

Chapter 548

1989 EDITION

Provisions Applicable Both to Drainage Districts and to Irrigation Districts

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ORGANIZATION; SALE OF LANDS; TRANSFER OF FUNDS

548.005 Organization of irrigation, drainage or flood control district by owners of lands subject to assessment by district improvement company or improvement district; assumption of obligations. Where any lands are subject to assessment by a corporation under the provisions of ORS 554.005 to 554.340, or by a corporation organized before March 4, 1937, under the provisions of chapter 172, Oregon Laws 1911, and Acts amendatory thereof, the owners of the lands or any part thereof and the owners of any additional lands adjacent thereto may proceed to organize irrigation districts or drainage districts or flood control districts under the laws of Oregon. Any of such districts when organized may assume any of the valid outstanding liens or obligations of the district improvement company or improvement district and refund the same and issue district bonds therefor.

548.010 Sale or disposal of lands not needed. Whenever any drainage or irrigation district has acquired any lands, by gift, purchase, eminent domain or otherwise, for the uses and purposes of the district, and thereafter by reason of a change of its plans or for any other reason determines that all or any part thereof is no longer necessary for the uses or purposes for which it was acquired, the district may sell or dispose of the lands or any part thereof, either at private or public sale. The officers of the district otherwise authorized to execute conveyances have authority to make such conveyance.

548.015 Board of directors to transfer unnecessary funds. When the necessity for maintaining any fund of an irrigation or drainage district has ceased to exist and a balance remains in the fund, the governing board of the district shall so declare by proper resolution. The balance shall then forthwith be transferred to the credit of either the operation and maintenance fund or the general fund of the district, as designated in the resolution.

INSURANCE FOR EMPLOYEES

548.050 Insurance for district employees. (1) The board of directors of an irrigation district or the board of supervisors of a drainage district may enter into contracts of insurance covering district officers and employees for medical, or any other type of remedial care recognized under state law, surgical, hospital and related services and supplies, life insurance, annuities and other retirement benefits and monthly indemnity for loss of time due to accident or sickness. Contributions for premiums therefor by offi-

cers or employees shall only be on a voluntary basis. Failure to procure such insurance shall not be construed as negligence or lack of diligence on the part of the board or the members thereof.

(2) The district may agree to pay none, part or all of the premiums on contracts of insurance entered into pursuant to this section.

(3) This section is part of the Irrigation District Act, as defined in ORS 545.002, insofar as it applies to irrigation districts, and part of the Drainage District Act, as defined in ORS 547.060, insofar as it applies to drainage districts.

(4) As used in this section the words "related services" shall include the services of a person duly licensed to practice chiropractic in the State of Oregon. [1959 c.435 §1, 1967 c.281 §1]

DETERMINING LEGALITY OF ORGANIZATION AND PROCEEDINGS

548.105 Authority of directors to maintain proceedings for judicial determination as to organization of district and other matters; scope of inquiry; determination is prerequisite to bond issue.

(1) The board of directors of an irrigation district organized under the provisions of the Irrigation District Act (as defined in ORS 545.002), or the board of supervisors of a drainage district organized under the provisions of the Drainage District Act (as defined in ORS 547.060), may by petition commence special proceedings in the circuit court of the county in which the office of the district is located for the purpose of having a judicial examination and judgment of the court as to the regularity and legality of:

(a) The proceedings in connection with the organization of the district.

(b) The proceedings of the board and of the district, providing for and authorizing the issue and sale of bonds of the district, whether bonds have or have not been sold or disposed of.

(c) Any action or proceeding of the county court declaring the organization of the district, or declaring the result of any election therein.

(d) An order of the governing board of the district including or excluding any lands in or from the district, or declaring the result of any election, general or special.

(e) An order of such board levying any assessment, general or special.

(f) An order of such board ordering the issue of any bonds for any purpose, or determining any bond issue, or providing for the same.

(g) The authorization of contract with the United States, and the validity of the contract, whether or not it has been executed, and whether or not bonds are to be deposited with the United States.

(2) All the proceedings of an irrigation district or drainage district may be judicially examined and determined by the court in one special proceeding, or any part thereof may be separately examined and determined upon by the court. No bond issue or any part thereof shall be sold or offered for sale unless it has been confirmed under the provisions of this section.

548.110 Nature of proceedings; notice; contest; judgment; appeal; nonprejudicial errors; costs. (1) The proceedings shall be in the nature of a proceeding in rem. The practice and procedure therein shall follow the practice and procedure of an action not triable by right to a jury, so far as they are consistent with the determination sought to be obtained, except as otherwise provided in ORS 548.105 to 548.115. The jurisdiction of the irrigation district or drainage district and of all the freeholders, assessment payers and legal voters therein shall be obtained by publication of notice directed to the district, and to "all freeholders, legal voters and assessment payers within the district," without naming them individually. The notice shall be served on all parties in interest by publication for at least once a week for three successive weeks in some newspaper of general circulation published in the county where the proceeding is pending. Jurisdiction shall be complete within 10 days after full publication.

(2) Any person interested may at any time before the expiration of the 10 days appear and contest the validity of the proceeding, or of any of the acts or things therein enumerated. The proceedings shall be speedily tried and judgment rendered declaring the matter so contested to be either valid or invalid. Any order or judgment in the course of the proceeding may be made and rendered by the judge of the court in vacation. For the purpose of any such order or judgment the court shall be deemed at all times to be in session, and the act of the judge in making such order or judgment shall be the act of the court.

