 179.640 is amended to read:

22 179.640. (1)(a) Both the Department of Human Services and the Department of Corrections shall
23 establish rules for determining ability to pay for persons in their respective institutions. The rules
24 adopted by each agency shall require, in addition to other relevant factors, consideration of the
25 personal estate, the person's need for funds for personal support after release, and the availability
26 of third-party benefits such as, but not limited to, Medicare or private insurance. Each agency may
27 also consider the probable length of stay at the state institution. Nothing in this section requires
28 the Department of Corrections to investigate a person's ability to pay or to issue an ability-to-pay
29 order.

30 (b) When adopting rules under paragraph (a) of this subsection, the Department of Corrections
31 shall consider the person's needs for funds to pay for the support of the person's children and to pay
32 any monetary obligations imposed on the person as a result of the person's conviction.

33 (2) In determining a person's ability to pay, neither agency may consider as part of the personal
34 estate of the person or the decedent's estate:

35 (a) Any assets received by or owing to the person and the personal estate of the person, or the
36 decedent's estate, as compensation from the state for injury, death or, if the collection is being made
37 by the Department of Corrections, the false imprisonment of the person that occurred when the
38 person was in a state institution listed in ORS 179.321 and for which the state admits liability or is
39 found liable through adjudication; and

40 (b) Any real or personal property that the person or an authorized representative of the person
41 can demonstrate was purchased solely with assets referred to in paragraph (a) of this subsection or
42 partially with such assets, to the extent such assets were used in the purchase.

43 (3) A person and the authorized representative of the person, if any, shall provide all financial
44 information requested by the agency that is necessary to determine the person's ability to pay. To
45 determine ability to pay, the agency may use any information available to the agency, including in-

formation provided by the Department of Revenue from personal income tax returns pursuant to ORS 314.840, [and] elderly rental assistance claims **or low income rental assistance claims**. Upon request, the Department of Revenue shall release copies of tax returns to the agency. When the person or the person's authorized representative fails to provide evidence to demonstrate an inability to pay full cost of care, the agency may determine the person has the ability to pay the full cost of care.

(4) The agency shall provide actual notice to the person and any authorized representative, if known to the agency, of its determination by issuing an ability-to-pay order. The order shall state the person's full liability and the person's determined ability to pay. Actual notice means receipt by the person and the authorized representative of notice. The notice shall include a copy of the ability-to-pay order, a description of the person's appeal rights and the date upon which appeal rights terminate and state the address where a request for hearing may be mailed or delivered. At any time, the agency may reissue an ability-to-pay order to notify an authorized representative as provided by ORS 179.653 (4).

(5) At any time during the person's stay at the state institution or within 36 months from the date the person is released, if the agency receives new financial information that shows a change in the person's financial circumstances, the agency shall consider the changed circumstances and issue a new ability-to-pay order.

(6) Orders issued after the person is released may not require the person to make payments toward the cost of care for more than 36 consecutive months following release. However, the agency may collect beyond the 36-month period any payments that became due but were not paid within the 36 months following release. Any remaining balance of full cost of care shall be collected as provided in ORS 179.740.

(7) Notwithstanding ORS 183.315 (5), if a person or authorized representative disagrees with any ability-to-pay order issued pursuant to this section, the person or authorized representative may request a contested case hearing. To the extent practical, the hearing will be held at a location convenient to the person or the authorized representative. The request must be postmarked within 60 days from the date of the mailing of the ability-to-pay order. If the person or the authorized representative makes a timely request for a contested case hearing, the hearing and any appeal of the final hearing order shall be governed by ORS 183.413 to 183.497. If the person or the authorized representative fails to make a timely request for a contested case hearing, the ability-to-pay order shall be final and not subject to judicial review, except as subsequently modified by the agency as provided in subsection (5) of this section.

(8) On appeal, regardless of other information presented, payment of the full cost of care may be ordered if the person or the authorized representative refuses to produce financial information that the Hearings Officer or administrative law judge determines is relevant and must be produced.

SECTION 22. ORS 18.512 is amended to read:

18.512. (1) The challenge to execution form described in this section does not expand or restrict the law relating to exempt property. A determination as to whether property is exempt from attachment or execution must be made by reference to other law. The form provided in this section may be modified to provide more information or to update the notice based on subsequent changes in exemption laws.

