Chapter 311

1981 REPLACEMENT PART

Collection of Property Taxes

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GENERAL PROVISIONS

311.005 "Tax collector" defined. As used in the tax laws of this state, "tax collector" means the person or officer who by law is charged with the duty of collecting taxes assessed upon real property, and includes a deputy. [Amended by 1973 c 305 §5, 1981 c 346 §9]

311.010 "County court" defined. As used in ORS 311.005 to 311.505, 311.510 to 311.700 and 311.785 to 311.990, unless the context requires otherwise, "county court" includes the board of county commissioners or other governing body of the county. [Amended by 1965 c 344 §8]

311.015 Recovery of damages and costs by person injured by false return or fraudulent act of tax collector. If a person is injured by the false return or fraudulent act of a tax collector, such person shall recover upon suit, brought on the bond of the tax collector and his sureties, double damages and costs of suit. [Amended by 1965 c 344 §9]

311.020 Collection procedure when offices of assessor and tax collector combined. (1) Wherever a statute provides for the assessor to certify an assessment to the tax collector for collection, the person exercising the duties of both assessor and tax collector in a county having a charter shall prepare the certificate required by law, file it in his office and proceed in the manner otherwise provided by law.

(2) In counties where the duties of assessor and tax collector have been delegated to one person, the filing of the warrant under ORS 311.115 shall constitute a constructive delivery of the roll to such person in his tax collecting capacity. [1963 c 238 §§10, 12]

TAX COLLECTOR

311.055 Tax collector. The county court or board of county commissioners of each county shall designate the tax collector thereof. [Amended by 1973 c 305 §1]

311.060 Bond. Before entering upon his duties the tax collector shall give a bond, issued by some responsible surety company, or given by some responsible surety or sureties as approved by the county court, conditioned for the faithful performance of his duties as tax collector, in the amount the county court directs. The premium for the bond, if issued by a surety company, shall be paid by the county court. In all counties the bond shall be additional and cumulative to any other bond given by the officer or employe under any other statute, to which resort may be had, in case of failure or default of his duties as tax collector, if the bond required by this section is unenforceable or insufficient. [Amended by 1963 c 238 §5; 1965 c 344 §10, 1973 c 305 §6]

311.065 Deputies and clerical assistance. Each county tax collector shall be entitled to such deputies and clerical assistance as may be necessary properly to transact the business and perform the work of his office. Such deputies and clerical assistance shall be furnished by the county court at the expense of the county. [Amended by 1965 c 344 §11]

311.070 Tax collecting functions of sheriff transferred to designated tax collector. Upon the designation of someone, other than the sheriff as tax collector of a county, all the duties, functions and powers of the sheriff of the county acting as the tax collector and with respect to the collection of taxes shall be transferred to the tax collector. [1973 c 305 §2, 1981 c 346 §10]

Note: Section 11, chapter 346, Oregon Laws 1981, provides

Sec. 11. (1) The transfer of duties, functions and powers by the amendments to ORS 311 070 by section 10 of this Act shall not affect any proceeding, prosecution, action or suit pending at the time of the transfer

(2) The transfer by the amendments to ORS 311 070 by section 10 of this Act shall not relieve any person of any obligation with respect to any tax or other charge, interest, penalty, forfeiture or any other liability, duty or obligation accrued under or with respect to the duties, functions and powers transferred as provided in the amendments to ORS 311 070 by section 10 of this Act

311.075 Tax collecting obligations transferred to tax collector; pending proceedings unaffected. (1) The rights, duties and obligations of a sheriff legally incurred under contracts, leases and business transactions, entered into with respect to duties, functions and powers transferred by the county court of the county to another officer designated as tax collector shall, upon the date ordered by the court, be transferred to the tax collector of the county. For the purpose of succession to such rights, duties and obligations, the tax collector shall constitute a continuation of the sheriff and not a new authority, and the tax collector shall exercise and perform such rights, duties and obligations with the same force and effect as if they had not been transferred.

(2) The transfer of duties, functions and powers as authorized by ORS 311.070 shall not affect any proceeding, prosecution, action or suit pending at the time of the transfer.

(3) Such a transfer shall not relieve any person of any obligation with respect to any tax or other charge, interest, penalty, forfeiture or any other liability, duty or obligation accrued under or with respect to the duties, functions and powers transferred as provided by ORS 311.070. [1973 c 305 §3]

PREPARING TAX ROLLS; RESTORATION AFTER DAMAGE

311.105 Certificate of assessor of total taxes and other charges. (1) After the assessor has completed the apportionment and extension of taxes against property on the assessment roll, he shall make a certificate, in duplicate, containing a list of all taxing districts, and the following information:

(a) He shall list the total amount of ad valorem taxes levied within the county by each district, the total amount of each special assessment and of each kind of fee or other charge (other than ad valorem taxes) required by law to be placed upon the tax roll for each district.

(b) From the amounts listed in paragraph (a) of this subsection there shall be deducted the amount, if any, of each offset of taxes against each district's levy required by law to be made by the assessor.

(c) There shall be added to the difference between paragraphs (a) and (b) of this subsection the gain caused by rounding the tax rate to the next higher full cent as required by ORS 310.090.

(d) The total amount, paragraphs (a) minus (b) plus (c) of this subsection, of ad valorem taxes, assessments, fees and other charges to be raised for each district by the tax roll and any property tax amounts to be paid by the state and the total thereof.

(e) The amounts of property tax moneys to be paid by the State of Oregon which are not offset by law against the levy of one or more particular districts, but which are used to reduce the amount of taxes extended on the roll and collected by the tax collector.

(f) The balance, paragraphs (d) minus (e) of this subsection, to be collected by the tax collector against real property, against personal property, and against property assessed pursuant to ORS 308.515 to 308.660, including the total amount of gain by fractional overrun resulting from the mathematical computation made in extending the levies on the roll. It also shall contain the list required under ORS 308.221.

(2) The assessor shall deliver one copy of the certificate to the county clerk. [Amended by 1963 c 238 §6, 1965 c 344 §12, 1969 c.595 §5, 1975 c 780 §9, 1979 c 350 §11]

311.110 Warrant of clerk authorizing collection of taxes. After receiving the certificate required by ORS 311.105, the county clerk shall forthwith issue to the county assessor a warrant, in the name of the State of Oregon, under the hand of the clerk and the seal of the county court, authorizing the collection by the tax collector and charging him with the collection of the taxes and other amounts shown in the certificate. [Amended by 1963 c 238 §7, 1967 c 105 §4]

311.115 Delivery of assessment roll to tax collector; tax roll. The assessor shall deliver the roll to the tax collector not later than October 15 each year. The assessment roll shall be delivered in counties in which the assessor does not prepare a separate assessment roll and a separate tax roll. The assessment roll thereafter shall be a tax roll. The tax roll shall be delivered in counties where a separate assessment roll and tax roll is prepared. At the same time, the assessor shall deliver to the tax collector the second copy of his certificate prepared under ORS 311.105, and the warrant issued under ORS 311.110, and the tax collector shall file them in his office. The tax collector shall give a receipt, in duplicate, for the roll. One copy of the receipt shall be filed with the assessor and the other with the county clerk. All certificates, warrants, assessment and tax rolls shall be preserved as public records. [Amended by 1963 c 238 §8, 1965 c 344 §13]

311.120 Adding uncollected tax to tax for succeeding year; placing property as to which tax adjudged void upon rolls; relisting, reassessment and relevying. (1) If a tax levied on property liable to taxation is prevented from being collected for any year or years by reason of an erroneous proceeding, or other cause, the amount of the tax which should have been paid on the property shall be added to the amount of tax upon the property for the next succeeding year; and if any tax is

adjudged void for want of form or manner of procedure on the part of the taxing officers, the county assessor or tax collector shall cause the property to be placed on the assessment and tax roll of the current year, the tax to be collected as other taxes of that year are collected.

(2) There shall be, if necessary, a relisting, reassessment and a relevy of the proper tax in the manner and by the person authorized by law to list property and levy and assess a tax. The relisting, reassessment and relevying shall take place within five years from the date the tax would have been delinquent if the property had been properly listed, assessed and tax levied thereon. If the question is raised in the courts as to the legality of such tax, the five years shall not commence to run until the question is finally determined by the courts.

311.125 Entering delinquent taxes on tax roll. Immediately after receipt of the tax roll each year:

(1) If delinquent tax payments are to be posted to the previous year's rolls the tax collector shall enter on the roll received, for each property assessment, a memorandum of all taxes then unpaid and delinquent on such property, showing the tax year or years and the amount of such taxes for each such year. Where a continuing tax roll card system is used on which is shown the prior years' unpaid taxes, no new annual entry or entries need be made until a new card is used to replace the old card. Where the property description for an account in the current tax roll is different than the description of the property for a prior year, but includes a portion or all of the property on which the unpaid taxes are a lien, the full amount of the unpaid taxes shall be shown, and no segregation of the value of the property need be made unless requested pursuant to ORS 311.280 by a person desiring to pay a portion or all of such unpaid taxes.

(2) If delinquent tax payments are to be posted to the current tax roll, the tax collector shall enter on the roll received, for each property assessment, all taxes then unpaid and delinquent on such property, showing the tax year or years and the amount of such taxes for each such year. A segregation of value of the property and of the unpaid taxes applicable to each portion of the property segregated shall be made whenever the property description for an account on the current tax roll is different from a prior year or years, as described in subsection (1) of this section. [Amended by 1965 c 344 §14]

311.130 [Repealed by 1965 c 344 §42]

311.135 Restoration of current assessment roll after destruction or damage. (1) If the current assessment roll of any county is destroyed or damaged by fire or other disaster, the county assessor shall repair and restore the assessment roll, extend all regular and lawful tax levies therein and deliver the restored roll as a tax roll to the tax collector at the earliest practicable time

(2) The provisions of ORS 311.115 as to the time of delivery of a tax roll to the tax collector by the assessor are waived in such case.

311.140 Restoration of tax rolls after destruction or damage; preparing transcripts as rolls for unpaid taxes. (1) If the tax rolls of any county are destroyed or damaged, the tax collector of the county shall prepare transcripts of those parts of the rolls in which it appears, from evidence in his possession or otherwise obtainable, that taxes are unpaid on real or personal properties. The Department of Revenue and the assessor of the county shall assist the tax collector in the preparation of the transcripts.

(2) The tax collector shall then certify that, to the best of his belief and knowledge, the transcripts are a true and correct record of the taxes remaining unpaid. When certified by the tax collector, the transcripts shall be the tax rolls of the county for all taxes so determined to be unpaid.

(3) Thereafter, the tax collector may make corrections of such tax rolls, pursuant to ORS 311.205, to conform such rolls to the destroyed rolls. Such corrections shall be considered to be clerical errors, except that where a taxpayer is aggrieved by such correction, he may within 60 days thereof petition the county court for relief. The petition shall set forth in detail the facts upon which the petitioner relies and the relief requested. The county court may hear such petitions in a summary manner and shall issue its order denying the relief requested or granting such relief as it determines proper. Any taxpayer aggrieved by such order may petition to the small claims division of the Oregon Tax Court in the manner provided in ORS 305.535 to 305.555.

(4) The unpaid taxes exhibited in tax rolls prepared and certified in accordance with this section are liens upon the real and personal

properties therein described, and shall have the same force and effect as the liens of taxes charged in the original tax rolls of the county. Such taxes shall be subject to the provisions of law for the collection of taxes on real or personal property. [Amended by 1965 c 344 §15]

311.145 Supplying materials and clerical help to restore rolls. The county court shall supply and furnish the tax collector and assessor with the books and other materials and clerical help necessary to carry out ORS 311.135 and 311.140.

311.150 Adding to, changing or correcting rolls by vouchers; preservation of vouchers. (1) In lieu of the procedures for additions, changes or corrections to the assessment and tax rolls authorized by ORS 309.120, 311.205, 311.370 (5), 311.645, 312.140 (2) and 358.495, the officer in possession of the roll may prepare a voucher for each correcting entry The voucher shall state what change is to be made, identify the tax account or accounts affected, provide sufficient evidence to indicate the propriety of the transaction and the date the voucher is approved by the officer in charge of the roll or his authorized deputy. The date the voucher is completed and approved is the date the change shall become effective and the voucher shall become a public record. The vouchers shall be numbered and the voucher number shall appear on the assessment or tax roll adjacent to the entry changing the roll.

(2) The vouchers provided for in this section shall be preserved until the real property tax rolls of the year affected by the voucher have been foreclosed and the foreclosed property has been deeded to the county; or, in the case of personal property, until one year after the tax account affected by the voucher has been collected or canceled under the provisions of ORS 311.790. [1965 c 344 §6; 1975 c.514 §13]

311.160 Correction of rolls to reflect order on appeal; disposition of additional taxes; interest on additional taxes; payment of taxpayer estimate of future taxes; establishment of special accounts. (1) Where a final order is entered in any appeal described in ORS 308.020, the officer or officers in possession of the assessment and tax rolls shall make the corrections stated in the order of the Department of Revenue, the decision of the Oregon Tax Court or the decision of the Supreme Court, whichever is applicable. Any additional taxes collected because the final total value is greater than that entered in the rolls under ORS 308.020 shall be deposited in a special account with the county treasurer. On June 30 of each year, the county treasurer shall notify the county assessor of the amount in the special account for each property described in ORS 308.020, and the assessor shall apportion the amount among the taxing districts in the code area in which the property is located on the basis of their tax rates as compared to the total of such tax rates. The county assessor shall subtract from the levy or charge submitted by each taxing district in the code area in which the property is located the amount in the account apportioned to the taxing district and shall extend on the assessment and tax roll in each case no more than the remainder as the taxing district's levy for the current fiscal year.

(2) Interest shall accrue on the additional taxes collected pursuant to subsection (1) of this section as if the property had been properly assessed in the year that any portion of the value was placed on the tax roll in the manner and at the interest rates provided in ORS 311.505.

(3) If the owner of the property, the value of which is subject to ORS 308.020, so desires, the owner may tender to the county treasurer an estimate of the additional taxes which may ultimately be assessed against the property. The county treasurer shall provide a special account for such deposits and shall invest the deposits during the time the matter is in litigation. The interest earned on the account shall be credited to it.

(4) Upon the termination of the controversy, the principal amount in the account necessary to pay the taxes as provided in subsection (1) of this section shall be retained together with its portion of the interest earned on the investment of the moneys during the period held by the county treasurer and shall be distributed as provided in subsection (1) of this section. Moneys in the account in excess of that required to be retained shall be refunded to the owner. Notwithstanding ORS 311.812, the owner of the property shall not be entitled to any interest in excess of that earned on the sum of the principal which is refunded to the owner during the time the money was held by the county treasurer. [1973 c 345 §4, 1979 c.689 §17; 1981 c.178 §12]

311.165 Collection of taxes upon severance or removal of improvements from the land. (1) If in the opinion of the assessor:

(a) It appears probable that real property improvements, whether assessed as improvements only or as real property improvements assessed together with land have been or will be severed from the land upon which they are situated and have been or will be removed from such land;

(b) It appears that the amount of taxes which have been levied against the property in the current and prior years or which are anticipated to be levied for the current assessment year will not be adequately secured by the value of the property remaining in the tax account; and

(c) It appears that unless prompt action is taken the taxes will not be collected, then the assessor shall proceed to levy and the tax collector to collect the taxes in the manner set forth in subsection (2) of this section.

(2) If the amount of the taxes for the current year attributable to the property improvements is not able to be determined, the assessor shall apply the tax rate for the previous year to the value of the property improvements to determine the taxes due for the current year. The assessor shall make demand upon the owner of the improvements as shown by the most recent assessment roll, for payment of the unpaid taxes attributable to the improvements for the current and all prior years. Any payments shall be paid immediately upon demand of the assessor either to the assessor for remittance to the tax collector or directly to the tax collector of the county pursuant to ORS 311.370. If the taxes are not paid immediately upon demand, the assessor shall certify the assessment and tax levies so made by him to the tax collector. For the purposes of collection of the assessments, the owner shall be considered a taxpayer owning personal property against which ad valorem taxes have been assessed. Review may be had as provided in ORS 311.467. All taxes collected by the tax collector, or taxes collected by the assessor and remitted to the tax collector shall be credited to the real property account containing the improvements which were the basis of the tax. [1973 c 343 §1; 1979 c.350 §12, 1979 c 689 §28]

Note: 311 165 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 311 by legislative action. See the preface to Oregon Revised Statutes for further explanation

CORRECTING ERRORS OR OMISSIONS IN ROLLS

311.205 Correcting errors or omissions in rolls. (1) After the assessment and tax roll is returned to the assessor from the county board of equalization, if the officer having charge of the roll discovers an error or omission in the roll, he may correct the roll to conform to the facts, as follows:

(a) He may correct a clerical error. A clerical error is an error on the roll which either arises from an error in the records of the assessor or which is a failure to correctly reflect the records of the assessor, and which, had it been discovered by the assessor prior to May 1 of the year of assessment would have been corrected as a matter of course, and the information necessary to make the correction is contained in such records at the time the roll for the year is returned to the assessor from the board of equalization. Such errors include, but are not limited to, arithmetic and copying errors, and the omission or misstatement of a land, improvement or other property value on the roll.

(b) He may not correct an error in valuation judgment. Such errors are those where the assessor would arrive at a different opinion of value after the roll has been returned to him by the board.

(c) He may correct any other error or omission of any kind, so long as it is not a change in his valuation judgment. Such errors include, but are not limited to, the elimination of an assessment to one taxpayer of property belonging to another on the assessment date, the correction of a value changed on appeal, or the correction of an erroneous amount certified as the levy of a taxing district.

(d) He shall make any change requested by the Department of Revenue which relates to an assessment of property made by the department under ORS 308.505 to 308.565.

The officer in charge of the roll shall make corrections with the assent and concurrence of the assessor or the department. Corrections may be made to the roll for any year or years not exceeding five years prior to the last roll so returned.