(3) Any party may appeal to the Court of Appeals at any time within 30 days after rendition of the final judgment. The appeal must be heard and determined within three months from the time of taking the appeal.

(4) The court, in inquiring into the regularity, legality or correctness of any of the proceedings, must disregard any error, irregularity or omission which does not affect the

substantial rights of the parties to the court proceedings, and may approve the proceedings in part and disapprove and declare invalid other or subsequent proceedings in part. The costs of the court proceedings may be allowed and apportioned between the parties in the discretion of the court. [Amended by 1979 c.284 §169]

548.115 Individual's right to maintain proceedings; procedure; exclusiveness of remedy. (1) Any freeholder, legal voter or assessment payer within an irrigation district or drainage district may, within 30 days after the entry of any order or the performance of any act mentioned in ORS 548.105, for which a contest is by that section provided, may bring a like proceeding in the circuit court of the county where the lands embraced within such district, or the majority thereof, are situated, to determine the validity of such order or act. In such proceedings the board of directors shall be made parties defendant.

(2) Service of summons shall be made on the members of the board personally if within the county where the district, or any part thereof is situated. As to any directors not within the county, service may be had by publication of summons for a like time, and in like manner, as is provided by ORS 548.110. Service shall be deemed complete within 10 days from the date of personal service, or within 10 days from the date of completion of publication, as the case may be.

(3) The proceedings shall be tried and determined in the same manner as proceedings brought by the irrigation district or drainage district itself.

(4) No contest of any proceeding, matter or thing provided by ORS 548.105 to be had or done by the board of directors or supervisors or by the district, or by the county court, or by any freeholder, legal voter or assessment payer within the district, shall be had or maintained at any time or in any matter except as provided in ORS 548.105 to 548.115.

548.120 Validation of decrees entered in proceedings by directors. In all cases where the board of directors of any irrigation district or the board of supervisors of any drainage district has instituted proceedings for the purpose of having an adjudication of the court as to the regularity and legality of the proceedings in connection with any of the matters specified in ORS 548.105, and where notice has been published directed to the parties specified by ORS 548.110, for the length of time specified by that section, and the full time provided by that section has elapsed after publication before any decree has been entered therein, all such decrees so

rendered by the courts hereby are validated and declared to be effective and sufficient for all purposes, notwithstanding any other defects in the proceedings and notice upon which such decrees are based.

548.205 [Repealed by 1989 c.182 §49]

548.210 [Repealed by 1989 c.182 §49]

548.215 [Repealed by 1989 c.182 §49]

548.220 [Repealed by 1989 c.182 §49]

548.225 [Repealed by 1989 c.182 §49]

548.230 [Amended by 1967 c.359 §695; repealed by 1989 c.182 §49]

548.235 [Repealed by 1989 c.182 §49]

GOVERNMENT LOANS TO IRRIGATION AND DRAINAGE DISTRICTS

548.300 Contracts for state loans; purposes for which authorized; amount of loan. (1) The board of supervisors of any drainage district or the board of directors of any irrigation district may, whenever it is determined by such board that it is for the best interests of the district, enter into a contract with any governmental agency of the State of Oregon for a loan:

(a) For the refunding of any or all of its outstanding indebtedness;

(b) For the refunding of any state, county and municipal ad valorem taxes or special assessments levied by such district; and

(c) For the financing of any improvement or supplemental works which may be needed to reclaim lands in the district or for maintenance or operation, and for the payment or repayment thereof, upon such terms or conditions as may be agreed upon in the contract.

(2) In no case shall the total of any loan made by any governmental agency exceed in the aggregate the total amount of the outstanding indebtedness of such district so refunded, but this limitation shall not apply to any loan or any part of any loan which may be made by such governmental agency for any purpose herein provided other than refunding such outstanding indebtedness. [1983 c.557 §11]

548.305 Contracts for federal loans; purposes for which authorized; amount of loan. (1) The board of supervisors of any drainage district or the board of directors of any irrigation district may, whenever it is determined by such board that it is for the best interests of the district, enter into a contract with any governmental agency of the United States, for a loan:

(a) For the refunding of any or all of its outstanding indebtedness;

(b) For the refunding of any state, county and municipal ad valorem taxes or special assessments levied by such district; and

(c) For the financing of any improvement or supplemental works which may be needed to reclaim lands in the district or for maintenance or operation, and for the payment or repayment thereof, upon such terms or conditions as may be agreed upon in the contract.

(2) In no case shall the total of any loan made by such governmental agency exceed in the aggregate the total amount of the outstanding indebtedness of such district so refunded, but this limitation shall not apply to any loan or any part of any loan which may be made by such governmental agency for any purpose herein provided other than refunding such outstanding indebtedness.

548.310 Validation of prior contracts and bonds. All contracts entered into before November 15, 1935, by any drainage district or irrigation district with any governmental agency of the United States, and any bonds issued before or after November 15, 1935, pursuant to such contract, for any of the purposes provided by ORS 548.305 to 548.325, which comply with the provisions of ORS 548.305 and are otherwise regular and duly made and issued according to law, are declared valid, notwithstanding that the total amount of any such loan so provided to be made by the governmental agency exceeds in the aggregate the total amount of the outstanding indebtedness of such district in any case where all or any part of such loan is for purposes other than refunding the outstanding indebtedness of such district.

