

Enrolled House Bill 2008

Sponsored by Representative KOTEK; Representatives CAMPOS, DEXTER, FAHEY, GRAYBER, HAYDEN, KROPP, LEIF, MCLAIN, NOBLE, NOSSE, OWENS, PHAM, PRUSAK, RAYFIELD, REYNOLDS, SCHOUTEN, SMITH DB, SMITH G, STARK, VALDERRAMA, WILLIAMS, WRIGHT, Senator KNOPP

CHAPTER

AN ACT

Relating to affordable housing provided by religious organizations; creating new provisions; amending ORS 197.311, 215.441, 227.500, 307.140 and 307.162; and prescribing an effective date.

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

SECTION 1. ORS 307.140 is amended to read:

307.140. Upon compliance with ORS 307.162, the following property owned or being purchased by religious organizations shall be exempt from taxation:

(1) All houses of public worship and other additional buildings and property used solely for administration, education, literary, benevolent, charitable, entertainment and recreational purposes by religious organizations, the lots on which they are situated, and the pews, slips and furniture therein. However, any part of any house of public worship or other additional buildings or property which is kept or used as a store or shop or for any purpose other than those stated in this section shall be assessed and taxed the same as other taxable property.

(2) Parking lots used for parking or any other use as long as that parking or other use is permitted without charge for no fewer than 355 days during the tax year.

(3) Land and [the] buildings [thereon] **on the land** held or used solely for cemetery or crematory purposes, including any buildings solely used to store machinery or equipment used exclusively for maintenance of such lands.

(4)(a) Land and buildings on the land held or used solely to provide affordable housing to low-income households including, but not limited to, any portion of the property for any period during which the portion of the property is rented out as affordable housing to low-income households.

(b) As used in this subsection:

(A) "Affordable housing" has the meaning given that term in ORS 197.311.

(B) "Low-income households" means households described in ORS 197.311 (1).

(5) ORS 315.037 does not apply to this section.

SECTION 2. ORS 307.162 is amended to read:

307.162. (1)(a) Before any real or personal property may be exempted from taxation under ORS 307.092, 307.110 (3)(h), 307.115, 307.118, 307.130 to 307.140, 307.145, 307.147, 307.150, 307.160, 307.181 (3), 307.513 or 307.580 for any tax year, the institution or organization entitled to claim the exemption must file a claim with the county assessor, on or before April 1 preceding the tax year for

which the exemption is claimed. The claim must contain statements, verified by the oath or affirmation of the president or other proper officer of the institution or organization, that:

(A) List all real property claimed to be exempt and show the purpose for which the real property is used; and

(B) Cite the statutes under which exemption for personal property is claimed.

(b)(A) Notwithstanding paragraph (a) of this subsection, a claim for an initial year of exemption under ORS 307.140 (4) must be filed with the Department of Revenue.

(B) If the ownership of all property, other than property described in ORS 307.110 (3)(h) or **307.140 (4)**, included in the claim filed with the county assessor for a prior year remains unchanged, a new claim is not required.

(c) When the property designated in the claim for exemption is acquired after March 1 and before July 1, the claim for that year must be filed within 30 days from the date of acquisition of the property.

(2)(a) Notwithstanding subsection (1) of this section, a claim may be filed under this section for the current tax year:

(A) On or before December 31 of the tax year, if the claim is accompanied by a late filing fee of the greater of \$200, or one-tenth of one percent of the real market value as of the most recent assessment date of the property to which the claim pertains.

(B) On or before April 1 of the tax year, if the claim is accompanied by a late filing fee of \$200 and the claimant demonstrates good and sufficient cause for failing to file a timely claim, is a first-time filer or is a public entity described in ORS 307.090.

(b)(A) Notwithstanding subsection (1) of this section, a claimant that demonstrates good and sufficient cause for failing to file a timely claim, is a first-time filer or is a public entity described in ORS 307.090 may file a claim under this section for the five tax years prior to the current tax year:

(i) Within 60 days after the date on which the county assessor mails notice of additional taxes owing under ORS 311.206 for the property to which the claim filed under this subparagraph pertains; or

(ii) At any time if no notice is mailed.

(B) A claim filed under this paragraph must be accompanied by a late filing fee of the greater of \$200, or one-tenth of one percent of the real market value as of the most recent assessment date of the property to which the claim pertains, multiplied by the number of prior tax years for which exemption is claimed.

(c) If a claim filed under this subsection is not accompanied by the late filing fee or if the late filing fee is not otherwise paid, an exemption may not be allowed for the tax years sought by the claim. A claim may be filed under this subsection notwithstanding that there are no grounds for hardship as required for late filing under ORS 307.475.

(d) The value of the property used to determine the late filing fee under this subsection and the determination of the county assessor relative to a claim of good and sufficient cause are appealable in the same manner as other acts of the county assessor.

(e) A late filing fee collected under this subsection must be deposited in the county general fund.

(3)(a) In a claim for exemption of property described in ORS 307.110 (3)(h), the county or city, town or other municipal corporation or political subdivision of this state that is filing the claim must substantiate that the property is used for affordable housing or that it is leased or rented to persons of lower income, as applicable.