(2) A challenge to execution form must be in substantially the following form:

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_____ COURT
COUNTY OF _____

_____) CHALLENGE TO
Plaintiff,) EXECUTION
)
vs.) Case No. _____
)
)
_____)
Defendant.)

THIS FORM MAY BE USED BY THE DEBTOR ONLY TO CLAIM SUCH EXEMPTIONS FROM EXECUTION AS ARE PERMITTED BY LAW.

THIS FORM MAY BE USED BY PERSONS OTHER THAN THE DEBTOR ONLY TO CLAIM AN INTEREST IN THE PROPERTY THAT IS TO BE SOLD ON EXECUTION.

THIS FORM MAY NOT BE USED TO CHALLENGE THE VALIDITY OF THE DEBT.

I/We claim that the following described property or money is exempt from execution:

I/We believe this property is exempt from execution because (the Notice of Exempt Property at the end of this form describes most types of property that you can claim as exempt from execution):

I am a person other than the Debtor and I have the following interest in the property:

Name _____	Name _____
Signature _____	Signature _____
Address _____	Address _____
_____	_____
Telephone _____	Telephone _____
Number _____	Number _____
(Required)	(Required)

1 YOU MUST ACT PROMPTLY IF YOU WANT TO GET YOUR MONEY OR PROPERTY BACK.

2 You may seek to reclaim your exempt property by doing the following:

3 (1) Fill out the Challenge to Execution form that you received with this notice.

4 (2) Mail or deliver the Challenge to Execution form to the court administrator at the address
5 shown on the writ of execution.

6 You should be prepared to explain your exemption in court. If you have any questions about the
7 execution or the debt, you should see an attorney.

8
9 YOU MAY USE THE CHALLENGE TO EXECUTION FORM ONLY TO CLAIM SUCH EX-
10 EMPTIONS FROM EXECUTION AS ARE PERMITTED BY LAW.

11
12 YOU MAY NOT USE THE CHALLENGE TO EXECUTION FORM TO CHALLENGE THE
13 VALIDITY OF THE DEBT.

14
15 IF YOU CLAIM AN EXEMPTION IN BAD FAITH, YOU MAY BE SUBJECT TO PENALTIES
16 IMPOSED BY THE COURT THAT COULD INCLUDE A FINE. Penalties that you could be subject
17 to are listed in ORS 18.518.

18
19 NOTICE OF EXEMPT PROPERTY

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21 Property belonging to you may have been taken or held in order to satisfy a debt. The debt may
22 be reflected in a judgment or in a warrant or order issued by a state agency. Important legal papers
23 are enclosed.

24 YOU MAY BE ABLE TO GET YOUR PROPERTY BACK, SO READ THIS NOTICE CARE-
25 FULLY.

26 State and federal law specify that certain property may not be taken. Some of the property that
27 you may be able to get back is listed below.

28 (1) Wages or a salary as described in ORS 18.375 and 18.385. Whichever of the following
29 amounts is greater:

30 (a) 75 percent of your take-home wages; or

31 (b) \$170 per workweek.

32 (2) Social Security benefits.

33 (3) Supplemental Security Income (SSI).

34 (4) Public assistance (welfare).

35 (5) Unemployment benefits.

36 (6) Disability benefits (other than SSI benefits).

37 (7) Workers' compensation benefits.

38 (8) Exempt wages, Social Security benefits (other than SSI), welfare, unemployment benefits and
39 disability benefits when placed in a checking or savings account (up to \$7,500).

40 (9) Spousal support, child support or separate maintenance to the extent reasonably necessary
41 for your support or the support of any of your dependents.

42 (10) A homestead (home, farm, manufactured dwelling or houseboat) if you live in it, to the value
43 of \$20,000 (\$23,000 for a manufactured dwelling with land included; \$25,000 for any other homestead
44 with land included) or proceeds from its sale for one year.

45 (11) Household goods, furniture, radios, a television set and utensils with a combined value not

to exceed \$3,000.

* (12) An automobile, truck, trailer or other vehicle with a value not to exceed \$1,700.

* (13) Tools, implements, apparatus, team, harness or library that are necessary to carry on your occupation, with a combined value not to exceed \$3,000.

* (14) Books, pictures and musical instruments with a combined value not to exceed \$600.

* (15) Wearing apparel, jewelry and other personal items with a combined value not to exceed \$1,800.

(16) Domestic animals and poultry for family use with a combined value not to exceed \$1,000 and their food for 60 days.

(17) Provisions (food) and fuel for your family for 60 days.

(18) One rifle or shotgun and one pistol. The combined value of all firearms claimed as exempt may not exceed \$1,000.

(19) Public or private pensions.