548.315 Issuance of bonds; provisions thereof; funds for payment; assessments; release of land from lien; relief from payment of assessments. For the purpose of carrying into effect provisions contained in any contract so to be executed, the board of such district may, without the vote of the electors of the district, issue bonds in any denomination, bearing interest from date at a rate determined by the board, and to mature in not more than 40 years. The bonds shall be general obligations of the district and shall be paid by the revenue derived from the annual assessments upon the real property within the district, which assessments shall be made in accordance with the terms of the contract. All the real property within the district shall be liable to be assessed for such payments; provided, however, that the contract may contain a provision permitting the release of any land in the district from the lien to secure the payment of such bonds, or relieving any lands in the district from any obligation to pay any assessments thereafter levied for the purpose

of paying the bonds or the interest accruing thereon, by payment to the district of an amount provided in the contract. [Amended by 1981 c.94 §48]

548.320 Lien on lands; lien docket; priority; sale of land for taxes not to extinguish lien. The contract may provide for a lien docket which shall be furnished by the district to the county clerk of each county in which lands of the district are situated, and in which shall be set forth a description of the lands within the district and liable under such bonds, described under the present individual ownership by metes and bounds or by calls or by reference to recorded deeds, together with the total amount of refunding bonds charged against each parcel of land, the amount of annual payments thereof, the date of such payment and the rate of interest. This charge shall remain a lien on such tract or parcel of land in favor of the district and shall have priority over all other liens and encumbrances except the lien of state, county and municipal taxes. If the contract does not provide for a lien docket nothing in this section shall be construed to prevent an irrigation or drainage district from providing a lien docket as prescribed by law. In case any lands located within an irrigation or drainage district are sold for taxes such sale shall not operate to extinguish any lien appearing on the lien docket and payable at a future time.

548.325 Assessments; emergency fund. In addition to the annual assessments provided for in ORS 548.315, and in addition to the assessments authorized by law for the maintenance and operation of drainage and irrigation districts, such contract may provide that the board shall levy an annual assessment not to exceed 50 cents per acre upon each acre in the district. All moneys received from such assessment shall be placed by the treasurer of the district in a fund to be designated as the "emergency fund." The emergency fund shall be used for supplementing the bond fund in case of deficiency due to accident, delinquency or other contingencies and for the purpose of foreclosure of delinquent tax certificates issued for taxes or assessments levied against lands in the district. The fund shall be disbursed by the treasurer upon the order of the board. [Amended by 1989 c.182 §32]

548.330 Bonds for refunding indebtedness; validity not affected by irregularities of refunded obligations. All bonds of any irrigation or drainage district authorized or issued by the district in the manner provided by ORS 548.305 to 548.325, for the purpose of refunding any outstanding bonds or warrants of the district in accordance with the terms and provisions of a contract there-

for between the district and any governmental agency of the United States shall constitute legal and binding obligations of the district, notwithstanding any irregularities or defects in the authorization of or issuance of any of the bonds or warrants to be refunded. [Amended by 1989 c.182 §33]

548.335 Consent of holders of outstanding indebtedness; initiation of proceedings to obtain constructive consent. When any irrigation or drainage district has adopted a plan for refunding and compromising any or all of its outstanding indebtedness, and pursuant to ORS 548.305 to 548.325 has entered into a contract with any governmental agency for a loan for the purpose of carrying out such plan, and the board of directors or board of supervisors for the purpose of carrying into effect the provisions contained in the contract have authorized the issuance of bonds of the district pursuant to ORS 548.315, and such plan of refinancing and compromise has been accepted in writing by the holders of more than 90 percent of such outstanding indebtedness to be refunded and compromised, such irrigation or drainage district may commence and prosecute a proceeding in rem for the purpose of obtaining constructive consent, to the plan, of the unknown holders of the evidences of the indebtedness to be refunded and compromised, and of the known holders of such evidences of indebtedness who have not so given their consent in writing. The proceeding shall be commenced in the circuit court of the county in which the office of the district is located, by filing a petition verified by the oath of the president or secretary of the district.

548.340 Averments of petition. The petition shall set forth the plan for refunding and compromising the indebtedness and shall further recite what percentage in amount of the holders of the evidences of indebtedness to be refunded or retired have filed their written consent to the proposed plan, which percentage shall not be less than 90 percent, and shall further set forth what steps have been taken to obtain the consent of all non-consenting holders of the evidences of indebtedness. The petition shall also state the name and place of residence of all of the holders of the evidences of indebtedness who are known to the district, and shall show that diligent efforts have been made to ascertain the names and residences of all the holders.

548.345 Notice; failure of holder to object constitutes consent. (1) Upon presentation of the petition to the judge of the court, the judge shall, if it appears that diligent efforts have been made by the irrigation or drainage district to ascertain the names

and places of residence of all the holders of the evidences of indebtedness so to be refunded and compromised, authorize the district to publish, and it shall publish for at least four consecutive weeks in three newspapers published within the state, to be designated by the court, one of which papers shall be published in the county in which the office of the board of directors or board of supervisors is situated, a notice specifying the particular indebtedness which it is proposed to refund and compromise, together with the plan which has been adopted by the district for the refunding and compromising; also, a general description of the refunding bonds, if any, which it is proposed to issue to the holders of the indebtedness. The notice shall require all holders of the evidences of indebtedness so to be refunded or compromised to file in the matter of the petition in the circuit court their written dissent from or objection to the proposed plan of refunding and compromise. The notice shall also state that any holders who fail to file their dissent and protest to the plan shall be deemed to have consented thereto.