(2) Whenever a clerical error, error in valuation, or an error or omission of any other kind is called to the attention of the department, the department may order the correction of the roll as a part of its supervisory

authority under ORS 305.090 and 306.111, as follows:

(a) A change or correction applicable to all real or personal property of the same class or in the same area may be made to the roll for the current assessment year if a written request is made to the department or the order of the department is mailed not later than August 15 of such year.

(b) A change or correction applicable to a separate assessment of property may be made to the assessment roll for the current assessment year and for either or both of the last two preceding years, when the following conditions exist as to each year for which correction is requested of the department in writing:

(A) The taxpayer claims for any reason that the assessment of his property has resulted in an excessive valuation in an amount of at least $2,000 or five percent of assessed value, whichever is greater; and

(B) The taxpayer has no statutory right of appeal remaining.

As used in this subsection, "current assessment year" is the assessment year in which a written request is made to the department for the correction of the claimed erroneous assessment or assessments.

(3) A correction made pursuant to this section shall be made in whatever manner necessary to make the assessment, tax or other proceeding regular and valid. The correction shall be made in red ink, or otherwise distinguished, and shall be signed with the initials of the officer making it and shall include the date of the correction. Whenever a correction is to be made after May 1, the effect of which is to increase the assessment to which it relates, except where made by the county board of equalization or by order of the department, the procedure prescribed in ORS 311.207 to 311.213 shall be followed; and the provisions therein with respect to appeals shall likewise apply. However, corrections which would result in less than a $1,000 change in valuation shall not change the value for purposes of computing the taxes levied against the property, but shall be made only for purposes of correcting the office records.

(4) The remedies under this section are in addition to other remedies provided by law, including but not limited to those available under ORS 305.285. [Amended by 1953 c 26 §2, 1957 c 324 §8, 1959 c 181 §2; 1961 c 234 §1; 1963 c 267 §1, 1965 c 344 §16, 1971 c 472 §3, 1973 c 402 §28, 1977 c 606 §2; 1979 c 687 §3]

311.206 Added taxes; increased taxes; payment without interest; when delinquent. Whenever the roll is corrected under ORS 311.205, and taxes are added to the roll or taxes already on the roll are increased, the additional taxes becoming due shall be payable without interest if paid in the period prior to the 16th of the month next following the month of the correction. If not paid within such period, the additional taxes shall thereafter be considered for all purposes of collection and enforcement of payment as having become delinquent on the date they would normally have become delinquent if timely extended on the roll or rolls in the year or years for which the correction was made. [1975 c 780 §15]

311.207 Notice of intention to add omitted property to rolls; treatment of taxable property not reported; treatment of understated real property; duty of tax collector. (1) Whenever, after the return of the assessment rolls to the county assessor by the board of equalization, the assessor discovers or receives credible information, or if he has reason to believe that any real or personal property, including property subject to assessment by the Department of Revenue, or any buildings, structures, improvements or timber on land previously assessed without the same, has from any cause been omitted, in whole or in part, from assessment and taxation on the current assessment and tax rolls or on any such rolls for any year or years not exceeding five years prior to the last roll so returned, he shall give notice as provided in ORS 311.209.

(2) Whenever the assessor discovers or receives credible information:

(a) That the addition of any building, structure, improvement, machinery or equipment was not reported as of January 1 in a real property return required by the assessor under ORS 308.285, or

(b) That the cost as of January 1 of any building, structure, improvement, machinery or equipment reported in a real property return required by the assessor under ORS 308.285 exceeds the cost stated in the return,

the property, or the excess cost adjusted to reflect its contribution to true cash value, shall be presumed to be omitted property subject to additional assessment as provided in ORS 311.207 to 311.213.

(3) If the tax collector discovers or receives credible information or if he has reason to believe that any property subject to taxation has been omitted from the tax roll, he shall immediately bring this to the attention of the assessor by written notice. [1965 c 344 §18 (1), (2), (9), (10) (enacted in lieu of 311 210), 1971 c 574 §3, 1977 c 584 §1, 1979 c 692 §6]

311.209 Notice of intention to assess omitted property. Notice shall be given to the person claiming to own the property or occupying it or in possession thereof of the assessor's intention to add the property to the assessment or tax roll and to assess the property in such person's name. Where the assessor has reason to believe the property is either no longer in existence or is outside the county, he shall give the notice to the owner or the person in possession on the assessment date of the year or years as to which the property was omitted. The notice shall be in writing, mailed to the person's last-known address. It shall describe the property in general terms, and require the person to appear at a specified time, not less than 20 days after mailing the notice, and to show cause, if any, why the property should not be added to the assessment and tax roll and assessed to such person. [1965 c 344 §18 (3) (enacted in lieu of 311.210), 1979 c 692 §7]

311.210 [Amended by 1955 c 720 §2, 1959 c 56 §2, repealed by 1965 c 344 §17 (311.207, 311 209, 311.211 and 311 213 enacted in lieu of 311.210)]

311.211 Correction of rolls; filing statement of facts; notice to taxpayer; powers of assessor; appeal. (1) If the person or party so notified does not appear or if he appears and fails to show any good and sufficient cause why the assessment shall not be made, the assessor shall proceed to correct the assessment or tax roll or rolls from which the property was omitted. He shall add the property thereto, with the proper valuation, and extend thereon taxes at the millage rate applicable in the code area in which the property was located for each year as to which it was omitted. To carry out the correction of a tax roll or rolls the assessor shall send a written statement to the tax collector instructing him to make the necessary changes on the tax roll. The statement shall contain all of the information needed by the tax collector to make the changes in the roll and it shall be dated and signed by the assessor or his deputy. The tax collector shall then correct the tax roll.

(2) Immediately after the assessor corrects the assessment or tax roll he shall file in his office a statement of the facts or evidence on which he based the correction and notify the taxpayer by written notice, sent by certified mail to the taxpayer's last-known address, of the date and amount of the correction.

(3) To enable the assessor to comply with this subsection, he is invested with all the powers of the board of equalization and the county clerk under the law in force during the years for which correction may be made under ORS 311.207 to 311.213 and thereafter.

(4) Any person aggrieved by an assessment made under ORS 311.207 to 311.213 may appeal to the Department of Revenue within 90 days after the correction of the roll by giving notice to the assessor and otherwise proceeding in the manner provided for appeals from the board of equalization. [1965 c 344 §18 (4), (5), (6), (7) (enacted in lieu of 311 210), 1977 c 870 §37]

311.213 Taxes added to rolls become liens; delinquency of added taxes; interest. (1) The taxes added to an assessment or tax roll under ORS 311.207 to 311.213 shall become liens on property as provided in ORS 311.405. Taxes which would have previously become delinquent if they had been properly extended upon the tax roll for the year or years as to which they were omitted, also shall be noted on the current tax roll as delinquent taxes, and shall thereafter be considered for all purposes of collection and enforcement of payment, as having become delinquent on the date they would normally have become delinquent; except that such delinquent taxes shall not bear interest for any period prior to the 16th of the month next following the month of their extension on the tax roll unless it appears to the satisfaction of the officer placing the property on the assessment roll that the omission of the property was due to a wilful attempt to evade the payment of taxes on the property.

(2) When it appears to the satisfaction of the assessor that the omission of the property was due to a wilful attempt to evade the payment of taxes on the property, then he shall so advise the tax collector and interest at the rate provided in ORS 311.505 (2) shall be added to the amounts so charged, which interest shall be computed from the date or dates that payment of the charges were properly due, and which interest shall continue to run until payment of the charges.

(3) Payments on the amounts added to the assessment or tax roll under ORS 311.207 to 311.213 shall be credited first to interest accrued on principal paid, and then to principal of the charges. [1965 c 344 §18 (8) (enacted in lieu of 311 210), 1975 c 704 §1]

311.215 Mandamus to require placing of omitted property on roll. If any officer described in ORS 311.207 to 311.213 fails to comply with ORS 311.207 to 311.213 on the discovery by the officer, or on credible information being furnished by another person, that property has been omitted from taxation, the state, on the relation of any state officer or of any taxpayer of the county in which the failure occurs, may proceed against the officer in any court of competent jurisdiction by mandamus to compel the officer to comply with ORS 311.207 to 311.213. In the trial of the suit the question of what constitutes credible information is a question of fact to be determined by the court trying the case in the same manner other issues of fact are determined. If judgment is rendered that credible information has been discovered by or furnished to the officer, or that the officer has reason to believe that property has been omitted from taxation, the officer shall forthwith place the omitted property on the assessment and tax roll in accordance with ORS 311.207 to 311.215. If judgment is rendered against the officer, the officer shall be liable for all costs of the mandamus suit, and for a reasonable attorney fee at trial and on appeal for relator's attorney, which shall be taxed as a part of the costs of the suit. If proceedings are instituted under this section on the relation of any private citizen, the relator shall give bond to the satisfaction of the court to pay all costs which may be recovered against the relator. [Amended by 1981 c 897 §46]

311.220 Real property taxes as lien on property when matter of public record. No real property taxes imposed on real property purchased by a bona fide purchaser shall be a lien on the real property unless at the time of purchase the taxes were a matter of public record. For the purposes of this section, if the tax roll has not been prepared for the tax year in which the purchase occurred, taxes levied or to be levied for the tax year of purchase are taxes which are a matter of public record. [Amended by 1971 c.384 §1]

TIME AND MANNER OF COLLECTION

311.250 Tax statements. (1) Except as to real property assessed to "unknown owners" pursuant to ORS 308.240 (2), prior to the first day of November in each year, the tax collector shall deliver or mail to each person (as defined in ORS 311.605) shown on the tax roll as an owner of real or personal property, or to an agent or representative authorized in writing pursuant to ORS 308.215 by such person, a written statement of property taxes payable on the following November 15.

(2) In addition to other items deemed essential by the tax collector, the tax statement shall contain:

(a) The name and last-known address of the person shown on the latest tax roll as the owner, or as corrected by the assessor or pursuant to ORS 311.555, or as otherwise ascertained by the tax collector;

(b) In the case of real property, a description which meets the requirements of ORS 308.240 (1);

(c) The total amount of current taxes due on the described property;

(d) The amount of the discount provided by ORS 311.505 for full payment of taxes on or before November 15;

(e) The net amount of taxes for full payment on or before November 15;

(f) The years for which taxes are delinquent and the amount of taxes delinquent for each year;

(g) The total assessed value of the property;

(h) The total rate of levy on the property, expressed in dollars and cents per thousand dollars of assessed value;

(i) The fiscal year for which the taxes have been levied; and

(j) The place where payments of taxes are to be made.

(3) The failure of a taxpayer to receive the statement described in subsection (2) of this section shall not invalidate any assessment, levy, tax, or proceeding to collect tax.

(4) The tax collector shall not be liable for his failure to deliver or mail the tax statements by November 1 as provided in subsection (1) of this section if such failure was caused by not receiving the tax roll from the assessor by the time provided by law or by

reason of any other circumstance beyond his control. In such case he shall deliver or mail the statements as soon as possible and in no case shall any such delay serve to extend the dates provided by law for allowance of discount or charging of interest.

(5) Where, for any reason the taxes due on any property on the assessment roll in any year cannot be ascertained from the tax roll by November 5 of that year, within 15 days thereafter the owner or other person liable for or desiring to pay the taxes on such property may tender to the tax collector, and the tax collector may collect, a payment of all or part of the taxes estimated by him to be due on such property. Immediately after the taxes are actually extended on the tax roll, the tax collector shall credit the amount paid as provided by law, allowing the discount under ORS 311.505 and not charging interest for the amount of taxes satisfied by such payment. Where there has been an underpayment, additional taxes shall be collected, and where there has been an overpayment, refund shall be made as otherwise provided by law. [1963 c 311 §2, 1965 c 344 §19, 1967 c.293 §21, 1967 c 568 §2]

311.252 Two copies of tax statement to be sent to mortgagee paying taxes; procedure when information otherwise transmitted; mortgagee to forward to owner notice of change in valuation. (1) Notwithstanding ORS 311.250, if a mortgagee is required or authorized to pay the ad valorem taxes on a mobile home or on real property that is subject to the mortgage by a provision contained in the mortgage instrument, the tax collector shall send two copies of each statement required to be mailed under ORS 311.250 to the mortgagee upon written request sent to the tax collector, one of which copies shall be for the use of the mortgagee. The request by the mortgagee for the sending of the tax statements shall be made to the tax collector on or before October 1 of each year and shall state that the mortgagee has the duty or is authorized to pay the taxes for the owner of the property. The tax collector's compliance with such request relieves the tax collector of responsibility to mail the statements to any other person. Any person authorized to receive tax statements under this section shall send to the owner one copy of each tax statement including any separate inclosure required by law on or before January 15 of the following calendar year.

(2) The tax collector and any mortgagee referred to in subsection (1) of this section may agree that a set of systematic punch cards or reels of magnetic tape containing the information required by ORS 311.250 (2) may be delivered to the mortgagee instead of two copies of the tax statement required by subsection (1) of this section. The tax collector and the mortgagee may agree between them which one shall make the copy of the tax statement for the owner as required by this section. If the mortgagee is to make the statement, the mortgagee shall use forms which have been approved by the Department of Revenue and are owned by the mortgagee. If the tax collector incurs expense under this subsection that is in excess of costs incurred under subsection (1) of this section, reimbursement shall be made pursuant to agreement between the tax collector and the mortgagee. Funds received under this subsection shall be credited to the county general fund. Nothing in this subsection relieves the mortgagee of the obligation to send to each owner one copy of each tax statement.

(3) If a notice of change of valuation required under ORS 308.280, 308.287 or 308.289 is sent in care of the mortgagee to an owner or agent listed upon the assessment roll pursuant to ORS 308.215, the mortgagee shall forward that notice of change in assessed valuation to the owner or agent not later than seven days after receipt of the notice from the county.

(4) For the purposes of this section, the holder of a perfected security interest in a mobile home is considered a "mortgagee" and the perfected security interest is considered a "mortgage." [1967 c.568 §4, 1971 c 379 §1; 1971 c.529 §35, 1971 c.752 §1; 1973 c 82 §1; 1981 c 804 §87]

311.253 Use of computer printout to comply with ORS 311.250; content; agreement to use printout instead of tax statements. (1) Notwithstanding ORS 311.250, if to meet the requirements of ORS 311.250, the tax collector must deliver or mail multiple tax statements to the same person, as defined in ORS 311.605, the tax collector may, at the request of the person made in writing, in lieu of the required tax statements, deliver or mail to the person a computer printout that contains the name and last-known address of the person, and for each of the properties for which an individual tax statement would otherwise be required:

(a) The map account number.

(b) The number of acres, if applicable.

(c) The total assessed value of the property.

(d) The total rate of levy on the property, expressed in dollars and cents per thousand dollars of assessed value.

(e) The total amount of current taxes due on the property.

(f) The amount of the discount provided in ORS 311.505 for full payment of taxes on or before November 15, and the net amount of taxes for full payment on or before November 15.

(g) The years for which taxes are delinquent and the amount of taxes delinquent for each year.

(h) Any other information mutually agreed to by the tax collector and the person.

(2) Any request made under this section must be made to the tax collector by the person on or before October 1 of each year. If upon mutual agreement of the parties, the tax collector complies with the request in accordance with the agreement, the tax collector is relieved of responsibility of delivering or mailing tax statements in any other manner.

(3) Any information required by ORS 311.250 to appear on a tax statement that is not included on the computer printout authorized by this section shall appear on the face of the tax receipt given under ORS 311.361. This section shall not apply to a mortgagee required or authorized to pay ad valorem taxes to which ORS 311.252 applies.

(4) As used in this section, "computer printout" means a set of systematic punch cards, reels of magnetic tape, floppy discs or other magnetic media or material in machine readable form. [1981 c 364 §1]

Note: 311 253 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 311 or any series therein by legislative action See the preface to Oregon Revised Statutes for further explanation

311.255 Taxes and other charges of all taxing agencies collected with county taxes. All ad valorem taxes and all special assessments, fees or other charges required by law to be placed upon the tax roll, which have been lawfully levied and certified to the assessor by any taxing agency or district authorized by law to levy such taxes, assessments, fees or charges, shall be collected by the same officer and in the same manner and at the same time as taxes for county purposes are collected. [Amended by 1965 c 344 §20]

311.260 Payment of taxes in lawful money. Except as provided in ORS 311.265, all taxes levied in this state shall be collected and paid in lawful money of the United States, and not otherwise. [Amended by 1965 c 344 §21]

311.265 Payment of taxes with warrants. (1) Any warrant of a county or of any municipal corporation, taxing district or political subdivision shall be received, without regard to priority of issue or registration, in payment of any tax levied for the fund on which the warrant is drawn, except that a warrant not immediately redeemable shall not be received on any tax or part of a tax specifically levied or budgeted for the payment of principal or interest of bonded indebtedness. The tax collector shall not accept from any taxpayer warrants in a larger amount than the particular tax or part of a tax such taxpayer may be entitled to pay in such warrants.

(2) The tax collector shall note on each tax receipt and copy thereof the number and amount of each warrant he receives and shall write or stamp across the face of each warrant the date of receipt and the words "Received for taxes." No warrant received in payment of taxes shall draw interest after the date of receipt.

(3) This section does not apply to special assessments, appearing on the tax roll, levied by an irrigation, drainage or water supply district.

311.270 Discounting county orders prohibited. No county officer shall purchase or receive in payment of taxes or in exchange, or otherwise, any county orders or any demand against his county for a claim allowed by the proper officer to allow the claim during his term of office, for an amount less than that expressed on the face of the order or demand.

311.275 Grantor and grantee or buyer and seller proportionally liable. As between the grantor and the grantee of real property or the buyer and seller of personal property, when there is no express agreement as to payment of the taxes on the property becoming due and payable for the fiscal year in which the sale occurs, the grantor or seller is liable for the same proportion of the taxes as the part of the fiscal year prior to the day of the sale of the property bears to the whole

of the fiscal year, and the grantee or buyer is liable for the remainder of the taxes. [Amended by 1977 c 718 §5]

311.280 Payment of taxes on part of property assessed as one parcel; division; when division not required; division between mobile home and parcel. (1) Any person desiring to pay taxes on any part of any real estate assessed as one parcel or tract may do so by applying to the county assessor or deputy county assessor. The county assessor shall determine the relative or proportionate value such part bears to the value of the whole tract assessed, and shall file a statement thereof with the tax collector, on which basis the assessment shall be divided and taxes shall be collected accordingly.