(20) Veterans' benefits and loans.

(21) Medical assistance benefits.

(22) Health insurance proceeds and disability proceeds of life insurance policies.

(23) Cash surrender value of life insurance policies not payable to your estate.

(24) Federal annuities.

(25) Other annuities to \$250 per month (excess over \$250 per month is subject to the same exemption as wages).

(26) Professionally prescribed health aids for you or any of your dependents.

* (27) Elderly rental assistance allowed pursuant to ORS 310.635.

*** (28) Low income rental assistance allowed pursuant to section 3 of this 2005 Act.**

* [(28)] **(29)** Your right to receive, or property traceable to:

* (a) An award under any crime victim reparation law.

* (b) A payment or payments, not exceeding a total of \$10,000, on account of personal bodily injury suffered by you or an individual of whom you are a dependent.

* (c) A payment in compensation of loss of future earnings of you or an individual of whom you are or were a dependent, to the extent reasonably necessary for your support and the support of any of your dependents.

[(29)] **(30)** Amounts paid to you as an earned income tax credit under federal tax law.

[(30)] **(31)** Interest in personal property to the value of \$400, but this cannot be used to increase the amount of any other exemption.

[(31)] **(32)** Equitable interests in property.

Note: If two or more people in your household owe the claim or judgment, each of them may claim the exemptions marked by an asterisk (*).

SPECIAL RULES APPLY FOR DEBTS THAT ARE OWED FOR CHILD SUPPORT AND SPOUSAL SUPPORT. Some property that may not otherwise be taken for payment against the debt may be taken to pay for overdue support. For instance, Social Security benefits, workers' compensation benefits, unemployment benefits, veterans' benefits and pensions are normally exempt, but only 75 percent of a lump sum payment of these benefits is exempt if the debt is owed for a support obligation.

SECTION 23. ORS 18.845 is amended to read:

18.845. A notice of exemptions form must be in substantially the form set forth in this section. Nothing in the notice form described in this section is intended to expand or restrict the law relating to exempt property. A determination as to whether property is exempt from execution, attachment and garnishment must be made by reference to other law. The form provided in this section may be modified to provide more information or to update the notice based on subsequent changes in exemption laws.

NOTICE OF EXEMPT PROPERTY
AND INSTRUCTIONS FOR
CHALLENGE TO GARNISHMENT

Property belonging to you may have been taken or held in order to satisfy a debt. The debt may be reflected in a judgment or in a warrant or order issued by a state agency. Important legal papers are enclosed.

YOU MAY BE ABLE TO GET YOUR PROPERTY BACK, SO READ THIS NOTICE CAREFULLY.

State and federal law specify that certain property may not be taken. Some of the property that you may be able to get back is listed below.

(1) Wages or a salary as described in ORS 18.375 and 18.385. Whichever of the following amounts is greater:

(a) 75 percent of your take-home wages; or

(b) \$170 per workweek.

(2) Social Security benefits.

(3) Supplemental Security Income (SSI).

(4) Public assistance (welfare).

(5) Unemployment benefits.

(6) Disability benefits (other than SSI benefits).

(7) Workers' compensation benefits.

(8) Exempt wages, Social Security benefits (other than SSI), welfare, unemployment benefits and disability benefits when placed in a checking or savings account (up to \$7,500).

(9) Spousal support, child support or separate maintenance to the extent reasonably necessary for your support or the support of any of your dependents.

(10) A homestead (home, farm, manufactured dwelling or houseboat) if you live in it, to the value of \$20,000 (\$23,000 for a manufactured dwelling with land included; \$25,000 for any other homestead with land included) or proceeds from its sale for one year.

(11) Household goods, furniture, radios, a television set and utensils with a combined value not to exceed \$3,000.

*(12) An automobile, truck, trailer or other vehicle with a value not to exceed \$1,700.

*(13) Tools, implements, apparatus, team, harness or library that are necessary to carry on your occupation, with a combined value not to exceed \$3,000.

*(14) Books, pictures and musical instruments with a combined value not to exceed \$600.

*(15) Wearing apparel, jewelry and other personal items with a combined value not to exceed

\$1,800.

(16) Domestic animals and poultry for family use with a combined value not to exceed \$1,000 and their food for 60 days.

(17) Provisions (food) and fuel for your family for 60 days.

(18) One rifle or shotgun and one pistol. The combined value of all firearms claimed as exempt may not exceed \$1,000.

(19) Public or private pensions.

(20) Veterans' benefits and loans.