(2) The district shall also cause the notice to be served in the manner provided by law for service of summons in civil actions upon all the holders whose names and places of residence are known to the district and who reside within Oregon. The district shall also deposit a copy of the notice in the United States mail addressed to each of the known holders who reside without the state, with postage prepaid.

(3) Dissent in writing must be filed in the court and cause within 90 days from the date of the first publication of the notice; or, in the case of holders whose names and places of residence are known to the district and who reside within the state, within 90 days from the date of service of the notice upon them; or, in the case of holders whose names and places of residence are known to the district and who reside without the state, within 90 days from the date of mailing the notice.

(4) After the expiration of said period of 90 days the holders so failing to file their objection and protest with the court shall be deemed to have consented to the refunding and compromise of the indebtedness under the terms set forth in the notice, and such failure shall be equivalent to the offer in writing signed by the known consenting holders. [Amended by 1989 c.182 §34]

548.350 Hearing; decree; county treasurer as trustee. (1) After the expiration of 90 days from the date of the first publication of the notice and the service and mailing thereof, as set forth in ORS 548.345, the district shall file in the proceeding in the cir-

cuit court its verified return of its acts made under the order of the court, attaching affidavits of the publication of the notice in three newspapers, and proof of service of the notice upon the holders of the evidences of indebtedness whose names and places of residence are known to the district and who reside within the state, and of the mailing thereof to such known holders residing without the state.

(2) Thereupon the court shall hear the cause and shall enter a decree adjudging that all the holders of the evidences of indebtedness to be refunded and compromised by the plan or proceeding of the district, who within 90 days after the date of the first publication of the notice and the serving and mailing thereof did not file in the court their written dissent and objections to the proceedings, have consented that their evidences of indebtedness be refunded and compromised under the proposed plan.

(3) In the decree the court shall direct the officers of the district to deposit with the county treasurer of the county in which the district is headquartered, as trustee for the persons entitled thereto, the cash or refunding bonds which under the plan of refunding and compromise belong to the holders of the evidences of indebtedness whose consent was so obtained by the court proceedings. The decree shall further provide that upon the payment of said money or bonds to the county treasurer as trustee, the evidences of indebtedness so held by the holders shall be deemed paid and no longer shall be an obligation of the district; and that upon the surrender to the county treasurer of the evidences of indebtedness, together with any unpaid interest coupons belonging to the same, the county treasurer shall pay on demand to the holders the money or bonds so deposited with the county treasurer as trustee, and shall mark the evidences of indebtedness canceled and deliver them to the district. All holders of the evidences of indebtedness to be refunded and compromised shall be deemed to have notice of all steps and proceedings had. [Amended by 1989 c.182 §35]

548.355 Nature of proceedings; appeal; nonprejudicial errors; costs. The procedure in the circuit court under the provisions of ORS 548.340 to 548.350 shall be in the nature of an action in rem not triable by right to a jury. Any holders of any evidences of indebtedness affected by any such court procedure provided for in those sections, or any other interested party, may appeal to the Court of Appeals at any time within 30 days after the rendition of the judgment of the circuit court. The court inquiring into the regularity, legality or correctness of any of such proceedings shall disregard any error, irreg-

ularity or omission which does not affect the substantial rights of the parties, and may approve the proceedings in part and disapprove the remainder. Costs in the proceeding may be allowed and apportioned between the parties in the discretion of the court. [Amended by 1979 c.284 §170]

548.360 Moneys and securities; custody. All moneys and securities received under ORS 548.350 may be deposited with the State Treasurer for safekeeping. [Amended by 1989 c.182 §36]

548.365 Depositary for bonds, warrants; authority of State Treasurer. Whenever any governmental agency of the United States has authorized a loan to or for the benefit of any irrigation or drainage district in Oregon for the purpose of refinancing the outstanding indebtedness of the district, the State Treasurer may act as depositary for the bondholders and other creditors of the district and as such may do all things that may be conferred upon the State Treasurer by the bondholders and other creditors of such district or their authorized representatives, in connection with the delivery and transfer of title of deposited bonds, warrants and other evidences of indebtedness. All acts of the State Reclamation Commission had before March 4, 1935, in connection with any such loans authorized before that date, are ratified and confirmed. [Amended by 1955 c.707 §67; 1989 c.182 §37]

548.370 Assessments; cancellation or compromise by districts refunding indebtedness through federal agencies. The board of supervisors of any drainage district or the board of directors of any irrigation district may cancel or compromise any special assessment assessed and levied by such district and for which delinquent certificates have been issued to the district, and any special assessments assessed and levied by such board on lands within the district if the district is refunding its outstanding indebtedness through any governmental agency of the United States. When such assessments are canceled or compromised the board may make appropriate notation of same upon the proper records. [Amended by 1989 c.182 §38]

SECURITIES AND MONEYS DEPOSITED WITH COUNTY TREASURER

548.400 Deposit of bonds, warrants and other evidence of indebtedness of irrigation and drainage districts being reorganized. (1) The county treasurer of the county in which the district is headquartered may accept deposits of bonds, warrants or other evidences of indebtedness of irrigation and drainage districts under the process of

reorganization, pursuant to the provisions of ORS 545.278 to 545.290, or as may otherwise be provided by law.