(2) The assessor or tax collector shall not be required to divide an assessment under this section unless the person calling for the division of assessment owns, or holds a mortgage or other lien on that part only of such area on which the person desires to pay the taxes, and has filed with the assessor a true copy of the deed, contract of sale, mortgage or other instrument evidencing the interest in the part; provided that whenever such instrument is otherwise recorded in the county records, such filing shall not be required.

(3) The assessor or tax collector shall not be required to divide an assessment under this section unless all ad valorem taxes, fees and other charges required to be placed upon the tax roll that have become a lien upon the entire parcel of property and that have become delinquent have been paid. However, if the applicant for the division is a public body, only the portion of such taxes, fees and other charges apportionable to the part of the real estate owned by the public body, or on which the public body holds a mortgage or other lien, need be paid. As used in this subsection, "public body" means the United States, its agencies and instrumentalities, the state, a county, city, school district, irrigation or drainage district, a port, a water district and all other public or municipal corporations in the state exempt from tax under ORS 307.040 or 307.090.

(4) In the case of a parcel or tract of real estate which is being assessed under one of the special assessment laws listed in ORS 308.025 (2), the assessor or tax collector shall not be required to divide the assessment unless the portion of any additional taxes or penalty apportionable to the part of the property disqualified from special assessment is paid.

(5) In the case of property within the jurisdiction of a city or county which has adopted minor land partition regulations pursuant to ORS 92.046, the assessor shall not divide an assessment unless the person calling for the division of assessment has filed with the assessor evidence that the division has been approved as required by such regulations.

(6) Whenever a mobile home is assessed as real property under ORS 308.875, and the security interest holder of the mobile home is a person different from the owner of the parcel of land upon which it is situated, the security interest holder may apply to the assessor for a division of the value of the entire parcel between the value of the mobile home and the value of the remainder of the parcel. Using this value division, the tax collector shall allocate the taxes between the mobile home and the remainder of the parcel, and the security interest holder of the mobile home may pay the taxes on the value attributable to the mobile home and thereby free the mobile home from the lien of those taxes. If a division is made and the mobile home moved without payment of taxes, the lien of the tax on the mobile home is on both the mobile home and the parcel from which it was removed; however, payment of taxes on the mobile home will reduce, in the amount of taxes paid, the taxes against the remainder of the parcel, and payment of the taxes assessed against the entire parcel will remove the lien of taxes against the mobile home.

(7) If protest is filed to the division, the matter shall be heard by the county commissioners or the county court (as defined in ORS 306.005) at its next regular session for transaction of county business, who shall make a final division of the assessment, and the tax collector shall collect and receipt for the taxes as so determined and ordered.

(8) No person shall apply in any year under this section for a division of the assessment of a subdivision made on the assessment roll prepared as of January 1 of the calendar year in which the subdivision is finally approved. [Amended by 1953 c 109 §2; subsection (3) enacted as 1965 c 393 §3, 1967 c 58 §1, 1971 c.529 §16, 1975 c 579 §1, 1977 c.884 §17, 1979 c 689 §19; 1981 c 632 §1]

311.285 Right of action in occupant or tenant paying tax against person who should pay; retention out of rent. If any tax

on any real estate is paid by or collected from an occupant or tenant when there is some other person who, by agreement or otherwise, ought to pay the tax, or any part thereof, the occupant or tenant shall be entitled to recover by action the amount which the person should have paid with interest thereon, or the occupant or tenant may retain the same out of any rent due or accruing from him to such person for real estate on which the tax is so paid.

311.290 [Repealed by 1953 c 705 §2]

311.325 [Repealed by 1965 c 344 §42]

311.330 [Repealed by 1965 c 344 §42]

311.335 [Repealed by 1969 c.595 §17]

311.340 [Repealed by 1969 c 595 §17]

311.345 Recovery of damages and interest for failure to settle taxes on assessment roll or for withholding payment of public moneys. (1) If a tax collector fails to make settlement of the taxes included in his assessment roll within the time required by ORS 311.395, he shall be charged with five percent damages and 12 percent interest per year from the day payment should have been made of the balance of unsettled taxes due from him.

(2) If a tax collector withholds the payment of any public moneys collected or received by him after the moneys should be paid and have been demanded, he shall be liable to pay 10 percent damages and 12 percent interest per year from the day payment should have been made by him of the moneys.

(3) If a tax collector neglects or refuses to pay over all moneys collected by him for taxes to the county treasurer, he shall, in addition to the criminal penalty provided for in ORS 311.990 (6), be liable to pay 10 percent damages and 12 percent interest per year from the day payment should have been made by him of the moneys.

(4) The moneys, damages and interest authorized to be collected under this section may be collected by suit upon the bond of the tax collector for the recovery of the same. [Amended by 1963 c 238 §13, 1969 c.595 §13, 1979 c.689 §20]

311.350 Money received for specific object to be kept in proper fund. Money collected or received by any officer for a distinct and specified object shall be kept as a separate fund for the specified object and no portion shall be paid or applied to any other object or purpose without due authority.

311.355 [Repealed by 1965 c 344 §22 (311 356 and 311 361 enacted in lieu of 311 355)]

311.356 Receiving and receipting for moneys collected; noting payments on tax roll. (1) After receipt of the tax roll each year the tax collector shall receive and receipt for all moneys collected by him for taxes and other amounts charged on such roll, and for each payment, shall note on the tax roll at the appropriate property assessment the following:

(a) The date payment was received.

(b) The amount of the payment.

(c) The discount allowed, if any.

(d) The interest charged, if any.

(e) The number of the receipt issued for such payment.

(2) The tax collector may, for convenience, divide the tax roll, as payments are made, into two portions, and file each separately, one portion containing the paid accounts and another portion containing the unpaid accounts. From time to time, and no later than the receipt of the next year's tax roll, the tax collector shall compute and indicate on the tax roll the unpaid balance of taxes for each property assessment. [1965 c.344 §23 (enacted in lieu of 311 355)]

311.360 [Repealed by 1965 c 344 §42]

311.361 Form of tax receipt; numbering; taxpayer's copy; temporary receipt; destruction of receipts. (1) Every tax receipt shall state plainly on its face the name of the county, the fiscal year for which the taxes entered therein have been levied followed by the word "Taxes." The receipt shall show the exact amount paid, the date of payment, the property on which the taxes were paid and the code area for the property. The tax collector shall keep a stub receipt or a copy of each receipt or a computer printout of the same information on each receipt issued and such stub receipt, copy or printout shall be a public record. The receipts shall be numbered consecutively except that if more than one validating machine is used in validating and numbering the receipts, a consecutive number series may be used for each machine if the series is identified by a machine number or letter. The stubs or copies of the receipts, or the printout, shall contain the post-office or residence address of the taxpayer, which may be ascertained and entered at the time of the payment. Preparation of a microfilm or micro-

fiche record of the receipts constitutes a printout.

(2) If the tax statement has been sent to the taxpayer with a copy to be retained by him, no copy of the receipt need be given or sent to the taxpayer unless he requests one. An explanation of this procedure shall be contained on the tax statement.

(3) A temporary or interim receipt may be issued on payment of any instalment of less than one-quarter of a particular tax account, each such receipt to be entered in the records of the tax collector's office.

(4) Notwithstanding any other provision of law, the tax collector's copy of the tax receipt may be destroyed when seven years have elapsed from the date the receipt was issued. [1965 c 344 §24 (enacted in lieu of 311 355); 1979 c.701 §1]

311.365 [Repealed by 1965 c 344 §42]

311.370 Receipts for taxes collected in advance of extension on the tax roll; entries in assessment roll; deposit of moneys in special account; posting payments; treatment of excess collections or deficiencies; reimbursement for refunds. (1) (a) For all taxes and other charges collected by the tax collector under including, but not limited to, ORS 91.512, 92.095, 308.260, 308.395, 308.399, 308.404, 308.780, 308.865, 311.165, 311.415, 311.465, 321.372, 321.760, 321.825, 358.525 and 454.225, the tax collector shall issue receipts similar in form to the receipts issued on payment of taxes regularly charged on the tax roll.

(b) The assessor shall enter all assessments of property to which paragraph (a) of this subsection applies in the assessment roll and shall make proper entries showing the extension of the taxes in the usual manner and as though no payment to the tax collector had been made.

(2) Upon receipt thereof, the tax collector shall deposit with the county treasurer all money collected by him under subsection (1) of this section. The county treasurer shall issue to the tax collector duplicate receipts for the money and shall hold it in a special account in the name of the tax collector.

(3) Upon delivery of the assessment roll pursuant to ORS 311.115, the tax collector shall post the payments evidenced by the receipts, and the amount of any underpayment or overpayment. The tax collector shall then make a statement to the county treasurer which shall specify the amount to be retained in the fund to make the refunds required under paragraph (b) of subsection (4) of this section. The tax collector shall dispose of the balance in the special account in the same manner as other tax payments.

(4) Any sum collected by the tax collector which is in excess of the amount extended on the tax roll as provided in paragraph (b) of subsection (1) of this section shall be disposed of by the tax collector as follows:

(a) Any excess under $5 shall be paid to the districts in which the taxed property is located in the same manner as interest on taxes is paid to such districts.

(b) Any excess of $5 or over shall be refunded to the taxpayer by the county treasurer upon receiving instructions for doing so from the tax collector. If an amount remains that cannot be refunded by June 30 of the next calendar year, the tax collector shall instruct the treasurer to distribute the moneys to the taxing districts in the same manner as the excesses are distributed under paragraph (a) of this subsection.

(5) If a sum less than the tax charged on the tax roll has been collected, the deficiency shall be canceled by the tax collector if such sum is $5 or less, and he shall note upon the tax roll opposite the appropriate account, "Tax deficiency canceled pursuant to ORS 311.370." Otherwise, the deficiency shall be collected as provided by law.

(6) If an appeal which is perfected under ORS 311.467 for taxes collected under ORS 311.465 results in a refund under ORS 311.806, the reimbursement for the refund to the general fund of the county or unsegregated tax collections account shall be made from the account provided for in subsection (2) of this section. [Amended by 1965 c 344 §25, 1967 c 93 §3; 1969 c 605 §19, 1971 c 230 §2; 1971 c 573 §2, 1975 c 365 §3, 1975 c 514 §16, 1977 c 892 §36, 1979 c 350 §1; 1979 c 702 §4]

TAX DISTRIBUTION PROCEDURE

311.375 Forwarding state taxes by county treasurers. (1) On or before December 1 in each year each county treasurer shall pay over to the State Treasurer one-half of the amount of state taxes charged to his county for the fiscal year then current. In similar manner the county treasurer shall pay over one-quarter of such taxes on or before March

15, and the remainder of such taxes on or before June 30, of the fiscal year.

(2) Each such payment of state taxes shall be made without deduction for any cause out of the first moneys collected and paid into the county treasury over which the county has control.

(3) If a county fails to pay to the State Treasurer its entire apportionment of the taxes within 30 days after the dates prescribed in subsection (1) of this section, the unpaid balance shall be deemed delinquent, and is a debt due and owing by the county to the state and the county shall pay the legal rate of interest thereon from such date until paid. The payment of such interest shall not relieve the county treasurer from any penalty imposed by law for failure to pay such taxes as required by law.

(4) If a county treasurer fails to pay to the State Treasurer any money in his hands for the payment of the amount of state taxes charged to the county at the time prescribed in subsection (1) of this section, he shall, in addition to other penalties, be liable to the following:

(a) If he fails for a period of 10 days after the time prescribed, he shall forfeit to the state 20 percent on the amount withheld.

(b) If he fails for a period of 30 days after the time prescribed, he shall forfeit his office as treasurer and is a public defaulter.

311.385 Deposit in unsegregated tax collections account. The taxes collected by the tax collector pursuant to this chapter shall be deposited daily with the county treasurer who shall deposit it to an account in his records designated unsegregated tax collections The tax collector shall take a receipt therefor. [1963 c 606 §2, 1967 c 105 §5, 1969 c 595 §6, 1971 c 737 §4]

311.390 Tax distribution percentage schedule; changed or additional levies. (1) When the tax collector receives the assessor's certificate pursuant to ORS 311.115, he shall prepare and file with the county treasurer a percentage schedule of the ratio of taxes and other amounts to be collected after deducting offsets and adding gain caused by rounding, the amounts computed in accordance with ORS 311.105 (1)(d) for each governmental unit as shown in such certificate, compared to the total of such amounts. Such schedule shall be approved by the county auditor, if one exists in the county, or by the county clerk before filing. Except as provided in subsection (2) of this section, the distribution of collections by the tax collector, and the distributions received by the county treasurer of state tax relief moneys which are not a direct offset to district levies shall be made on the basis of the ratios computed pursuant to this section. The ratios computed pursuant to this section for a given fiscal year shall be used for the distribution of all taxes levied and collected for that fiscal year regardless of the actual date of receipt.

(2) If, after the ratios are computed pursuant to this section, a levy is changed or a levy is filed with the assessor pursuant to ORS 310.060 which had not been included in the tax distribution schedule for that year, the tax collector:

(a) Shall revise the percentages provided in subsection (1) of this section to reflect the corrected or added levy, and shall adjust the amounts previously distributed and to be distributed thereafter to reflect the revision in percentages; or

(b) If, in his opinion, it is not feasible to make such revision, he shall treat the amount of the change in levy or the additional levy as a separate tax collection and segregate the moneys collected for the particular district or districts in his periodic statement of tax collections given to the county treasurer pursuant to ORS 311.395.

If the percentage schedule is revised, a copy shall be filed with the county treasurer after approval by the county auditor, if one exists in the county, or by the county clerk. [1963 c 606 §3, 1965 c 492 §2, 1967 c 105 §6, 1969 c.595 §7]

311.392 County's option to advance to municipalities taxes levied prior to collection. (1) If, in the discretion of the county court, it is more economical to advance to those municipalities from the general fund of the county the total amount of taxes, assessments or other charges levied against property in the county, the county court may advance from the general fund of the county the full amount of the taxes, assessments and charges levied by those subdivisions and the county court may order the county tax collector to revise the tax distribution schedule provided by ORS 311.390 so that all taxes, assessments and charges advanced by the county will be allocated to the county. If the county makes the payments provided in this section, it shall have no recourse against the political subdivision for recovery of the shrinkage in collec-

tions from that anticipated at the time the payment was made.

(2) If the county advances taxes under this subsection, before December 1 of each year, it may deduct from the levy the three percent discount which would have been given by the district had all of the taxes been paid by November 15 and turned over to the district on or before December 1 of each year. If the payment is made after December 1, no discount shall be taken by the county. [1965 c 492 §4, 1969 c 595 §8]

311.395 Periodic statements of tax collections; crediting to funds; payment to taxing units. (1) The tax collector, on or before the fifth business day of each month, shall make a statement in triplicate of the exact amounts of cash and of warrants collected during the preceding month for taxes, penalties and interest, and the total amount of the statement shall be credited to the several funds for which they were respectively collected in accordance with the schedule provided in ORS 311.390. One of the statements shall be filed with the county clerk, one with the county treasurer and the other retained on file in the office of the tax collector.

(2) The statements may be made more often and for shorter periods if the tax collector so desires but one of the statements so filed shall cover a period coinciding with the last business day of the particular calendar month.

(3) Notwithstanding subsections (1) and (2) of this section, for the period beginning October 15 and ending December 31, the tax collector shall prepare the statements provided by subsection (1) of this section relating to current year tax collections weekly rather than monthly.

(4) The county treasurer shall keep the moneys and warrants received by him from the tax collector in their respective funds and shall pay such moneys and warrants over to the several taxing units respectively entitled thereto upon demand and take receipts therefor. [1963 c 606 §8, 1969 c 595 §9, 1971 c 355 §1]

TAX LIENS; SUMMARY COLLECTIONS

311.405 Tax as lien; priority. (1) All taxes lawfully imposed or levied on real or personal property are liens on such real and personal property, respectively. Such taxes include delinquent taxes on personal property made a lien on real property, and taxes on real or personal property added to an assessment or tax roll pursuant to ORS 311.207 to 311.213.

(2) Taxes on real property shall be a lien thereon from and including July 1 of the year in which they are levied until paid and, except as otherwise specifically provided by law, such lien shall not be voided or impaired.

(3) (a) Taxes on personal property shall be a lien:

(A) On any and all of the particular personal property assessed and on any and all of the personal property assessed as the same category, as disclosed by the personal property tax return and assessment list;and

(B) For purposes of distraint, on any and all of the taxable personal property owned by or in the possession or control of the person assessed.

(b) The liens for taxes on personal property shall attach on and after January 1 of the year of assessment and shall continue until the taxes are paid, except as provided in ORS 311.410.

(4) Where real or personal property is omitted from the assessment or tax roll prepared as of January 1 of the current calendar year and notice is given pursuant to ORS 311.207 to 311.213 during such year and the property subsequently is added to such roll pursuant to ORS 311.207 to 311.213, the taxes shall be a lien on such property and on other property at the same time and in the same manner as taxes became liens on the taxable property not so omitted from the roll.

(5) Taxes on real and personal property omitted from an assessment or tax roll prepared as of January 1 of a prior calendar year and added to such roll pursuant to ORS 311.207 to 311.213, shall be a lien on such property from and including the date the addition or correction is made on such roll. Where the omitted property consists of any building, structure or improvement which has been severed or removed from the land, the taxes on such property also shall be a lien against the land. Where the property omitted is personal property, the taxes also shall be a lien on any and all of the taxable personal property of the person assessed from such date of addition or correction. However, no taxes shall become a lien on real or personal property under this subsection where the property was transferred to a bona fide purchaser after the assessment date for such prior calendar

year and prior to the lien date provided for hereunder.

(6) Each lien, whether on real or personal property, shall include all interest, penalties and costs applicable by law to any of such taxes.

