

## CHAPTER 98

AN ACT

HB 4110

Relating to taxation; creating new provisions; amending ORS 305.035, 305.065, 311.411 and 315.266; and prescribing an effective date.

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

**SECTION 1.** ORS 315.266 is amended to read:

315.266. (1)(a) In addition to any other credit available for purposes of ORS chapter 316, an eligible resident individual shall be allowed a credit against the tax otherwise due under ORS chapter 316 for the tax year in an amount equal to eight percent of the earned income credit allowable to the individual for the same tax year under section 32 of the Internal Revenue Code.

**(b) Notwithstanding paragraph (a) of this subsection, for a taxpayer with a dependent under the age of three at the close of the tax year, the credit allowed under this section shall be in an amount equal to 11 percent of the earned income credit allowable to the individual for the same tax year under section 32 of the Internal Revenue Code.**

(2) An eligible nonresident individual shall be allowed the credit computed in the same manner and subject to the same limitations as the credit allowed a resident by subsection (1) of this section. However, the credit shall be prorated using the proportion provided in ORS 316.117.

(3) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit allowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

(4) If a change in the status of a taxpayer from resident to nonresident or from nonresident to resident occurs, the credit allowed by this section shall be determined in a manner consistent with ORS 316.117.

(5) If the amount allowable as a credit under this section, when added to the sum of the amounts allowable as payment of tax under ORS 316.187 or 316.583, other tax prepayment amounts and other refundable credit amounts, exceeds the taxes imposed by ORS chapters 314 and 316 for the tax year after application of any nonrefundable credits allowable for purposes of ORS chapter 316 for the tax year, the amount of the excess shall be refunded to the taxpayer as provided in ORS 316.502.

(6) The Department of Revenue may adopt rules for purposes of this section, including but not limited to rules relating to proof of eligibility and the furnishing of information regarding the federal earned income credit claimed by the taxpayer for the tax year.

(7) Refunds attributable to the earned income credit allowed under this section *[shall]* **do** not bear interest.

**SECTION 2.** The amendments to ORS 315.266 by section 1 of this 2016 Act apply to tax years beginning on or after January 1, 2017, and before January 1, 2020.

**SECTION 3.** ORS 311.411 is amended to read:

311.411. (1) As used in this section:

(a) "Authorized agent" means an agent who is responsible for closing and settlement services in a conveyance.

(b) "Charges against the real property" means all ad valorem property taxes, additional taxes and potential additional taxes, fees, interest, penalties, costs and other charges that have been or will be charged or listed during the property tax year on the assessment roll or the tax roll with respect to real property that is the subject of an instrument described in subsection (2) of this section.

(c) "Closing and settlement services" means services that are provided by:

(A) A licensed escrow agent in a real estate closing escrow within the meaning of ORS 696.505 to 696.590; or

(B) An attorney for the benefit of a transferor or a transferee in a conveyance, if, simultaneously with the conveyance, the attorney deposits the unpaid purchase price into the attorney's client trust account for disbursement pursuant to the written instructions of, or the agreement between, the transferor and transferee.

(d) "Consideration" means the amount of cash paid for a conveyance.

(e) "Conveyance" means the transfer of, or a contract to transfer, fee title to any real property located in this state to a transferee whose property is exempt from taxation under ORS 307.040 or 307.090. **"Conveyance" does not include a transfer of fee title of less than an entire parcel of property for state highway, county road or city street purposes.**

(2) Notwithstanding ORS 205.130, a county clerk may not record or cause to be recorded an instrument conveying or contracting to convey fee title to real property to an entity whose property is exempt from taxation under ORS 307.040 or 307.090 unless the instrument is accompanied by a certificate issued by the assessor of the county in which the real property is located attesting that all charges against the real property as of the date of the recording have been paid.

(3)(a) On or after July 1 of any year, and before the date on which the assessor makes a certificate pursuant to ORS 311.105, a person seeking to record an instrument described in subsection (2) of this section shall pay to the tax collector of the county:

(A) If the exact amount of charges against the real property can be computed by the county assessor, the exact amount.

(B) If the exact amount cannot be computed, an amount equal to the county assessor's estimate of the exact amount.

(b) The county assessor shall levy and the tax collector shall collect the exact amount or the county assessor's estimate of the exact amount under this subsection.

(c) Payment made pursuant to this subsection may be made less any discount allowed under ORS 311.505.

(4)(a) Pursuant to written instructions from the transferor, an authorized agent in a conveyance may withhold from the consideration payable to the transferor an amount equal to the amount of charges against the real property as of the date of the conveyance.

(b) Amounts withheld pursuant to this subsection are held in trust for the taxing districts within the county in which the real property is located and shall be paid to the county tax collector before the consideration, net of the amounts withheld, may be paid to the transferor.

(5)(a) If all charges against the real property as of the date of the recording have been paid, the county assessor shall issue the certificate described in subsection (2) of this section and may not unreasonably withhold delivery of the certificate.

(b) The certificate shall be in a form prescribed by the Department of Revenue.

(6) Any deficiency in the amount required to be paid under this section:

(a) Notwithstanding ORS 311.405, is not a lien on the real property that is the subject of the instrument described in subsection (2) of this section;

(b) Constitutes a personal debt of the person who has conveyed or contracted to convey the real property under the instrument described in subsection (2) of this section; and

(c) Shall be collected as provided by law for the collection of delinquent property taxes on personal property.

**SECTION 4.** ORS 305.035 is amended to read:

305.035. (1) The Department of Revenue shall be under the supervision of the Director of the Department of Revenue who shall be appointed for a term of four years and shall hold office at the pleasure of the Governor. The director shall be skilled and expert in matters of taxation **or financial administration** and shall devote the entire time of the director to the performance of the duties imposed upon the department.

(2) The appointment of the director is subject to confirmation by the Senate under ORS 171.562 and 171.565. In case the Governor's choice of a director is not confirmed, the Governor shall make another appointment subject to the confirmation by the Senate as provided in this subsection.

(3) The director shall receive such salary as may be provided by law. In addition to salary, the director, subject to the limitations otherwise provided by law, shall be reimbursed for all reasonable expenses necessarily incurred by the director in the performance of official duties. Before entering upon the duties of office, the director shall be bonded under ORS 291.011.

**SECTION 5.** ORS 305.065 is amended to read:

305.065. The Director of the Department of Revenue, with the approval of the Governor, may designate a deputy director, to serve at the pleasure of the director, with full authority to act for the director, but subject to the control of the director. The deputy director shall be skilled and expert in matters of taxation **or financial administration** and shall devote the entire time of the deputy director to the performance of the duties of the deputy director in the department. The designation of a deputy director shall be by written order filed with the Secretary of State.

**SECTION 6.** Section 7 of this 2016 Act is added to and made a part of ORS 469B.270 to 469B.306.

**SECTION 7.** Notwithstanding ORS 469B.285 (6), a preliminary certificate issued under ORS 469B.288 shall remain valid until August 31, 2016, for a project:

(1) That is to be constructed or installed in a county with an area in excess of 10,000 square miles; and

(2) For which preliminary certification currently expires on June 28, 2016.

**SECTION 8.** This 2016 Act takes effect on the 91st day after the date on which the 2016 regular session of the Seventy-eighth Legislative Assembly adjourns sine die.

Approved by the Governor April 4, 2016  
Filed in the office of Secretary of State April 4, 2016  
Effective date June 2, 2016