(2) The county treasurer shall deposit such bonds, warrants or other evidences of indebtedness with the State Treasurer, to be held by the State Treasurer in safekeeping. [Formerly 544.040, 1989 c.182 §39]

548.405 Loss of certificates or receipts issued by county treasurer for securities; surrender of securities by county treasurer. Whenever one claiming to be a lawful owner of a certificate of deposit or receipt issued by the county treasurer, covering securities issued by an irrigation or drainage district, satisfies the county treasurer that such certificate of deposit or receipt has been lost, stolen or destroyed and that the claimant is the owner thereof, the county treasurer may surrender the securities evidenced by such certificate of deposit or receipt, or deliver any securities or moneys on deposit with the county treasurer received in payment for the securities evidenced by such certificate of deposit or receipt to the claimant, upon filing a surety bond as provided in ORS 548.415. [Amended by 1989 c.182 §40]

548.410 Surrender of securities to claimant to whom certificate or receipt has not been issued or assigned. Whenever one in possession of a certificate of deposit or receipt issued by the county treasurer as evidence of the deposit of securities issued by an irrigation or drainage district, who is neither the one to whom such certificate of deposit or receipt was issued nor one to whom it has been properly assigned, but who claims to be the owner of such certificate of deposit or receipt, shall satisfy the county treasurer that the claimant is entitled to receive securities evidenced by such certificate or receipt, or receive moneys or other securities deposited with the county treasurer in refunding the securities evidenced by such certificate or receipt, the county treasurer may surrender such securities or pay such moneys or deliver such other securities so deposited with the county treasurer to the claimant upon surrendering the certificate of deposit or receipt and filing a bond as provided in ORS 548.415. [Amended by 1989 c.182 §41]

548.415 Surety bond; amount thereof; conditions. The surety bond to be filed under ORS 548.405 or 548.410 shall be for double the amount of the face value of the securities described in such certificate of deposit or receipt, if the securities are to be surrendered, or double the amount the claimant is to receive from moneys or securities deposited with the county treasurer, with two or more sureties, qualified and who must justify as in the case of sureties for

bail; provided that surety bonds of companies licensed to transact surety business in Oregon may be accepted for the face amount of the securities if the securities are to be returned, or the face amount of any moneys or securities to be paid or delivered by the county treasurer to the claimant. Every such surety bond shall be conditioned upon indemnifying the county treasurer, and the employees of the county treasurer making the payment, and all rightful owners of the securities, against any loss or expenses, including interest or other damage or liability, resulting from such payment or delivery. [Amended by 1989 c.182 §42]

RELEVY OF ERRONEOUS OR VOID ASSESSMENTS

548.505 Relevy and reassessment; manner and time. If any drainage or irrigation district assessment levied on any property liable thereto is prevented from being collected for any year by reason of any erroneous proceeding, or if such levy is adjudged void for want of form or manner of procedure, or otherwise, the same may be collected, relisted, reassessed and relevied in the manner and at the times provided for the collection, relisting and reassessment of taxes by the provisions of ORS 311.120.

548.510 Decree declaring assessments void; reassessment and relevy of similar assessments; time; crediting payments under void assessment. If any such levy of assessment is declared void by a court of competent jurisdiction, then all similar assessments levied in the same or other years by the drainage or irrigation district which under the decision of the court are also void, may be reassessed, relisted and relevied against the property affected, in the manner provided by law and in conformity with such court decree, within five years from the date of the rendition of the decree of the court declaring such assessment void. In the case of a relisting or relevy of such drainage or irrigation district assessment on any property affected thereby, proper credit in the collection of the same shall be given to all owners of any such property for all payments theretofore made by them on the void assessments.

548.515 Manner of relevy and reassessment; officers authorized. The relevy and reassessment of drainage and irrigation district assessments provided for by law shall be made in the same manner, and by the same officers who, at the time the new listing or levy is made, are authorized by law to list property and compute, levy and assess taxes or assessments against property in the drainage or irrigation district.

548.520 Cancellation or compromise. The provisions of ORS 548.370 relating to the authority of drainage and irrigation districts to cancel or compromise any special assessment shall apply to any relevy or reassessment by a drainage or irrigation district which is provided by law.

CERTIFICATES OF DELINQUENCY; FORECLOSURE

548.605 [Repealed by 1969 c.595 §17]

548.610 Foreclosure of certificate. The holder of such certificate may, at any time after the expiration of one year from the first date of delinquency of any tax included in such certificate of delinquency, foreclose the same in the manner provided by the general laws of this state for the foreclosure of such certificates. The irrigation or drainage district shall foreclose all certificates of delinquency so issued to it within 10 years from the first date of delinquency of any tax or assessment included therein. The holder of such certificate may recover the costs and disbursements and expenses in the foreclosure, including a reasonable attorney's fee.

548.615 Issuance of certificate to district for district taxes only, without payment of other taxes; form and effect of certificate. Any time after the expiration of six months from the date of delinquency, where any taxes or assessments levied upon real property by an irrigation or drainage district are delinquent, the tax collector shall, on demand of such irrigation or drainage district and without payment of any of the taxes or assessments levied against such land, make out and issue to such irrigation or drainage district a certificate of delinquency against the property for the full amount of the taxes or assessments levied by the irrigation or drainage district, with penalties and interest accrued at the time, such certificate to be in such form and to have the same legal effect, except as otherwise specified, as is provided by the general laws covering certificates of delinquency.