(7) (a) Except as provided in paragraph (b) of this subsection, the liens for taxes, including and not limited to the general lien provided by subparagraph (B) of paragraph (a) of subsection (3) of this section, created under this section are superior to, have priority over and shall be fully satisfied before all other liens, judgments, mortgages, security interests or encumbrances on the property without regard to date of creation, filing or recording.

(b) If it becomes necessary to charge personal property taxes against real property under ORS 311.645, any judgment, mortgage or other lien or encumbrance on the real property that is placed of record prior to the date the personal property tax becomes a lien on the real property has priority over the personal property tax lien. [Amended by 1953 c 707 §2, 1955 c.720 §3, 1981 c 346 §1]

311.410 Effect of transfer of property on lien and on taxability of property. (1) Real property or personal property having a status as such on January 1 which is subject to taxation on July 1 shall remain taxable and taxes levied thereon for the ensuing fiscal year shall become due and payable, notwithstanding any subsequent transfer of the property to an exempt ownership or use. Real property exempt from taxation on July 1 shall remain exempt for the ensuing fiscal year, notwithstanding any transfer within such year to a taxable ownership or use.

(2) No sale or transfer of personal property or any part thereof shall affect the lien under ORS 311.405 (3)(a)(A). Taxes on personal property transferred from a tax exempt to a taxable ownership or use, as provided in subsection (4) of this section, shall be a lien on any and all of the personal property assessed to the person and on any and all of the taxable personal property of the person assessed from and including the date of transfer until paid. Such liens shall be in all other respects subject to the provisions of this section and ORS 311.405 relating to liens on personal property.

(3) Real or personal property is exempt if it is transferred or changed from a taxable to an exempt ownership or use at any time between January 1 and June 30, both inclusive, of any year; however, if such property is exempted under any provision of ORS 307.010 to 307.166, 307.169 to 307.690, 307.850 and 307.990 which requires the filing of a claim for exemption, the transfer shall not operate to render such property exempt from taxation for such year unless the required claim for exemption is filed as directed on or before August 1 in such year.

(4) (a) Transfer of real property or personal property having a status as such on January 1, from a tax exempt to a taxable ownership or use at any time between January 1 and June 30, both inclusive, of any year shall constitute notice to the transferee, owner or person in control of the property that it will be subject to taxation for the fiscal year next ensuing. In case of real property, the transferee, owner or person in control forthwith shall advise the county assessor in the county in which the property has its situs for taxation of the transfer. In the case of personal property, the transferee shall within 30 days after the transfer make a return listing the information required by ORS 308.290, 308.295 and 308.300. Where the assessor is not advised of the transfer in time for the assessor or the county board of equalization to enter the property in the current assessment roll as provided by law, the officer having subsequent possession and control of the roll, whether as assessment or tax roll, shall make therein the proper entries of assessment and taxation of the property for such fiscal year. All assessments and tax charges so made and entered shall be as of omitted property and, except as otherwise provided in paragraph (b) of this subsection, shall be subject to ORS 311.207 to 311.213.

(b) If leased property becomes taxable under ORS 307.110 (1) after May 1 and before July 1 of a current assessment year and the assessor is not advised that the property is taxable in time to enter the property in the current assessment roll, but is advised that the property is taxable prior to September 1, in lieu of the notice and hearing required by ORS 311.209, the assessor shall:

(A) Proceed forthwith to correct the assessment or tax roll from which the property is omitted in the manner provided in ORS 311.211 (1) and (2) under authority of ORS 311.211 (3).

(B) Include in the notice required under ORS 311.211 (2) a description, in general terms, of the property the assessor is adding to the roll and a statement mentioning that an appeal may be taken from the action to the

Department of Revenue within 90 days after the date the notice is mailed. Appeals from an act of the county assessor pursuant to this subparagraph shall be taken in the manner provided in ORS 311.211 (4).

(5) Real property which is the subject of eminent domain proceedings instituted by a public body shall, for the purposes of this section, be deemed to have been transferred as of the date of payment therefor, the date of entry into possession by the public body or the date of entry of judgment in such proceedings, whichever is earlier. [Amended by 1953 c 707 §2, 1963 c 233 §1, 1969 c 237 §2, 1973 c 402 §16, 1977 c 884 §18, 1979 c 692 §11, 1979 c 704 §2, 1981 c 346 §2]

311.412 Effect of acquisition of property by state or political subdivision by eminent domain on taxes for prior fiscal years. (1) Whenever, by eminent domain proceedings, the State of Oregon or any political subdivision thereof acquires title to any real property upon which property taxes for any year or years prior to the fiscal year of such acquisition have become a lien upon said real property, all such liens shall be transferred to and be paid out of the award of the jury given in such proceedings. The real property acquired by the state or any political subdivision thereof shall be free and clear of any liens or liability for such property taxes.

(2) In the event the real property acquired by the state or any political subdivision thereof was a part of a larger parcel upon which property taxes for any year or years prior to the fiscal year of such acquisition have become a lien, only such proportion of such taxes as the assessed value of the part acquired by the state or the political subdivision thereof bears to the assessed value of the said larger parcel shall be transferred to and paid out of the award of the jury given in said proceedings, and the remainder of such taxes shall continue a lien upon the remainder of said larger parcel. [1953 c 539 §1]

311.413 Effect of acquisition of property by state or political subdivision by eminent domain on taxes for current fiscal year. (1) Whenever, by eminent domain proceedings, the State of Oregon or any political subdivision thereof acquires title to any real property upon which property taxes have been levied for the fiscal year in which such property is acquired, the state or the political subdivision thereof shall pay such proportion of said taxes as the period from the date of acquisition until the end of the fiscal year bears to the entire fiscal year. The remainder of said taxes shall become a lien upon and shall be paid out of the award of the jury given in said eminent domain proceedings.

(2) In the event the real property acquired by the state or any political subdivision thereof is a part of a larger parcel upon which property taxes have been levied for the fiscal year of such acquisition, only such proportion of said taxes as the assessed value of the part acquired by the state or a political subdivision thereof bears to the assessed value of said larger parcel shall be paid by the state or the political subdivision thereof or become a lien and be paid out of the award of the jury as provided in this section, and the remainder of such taxes shall continue a lien upon the remainder of said larger parcel. [1953 c 539 §2]

311.414 Date of acquisition for purposes of ORS 311.412 and 311.413. For the purposes of ORS 311.412 and 311.413, the date of acquisition of real property by eminent domain proceedings by the State of Oregon or any political subdivision thereof shall be deemed to be the date possession thereof is taken by the state or the political subdivision thereof, or the date final judgment is entered in the eminent domain proceedings, whichever is earlier. [1953 c 539 §3]

311.415 Payment of taxes before entry of judgment or order in certain causes. (1) Before any judgment or final order shall be entered or become operative in any court in this state in any of the causes listed in subsection (3) of this section, it shall first be shown to the satisfaction of the court that all taxes due or owing from the defendant, judgment debtor, heir, devisee, executor, administrator, trustee, agent, conservator or guardian, or which may be collected by virtue of the assessment and taxation laws of this state, have been paid.

(2) If the judgment or final order is to be taken and entered after January 1, while the assessment roll is in the possession of the assessor, and pertains to an assessment to be made as of January 1, the receipt for the taxes shall be given by the assessor upon an assessment made as follows:

(a) If the exact amount of taxes, special assessments, fees and charges are able to be computed by the assessor, such amount shall be paid to the tax collector. The assessor is authorized to levy and the tax collector is authorized to collect such amount.

(b) If the assessor is unable to compute the exact amount at the time, either (A) there shall be paid the amount estimated by the assessor to be needed to pay the taxes, special assessments, fees and other charges to become due, or (B) there shall be deposited with the tax collector a bond with good and sufficient undertaking in the amount that the assessor considers adequate to insure payment of the taxes to become due. In no event shall the bond amount exceed twice the amount of the previous year's taxes, special assessments, fees and other charges computed under this subsection. Taxes paid or bonded for under this section shall be entitled to the discount provided by ORS 311.505. ORS 311.370 shall apply to amounts assessed and collected under this subsection.

(3) This section applies to the following causes:

(a) An assignment for the benefit of creditors.

(b) The estate of a deceased person or any other proceeding in probate involving the distribution of personal property.

(c) Any proceeding to enforce the payment of a debt where the property involved is a stock of merchandise, or other assessable personal property. [Amended by 1973 c 823 §126, 1975 c 780 §10, 1979 c 350 §13, 1981 c 804 §88]

311.420 Dissipation, removal or destruction of value of realty subsequent to assessment or tax day. (1) All taxes levied on real property, the value of which is substantially dissipated, removed or destroyed by the owner thereof, or by his authority, subsequent to the assessment or tax day of any year, shall be a debt due and owing from the owner of the real property from the time the taxes are or may be levied.

(2) If the taxes are not paid before they become delinquent, or on the earlier demand of the tax collector, the county in which the taxes are due and owing may, in addition to the remedies provided by statute for the collection of taxes on real property, maintain an action for itself, and for all other municipal corporations, taxing districts or political subdivisions sharing in the taxes, against the owner of the property for the collection of the taxes, together with interest, penalties, costs and other lawful charges thereon. At the time of the commencement of the action for the collection of such taxes, the county shall have the benefit of all the laws of this state pertaining to provisional remedies against the property, either real or personal, of the owner owing the taxes, without the necessity of filing either an affidavit or undertaking, as otherwise provided by statute. The county clerk of the county where the action is commenced shall immediately issue writs of attachment on application therefor by the tax collector or the district attorney for the county as plaintiff. The writs shall be directed to the sheriffs of as many counties as the tax collector or the district attorney directs.

(3) This section does not apply if the real property is substantially dissipated, destroyed or removed by fire or the elements.

311.425 Removing timber before paying taxes on timber or land prohibited; collecting tax on timber severed after assessed as realty; enjoining the cutting or removing of timber. (1) No person, firm or corporation shall log off or remove any standing or down timber until the taxes then due and payable on the timber and the taxes then due and payable on the land upon which the timber is or was standing or situated, including the taxes on any portion of the timber previously logged off or removed, have been fully paid. If the timber is owned entirely separate and apart from the land whereon it grows or is situated and is not merely held under an executory contract, the owner of the land is not responsible for the taxes on the timber.

(2) If standing timber which has been assessed as real property is severed from the land as part of which it was so assessed, it may be treated as personal property. The county assessor or tax collector thereafter may pursue all the rights and remedies provided by law for the collection of personal property taxes in the collection of taxes levied against the timber.

(3) In addition to the fine provided for in ORS 311.990 (3), the county in which the property is located may, through the district attorney of the county, maintain injunction proceedings against the person, firm or corporation from cutting or removing the timber in violation of subsection (1) of this section.

311.430 Remedy of ORS 311.420 and 311.425 as cumulative. ORS 311.420 and 311.425 shall be construed as cumulative of all other remedies for the collection of taxes against real property and shall not be construed as a repeal of any statute for the assessment or collection of taxes against real property.

311.455 Tax on personal property as debt; action for collection of tax. (1) All taxes levied on personal property shall be a debt due and owing from the owner of the personal property.

(2) If taxes on personal property are not paid before they become delinquent, or on the earlier demand of the assessor or tax collector, the county in which the taxes are due and owing may, in addition to the remedies provided by statute for the collection of taxes on personal property, maintain an action for itself, and for all other municipal corporations, taxing districts or political subdivisions sharing in the taxes, against the owner of the personal property for the collection of the taxes, together with interest, penalties, costs and other lawful charges thereon.

(3) At the time of the commencement of the action for the collection of such taxes, the county shall have the benefit of all the laws of this state pertaining to provisional remedies against the property, either real or personal, of the owner owing the taxes, without the necessity of filing either an affidavit or undertaking, as otherwise provided by statute. The county clerk of the county where the action is commenced shall immediately issue writs of attachment on application therefor by the tax collector or the district attorney for the county as plaintiff. The writs shall be directed to the sheriffs of as many counties as the tax collector or the district attorney directs.

311.460 [Repealed by 1975 c 365 §4]

311.465 Summary collection of delinquent tax or tax on property about to be removed, sold or destroyed. (1) (a) If the county assessor discovers personal property subject to assessment for taxation in any year, the taxes on which for any prior year are then delinquent; or

(b) If in the opinion of the assessor it seems probable that personal property may be removed from the county, sold, dissipated or destroyed before the taxes on the property otherwise become due and payable and it further appears that the owner or person liable for the taxes had no property subject to taxation in the county during either of the two preceding tax years, or was delinquent in the payment of any tax imposed during the two preceding tax years in respect to property in any jurisdiction, whether within or without the state, or is not financially responsible or intends to depart from the state before the taxes become due, the assessor may, immediately after listing and valuing the personal property for assessment and taxation, levy, demand and collect for remittance to the tax collector, or the tax collector may collect, the taxes on the property as follows:

(A) If the exact amount of taxes, special assessments, fees and charges are able to be computed by the assessor, such amount shall be paid to the assessor for remittance to the tax collector or directly to the tax collector.

(B) If the assessor is unable to compute the exact amount at the time, either (A) there shall be paid the amount estimated by the assessor to be needed to pay the taxes, special assessments, fees and other charges to become due, or (B) there shall be deposited with the tax collector a bond with a good and sufficient undertaking in the amount that the assessor considers adequate to insure payment of the taxes to become due. In no event shall the bond amount exceed twice the amount of the taxes, special assessments, fees and other charges computed by the assessor under this paragraph. Taxes paid or bonded for under this paragraph shall be entitled to the discount provided by ORS 311.505. ORS 311.370 shall apply to the amounts assessed and collected under this subsection. Any taxes collected under this subsection, and subject to refund on order of the Department of Revenue under ORS 311.467, shall be held in the special account mentioned in ORS 311.370 by the county treasurer until the period for petitioning for review of the assessor's action has expired, or, when a review is had, until the review is determined. If the department, upon review, orders a refund, the county treasurer shall make the refund from the special account within three days after entry of the department's order.

(2) If the owner or person liable for the taxes on the personal property fails to pay the tax on demand by the assessor, the assessor shall certify the assessment and tax levies made under this section to the tax collector of the county. The taxes thereupon shall be collected by the tax collector in the manner of collecting delinquent taxes on personal property. The taxes when so certified by the assessor are delinquent and subject to the provisions of law for the collection of delinquent taxes on personal property. [Amended by 1955 c 710 §2; 1975 c 780 §12; 1979 c 350 §14, 1981 c 804 §89]

311.467 Review of assessor's action under ORS 311.165 and 311.465. (1) When any assessor, under ORS 311.165 or 311.465,

demands payment of taxes on real or personal property before such taxes otherwise become due and payable, the owner or person who is liable for the taxes on the property and who has paid to the assessor the amount demanded may, within 10 days from such demand, petition the Department of Revenue for review of the assessor's action.

(2) The review shall be governed by the provisions of ORS chapter 305, in so far as such provisions are applicable and not in conflict with this section.

(3) The department shall complete its review and determination within 20 days after its receipt of the petition for review and shall either affirm the action taken by the assessor or order a refund of the taxes paid. The order of the department shall be final. No rehearing shall be had except on the department's own motion; and the order shall not be appealable under ORS 305.560. Any costs incident to the hearing shall be assessed by the department against the losing party. [1955 c 710 §1; 1973 c 343 §2, 1977 c.870 §38]

311.470 Distraining property about to be removed from state or dissipated. If at any time the tax collector has reason to believe that personal property is being removed or is about to be removed from the state, is being dissipated or is about to be dissipated, the tax collector immediately shall distrain sufficient of the property or cause sufficient property to be distrained to pay the taxes, together with interest, penalties and costs, on all the property being removed or about to be removed, being dissipated or about to be dissipated. The tax collector shall cause such property to be sold or sell such property in the manner provided in ORS 311.640. [Amended by 1973 c 305 §7; 1981 c 346 §8]

311.475 Collecting and remitting taxes on personal property removed from one county to another. If personal property on which taxes are due and unpaid has been removed from one county to another county of this state, the tax collector of the county from which the property was removed shall certify a statement of the taxes, with interest and penalties, to the tax collector of the county to which the property was removed. The statement shall contain a transcript of so much of the tax roll as relates to the property and the owner thereof. The tax collector receiving the certified statement shall have the same power to collect the taxes, with interest, penalties and costs thereon, as he has to collect taxes levied on personal property assessed in his own county. The tax collector making the collection immediately shall remit the amount collected, less the costs, to the tax collector from whom the statement and certified transcript was received, together with a statement showing in detail the respective amounts of taxes, interest, penalties and costs collected.

311.480 Bankruptcy accelerates personal property taxes and makes them a preferred claim; presenting claim. If a tax has been levied against personal property, and thereafter and prior to the date the tax becomes due and payable, the person against whom the tax is charged takes advantage of the Acts of Congress relating to bankruptcy, or is adjudged a bankrupt upon an involuntary proceeding, the tax shall become immediately due and collectible and shall be a preferred claim against the bankruptcy estate. The tax collector of the county where the tax was levied shall prepare and present to the referee in bankruptcy proof of claim of the county for the tax.

311.485 [Repealed by 1965 c 344 §42]

DELINQUENT TAXES; COLLECTION

311.505 Due dates; interest on late payments; discounts on early payments. (1) Except as provided in subsection (6) of this section, the first one-third of all taxes due from the taxpayer or property, levied and charged on the latest tax roll, shall be paid on or before November 15, the second one-third on or before February 15, and the remaining one-third on or before May 15 next following.

(2) Interest shall be charged and collected on any taxes or instalment thereof, not so paid, at the rate of one percent per month, or fraction of a month until paid.

(3) Discounts shall be allowed on partial or full payments of such taxes, made on or before November 15 as follows:

(a) Two percent on two-thirds of such taxes so paid.

(b) Three percent where all of such taxes are so paid.

(4) For purposes of this section, "taxes" includes fire patrol assessments, irrigation or drainage district assessments, and all special and other assessments or charges entered in county tax rolls.

(5) All interest collected and all discounts allowed shall be prorated to the several municipal corporations, taxing districts and governmental agencies sharing in the taxes or assessments.