(b) A claim filed under this subsection must be filed annually on a form prescribed by the Department of Revenue.

(4) As used in this section:

(a) "First-time filer" means a claimant that:

(A) Has never filed a claim for the property that is the subject of the current claim; and

(B) Did not receive notice from the county assessor on or before December 1 of the tax year for which exemption is claimed regarding the potential property tax liability of the property.

(b)(A) “Good and sufficient cause” means an extraordinary circumstance beyond the control of the taxpayer or the taxpayer’s agent or representative that causes the failure to file a timely claim.

(B) “Good and sufficient cause” does not include hardship, reliance on misleading information unless the information is provided by an authorized tax official in the course of the official’s duties, lack of knowledge, oversight or inadvertence.

(c) “Ownership” means legal and equitable title.

(5)(a) Notwithstanding subsection (1) of this section, if an institution or organization owns property that is exempt from taxation under a provision of law listed in subsection (1) of this section and fails to file a timely claim for exemption under subsection (1) of this section for additions or improvements to the exempt property, the additions or improvements may nevertheless qualify for exemption.

(b) The organization must file a claim for exemption with the county assessor to have the additions or improvements to the exempt property be exempt from taxation. The claim must:

(A) Describe the additions or improvements to the exempt property;

(B) Describe the current use of the property that is the subject of the application;

(C) Identify the tax year and any preceding tax years for which the exemption is sought;

(D) Contain any other information required by the department; and

(E) Be accompanied by a late filing fee equal to the product of the number of tax years for which exemption is sought multiplied by the greater of \$200 or one-tenth of one percent of the real market value as of the most recent assessment date of the property that is the subject of the claim.

(c) Upon the county assessor’s receipt of a completed claim and late filing fee, the assessor shall determine for each tax year for which exemption is sought whether the additions or improvements that are the subject of the claim would have qualified for exemption had a timely claim been filed under subsection (1) of this section. Any property that would have qualified for exemption had a timely claim been filed under subsection (1) of this section is exempt from taxation for each tax year for which the property would have qualified.

(d) A claim for exemption under this subsection may be filed only for tax years for which the time for filing a claim under subsections (1) and (2)(a) of this section has expired. A claim filed under this subsection, however, may serve as the claim required under subsection (1) of this section for the current tax year.

(e) A late filing fee collected under this subsection must be deposited in the county general fund.

(6) For each tax year for which an exemption granted pursuant to subsection (2) or (5) of this section applies:

(a) Any tax, or interest attributable thereto, that was paid with respect to the property that is declared exempt from taxation must be refunded. Refunds must be made without interest from the unsegregated tax collections account established under ORS 311.385.

(b) Any tax, or interest attributable thereto, that remains unpaid as of the date the exemption is granted must be abated.

(7) If an institution or organization owns property that is exempt from taxation under a provision of law listed in subsection (1) of this section and changes the use of the property to a use that would not entitle the property to exemption from taxation, the institution or organization must notify the county assessor of the change to a taxable use within 30 days.

SECTION 2a. The amendments to ORS 307.140 and 307.162 by sections 1 and 2 of this 2021 Act apply to property tax years beginning on or after July 1, 2021.

SECTION 2b. A religious organization may file a claim, under ORS 307.162 (2)(a)(A), for exemption for property under ORS 307.140 (4) for the property tax year beginning on July 1, 2021, without paying a filing fee.

SECTION 3. ORS 197.311 is amended to read:

197.311. (1) As used in this section:

(a) “Affordable housing” means housing that is affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the development is built or for the state, whichever is greater, **that is subject to an affordable housing covenant, as**

provided in ORS 456.270 to 456.295, that maintains the affordability for a period of not less than 60 years from the date of the certificate of occupancy.

(b) "Multifamily residential building" means a building in which three or more residential units each have space for eating, living and sleeping and permanent provisions for cooking and sanitation.

(2) Notwithstanding ORS 215.427 (1) or 227.178 (1), a city with a population greater than 5,000 or a county with a population greater than 25,000 shall take final action on an application qualifying under subsection (3) of this section, including resolution of all local appeals under ORS 215.422 or 227.180, within 100 days after the application is deemed complete.

(3) An application qualifies for final action within the timeline described in subsection (2) of this section if:

(a) The application is submitted to the city or the county under ORS 215.416 or 227.175;

(b) The application is for development of a multifamily residential building containing five or more residential units within the urban growth boundary; **and**

(c) At least 50 percent of the residential units included in the development will be sold or rented as affordable housing. [*and*]

[(d) The development is subject to a covenant appurtenant that restricts the owner and each successive owner of the development or a residential unit within the development from selling or renting any residential unit described in paragraph (c) of this subsection as housing that is not affordable housing for a period of 60 years from the date of the certificate of occupancy.]

(4) A city or a county shall take final action within the time allowed under ORS 215.427 or 227.178 on any application for a permit, limited land use decision or zone change that does not qualify for review and decision under subsection (3) of this section, including resolution of all appeals under ORS 215.422 or 227.180, as provided by ORS 215.427 and 215.435 or by ORS 227.178 and 227.181.