548.620 Foreclosure of certificate issued under ORS 548.615. The irrigation or drainage district may, at any time after the expiration of one year from the first date of delinquency of any tax included in such certificate of delinquency, foreclose the same in the manner provided by the general laws of the state for the foreclosure of delinquency certificates by individuals. The district may include in one foreclosure suit and may foreclose by that suit as many certificates of delinquency as it may hold. The holder of such certificate may recover as a part of the judgment the costs, disbursements and expenses in such foreclosure, including a reasonable attorney fee at trial and on appeal

as determined by the court. [Amended by 1981 c.897 §62]

548.625 Outstanding taxes; title of purchaser subject thereto; lien not affected by foreclosure; compromise of amount by county court. The purchaser of any property sold on foreclosure of any certificate of delinquency issued and foreclosed pursuant to the provisions of ORS 548.615 and 548.620 shall take title subject to all outstanding taxes other than taxes or assessments levied by such irrigation or drainage district, and the lien of such taxes shall not be affected by the foreclosure proceedings. However, where any such lands are bid in at any foreclosure sale held pursuant to ORS 548.620 in the name of the irrigation or drainage district, the county court may make such equitable compromise or abatement in the amount of the outstanding taxes upon the property as it may deem just and equitable.

548.630 Rights under ORS 548.610 not affected. ORS 548.615 to 548.625 do not affect the rights conferred by ORS 548.610.

548.635 Additional rights as to foreclosure of certificates issued for nonpayment of assessments or charges before 1936. In addition to the other methods provided by law for the foreclosure of certificates of delinquency of irrigation or drainage districts, any irrigation or drainage district may foreclose any certificate of delinquency held by it and issued for nonpayment of any assessments, tolls or charges of the district levied, assessed or charged subsequent to the year 1936 upon lands within the district for district purposes, together with any tax paid by the district upon the lands, by suit in equity in the circuit court of the county in which the lands described in the certificate are situated.

548.640 Laws governing foreclosure suit. Such suit shall be governed by the provisions of the laws relating to suits in equity in so far as they are applicable, except as otherwise provided in ORS 548.635 to 548.670.

548.645 Parties defendant. In any such suit all persons having or claiming some right, title, lien or interest in or to the real property or any part thereof involved in and described in the suit, including unknown claimants of any right, title, estate, lien or interest in such property, may be made parties defendant.

548.650 Pleading. In any such suit it shall be deemed and held a sufficient allegation of jurisdictional facts authorizing the irrigation or drainage district to make and levy any assessment, toll or charge included in or foreclosed with any such certifi-

cate of delinquency if the complaint alleges in general terms that such certificate of delinquency was issued and the assessments, tolls or charges or tax included therein and foreclosed therewith were made and done in the manner and as provided by law relating to the issuance of certificates of delinquency, and the levying, making or charging of such assessments, tolls or charges by such irrigation or drainage district for district purposes. It shall not be necessary in any such complaint to set forth specifically any proceeding of the district relating thereto.

548.655 Certificates of delinquency and receipts as evidence. The certificate of delinquency and all receipts for assessments, charges or tolls paid by the irrigation or drainage district subsequent thereto shall be prima facie evidence in the suit that the real estate described in the certificate and receipts was located in the irrigation or drainage district and was subject to be assessed or charged by the district for district purposes, and that the assessments, tolls or charges were regularly levied as provided by law, and were not paid except by such irrigation or drainage district.

548.660 Recovery of attorney fees and cost of issuance of certificate; lien. In any such suit the irrigation or drainage district shall be entitled to recover, as a part of the moneys to be paid therein, such sum as the court may adjudge reasonable as attorney fees at trial and on appeal, and any payment required for the issuance of the certificate. Such sums shall be a lien upon the property. [Amended by 1981 c.897 §63]

548.665 Execution sale; district may purchase; deed; no redemption; no deficiency judgment. The irrigation or drainage district may be a bidder and purchaser of the property on the sale on execution of the property involved in such suit. No publication of notice of sale on execution shall be required. Upon such sale, and without any order of confirmation thereof, the sheriff immediately shall issue a deed to the property sold, and no right of redemption thereafter shall exist. No deficiency judgment shall be entered in any such suit against the owner of the property or other person named as defendant therein.

548.670 Proceedings where assessment, etc., determined invalid; amount district entitled to; lien; inclusion in foreclosure. If in any such suit the validity of any assessment, toll or charge sought to be foreclosed is in issue, and the court determines the lien thereof to be invalid, or such amounts as may be so assessed, levied or charged are prevented from being collected by reason of any erroneous proceeding, and if upon such further proceedings as

the court deems proper, it appears to the court that such lands were assessable or chargeable for such year or years for district purposes, and if otherwise the district is entitled to a decree in such proceedings, the court shall find and determine the amount for such year or years the district would have been entitled to assess or charge upon such lands for district purposes. Such amount, with interest thereon, from the date the same would have become delinquent if properly levied, assessed or charged, at the rate of eight percent per annum, shall be a lien upon such real property and included in the foreclosure of the certificate of delinquency.

548.675 Hypothecation of certificates of delinquency. Whenever any irrigation or drainage district acquires any certificates of delinquency pursuant to the general laws of this state, the district may borrow money for any purpose for which the money evidenced and represented by the certificates could, when collected, be used, and may hypothecate and pledge the certificates for the repayment of such loans.