(6) If the total property tax is less than $40, no instalment payment of taxes shall be allowed. [Amended by 1953 c 49 §2, 1957 c 543 §1, 1965 c 344 §26, 1973 c 142 §1; 1975 c 704 §2, 1979 c.241 §9, 1979 c.703 §§1, 3]

Note: Section 4, chapter 703, Oregon Laws 1979, provides

Sec. 4. The amendments to ORS 311 505 by section 3 of this Act apply to property taxes assessed and collected for tax years beginning on or after July 1, 1981

311.507 Discounts allowed for certain late payments. Notwithstanding the requirement in ORS 311.505 (3) that to receive a discount upon payment of property taxes, the property taxes must be paid on or before November 15, the discount provided by ORS 311.505 (3) shall be allowed if the taxes are paid within 14 business days after the date the tax statement is mailed by the tax collector, or by November 15, whichever is the later. Nothing in this section shall affect the due dates of the instalment payments or the computation of interest upon failure to pay the instalment on the date due. As used in this section, business days mean days other than Saturdays and legal holidays. [1979 c 703 §14]

311.510 Date of delinquency. Taxes on real property not paid on or before May 15 shall be delinquent. Taxes on personal property shall become delinquent whenever any third thereof, or other specified instalment, is not paid on or before its due date, as provided in ORS 311.505. [Amended by 1979 c 703 §10]

311.512 Collection of taxes on mobile homes. (1) Taxes on mobile homes assessed as real property shall become due, become delinquent, and shall be collected at the same time and in the same manner as taxes on other real property; provided, however, that such taxes shall also be a debt due and owing from the owner of the mobile home, and, in the discretion of the county, shall be subject to the provisions of law for the collection of personal property taxes. Taxes on mobile homes assessed as personal property shall be subject to all the provisions of law relating to the assessment, taxation and collection of personal property taxes.

(2) The seizure and sale of a mobile home for tax delinquency shall be conducted and carried out in the same manner as provided by law for the seizure and sale of other personal property for the collection of taxes due thereon, except as follows:

(a) If the records of the Motor Vehicles Division of the Department of Transportation indicate that the person to whom the seized mobile home is assessed is not the security interest holder, the tax collector, before selling the mobile home, shall give notice of the sale to any security interest holder or lessor by registered or certified mail, addressed to the security interest holder or lessor at his last-known address as shown by the records of the Motor Vehicles Division, mailed not later than the 10th day before the sale.

(b) At any time before the sale, the person assessed, security interest holder or lessor of the mobile home to be sold may pay the tax collector the full amount of the delinquent taxes, plus any penalties and interest thereon, and costs incurred by the tax collector in seizing the mobile home and arranging its sale. If this is done, the sale shall not be held and the tax collector shall return the mobile home to the person entitled to its possession.

(c) If the amount realized on the sale is in excess of the amount of taxes, interest, penalties and costs due on the mobile home, the tax collector first shall pay to the security interest holder, then to the lessor of the mobile home, according to the records of the Motor Vehicles Division, the amount of their interest to the extent there are sufficient moneys to do so, and shall pay any amount thereafter remaining to the owner of the mobile home. [1969 c 605 §17]

311.515 Partial payments. Partial payments of taxes levied and charged on any property of at least $10 may be made at any time. Interest shall be charged and collected on each such partial payment at the rate provided in ORS 311.505 (2) from the due date of the particular instalment of the taxes on which it applies. Each such partial payment shall be credited first to interest so accrued and penalties, if any, and then to principal of the taxes. [Amended by 1953 c 49 §2, 1973 c.142 §2, 1975 c.704 §3; 1979 c 703 §7]

311.520 Cities exempt from penalty and interest. Incorporated cities are exempt from the payment of penalty and interest, or either, on delinquent taxes accrued on lands acquired by the city by foreclosure or settlement of any lien.

311.525 Property acquired by state remains subject to tax lien; cancellation of interest and penalties. If the State of Oregon acquires title to real property through foreclosure of mortgage held on the property by the state, or other means in settlement of existing indebtedness in favor of the state, upon which property taxes have become a lien prior to the acquisition and upon which no certificate of delinquency for the taxes has been issued, interest and penalties on the taxes hereby are canceled, but the lien or liens for the taxes shall remain on the property and be satisfied only by full payment of the principal amount thereof. Any lien for taxes attaching to any such real property prior to the execution of the deed to the state shall be a valid and subsisting lien thereon.

311.530 [Amended by 1957 c 324 §9, repealed by 1965 c 344 §29 (311 531 enacted in lieu of 311 530)]

311.531 Tax collector to file annual statement compiled from tax rolls. (1) On or before August 1 of each year the tax collector shall file with the county clerk a statement compiled from the tax rolls, showing separately for each tax year for the prior seven years the following information as to transactions during the past fiscal year ending June 30:

(a) The total amounts certified under ORS 311.105 (1) to be collected by him, broken down between real property, personal property and property assessed pursuant to ORS 308.505 to 308.660.

(b) The total amount of all adjustments made by the tax collector, in dollars, increasing the total amount to be collected, and a like figure for the decreases.

(c) The total amount collected, exclusive of interest and penalties, the total amount remaining uncollected, broken down between real property, personal property and property assessed pursuant to ORS 308.505 to 308.660.

(d) The total amount of interest and penalties collected, and the total amount of discounts or rebates allowed.

(e) Other matters affecting his statement, striking a balance between the total of the tax roll and the total of collections.

The statement shall be on forms supplied by the Department of Revenue.

(2) The tax collector then shall make a certificate over his official signature, to be annexed to the statement, that the facts set forth therein are correct. A copy of the statement shall be filed with the county clerk, a copy filed with the county court and a copy filed with the Department of Revenue. A copy of the statement and also of the certificate shall be retained by the tax collector as a public record. [1965 c 344 §30 (enacted in lieu of 311 530)]

311.540 [Repealed by 1965 c 344 §42]

311.545 Notice of delinquent taxes on real property. (1) As soon as practicable after taxes become delinquent each year, the tax collector shall send to each person, firm or corporation shown on the tax roll as owning real property on which the taxes due and charged have not been paid, a written notice, stating:

(a) A brief description of each parcel of real property.

(b) The total amount of taxes due and delinquent on the real property.

(c) The rate of interest and penalties applicable thereto.

(d) The date on or after which foreclosure proceedings may be commenced as provided by law.

(2) The tax collector shall send the notice, in each instance, by letter mail to the last-known address of the person, firm or corporation shown on the tax roll, or otherwise reported to the tax collector, as owing the delinquent taxes.

(3) This section does not apply where the amount of the taxes delinquent against any particular parcel of real property is less than $1. [Amended by 1953 c.47 §3]

311.547 Notice of delinquent taxes on personal property. After any instalment of personal property taxes becomes delinquent, and from time to time thereafter at the discretion of the tax collector, the tax collector shall as soon as practicable send to each person, firm or corporation in whose name personal property is shown on the tax roll and on which the taxes due and charged have not been paid, a written notice stating:

(1) The total amount of taxes due and delinquent;

(2) The date of delinquency;

(3) The rate of interest applicable thereto;

(4) The date interest begins to run; and

(5) The date on or after which property will be distrained or a warrant served as pro-

vided by law [1965 c 344 §31, 1979 c 703 §8, 1981 c 346 §3]

311.550 Return address on envelope containing notice. All envelopes used by the tax collector in mailing statements or notices pertaining to the collection of taxes shall contain thereon a suitable return address. [Amended by 1965 c 344 §32]

311.555 Property owners to furnish addresses. Each person, firm or corporation owning real or personal property within the state, or against whom taxes upon real or personal property are chargeable, shall keep the tax collector of the county where such real or personal property is situate informed of the true and correct address of the person, firm or corporation. No person, firm or corporation who fails to keep the tax collector so informed shall be permitted to plead lack of due notice given by the tax collector in any suit, action or other proceedings commenced or prosecuted under the provisions of ORS 311.545 to 311.565 or in any matter growing out of the administration of ORS 311.545 to 311.565. [Amended by 1981 c 346 §4]

311.560 Noting address on tax roll. The tax collector shall note upon the tax roll, or in any other manner the tax collector deems most feasible, the true and correct address of each person, firm or corporation owning real or personal property in this state, as furnished under ORS 311.555 or as otherwise ascertained by the tax collector. [Amended by 1981 c 346 §5]

311.565 Effect of tax collector's failure to keep address or give notice. The failure of the tax collector to keep true and correct addresses, as provided in ORS 311.560, or to give the notice in the manner and form as provided for by ORS 311.545 to 311.550, shall not invalidate any proceeding to collect taxes, but shall subject the tax collector to any damages sustained by any person injured by the failure of the tax collector to keep the addresses or to give the notice. [Amended by 1953 c 47 §3, 1981 c 346 §6]

311.605 "Person" defined for ORS 311.610 to 311.635. As used in ORS 311.610 to 311.635, "person" includes any individual, firm, copartnership, company, association, corporation, estate, trust, trustee, receiver, syndicate or any group or combination acting as a unit.

311.610 Warrants to enforce payments of taxes on personal property. (1) Promptly after a period of 30 days has elapsed from the date any tax on personal property has become delinquent (or within such period, at the tax collector's discretion), the tax collector shall issue a warrant to enforce payment thereof.

(2) The warrant shall contain:

(a) The name of the person owning the personal property, or having possession or control thereof.

(b) The description of the property as it appears either in the assessment or tax roll.

(c) The year or years for which the taxes are delinquent.

(d) The principal amount of the delinquent taxes for each year and the interest accrued to the date of issuance of such warrant.

(e) A statement to the effect that immediately after service of the warrant, if the delinquent taxes and interest and costs of service are not paid, the warrant or a duplicate thereof will be filed with the county clerk for entry in the judgment docket of the county.

(3) The tax collector shall prepare a list of all such warrants.

(4) Where the tax collector has begun or completed proceedings under ORS 311.640, he need not issue a warrant unless he ascertains that such proceedings will not result in the collection of the full tax. [Amended by 1965 c 344 §33]

311.615 Service of warrants by publication. (1) Notice of the warrants required by ORS 311.610 and the issue thereof, except as provided in ORS 311.620, shall be given by four consecutive weekly publications thereof in a newspaper of general circulation in the county, to be designated by the county court. All warrants served by publication may be included in one general notice.

(2) The published notice shall contain:

(a) A general statement of the effect of the warrants when filed and docketed.

(b) The names of the respective owners of the several personal properties and descriptions thereof as appearing in the latest tax roll or in the list or return listing or reporting the property pursuant to ORS 308.285 or 308.290.

(c) The year or years for which taxes are delinquent on each property.

(d) The amount of delinquent taxes for each year.

(e) The interest accrued on each such amount to the date of issuance of the warrant.

(3) The publication of the notice shall be sufficient service on each person named therein or interested in any property described therein. It shall not be necessary to mail a copy of the notice to the persons named in the published notice or interested in any property described therein. All persons named in the notice or owning or claiming to own, or having or claiming to have any interest in any property described therein, are required to take notice of the proceeding and of all steps thereunder. [Amended by 1971 c 568 §3]

311.620 Service of warrant. If it is deemed expedient to do so, notice may be given either by service of any warrant in the same manner as summons is served in an action at law, or by service of the warrant by certified mail, return receipt requested. Notice by personal service or by certified mail shall be in lieu of service by publication as to the persons so served. It shall not be necessary to include in the publication of the notice the names of such persons or the descriptions or other matters relating to their respective properties. [Amended by 1965 c.344 §34]

311.625 Filing warrants; entry in judgment docket; lien on real and personal property. (1) Immediately after service of the warrant, or on completion of service by publication, as the case may be, the warrant or a duplicate thereof shall be filed by the tax collector with the county clerk. Where service has been made by certified mail, the returned receipt shall be attached to and made part of the warrant filed with the county clerk. Thereupon the clerk shall enter in the judgment docket, in the column for judgment debtors, the name of the owner of the personal property on which taxes are delinquent, as shown by the warrant, and the total amount of the delinquent taxes and interest for which the warrant was issued, with added cost charges, and the date of filing.

(2) Thereupon, the amount of the warrant, so docketed, shall become a lien upon the title to any interest in real property owned by the person against whom the warrant is issued, and the taxes on personal property embraced in the warrant, with interest, penalties and costs applicable thereto, shall continue as a lien on all the personal property of the person assessed as otherwise provided by law. The effect shall be the same as though the people of the county had recovered judgment against the person charged for the full amount of the delinquent taxes covered by the warrant, together with interest thereon and costs as provided by law. [Amended by 1965 c 344 §35]

311.630 Procedure of ORS 311.605 to 311.635 mandatory. Except as provided in ORS 311.610, the process of issuing, serving, docketing and executing warrants covering all delinquent taxes on personal property, as provided in ORS 311.605 to 311.635, shall be mandatory, irrespective of any other process, procedure or remedy provided by law in respect to collection or payment of such taxes. [Amended by 1965 c 344 §36, 1971 c 259 §1]

311.633 Fee for service of warrant under ORS 311.605 to 311.635. The fee for service of a warrant pursuant to ORS 311.605 to 311.635 by publication, by mail or by personal service shall be an amount equivalent to the amount collected for serving a summons or subpena to one party under ORS 21.410 (1)(a). The fee shall be in lieu of any other fee or cost charged or assessed for serving a warrant. [1977 c 218 §2]

311.635 Execution; release of lien. (1) When the warrant has been docketed, the tax collector shall proceed to collect the amount due on the warrant in the manner prescribed by law in respect to an execution issued upon judgment of a court of record.

(2) The tax collector shall release the lien of any warrant so docketed on payment or settlement of the delinquent taxes, interest and costs covered therein, or on a satisfactory showing that the person against whom the warrant was issued was under no liability for payment of the taxes at the time the warrant was issued and has not become liable for such payment at any subsequent time. [Amended by 1973 c 305 §8]

311.640 Levy and sale of goods and chattels for delinquent personal property tax; notice. (1) (a) Each year, the tax collector shall collect taxes on personal property that are delinquent by seizure and sale of any of the following personal property:

(A) The personal property assessed.

(B) The taxable personal property belonging to or in the possession or control of the person assessed.

(b) No personal property that is subject to taxation shall be exempt from seizure and sale for the payment of personal property taxes.

(2) (a) Immediately upon taking the personal property into possession, the tax collector shall:

(A) Notify, by mail, the owner, or person in possession or control of the personal property at the time of the seizure If the name and address of the owner or the person in control or possession of the property is unknown to the tax collector, the tax collector shall notify the person to whom the personal property was assessed at the address noted upon the tax roll. If the personal property was not assessed, and the owner or person in possession or control of the personal property at the time of the seizure is unknown to the tax collector, no notice need be given under this subparagraph.

(B) Notify, by mail, all security interest holders and other encumbrancers of record, at their addresses as shown in the records of encumbrance. If no addresses appear in the records of encumbrance, no mailing is required under this subparagraph

(C) Advertise the seized property for sale by posting written or printed notices of the time and place of sale in three public places in the county not less than 10 days prior to the sale. Failure to give or post the notices required by this paragraph shall not invalidate the sale. However, the owner, encumbrancer or other injured person shall have recourse against the tax collector for damages.

(b) The notice under paragraph (a) of this subsection shall:

(A) Describe the personal property seized.

(B) State the total amount of personal property taxes due and delinquent, the date of delinquency, the rate of interest and the date the interest begins to run.

(C) State that if the personal property taxes, interest, penalties and costs are not paid the property will be sold at public vendue, and the date and hour of sale.

(D) State either that the property seized is the property assessed or is property assessed as the same category, or that the property seized is distrained under ORS 311.405 (3)(a)(B).

(c) If payment of the personal property taxes, interest, penalties and costs is made before the time fixed for sale, the tax collector shall release the seized property.

(d) If any person disputes the statements contained in the notice described in this subsection or the personal property tax lien priority, the burden of proving the statements contained in the notice or the priority of the personal property tax lien shall be on the tax collector.

(e) If it is determined that the seized property is exempt or nontaxable or that the taxpayer has no interest in the property, or that the taxes on that property have been paid, the tax collector shall release the property. However, if it is determined that the taxpayer has an interest in the property and that the property is taxable and is not exempt from seizure and sale, the tax collector shall proceed to sell the property at public vendue unless the taxes are paid as provided in paragraph (c) of this subsection.

(3) At the sale the person offering to pay the amount of taxes, interest and penalties due on the personal property for the least quantity of the personal property shall be the purchaser of that quantity, and the remainder of the property shall be discharged from the lien. If no bidder at the sale offers to pay the amount due against the property at the time set for the sale or at any adjournment of the sale, title to the personal property shall immediately vest in the county free and clear of all liens and encumbrances. Thereafter, the county governing body may sell the personal property, or any part of the personal property, at private sale, without further notice, for a price and on such terms as the governing body considers reasonable. Any sale shall be absolute and without right of redemption.

(4) If the amount realized on the sale is in excess of the amount of taxes, interest, penalties and costs due on the personal property, the excess shall be repaid to the person charged with the taxes, interest, penalties and costs. However, if the property is subject to a judgment, mortgage, security interest or other lien or encumbrance of record, the excess shall be paid over to the holder or holders of the judgment, mortgage, security interest or other lien or encumbrance as the interest of the holder or holders may appear. [Amended by 1955 c 720 §4, 1973 c 305 §9, 1981 c 346 §7]

311.645 Charging personal property taxes against real property. (1) Whenever, after delinquency, in the opinion of the tax collector, it becomes necessary to charge taxes on personal property against real property in order that the personal property taxes may be

collected, the tax collector shall select for the purpose some particular tract or lots of real property owned by the person, firm, corporation or association owing the personal property taxes and shall note on the tax roll opposite the tract or lots selected the taxes on the personal property Thereafter, such personal property taxes shall be a lien on the real property selected and shall be enforced in the same manner as other tax liens on real property. The notation of the lien on the tax roll, with the date thereof and the initials of the officer making the notation, shall be entered by writing the notation, date and initials with ink. Unless the notation, date and initials are so entered the lien shall be of no force or effect.

(2) Subsection (1) of this section shall not be applicable to real property as to which all of the following conditions exist:

(a) The property is owned as tenants by the entirety by a member of a partnership and the spouse of the member who is not a member of the partnership.