(5) With respect to property within an urban growth boundary owned by a nonprofit corporation organized as a religious corporation, a local government:

(a) May apply only restrictions or conditions of approval to the development of affordable housing that are, notwithstanding ORS 197.307 (5) or statewide land use planning goals relating to protections for historic areas:

(A) Clear and objective as described in ORS 197.307 (4); or

(B) Discretionary standards related to health, safety, habitability or infrastructure.

(b) Shall approve the development of affordable housing on property not zoned for housing if:

(A) The property is not zoned for industrial uses; and

(B) The property is contiguous to property zoned to allow residential uses.

(6) Affordable housing allowed under subsection (5)(b) of this section may be subject only to the restrictions applicable to the contiguously zoned residential property as limited by subsection (5)(a) of this section and without requiring that the property be rezoned for residential uses. If there is more than one contiguous residential property, the zoning of the property with the greatest density applies.

SECTION 4. ORS 215.441 is amended to read:

215.441. (1) If a church, synagogue, temple, mosque, chapel, meeting house or other nonresidential place of worship is allowed on real property under state law and rules and local zoning ordinances and regulations, a county shall allow the reasonable use of the real property for activities customarily associated with the practices of the religious activity, including:

(a) Worship services.

(b) Religion classes.

(c) Weddings.

(d) Funerals.

(e) Meal programs.

(f) Child care, but not including private or parochial school education for prekindergarten through grade 12 or higher education.

[(g) Providing housing or space for housing in a building or buildings that are detached from the place of worship, provided:]

[(A) At least 50 percent of the residential units provided under this paragraph are affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the real property is located;]

[(B) The real property is in an area zoned for residential use that is located within the urban growth boundary; and]

[(C) The housing or space for housing complies with applicable land use regulations and meets the standards and criteria for residential development for the underlying zone.]

(2) A county may:

(a) Subject real property described in subsection (1) of this section to reasonable regulations, including site review or design review, concerning the physical characteristics of the uses authorized under subsection (1) of this section; or

(b) Prohibit or restrict the use of real property by a place of worship described in subsection (1) of this section if the county finds that the level of service of public facilities, including transportation, water supply, sewer and storm drain systems is not adequate to serve the place of worship described in subsection (1) of this section.

(3) Notwithstanding any other provision of this section, a county may allow a private or parochial school for prekindergarten through grade 12 or higher education to be sited under applicable state law and rules and local zoning ordinances and regulations.

[(4) Housing and space for housing provided under subsection (1)(g) of this section must be subject to a covenant appurtenant that restricts the owner and each successive owner of a building or any residential unit contained in a building from selling or renting any residential unit described in subsection (1)(g)(A) of this section as housing that is not affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the real property is located for a period of 60 years from the date of the certificate of occupancy.]

SECTION 5. ORS 227.500 is amended to read:

227.500. (1) If a church, synagogue, temple, mosque, chapel, meeting house or other nonresidential place of worship is allowed on real property under state law and rules and local zoning ordinances and regulations, a city shall allow the reasonable use of the real property for activities customarily associated with the practices of the religious activity, including:

(a) Worship services.

(b) Religion classes.

(c) Weddings.

(d) Funerals.

(e) Meal programs.

(f) Child care, but not including private or parochial school education for prekindergarten through grade 12 or higher education.

[(g) Providing housing or space for housing in a building or buildings that are detached from the place of worship, provided:]

[(A) At least 50 percent of the residential units provided under this paragraph are affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the real property is located;]

[(B) The real property is in an area zoned for residential use that is located within the urban growth boundary; and]

[(C) The housing or space for housing complies with applicable land use regulations and meets the standards and criteria for residential development for the underlying zone.]

(2) A city may:

(a) Subject real property described in subsection (1) of this section to reasonable regulations, including site review and design review, concerning the physical characteristics of the uses authorized under subsection (1) of this section; or

(b) Prohibit or regulate the use of real property by a place of worship described in subsection (1) of this section if the city finds that the level of service of public facilities, including transportation, water supply, sewer and storm drain systems is not adequate to serve the place of worship described in subsection (1) of this section.

(3) Notwithstanding any other provision of this section, a city may allow a private or parochial school for prekindergarten through grade 12 or higher education to be sited under applicable state law and rules and local zoning ordinances and regulations.

[(4) Housing and space for housing provided under subsection (1)(g) of this section must be subject to a covenant appurtenant that restricts the owner and each successive owner of a building or any residential unit contained in a building from selling or renting any residential unit described in subsection (1)(g)(A) of this section as housing that is not affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the real property is located for a period of 60 years from the date of the certificate of occupancy.]

SECTION 6. This 2021 Act takes effect on the 91st day after the date on which the 2021 regular session of the Eighty-first Legislative Assembly adjourns sine die.

Passed by House May 20, 2021

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate June 17, 2021

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2021

Approved:

.....M.,....., 2021

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2021

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Shemia Fagan, Secretary of State