COMPOSITION; BANKRUPTCY; REFUNDING AGREEMENTS

548.705 Irrigation or drainage district may file bankruptcy petition; confirmation of proceedings; composition of debts. At any time subsequent to default in the payment of principal or interest upon the bonded or warrant indebtedness of any irrigation or drainage district of this state, the board of directors or board of supervisors may cause a petition to be filed in the Federal District Court pursuant to the provisions of the Federal Bankruptcy Act. The consent of the state is given to any proceedings instituted or attempted before February 16, 1939, by any such district under the Federal Bankruptcy Act. The state also authorizes and confirms any proceedings by any such district to effect a plan of composition or of readjustment of its debts in accordance with the provisions and terms of that Act, and authorizes the consummation of any such proceedings.

548.710 Bonds of district; use and delivery thereof to creditors. Whenever any irrigation or drainage district files its petition in bankruptcy pursuant to the provisions of the Act of Congress approved May 24, 1934, authorizing bankruptcy proceedings by municipalities and other political subdivisions of any state, the district may, for the purpose of carrying out any plan of readjustment of its indebtedness which has been submitted and approved in the bankruptcy proceeding, use and deliver to its creditors in such bankruptcy proceeding any of its bonds

authorized or issued pursuant to the provisions of ORS 548.305 to 548.325, and which bonds are not required for the purpose of carrying into effect the provisions of the contract with the governmental agency of the United States for which they primarily were authorized.

548.715 Debt refunding agreements; obtaining consent of unknown or non-consenting creditors. Whenever any irrigation or drainage district engaged in the refunding of its indebtedness has entered into a contract for such purposes with 80 percent or more of the owners or holders of its bonds, warrants or other evidences of indebtedness, such district may proceed to obtain the constructive consent of the unknown or nonconsenting owners or holders of such evidences of indebtedness to such contract, as provided by ORS 545.320 to 545.328.

548.810 [Formerly 544.030; repealed by 1989 c.182 §49]

REORGANIZATION AND DISSOLUTION

548.900 Definitions for ORS 548.900 to 548.955. As used in ORS 548.900 to 548.955, except as otherwise expressly provided:

(1) "District" means an irrigation district organized under ORS chapter 545 or a drainage district organized under ORS chapter 547.

(2) "District board" means the board of directors of an irrigation district, or the board of supervisors of a drainage district. [1973 c.415 §1]

548.905 Petition for dissolution or reorganization; contents; effect of dissolution or reorganization on creditors. (1) A majority of the qualified electors and landowners of a district, representing at least one-half of the acres of land assessed by the district, may by petition propose a plan for the dissolution or reorganization of the district.

(2) The petition shall state:

(a) That the petition is filed under ORS 548.900 to 548.955.

(b) The name of the district.

(c) The nature, terms and conditions of the dissolution or reorganization plan.

(d) The estimated cost of the dissolution or reorganization.

(e) A description of the assets of the district.

(f) A description of all outstanding indebtedness, including bonds and coupons and the holders thereof, so far as known, and the provisions to be made for payment of nonassenting holders.

(3) No dissolution or reorganization or any term or condition thereof shall impair the rights of any creditor of a district and each creditor may enforce the rights of the creditor in the same manner and to the same extent as if the change, term or condition had not been made. [1973 c.415 §2]

548.910 Manner of signing petition; form of petition; withdrawal of signature after filing of petition prohibited. (1) Each person signing a petition shall add after the signature of the person the date of signing and place of residence, giving street and number or a designation sufficient to enable the place of residence to be readily ascertained, and the number of acres of land owned by the signer. The name of the county whose assessment roll is used for the purpose of determining the right of the signer to vote shall be stated in the body of the petition or indicated opposite the signature of the signer. If the signer is a legal representative of the owner, the signature of the signer shall be accompanied by a certified copy of the authority of the signer to sign as a legal representative.

(2) After a petition has been offered for filing, a person may not withdraw the name of the person therefrom.

(3) A petition may designate not more than three persons as chief petitioners, setting forth their names and mailing addresses. A petition may consist of a single instrument or separate counterparts. [1973 c.415 §3]

548.915 Determining qualified petition signatures; certificate of county clerk and district secretary. (1) A petition shall not be accepted for filing unless the signatures thereon have been secured within six months of the date on which the first signature on the petition was affixed. Petitions shall be filed with the secretary of the district board. It is not necessary to offer all counterparts of a petition for filing at the same time, but all counterparts when certified as provided by subsection (3) of this section shall be filed at the same time.

(2) Within 10 days after the date a petition is offered for filing, the county clerk and the district secretary shall examine the petition and determine whether it is signed by the requisite number of qualified signers. If the requisite number of qualified signers have signed the petition the district secretary shall file the petition. If the requisite number have not signed, the secretary shall so notify the chief petitioners and may return the petition to the petitioners.

(3) A petition shall not be filed unless the certificate of the county clerk and the district secretary is attached thereto certifying that they have compared the signatures of

the signers with the appropriate records, that they have ascertained therefrom the number of qualified signers appearing on the petition, and that the petition is signed by the requisite number of qualified signers. [1973 c.415 §4]

548.920 Notice of petition filing; contents; election petition; signature requirements. (1) If the petition is accepted and filed by the district secretary, the secretary shall, within 30 days thereafter, cause a notice of the filing to be published in one or more newspapers of general circulation within the district or, if there is no such newspaper, in a newspaper of general circulation in each county in which the district is located. The secretary may also cause the notice to be published by radio and television stations broadcasting in the district as provided by ORS 193.310 to 193.320.