(b) The property is used as the personal residence of the spouse.

(c) The partner contributed no part of the consideration in the transaction which vested an ownership interest in the spouse.

(d) The delinquent personal property taxes for which a lien is sought under subsection (1) of this section are the taxes of the partnership and not of the spouse.

(3) Any lien upon real property described in subsection (2) of this section is void and of no effect.

(4) Any lien upon property described in subsection (2) of this section existing on August 22, 1969, or which may hereinafter be imposed, shall be extinguished, set aside and held for naught upon the verified petition of the spouse to the county commissioners and proof by the spouse of the requirements described in subsection (2) of this section. Upon approval of the petition, the county commissioners shall order the necessary correction to be made in the tax rolls. [Amended by 1969 c 701 §1]

311.650 Collection of taxes on real property of the United States held under contract of sale, lease or other interest less than a fee. In addition to all other remedies available for the collection of taxes, all taxes levied in any year against real property held under contract of sale, lease or other interest less than fee, as provided in ORS 307.050 and 307.060, shall be a debt due and owing from the person, corporation or association holding the property as of the date of delinquency for taxes on real property for the tax year. If the tax is not paid within one year from such date, the county within which the real property is located may institute for itself, the State of Oregon and all other municipal corporations sharing in such taxes, an action for the collection of the taxes, together with interest, costs and other lawful charges thereon. At the time of commencement of the action the county shall have the benefit of all laws of this state pertaining to provisional remedies against the properties either real or personal, of the person, corporation or association.

311.655 Companies assessed by Department of Revenue; tax as debt; lien for taxes; action for collection; warrant for payment. (1) Except as provided in ORS 308.640, 308.730 and 308.820, all taxes assessed and levied against the properties, both real and personal, of companies specified in ORS 308.515 shall be a debt due and owing from such companies and shall constitute a lien as of July 1 of the year of assessment on all the real and personal property of such companies within this state. Such taxes shall become delinquent whenever any specified instalment is not paid on or before its due date as provided in ORS 311.505.

(2) Whenever taxes so assessed and levied against any of such companies are not paid before the date of delinquency thereof, the county in which the taxes are due and owing immediately shall institute for itself, the State of Oregon, and all other municipal corporations sharing in the taxes, an action to collect the taxes, together with interest, penalties, costs and other lawful charges thereon. At the time of commencement of the action the county shall have the benefit of all laws of this state pertaining to provisional remedies against the properties, either real or personal, of such company or companies, without the necessity of filing either an affidavit or undertaking, as otherwise provided by law. The county clerk of the county where the action is commenced shall immediately issue writs of attachment and garnishment on application by the district attorney of the county. The writs shall be directed to the sheriffs of as many counties as the district attorney deems necessary. The Department of Revenue immediately shall be notified of the tax delinquency

of the company and of the commencement of the action.

(3) If the defendant in an action commenced pursuant to subsection (2) of this section operates or has properties in more than one county in the state, the Department of Revenue shall be made a party plaintiff in the action. If taxes so assessed and levied against the defendant by any other county of the state are also delinquent, such county or counties shall also be made parties plaintiff in the action.

(4) At any time after delinquency the tax collector of any county in which personal property taxes are due and owing may in addition to the county's right to commence an action as provided in subsection (2) of this section, issue a warrant to enforce payment thereof in the manner provided for in ORS 311.610 and 311.620 and cause the warrant to be filed as provided in ORS 311.625. [Amended by 1957 c 628 §10, 1971 c 378 §1; 1979 c 703 §9]

311.656 Notice to tax collector on foreclosure of security interest or lien on taxable personal property; effect if taxes due. (1) No security interest in, or other lien upon, taxable personal property shall be foreclosed by the sale of the property unless the secured party, an agent or the attorney for the secured party, at least five days before the date of the sale, has mailed or delivered to the tax collector of the county in which the sale is to be held, a copy of the notice of the foreclosure sale. The notice shall be mailed to the tax collector, return receipt requested, and shall contain a list of the personal property to be sold, together with the name and address of the owners of the property. Failure to mail or deliver the notice shall not invalidate the sale, but the tax collector shall have recourse against the secured party on behalf of the taxing units for any damages sustained on account of failure to mail or deliver the notice.

(2) Upon receipt of the notice under subsection (1) of this section, the tax collector shall determine if the owner of the personal property has paid the personal property taxes and if the tax collector finds that the taxes are due and owing, the tax collector, unless the taxes are paid upon demand, shall distrain the property under ORS 311.640, or so much of the property as may be necessary to pay the taxes, interest, penalties and costs. No transfer of personal property to the secured party or to the holder of a lien on the property in any way shall affect the lien for personal property taxes assessed against the property. [1981 c 346 §12]

Note: 311 656 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 311 or any series therein by legislative action See the preface to Oregon Revised Statutes for further explanation

COLLECTION OF ANY STATE PROPERTY TAX APPORTIONED TO COUNTIES

311.657 Transmission of transcript of apportionment to county clerks. Upon the filing of the certificate as to the amount of revenue to be raised for state purposes and apportionment thereof, as required by ORS 291.344 (7), the Executive Department shall immediately transmit an accurate transcript of the apportionment, if any, to the county clerks of the several counties. [Formerly 309 530]

311.658 Collection and payment of amount apportioned. Each of the several counties shall collect and pay over as required by law the amount apportioned. It shall not be necessary to change the values of the particular descriptions of property assessed in each of the several counties on the assessment rolls thereof. No deduction or abatement shall be made from the apportionment of any county because of the delinquency of any taxpayer, or error or omission in the assessment roll. [Formerly 309 550]

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

(2) This section shall first apply to the fiscal year beginning July 1, 1958. [Amended by 1957 s s c 6 §1]

DEFERRED COLLECTION OF HOMESTEAD PROPERTY TAXES

311.666 Definitions for ORS 311.666 to 311.696. As used in ORS 311.666 to 311.696:

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

(2) "Homestead" means the principal dwelling, either real or personal property,

owned by the taxpayer and the tax lot upon which it is located. If the homestead is located in a multiunit building, the homestead is the portion of the building actually used as the principal dwelling and its percentage of the value of the common elements and of the value of the tax lot upon which it is built The percentage is the value of the unit consisting of the homestead compared to the total value of the building exclusive of the common elements, if any.

(3) "Income-producing property" means property which earns gross receipts in excess of $1,800 during the calendar year.

(4) "Taxpayer" means an individual who has filed a claim for deferral under ORS 311.668 or individuals who have jointly filed a claim for deferral under ORS 311.668.

(5) "Tax-deferred property" means the property upon which taxes are deferred under ORS 311.666 to 311.696.

(6) "Taxes" or "property taxes" means ad valorem taxes, assessments, fees and charges entered on the assessment and tax roll [1963 c 569 §7, 1977 c 160 §1]

311.668 Deferral of tax on homestead; joint election; age requirement; filing claim. (1) Subject to ORS 311.670, an individual who is 62 years of age or older on March 1 of the year in which the individual files a claim under this section, at the option of the individual, may elect to defer the property taxes levied on the homestead of the taxpayer. Two or more persons who meet the age requirements under this section and the requirements of ORS 311.670, may jointly elect to defer the property taxes levied on their homestead. To exercise the option, such person or persons shall file a claim for deferral with the county assessor after January 1 and on or before April 1 of the first year in which the deferral is claimed. The county assessor shall forward the claim to the department which will determine if the property is eligible for deferral.

(2) When the taxpayer exercises the option of the taxpayer for any year by filing a claim for deferral under subsection (1) of this section, it shall have the effect of:

(a) Deferring the payment of the property taxes levied on the homestead for the fiscal year beginning on July 1 of such year.

(b) Continuing the deferral of the payment by the taxpayer of any property taxes deferred under ORS 311.666 to 311.696 for previous years which have not become delinquent under ORS 311.686.

(c) Continuing the deferral of the payment by the taxpayer of any future property taxes for as long as the provisions of ORS 311.670 are met.

(3) If a guardian or conservator has been appointed for an individual otherwise qualified to obtain deferral of taxes under ORS 311.666 to 311.696, the guardian or conservator may act for such individual in complying with the provisions of ORS 311.666 to 311.696.

(4) If a trustee of an inter vivos trust which was created by and is revocable by an individual, who is both the trustor and a beneficiary of the trust and who is otherwise qualified to obtain a deferral of taxes under ORS 311.666 to 311.696, owns the fee simple estate under a recorded instrument of sale, the trustee may act for the individual in complying with the provisions of ORS 311.666 to 311.696. [1963 c 569 §§8, 22, 1975 c 372 §1, 1977 c 160 §2, 1981 c 853 §1]

311.670 Property entitled to deferral. In order to qualify for tax deferral under ORS 311.666 to 311.696, the property must meet all of the following requirements when the claim is filed and thereafter so long as the payment of taxes by the taxpayer is deferred:

(1) The property must be the homestead of the person who files the claim for deferral.

(2) The person claiming the deferral must, by himself or together with his spouse, own the fee simple estate or be purchasing the fee simple estate under a recorded instrument of sale, or two or more persons must together own or be purchasing the fee simple estate with rights of survivorship under a recorded instrument of sale if all owners live in the homestead and if all owners apply for the deferral jointly.

(3) The homestead for which the deferral is claimed must not be income-producing property.

(4) There must be no prohibition to the deferral of property taxes contained in any provision of federal law, rule or regulation applicable to a mortgage, trust deed, land sale contract or conditional sale contract for which the homestead is security. [1963 c 569 §9, 1965 c 344 §37, 1977 c 160 §3]

311.672 Claim forms; contents. (1) A taxpayer's claim for deferral under ORS 311.668 shall be in writing on a form supplied by the department and shall:

(a) Describe the homestead.

(b) Recite facts establishing the eligibility for the deferral under the provisions of ORS 311.666 to 311.696.

(c) Have attached any documentary proof required by the department to show that the requirements of ORS 311.670 have been met.

(2) There shall be annexed to the claim a statement verified by a written declaration of the applicant making the claim to the effect that the statements contained therein are true. [1963 c 569 §10, 1977 c 160 §4]

311.673 State liens against tax-deferred property. (1) The department shall have a lien against the tax-deferred property for the payment of the deferred taxes plus interest thereon. The liens for deferred taxes shall attach to the property on July 1 of the year in which the taxes were assessed. The deferred property tax liens shall have the same priority as other real property tax liens except that the lien of mortgages or trust deeds which are recorded prior in time to the attachment of the lien for deferred taxes shall be prior to the liens for deferred taxes.

(2) The lien may be foreclosed by the department as if it were a purchase money mortgage under ORS chapter 88. Reasonable attorney fees at trial and on appeal and costs may be granted the department in a suit for foreclosure of its lien.

(3) Receipts from foreclosure proceedings and from voluntary payments for deferred taxes shall be paid by the department to the General Fund. [1977 c 160 §15, 1981 c 897 §47]

311.674 Listing of tax-deferred property; interest accrual. (1) If eligibility for deferral of homestead property is established as provided in ORS 311.666 to 311.696, the department shall notify the county assessor and the county assessor shall show on the current ad valorem assessment and tax roll which property is tax-deferred property by an entry clearly designating such property as tax-deferred property.

(2) When requested by the department, the tax collector shall send to the department as soon as the taxes are extended upon the roll the tax statement for each tax-deferred property.

(3) Interest shall accrue on the actual amount of taxes advanced to the county for the tax-deferred property at the rate of six percent per annum.

(4) For property taxes deferred after October 3, 1979, the state liens provided by ORS 311.673 and recorded under ORS 311.675 shall be for the actual amount of taxes advanced to the counties and not for the gross amount of taxes for which the property would be liable as shown on the tax statement for each tax-deferred property. For taxes deferred prior to October 3, 1979, the lien under ORS 311.673 is for the gross amount of taxes extended upon the tax roll against each tax-deferred property and interest shall continue to accrue on the gross amount of taxes rather than on the actual amount of taxes paid to the county. [1963 c 569 §11, 1971 c 572 §1, 1977 c 160 §5, 1979 c 678 §1]

311.675 Recording liens in county; recording constitutes notice of state lien. (1) In each county in which there is tax-deferred property, the department shall cause to be recorded in the mortgage records of the county, a list of tax-deferred properties of that county. The list shall contain a description of the property as listed on the assessment roll together with the name of the owner listed thereon.

(2) The recording of the tax-deferred properties under subsection (1) of this section is notice that the department claims a lien against those properties in the amount of the deferred taxes plus interest, even though the amount of taxes or interest is not listed [1977 c 160 §16]

311.676 County tax collector to receive amount equivalent to deferred taxes from state. (1) Upon receipt of the notification from the department of the amount of deferred taxes on tax-deferred property, the State Treasurer shall pay to the respective county tax collectors an amount equivalent to the full amount of taxes listed by the department less three percent thereof.

(2) The department shall maintain accounts for each deferred property and shall accrue interest only on the actual amount of taxes advanced to the county

(3) The funds provided for the payments made pursuant to subsection (1) of this section shall be made as investments from the excess funds mentioned in ORS 293.701 (2)(q). [1963 c 569 §24, 1967 c 335 §35, 1967 c 494 §1, 1971 c 572 §2,

1977 c 160 §6, 1979 c 678 §2, 1980 s s c 19 §8]

311.677 [1967 c 335 §34, repealed by 1977 c 160 §19]

311.678 Notice to taxpayer regarding duty to claim deferral annually. On or before February 1 of each year, the department shall send a notice to each taxpayer who has claimed deferral of property taxes for the previous year. The department shall give the notice by an unsealed postcard or other form of mail sent to the residence address of the taxpayer as shown in the claim for deferral filed for the previous year. The notice shall inform the taxpayer that the property taxes have been deferred in the past year, that the property taxes will continue to be deferred in the current year and of such other information as the department shall deem necessary. [1963 c 569 §12, 1971 c 572 §3; 1977 c 160 §7]

311.680 [1963 c 569 §13, 1971 c 572 §4, repealed by 1977 c 160 §19]

311.682 [1963 c 569 §14, repealed by 1979 c 689 §27]

311.684 Events requiring payment of deferred tax and interest. Subject to ORS 311.688, all deferred property taxes, including accrued interest, become payable as provided in ORS 311.688 when:

(1) The taxpayer who claimed deferment of collection of property taxes on his homestead dies.

(2) The property with respect to which deferment of collection of taxes is claimed is sold, or a contract to sell is entered into, or some person other than the taxpayer who claimed the deferment becomes the owner of the property.

(3) The tax-deferred property is no longer the homestead of the taxpayer who claimed the deferral, except in the case of a taxpayer required to be absent from such tax-deferred property by reason of health.

(4) The tax-deferred property no longer meets the requirements of ORS 311.670 (3).

(5) The tax-deferred property, a mobile or floating home, is moved out of the state. [1963 c 569 §15, 1971 c 572 §5, 1977 c 160 §9]

311.686 Time for payments; delinquencies. Whenever any of the circumstances listed in ORS 311.684 occurs:

(1) The deferral of taxes for the assessment year in which the circumstance occurs shall continue for such assessment year; and

(2) The amounts of deferred property taxes, including accrued interest, for all years shall be due and payable to the department August 15 of the year following the calendar year in which the circumstance occurs, except as provided in subsection (3) of this section and ORS 311.688.

(3) Notwithstanding the provisions of subsection (2) of this section, when the circumstances occur listed in ORS 311.684 (5), the amount of deferred taxes shall be due and payable five days before the date of removal of the property from the state.

(4) If the amounts falling due as provided in this section are not paid on the indicated due date, such amounts shall be deemed delinquent as of that date and the property shall be subject to foreclosure as provided in ORS 311.673. [1963 c 569 §16, 1971 c 572 §6; 1977 c 160 §10]

311.688 Election by spouse to continue tax deferral. (1) Notwithstanding ORS 311.684, when one of the circumstances listed in ORS 311.684 (1) to (3) occurs, the spouse of the taxpayer may continue the property in its deferred tax status by continuing to file a claim under ORS 311.668 if:

(a) The spouse of the taxpayer is or will be 60 years of age or older not later than six months from the day the circumstance listed in ORS 311.684 (1) to (3) occurs; and

(b) The property is the homestead of the spouse of the taxpayer and meets the requirements of ORS 311.670 (2) and (3).

(2) A spouse who does not meet the age requirements of paragraph (a) of subsection (1) of this section but is otherwise qualified to continue the property in its tax-deferred status under subsection (1) of this section may continue the deferral of property taxes deferred for previous years by filing a claim under ORS 311.668 as long as eligibility for deferral under this subsection continues. If a spouse eligible for and continuing the deferral of taxes previously deferred under this subsection becomes 62 years of age prior to March 1 of any year, the spouse may elect to continue the deferral of previous years' taxes deferred under this subsection and may elect to defer the current assessment year's taxes on the homestead by filing a claim under ORS 311.668. Thereafter, payment of the taxes levied on the homestead and deferred under this subsection and payment of taxes levied on the homestead in the current assessment year and in future years may be deferred in the manner provided in and subject to ORS 311.666 to 311.696. [1963 c.569 §17, 1977 c 160 §11]

311.690 Voluntary payment of deferred tax and interest. (1) All payments of deferred taxes shall be made to the department.

(2) Subject to subsection (3) of this section, all or part of the deferred taxes and accrued interest may at any time be paid to the department by:

(a) The taxpayer or the spouse of the taxpayer.

(b) The next of kin of the taxpayer, heir at law of the taxpayer, child of the taxpayer or any person having or claiming a legal or equitable interest in the property.

(3) A person listed in paragraph (b) of subsection (2) of this section may make such payments only if no objection is made by the taxpayer within 30 days after the department deposits in the mail notice to the taxpayer of the fact that such payment has been tendered.

(4) Any payment made under this section shall be applied first against accrued interest and any remainder against the deferred taxes. Such payment does not affect the deferred tax status of the property. Unless otherwise provided by law, such payment does not give the person paying the taxes any interest in the property or any claim against the estate, in the absence of a valid agreement to the contrary.