(21) Medical assistance benefits.

(22) Health insurance proceeds and disability proceeds of life insurance policies.

(23) Cash surrender value of life insurance policies not payable to your estate.

(24) Federal annuities.

(25) Other annuities to \$250 per month (excess over \$250 per month is subject to the same exemption as wages).

(26) Professionally prescribed health aids for you or any of your dependents.

*(27) Elderly rental assistance allowed pursuant to ORS 310.635.

***(28) Low income rental assistance allowed pursuant to section 3 of this 2005 Act.**

[(28)] (29) Your right to receive, or property traceable to:

(a) An award under any crime victim reparation law.

(b) A payment or payments, not exceeding a total of \$10,000, on account of personal bodily injury suffered by you or an individual of whom you are a dependent.

(c) A payment in compensation of loss of future earnings of you or an individual of whom you are or were a dependent, to the extent reasonably necessary for your support and the support of any of your dependents.

[(29)] (30) Amounts paid to you as an earned income tax credit under federal tax law.

[(30)] (31) Interest in personal property to the value of \$400, but this cannot be used to increase the amount of any other exemption.

[(31)] (32) Equitable interests in property.

[(32)] (33) If the amount shown as owing on the Debt Calculation form exceeds the amount you actually owe to the creditor, the difference between the amount owed and the amount shown on the Debt Calculation form.

Note: If two or more people in your household owe the claim or judgment, each of them may claim the exemptions marked by an asterisk (*).

SPECIAL RULES APPLY FOR DEBTS THAT ARE OWED FOR CHILD SUPPORT AND SPOUSAL SUPPORT. Some property that may not otherwise be taken for payment against the debt may be taken to pay for overdue support. For instance, Social Security benefits, workers' compensation benefits, unemployment benefits, veterans' benefits and pensions are normally exempt, but only 75 percent of a lump sum payment of these benefits is exempt if the debt is owed for a support obligation.

YOU MUST ACT PROMPTLY IF YOU WANT TO GET YOUR MONEY OR PROPERTY BACK.
You may seek to reclaim your exempt property by doing the following:

1 (1) Fill out the Challenge to Garnishment form that you received with this notice.

2 (2) Mail or deliver the Challenge to Garnishment form to the court administrator at the address
3 shown on the writ of garnishment. If you wish to claim wages or salary as exempt, you must mail
4 or deliver the form within 120 days after you receive this notice. If you wish to claim that any other
5 money or property is exempt, or claim that the property is not subject to garnishment, you must
6 mail or deliver the form within 30 days after you receive this notice. You have the burden of
7 showing that your challenge is made on time, so you should keep records showing when the chal-
8 lenge was mailed or delivered.

9 (3) The law only requires that the Garnishor hold the garnished money or property for 10 days
10 before applying it to the Creditor's use. You may be able to keep the property from being used by
11 the Creditor by promptly following (1) and (2) above.

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13 You should be prepared to explain your exemption in court. If you have any questions about the
14 garnishment or the debt, you should see an attorney.

15 YOU MAY USE THE CHALLENGE TO GARNISHMENT FORM ONLY FOR THE FOLLOW-
16 ING PURPOSES:

17 (1) To claim such exemptions from garnishment as are permitted by law.

18 (2) To assert that property is not garnishable property under ORS 18.618.

19 (3) To assert that the amount specified in the writ of garnishment as being subject to
20 garnishment is greater than the total amount owed.

21
22 YOU MAY NOT USE THE CHALLENGE TO GARNISHMENT FORM TO CHALLENGE THE
23 VALIDITY OF THE DEBT.

24 IF YOU FILE A CHALLENGE TO A GARNISHMENT IN BAD FAITH, YOU MAY BE SUB-
25 JECT TO PENALTIES IMPOSED BY THE COURT THAT COULD INCLUDE A FINE. Penalties
26 that you could be subject to are listed in ORS 18.715.

27 When you file a Challenge to Garnishment form, the Garnishee may be required to make all
28 payments under the garnishment to the court, and the Garnishor may be required to pay to the
29 court all amounts received by the Garnishor that are subject to the challenge to the garnishment.
30 The Garnishee and Garnishor are subject to penalties if they do not. For a complete explanation of
31 their responsibilities, see ORS 18.705 and 18.708.

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34 **SECTION 24. Sections 3 to 8 of this 2005 Act apply to qualifying rental costs incurred on**
35 **or after January 1, 2006, and for which a low income rental assistance claim is made on or**
36 **after January 1, 2006.**
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