(5) When the deferred taxes and accrued interest are paid in full and the property is no longer subject to deferral, the department shall prepare and record in the county in which the property is located a satisfaction of deferred property tax lien. [1963 c 569 §18, 1977 c 160 §12]

311.692 [1963 c 569 §19, 1967 c 335 §36, repealed by 1977 c 160 §19]

311.694 Taxes uncollected after foreclosure; reimbursement of state by taxing units. (1) At the time that the property is deeded over to the county at the conclusion of the foreclosure proceedings pursuant to ORS 312.200 the county court shall order the county treasurer to pay from the general fund of a county the amount of deferred taxes and interest which were not collected to the department.

(2) Immediately upon payment, the county treasurer shall notify the tax collector of the amount paid to the department for the property which has been deeded to the county pursuant to ORS 312.200 and the tax collector shall reimburse the general fund of the county from the unsegregated tax account described in ORS 311.385. [1963 c 569 §20, 1977 c 160 §13]

311.696 Limitations on effect of ORS 311.666 to 311.696. Nothing in ORS 311.666 to 311.696 is intended to or shall be construed to:

(1) Prevent the collection, by foreclosure, of property taxes which become a lien against tax-deferred property.

(2) Defer payment of special assessments to benefited property which assessments do not appear on the assessment and tax roll.

(3) Affect any provision of any mortgage or other instrument relating to land requiring a person to pay property taxes. [1963 c 569 §21, 1971 c 747 §18, 1977 c 160 §14]

311.700 Deed or contract clauses preventing application for deferral under ORS 311.666 to 311.696 prohibited; clauses void. After September 9, 1971, it shall be unlawful for any mortgage trust deed or land sale contract to contain a clause or statement which prohibits the owner from applying for the benefits of the deferral of homestead property taxes provided in ORS 311.666 to 311.696. Any such clause or statement in a mortgage trust deed or land sale contract executed after September 9, 1971, shall be void. [1971 c 572 §7, 1977 c 160 §8]

DEFERRAL OF SPECIAL ASSESSMENTS FOR LOCAL IMPROVEMENT

311.702 Definitions for ORS 311.702 to 311.735. As used in ORS 311.702 to 311.735, unless the context otherwise requires:

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

(2) "Homestead" means the principal dwelling, either real or personal property, owned or being purchased by the individual claiming the deferral under ORS 311.702 to 311.735 and the contiguous land area upon which it is located.

(3) "Special assessment for local improvement" means an amount specially assessed or reassessed to the homestead to defray the cost of an improvement of the nature described in ORS 223.387 and assessed or reassessed on the basis of benefit.

(4) "Special assessment improvement amounts" or "amount of special assessment for local improvement" means the unpaid

instalments of the special assessment due and payable during the calendar year for which application for deferral is made, plus interest attributable to the instalments. If the amount of special assessment for local improvement or any instalment thereof has become delinquent at the time of initial application for deferral, the terms include any delinquent instalments and interest, penalties or costs imposed as a result of the delinquency, which amounts shall be considered payable in the calendar year for which claim for deferral is made. [1977 c 859 §1, 1979 c 762 §3]

311.704 Election to defer special assessment for local improvement. (1) Subject to ORS 311.706, an individual may elect to defer payment of the amount of special assessment for local improvement assessed or reassessed to his homestead due and payable during the calendar year for which the election is made. The election shall be made by filing a claim for deferral with the officer in charge of the bond lien docket or assessment lien record. The effect of filing the claim shall be to defer payment of the amount of special assessment for local improvement determined under ORS 311 702.

(2) Subject to ORS 311.729, when the individual exercises his election to claim the deferral under subsection (1) of this section, it shall have the effect of deferring payment of the amount of special assessment for local improvement deferred pursuant to the claim until the special assessment for local improvement becomes delinquent under ORS 311.718.

(3) If a guardian or conservator has been appointed for an individual otherwise qualified to obtain the deferral of payment of special assessment for local improvement amounts accorded under ORS 311.702 to 311.735, the guardian or conservator may act for such individual in complying with ORS 311.702 to 311.735.

(4) An individual who has elected to claim the deferral under ORS 311.702 to 311.735 shall not be entitled to claim a deferral or other similar assistance available under local law. [1977 c 859 §2, 1979 c 762 §4]

311.705 [Renumbered 311 785]

311.706 Prerequisites for deferral. In order to qualify for deferral of payment of special assessment for local improvement amounts under ORS 311.702 to 311.735, the individual filing the claim for deferral and the homestead with respect to which the claim is filed must meet the following requirements at the time the claim for deferral is filed and thereafter so long as payment of the amount of special assessment for local improvement is deferred:

(1) The individual filing the claim for deferral must be 62 years of age or older.

(2) The individual filing the claim, by himself or together with his spouse, must own the fee simple estate or be purchasing the fee simple estate under a recorded instrument of sale.

(3) The property with respect to which the claim is filed must be the homestead of the individual who files the claim for deferral.

(4) If the individual is delinquent in payment of the special assessment for local improvement or any instalments thereof, the homestead must not have yet been sold at foreclosure sale. [1977 c 859 §3]

311.708 Claim for deferral; filing date. A claim for deferral under ORS 311.704 shall be in writing on a form prescribed by the department and shall recite the facts establishing eligibility for the deferral. The initial claim shall incorporate the terms or have annexed thereto a certified copy of the agreement for payment of the special assessment for local improvement in instalments. The initial claim may be filed at any time during the calendar year for which the deferral is first claimed. A claim for a subsequent year shall be filed on or before December 15 of the year preceding the year for which the claim is filed. The claim shall be verified. [1977 c 859 §4]

311.710 [Renumbered 311 790]

311.711 Duties of bond lien docket or assessment lien record officer; liens; interest. (1) If eligibility for special assessment deferral is established as provided in ORS 311.702 to 311.735, the officer in charge of the bond lien docket or assessment lien record shall:

(a) Show by an entry on the bond lien docket which property specially assessed is accorded deferral under ORS 311.702 to 311.735.

(b) Send to the department a copy of the claim for deferral described in ORS 311.708 and shall verify to the department the amounts of special assessment for local improvement subject to deferral for the calendar year, the rates of interest and accrual dates

and any other pertinent information relating to payment of the deferred amounts.

(2) Until otherwise required by ORS 311.702 to 311.735, the officer in charge of the bond lien docket or assessment lien record shall continue to show on the bond lien docket or assessment lien record that the property with respect to which the deferral under ORS 311.702 to 311.735 is allowed continues to be subject to special assessment deferral. The officer in charge of the bond lien docket or assessment lien record shall make a separate list of the properties subject to special assessment deferral and shall show the amount of special assessment for local improvement deferred for each property, and shall show the accrued interest added each year on the amount of special assessment for local improvement deferred and the total accrued interest.

(3) The deferred special assessment amounts, and accrued interest, shall continue to be a lien against the property in the same manner as any other unpaid special assessments, but shall not be subject to the procedures provided for collection of delinquent special assessments except as provided in ORS 311.702 to 311.735.

(4) Interest shall accrue on the amount of the deferred special assessment for local improvement at the rate of six percent per annum. Except the interest described in this subsection and the interest included in the deferred special assessment amounts, no other interest shall accrue on the amount of deferred special assessment for local improvement. [1977 c 859 §5, 1979 c 762 §5]

311.713 Annual notice to claimant; late filing penalty; failure to receive notice not defense. (1) On or before September 1 of each year, the officer in charge of the bond lien docket or assessment lien record shall send a notice to each individual who has claimed deferral of special assessment for local improvement amounts for the current year. The officer shall give notice by an unsealed postcard or other form of mail sent to the residence address of the individual as shown in the claim for deferral filed for the current year. The notice shall be substantially in the following form:

To: (Name of individual)

If you want to defer the collection of special assessment instalments and interest on your homestead for the calendar year beginning on January 1, _____, you must file a claim for deferral not later than November 15, , with the officer in charge of the (bond lien docket/assessment lien record).

If you fail to file your claim for deferral on or before November 15, _____, you will have to pay special assessment instalments and interest on your homestead payable during the calendar year beginning January 1, ___.

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(2) If an individual who has claimed deferral of special assessment for local improvement for the current year does not file a claim for deferral on or before November 15, the officer in charge of the (bond lien docket/assessment lien record) shall send, not later than December 1, a notice to the individual by registered mail to the residence address of the individual as shown on the claim for deferral filed for the current year. The notice shall be in substantially the following form:

To: (Name of individual)

You did not file a claim for deferral of special assessment instalments and interest for your homestead for the calendar year beginning January 1, _____. Consequently, you will have to pay the special assessment instalments and interest payable during the calendar year beginning January 1, _____.

If you wish to defer collection of the special assessment instalments and interest for the calendar year beginning January 1, _____, on your homestead, you must file a claim for deferral with the officer in charge of the (bond lien docket/assessment lien record) not later than December 15, _____, (insert the current year) and pay a penalty of $5.

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(3) If the individual files a claim for deferral after November 15 and on or before December 15 and pays a penalty of $5, the homestead with respect to which the deferral is claimed shall be subject to deferral for the calendar year next beginning. The $5 penalty shall be receipted and accounted for in the records of the appropriate local office and

shall be paid into the general fund of the local government unit.

(4) Failure to receive the notices provided for in this section is not a defense in any proceeding for the collection of the special assessment for local improvement. The officer in charge of the bond lien docket or assessment lien record and other local government officers are not personally liable for failure to give the notices. [1977 c 859 §5a, 1979 c 762 §6]

311.715 [Amended by 1961 c 362 §1, 1965 c 344 §38, renumbered 311 795]

311.716 Events requiring payment of deferred special assessment. Subject to ORS 311.721, all deferred special assessments for local improvement, including accrued interest, become payable as provided in ORS 311.718 when:

(1) The individual who claimed deferral of collection of special assessment for local improvement on his homestead dies.

(2) The homestead with respect to which deferral of collection of special assessment for local improvement is claimed is sold, or a contract to sell is entered into, or some person other than the individual who claimed the deferral becomes the owner of the property.

(3) The homestead with respect to which deferral of special assessment for local improvement is claimed is no longer the homestead of the individual who claimed the deferral, except in the case of an individual required to be absent from the homestead by reason of health. [1977 c 859 §6]

311.717 [Formerly 606 240, renumbered 311 800]

311.718 Time for payments; delinquencies. (1) When any of the circumstances listed in ORS 311.716 occurs, the amounts of deferred special assessment for local improvement, including accrued interest, shall be due and payable on August 15 of the year following the calendar year in which the circumstance occurs, except as provided in ORS 311.721.

(2) If the amounts falling due as provided in this section are not paid on the indicated due date, the amounts shall be deemed delinquent as of that date and the homestead shall become the subject of the appropriate collection proceeding. [1977 c.859 §7]

311.720 [Amended by 1967 c 421 §199, renumbered 311 804]

311.721 Election by spouse to continue deferral. (1) Notwithstanding ORS 311.716 and 311.718, when one of the circumstances listed in ORS 311.716 occurs, the spouse of the individual who claimed the deferral may elect to continue the homestead in its deferred status if:

(a) The spouse of the individual is or will be 60 years of age or older not later than six months from the day the circumstances listed in ORS 311.716 occur; and

(b) The homestead is the homestead of the spouse of the individual and meets the requirements of ORS 311.706 (2).

(2) The election under subsection (1) of this section to continue the property in its deferred status by the spouse shall be filed in the same manner as a claim for deferral is filed under ORS 311.704, not later than August 15 of the year following the calendar year in which the circumstances listed in ORS 311.716 occur. Thereupon, the homestead with respect to which the deferral is claimed shall continue to be subject to special assessment deferral and the appropriate local officials shall cancel all actions taken under ORS 311.718 and make any necessary correcting entries in their records. Subject to ORS 311.729, the deferral shall continue until the special assessment for local improvement becomes delinquent under ORS 311.718. [1977 c 859 §8]

311.723 Voluntary payment of deferred special assessment. (1) Subject to subsection (2) of this section, all or part of the amounts of deferred special assessment for local improvement, and accrued interest, may at any time be paid to the appropriate local officer by:

(a) The individual who filed the claim for deferral or his spouse.

(b) The next of kin of the individual who filed the claim for deferral, his heir at law, his child or any person having or claiming a legal or equitable interest in the property.

(2) A person referred to in paragraph (b) of subsection (1) of this section may make the payments only if no objection is made by the individual who filed the claim for deferral within 30 days after the local officer deposits in the mail notice to the individual who filed the claim that the payment has been tendered.

(3) Any payments made under this section shall be applied first against accrued interest and any remainder against the deferred spe-

cial assessment for local improvement. A payment made pursuant to this section does not affect the deferred status of the homestead. Unless otherwise provided by law, the payment does not give the person paying the deferred special assessment any interest in the property or any claim against the estate, in the absence of a valid agreement to the contrary. [1977 c 859 §9]

311.725 Disposition of collected special assessments; reimbursement of state. (1) When any deferred special assessment for local improvement, including accrued interest, is collected, the moneys shall be credited to a special account and the appropriate entries shall be made evidencing payment on the bond lien docket or assessment lien record. The appropriate local officer shall remit the amount of deferred special assessment, and accrued interest, to the department. The remittance shall be accompanied by an explanation giving a description of the homestead for which the special assessment for local improvement was collected, and a statement of the special assessment amounts and the accrued interest amounts collected.

(2) The department shall enter the amount received against the accounts which have been set up for the special assessment deferred properties and shall redeposit the amount received in the General Fund. [1977 c 859 §10, 1979 c 762 §7]

311.727 Deferred special assessments uncollected after foreclosure; reimbursement of state by taxing units. (1) At the time that a homestead that is the subject of special assessment deferral is deeded to a unit of local government at the close of collection proceedings, the appropriate officer of the local government unit shall pay to the department out of the general fund of the local government unit the amount of deferred special assessment, and accrued interest, which was not collected in the same manner as other deferred special assessments for local improvement are paid over to the department when collected.

(2) Any amount paid over to the department under subsection (1) of this section, if later collected, shall be paid to reimburse the general fund of the local government unit and the necessary entries shall be made upon the special assessment records. [1977 c 859 §11]

311.729 Limitations on effect of ORS 311.702 to 311.735. Nothing in ORS 311.702 to 311.735 is intended to or shall be construed to:

(1) Prevent the collection, by foreclosure, of delinquent property taxes which have become a lien against the homestead that is the subject of special assessment deferral provided in ORS 311.702 to 311.735.

(2) Prevent the granting of deferral of property taxes pursuant to ORS 311.666 to 311.696.

(3) Affect any provision of a mortgage or other instrument relating to the homestead.

(4) Prevent the collection, by appropriate collection proceeding, of delinquent special assessment instalments which are a lien against the homestead but which have not been deferred as provided in ORS 311.702 to 311.735. Upon determination by the local government unit that any nondeferred instalment is in default, the whole sum, including deferred amounts of the special assessment for local improvement shall become due and payable at once. [1977 c 859 §12]

311.730 Payments by state to local officers. (1) Upon receipt from the department of the information needed to make payments of the deferred special assessment amounts, the State Treasurer shall pay to the appropriate local officer at the appropriate times the amounts contained in the information.

(2) The department shall maintain accounts for each specially assessed deferred property and shall accrue interest on the gross amount of special assessment for local improvement advanced.

(3) The funds provided for the payments made pursuant to subsection (1) of this section shall be made available from the excess funds in the hands of the State Treasurer described in ORS 293.701 (2)(q) and shall constitute investment funds. [1977 c 859 §13, 1980 s.s c 19 §9]

311.735 Department of Revenue to make rules. The department shall make any rules necessary to carry out the provisions of ORS 311.702 to 311.735. [1977 c.859 §14]

DISASTER AREA TAX DEFERRAL

311.740 Definitions for ORS 311.740 to 311.780. As used in ORS 311.740 to 311.780:

(1) "Commissioners" means the county court, board of county commissioners or other governing body of a county.

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

(3) "Disaster area" means an area within the State of Oregon which the Governor of the State of Oregon has named and declared to be a disaster area.

(4) "Land" means agricultural or rangeland under farm use as defined in ORS 215.203.

(5) "Taxes" means ad valorem taxes, assessments, fees and charges entered on the assessment and tax roll against land as defined in this section.

(6) "Taxpayer" means the person or persons who pay taxes upon land as defined in this section. [1977 c 695 §1]

311.745 Election to defer taxes in disaster area; eligibility. (1) Subject to ORS 311.750, the taxpayer who has land situated in a disaster area and whose land is adversely affected by the disaster area may, on or before September 1 of each year, elect to defer the taxes levied on his land for that year. To exercise his option, each taxpayer shall file a claim for deferral with the commissioners on or before September 1 of each year in which he claims the deferral. The commissioners shall examine the application and certify that the taxpayer's property is adversely affected by the disaster. After certifying that the property is adversely affected by the disaster, the commissioners shall forward the application to the department.

(2) When the taxpayer exercises his option for any year by filing a claim for deferral under subsection (1) of this section, it shall have the effect of deferring payment of the taxes levied against his land for the period of time the area continues to be designated a disaster area. [1977 c 695 §2]

311.750 Qualifications. In order to qualify for tax deferral under ORS 311.740 to 311.780, the property must meet all of the following requirements when the claim is filed and each year thereafter so long as the payment of taxes by the taxpayer is deferred:

(1) The property must be located in a disaster area.

(2) If the taxpayer is not the owner of the land, he shall obtain written approval from the owner of the land to defer the taxes on the land under ORS 311.740 to 311.780.

(3) Property must be land as defined in ORS 311.740. [1977 c 695 §3]

311.755 Time for payment; interest on deferred taxes; delinquency. When the area in which the land is located ceases to become a disaster area, the deferred taxes will be due and payable as follows:

(1) One-fifth (20 percent) of the deferred taxes shall be payable on or before November 15 of the year following the close of the calendar year in which the termination of the disaster area designation has occurred and November 15 of each year thereafter.

(2) Interest shall accrue against the unpaid taxes and shall be paid with each one-fifth payment for the period of time the taxes have remained unpaid at the rate provided in ORS 311.775.

(3) The amounts designated in subsections (1) and (2) of this section shall be paid directly to the Department of Revenue on or before November 15 of each year in which they are due.

(4) If the amounts falling due as provided in this section are not paid on the indicated due date, such amounts shall be deemed delinquent as of that date and the property shall be subject to foreclosure as provided in ORS 311.771.

(5) All moneys collected by the department pursuant to this section shall be deposited into the General Fund. [1977 c 695 §4]

311.759 Voluntary payment; satisfaction of deferred property tax lien. (1) Notwithstanding ORS 311.755, all or part of the deferred taxes and accrued interest may be paid at any time to the department.

(2) When the deferred taxes and accrued interest are paid in full and the property is no longer subject to tax deferral under ORS 311.740 to 311.780, the department shall prepare and record in the county in which the property is located a satisfaction of deferred property tax lien. [1977 c 695 §5]

311.760 [Repealed by 1965 c 344 §42]

311.761 Recordation of tax deferred properties; recording constitutes notice of lien. (1) On its approval of an application to defer taxes on land, the department shall record in each county in which there is tax deferred property under ORS 311.740 to 311.780 in the mortgage record of the county the list of the tax deferred properties of that county. The list shall contain a description of the property as listed on the assessment roll together with the name of the owner listed thereon.

(2) The recording of the tax deferred properties under subsection (1) of this section gives notice that the department claims a lien against those properties in the amount of the deferred taxes plus interest, even though the amount of taxes or interest is not listed. [1977 c 695 §6]

311.765 [Repealed by 1965 c 344 §42]

311.770 [Repealed by 1975 c 780 §16]

311.771 Liens; priority; foreclosure proceeding. (1) The department shall have a lien against the tax deferred property for the payment of the deferred taxes plus interest thereon. The liens for deferred taxes shall attach to the property on July 1 of the year in which the taxes were assessed. The deferred property tax liens shall have the same priority as real property tax liens except that the lien of mortgages or trust deeds which are recorded prior in time to the lien for deferred taxes under ORS 311.740 to 311.780 shall be prior to the liens for deferred taxes.

(2) The lien may be foreclosed by the department as if it were a purchase money mortgage under ORS chapter 88. Reasonable attorney fees at trial and on appeal and costs may be granted the department in a suit to foreclose its lien.

(3) Receipts from foreclosure proceedings and from voluntary payments for deferred taxes shall be paid by the department to the General Fund. [1977 c 695 §7; 1981 c.897 §48]

311.775 Notice of deferral to assessor by department; rate of interest on deferred taxes. (1) If eligibility for deferral of taxes is established as provided in ORS 311.740 to 311.780, the department shall notify the county assessor and the county assessor shall show on the current ad valorem assessment and tax roll which property is tax deferred property by an entry clearly designating such property as tax deferred property.

(2) When requested by the department, the tax collector shall send to the department as soon as the taxes are extended on the roll the tax statement for each tax deferred property.

(3) Interest shall accrue on the deferred taxes at the rate of nine percent per annum. [1977 c 695 §8]

311.780 Payment of tax deferred amounts to county by state. (1) Upon receipt of the notification from the department of the amount deferred on tax deferred property under ORS 311.740 to 311.780, the State Treasurer shall pay to the respective county tax collectors an amount equivalent to the full amount of tax listed by the department less three percent thereof.

(2) The department shall maintain accounts for each deferred property and shall accrue interest on the gross amount of taxes advanced.

(3) The funds provided for the payment made pursuant to subsection (1) of this section shall be made as investments from the excess funds mentioned in ORS 293.701 (2)(q). [1977 c 695 §9, 1980 s s c 19 §10]

COMPROMISE, ADJUSTMENT AND SETTLEMENT OF TAXES

311.785 Authority to compromise taxes, abate interest or lawful charges. Except as may be specifically provided by law, no county court shall have authority to compromise any tax or taxes levied and charged on the tax roll of any year, or to abate interest or other lawful charges thereon, except where litigation involving the validity of such tax or taxes is pending or seriously threatened and there is a grave legal question as to such validity. [Formerly 311 705]

311.790 Cancellation of uncollectible personal property tax. If the tax collector and the district attorney for any county determine that taxes on personal property which have been delinquent for three or more years are for any reason wholly uncollectible, the tax collector and district attorney may request, in writing, the county court for an order directing that the taxes be canceled. The court, when so requested, may in its discretion order and direct the tax collector to cancel such uncollectible personal property taxes. The order shall be entered in the journal of the county court. [Formerly 311 710]

311.795 Cancellation of certain delinquent taxes. (1) A county court may cancel all delinquent taxes and the interest and penalties thereon accrued upon property donated to any incorporated city or town for parks, playgrounds or a city hall. This section does not apply if the city or town makes any payment to the owner, either directly or indirectly, for the property.

(2) A county court may cancel all delinquent real property taxes and interest and penalties due thereon from any taxpayer where the total of the same is less than $1, when in the judgment of the county court the cost of collecting the same will be greater than the amount to be collected.

(3) A county court may cancel all delinquent personal property taxes and the interest and penalties thereon due from any taxpayer where the total of the same is less than $5 and in the judgment of the county court the cost of collecting the same will be greater than the amount to be collected. [Formerly 311 715]

311.800 Compromise of taxes on lands conveyed to United States. The county court of each county may compromise all taxes, interest and penalties upon any land conveyed to the United States by gift, grant or devise by any person, under the terms of section 8 of the Act of Congress approved June 28, 1934, public document No. 482, known as the Taylor Grazing Act. However, this section does not apply to exchanges of real property made under the provisions of such Act. [Formerly 311 717]

311.804 Cancellation of assessment or taxes on cancellation of certificate or contract by Division of State Lands. (1) If taxes are levied or assessed upon lands that are a portion of the assets of the Common School Fund while held under certificate or contract of sale and the certificate or contract is canceled by the Division of State Lands, such taxes or assessments shall become void upon receipt of written notice from the Director of the Division of State Lands of cancellation of the certificate or contract of sale. Officials having charge of the records of taxes and assessments on lands included in certificates or contracts of sale so canceled shall note on their records the word "invalidated," and the date of cancellation.

(2) This section does not apply to irrigation or drainage districts' tax liens if the irrigation or drainage districts were organized prior to the inception of the division's lien. [Formerly 311 720]

REFUNDS

311.805 [Repealed by 1959 c 554 §1 (311 806 enacted in lieu of 311 805)]

311.806 Refund of taxes on real and personal property. (1) The county governing body shall refund to a taxpayer, out of the general fund or the unsegregated tax collections account provided in ORS 311.385, taxes collected by an assessor or tax collector pursuant to a levy of the assessor or of any taxing district or tax levying body plus interest thereon as provided in ORS 311.812, in the following cases:

(a) Whenever ordered by the Department of Revenue and no appeal is taken or can be taken from the department's order, or whenever ordered by the Oregon Tax Court or the Supreme Court and the order constitutes a final determination of the matter; or

(b) Whenever taxes are collected against real or personal property not within the jurisdiction of the tax levying body; or

(c) Whenever any person, through excusable neglect, or through an error subject to correction under ORS 311.205 pays taxes on property in excess of the amount legally chargeable thereon, and then only in the amount of money collected in excess of the amount actually due; or

(d) Except as provided in ORS 311.808, whenever any person pays taxes on the property of another by mistake of any kind.

(2) No such refund shall be allowed or made after six years from the assessment date for the fiscal year for which the taxes were collected unless before the expiration of such period a written claim for refund of the collection is filed by the taxpayer with the county governing body. Where applicable, a certified copy of the order of the Department of Revenue or of the Oregon Tax Court or the Supreme Court shall be made a part of the claim. However, upon written request of the Director of the Department of Revenue or with the approval of the tax collector, the county governing body may order a refund of taxes paid to any taxpayer or class of taxpayers without the filing of a written claim. The request of the department shall be considered an order for the purpose of ORS 311.812 (2)(b).

(3) Immediately upon payment of the refund and any interest thereon, the tax col-

lector shall make the necessary correcting entries in the records of his office, and if the refund is made from the general fund, the county treasurer shall reimburse the general fund in the amount of the refunded tax and any interest paid thereon, from the unsegregated tax collections account provided in ORS 311.385. ORS 294.305 to 294.520 shall not apply to refunds made out of the unsegregated tax collections account. [1959 c.554 §2 (enacted in lieu of 311 805), 1961 c 533 §50, 1971 c 737 §3, 1973 c 347 §1, 1975 c 395 §3, 1979 c 702 §1]

311.808 Refund on real property; when prohibited. No refund of property taxes under ORS 311.806 (1)(d) shall be made on real property when all of the following conditions are present:

(1) A mortgagee has requested the tax statement for the property under ORS 311.252 and has paid the tax on the property.

(2) The tax roll shows payment of the taxes, and thereafter the property is sold to a bona fide purchaser. [1975 c 395 §2]

311.810 [Repealed by 1965 c 344 §42]

311.812 No interest on refunds under ORS 311.806; exceptions; rate. (1) Except as provided in subsection (2) of this section, no interest shall be paid upon any tax refunds made under ORS 311.806.

(2) Interest as provided in subsection (3) of this section shall be paid on the following refunds:

(a) A refund resulting from the correction under ORS 311.205 of an error made by the assessor or tax collector.

(b) Any refund ordered by the Department of Revenue and no appeal is taken or can be taken from the department's order.

(c) Refunds ordered by the Oregon Tax Court or the Supreme Court and the order constitutes a final determination of the matter.

(d) Refunds of taxes collected against real or personal property not within the jurisdiction of the tax levying body.

(e) Refunds resulting from a reduction in value ordered by the November board under ORS 309.026.

(3) The interest provided by subsection (2) of this section shall be paid at the rate provided in ORS 311.505 (2) computed from the time the tax was paid or from the time the first instalment thereof was due whichever is the later. If a discount were given at the time the taxes were paid, interest shall be computed only on the net amount of taxes to be refunded. [1971 c 737 §2; 1975 c 704 §4; 1977 c 606 §3, 1981 c 804 §89a]

311.815 Abandonment of purpose for which special tax levied; refund or cancellation of tax. If a special tax to raise funds for a specified purpose is levied in a school district, road district, irrigation district or drainage district and the project or specific purpose for which the tax is levied is thereafter definitely abandoned, either wholly or in part, or the fund raised by the tax or any portion thereof remains unexpended for a period of two years, after the levy of the tax, the county court at the written request of the directors of the district may, by resolution, after giving 10 days' previous notice by one publication thereof in a newspaper of general circulation, published in the county, provide for the refunding of the tax or portion of tax so remaining unexpended to the taxpayers who theretofore paid the tax and for the cancellation of the unpaid tax or the like proportion thereof that has become delinquent. The county court shall take such action by resolution spread upon its journal. Repayment shall be made by orders drawn on the county treasurer for the several amounts and issued to the several taxpayers shown by the tax records to have originally made the payments. Cancellation of unpaid taxes shall be effected by noting the cancellation thereof on the tax records of the county.

311.820 [1955 c 759 §§1, 2, 3, 4, repealed by 1965 c 344 §39 (311 821 enacted in lieu of 311.820 and 311.825)]

311.821 Refunds authorized in event of certain boundary changes of taxing districts; reimbursements. (1) Whenever in any year the boundaries of a taxing district have been reduced by proceedings occurring after the date provided in ORS 308.225, and whenever such changes in boundaries were not disregarded by the county assessor as required by ORS 308.225, and as a result thereof taxes have been levied and collected upon the reduced territory of such district, which taxes were not levied and extended upon the territory detached from such district, the county governing body shall refund out of the general fund or unsegregated tax collections account to the taxpayers of the territory upon which the levy was imposed and the taxes collected, the proportionate amount of money in excess of the amount that would

have been collected from the territory comprising the entire district had the levy been uniform throughout the district. A written claim for refund of such collection shall be filed with the county governing body within six years from the assessment date for the fiscal year for which the taxes were collected.

(2) Whenever in any year the boundaries of a taxing district have been reduced by boundary changes pursuant to law after the date provided in ORS 308.225, and such changes in boundaries have been disregarded by the county assessor as required by ORS 308.225, and as a result thereof taxes were levied upon property within such withdrawn area by such district and also for the same tax year by another taxing district providing the same service or services, subjecting such property to double taxation for any tax year, the county governing body shall refund out of the general fund or unsegregated tax collections account to the taxpayers of the territory upon which the levy was imposed and the tax was collected the proportionate amount of money in excess of the amount that would have been paid by such taxpayers had the withdrawal been recognized by the assessor as effective for the tax year involved; provided, all such property shall remain liable for indebtedness incurred prior to the boundary change as otherwise required by law. A written claim for refund of such tax collection shall be filed with the county governing body within two years from the assessment date for the fiscal year for which the taxes were collected.

(3) If the claim is in proper form, the county governing body shall take action by resolution spread upon its journal, and repayments shall be made by orders drawn on the county treasurer for the several amounts and issued to the several taxpayers shown by the tax records to have made the payments originally.

(4) Immediately upon such reimbursement the tax collector shall make the necessary correcting entries in the records of his office, and if the refund is made from the general fund, the district in which the territory of such taxpayers is located shall reimburse the general fund in the amount of such refunded taxes received by it. [1965 c 344 §40 (enacted in lieu of 311 820 and 311.825); 1979 c 702 §3]

311.825 [1957 c 335 §§1, 2, 3; 1961 c.522 §7; repealed by 1965 c 344 §39 (311 821 enacted in lieu of 311 820 and 311 825)]

311.827 [1969 c 605 §57, repealed by 1971 c 529 §37]

311.830 [1957 c.600 §2, repealed by 1965 c.344 §42]

311.835 [1957 c 600 §§3, 4, repealed by 1965 c 344 §42]

311.840 [1957 c 600 §§5, 6, 7, repealed by 1965 c 344 §42]

311.845 [1957 c 600 §8, repealed by 1965 c.344 §42]

PREPAYMENT OF TAXES FOR FACILITIES

311.850 Findings. The Legislative Assembly finds that the construction of a facility may have substantial economic impact upon units of local government obligated to furnish services and facilities in the area in which the facility is being constructed. The Legislative Assembly further finds that this impact may occur in advance of the time when sufficient true cash value occasioned by construction of the facility is added to the assessment and tax roll to bear the facility's portion of the costs of the governmental services and facilities its construction necessitates. The purposes of ORS 311.850 to 311.870 is to provide a method for prepaying ad valorem taxes during the period of planning and construction of the facility, in order that units of local government may provide the services and facilities necessitated without imposing an undue burden upon other properties subject to taxation within the unit, and to provide for repayment of the amounts prepaid. [1975 c 563 §1]

311.855 Definitions for ORS 311.850 to 311.870. As used in ORS 311.850 to 311.870, unless the context requires otherwise, "facility" means:

(1) A thermal power plant, as defined in ORS 469.300.

(2) A hydroelectric power project, as described in ORS 543.010.

(3) Any building or improvement that is suitable for use for industrial, commercial, manufacturing or warehousing purposes. [1975 c 563 §2]

311.860 Agreement for prepayment; contents; filing; certificate of payment. (1) Any person proposing to construct a facility who has applied for and obtained the necessary preliminary construction permits or certificates and the governing body of any taxing unit obligated to furnish services and facilities in the area in which the construction is to take place may enter into an agreement to carry out the purposes of ORS 311.850. An agreement entered into under this section

shall contain provisions pertaining to and in accordance with the following:

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

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

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

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

(3) Prior to April 1 of the first year for which the exemption granted by ORS 311.865 applies, the governing body of the taxing unit that is a party to the agreement may certify to the county assessor that all payments have been made to the taxing unit in accordance with the terms of the agreement. The county assessor shall not grant the exemption for any year unless he has received such certificate. Review of denial of an exemption under this section shall be as provided by ORS 305.275.
[1975 c 563 §3; 1979 c 772 §18]

311.865 Exemption; amount; termination. There shall be exempt from the levy of the taxing unit that is the party to an agreement entered into under ORS 311.860 for each assessment year indicated in the agreement, the percentage amount of true cash value, allocable to or within the taxing unit, of the facility specified in the agreement for that assessment year. The assessor shall modify the amount of the exemption or terminate the exemption at such time as he determines that the monetary value of the exemption has equaled the amount of moneys paid by the facility under the agreement plus interest.
[1975 563 §4]

311.870 Characterization of prepaid taxes. Moneys received by a taxing unit pursuant to an agreement entered into under ORS 311.850 to 311.870 shall be considered a budget resource and shall not be offset against the levy of the taxing unit. [1975 c 563 §5]

PENALTIES

311.990 Penalties. (1) Violation of ORS 311.270 is punishable, upon conviction, by a fine of not less than $100 nor more than $300.

(2) Violation of ORS 311.350 is punishable, upon conviction, by a fine not exceeding $500 or by imprisonment in the county jail not exceeding six months.

(3) Violation of ORS 311.425 (1) is punishable, upon conviction, by a fine of not less than $50 nor more than $1,000.

(4) If a tax collector fails to comply with any of the provisions of law relating to the receiving and receipting of moneys and warrants collected by him for taxes, he shall, upon conviction thereof, be fined not less than $100 nor more than $1,000 and the court before whom the tax collector is tried shall declare his office vacant for the remainder of his term.

(5) If a tax collector wilfully returns as unpaid any tax which has been paid to him, he shall be deemed guilty of a misdemeanor and, upon conviction thereof, be punished by a fine not exceeding $500, or by imprisonment not exceeding six months, or both.

(6) If a tax collector or sheriff neglects or refuses to pay over all moneys collected by him for taxes to the county treasurer, or neglects or refuses to make a return of delinquent taxes of his county, or any other return or statement, as required by the laws relating to the collection of property taxes, he shall be liable to be indicted therefor and, upon conviction, be punished by a fine of not less than $100 nor more than $1,000, or by imprison-

ment not less than six months nor more than six years, or by both.

(7) A person who knowingly makes a false oath under ORS 311.666 to 311.696 is guilty of perjury and shall be punished as provided by ORS 162.085. [Subsection (7) enacted as 1963 c 569 §23, 1971 c 743 §354, 1971 c 747 §19, 1979 c 689 §26]