(2) The published notice shall state:

(a) That a petition proposing a plan for the dissolution or reorganization of the district, as the case may be, has been filed with the district secretary.

(b) That a copy of the petition is available at a reasonable fee for each person who desires a copy.

(c) That unless a petition signed by not less than 10 percent of the qualified electors and landowners of the district requesting that an election be called by the district board is filed with the district secretary within 30 days of the date of the publication of the notice, the district board will file its petition in circuit court as provided by ORS 548.930 (2).

(3) A petition requesting an election must be signed in the manner provided by ORS 548.915 (1) and shall be subject to the examination and requirements provided by ORS 548.915 (2) and (3). [1973 c.415 §§5, 6]

548.925 Special election; notice; ballot form. (1) Within 10 days after the filing of a petition that meets the requirements of ORS 548.920 (3) and 548.920 (2)(c), the district board shall call a special election to be held not less than 30 or more than 60 days after date the petition is filed.

(2) The board shall cause notice of the election to be published once a week for three successive weeks, being three publications in all, in one or more newspapers meeting the requirements of ORS 548.920 (3). In addition, notice may be published by radio and television stations broadcasting in the district as provided by ORS 193.310 and 193.320.

(3) The notice shall state the date of the election, and the fact that there will be submitted to the voters a proposal to dissolve or reorganize the district, as the case may be.

(4) The election shall be held and the results determined and declared in all respects as nearly as practicable in conformity with the provisions governing the election of officers in irrigation districts. At the election, the ballot shall contain the words, "dissolution (or reorganization, as the case may be) of the district ____ Yes," or "Dissolution (or reorganization) of the district ____ No," or words equivalent thereto.
[1973 c.415 §7]

548.930 Vote result requirements; filing petition with circuit court if vote favors reorganization or dissolution or if no election petition is filed. (1) Upon canvass of the votes, if it is found and declared by the district board that a majority of the qualified electors and landowners of the district, representing at least one-half of the acres of land assessed by the district, voted against the dissolution or reorganization of the district, the petition for dissolution or reorganization shall be denied and no further action shall be taken upon it. However, if it is found and declared that the majority voted for the dissolution or reorganization of the district, the district board shall, within 60 days after the date of the election, file in the circuit court of the county in which the registered office of the district is located, a petition requesting the court to examine and determine the regularity and legality and correctness of the proceedings and to determine and adjudicate the rights and liabilities of all interested parties in a manner which is equitable, reasonable and in the best interests of the parties. There shall be attached to and made a part of the district board petition a copy of the petition for dissolution or reorganization, as the case may be, of the electors and landowners as filed with the district secretary.

(2) If a petition for election is not filed as provided by this section within 30 days after the date of publication of notice as provided by ORS 548.920 (1) and (2), the district board shall file its petition in the circuit court within 90 days after the date notice is published. [1973 c.415 §8]

548.935 Circuit court proceeding on petition; contents of court order. Proceedings in the circuit court upon the petition shall be in the nature of a proceeding in rem and shall be conducted as an action not triable by right to a jury and any judgment or final order of the circuit court shall be subject to appeal in the same manner as other cases in equity. The court may appoint masters or referees as it considers desirable and shall have complete jurisdiction to approve, disapprove, amend or change the plan proposed or to adopt any amendments,

changes or other plans proposed by any interested party which the court finds to be equitable and reasonable to protect the rights of any party, or may direct that the district shall continue in existence and operation without dissolution or reorganization. The judgment may include provisions for sale, transfer or conveyance of all or part of the assets of the district to corporations, other districts, municipal corporations or governmental bodies or agencies then in existence, or to be organized in accordance with the terms of the judgment, which will continue to furnish some or all of the services furnished by the district. As a condition of such sale, transfer or conveyance the court may require such transferee or transferees to assume part or all of the indebtedness of the district. The court may determine the validity of any sales or assessments, the amount of any assessments due upon the various parcels and lots of real estate within the district, the amounts of any assessments theretofore paid upon such parcels and lots and may determine and adjust the liabilities of all parties. The court may adjudicate any water rights of the district and the lands therein and may direct the sale of any assets of the district, either in one lot or in parcels, at public or private sale, as the court finds best. The judgment shall make provision for the payment of all indebtedness of the district. [1973 c.415 §9; 1979 c.284 §172]

548.940 Jurisdiction of parties; service of summons and petition. (1) Jurisdiction of all interested parties may be had by the publication of summons in the manner provided by ORCP 7. Copies of the summons and the petition of the district shall be mailed to each qualified elector and landowner at the mailing address as shown by the records of the county clerk, the county tax collector and the county assessor, and to all known creditors of the district.

(2) The Water Resources Commission shall be served with a copy of the summons and petition. [1973 c.415 §1; 1979 c.284 §172; 1989 c 182 §43]

548.945 Written assent of Secretary of Interior required before final decree if district has federal contract. If a contract authorized by law has been made between the district and the United States for the construction, operation or maintenance of necessary works or for a water supply, a final decree may not be entered by the court until written assent to the decree by the Secretary of the Interior has been filed with the court. [1973 c 415 §11]

548.950 Appearance of interested parties; costs and disbursements. Any interested party may appear in the proceedings. Costs and disbursements may be allowed and

divided between the parties or taxed to the losing party or parties in the discretion of the court. [1973 c.415 §12]

548.955 Contents of final decree; filing with county treasurer and assessor, Secretary of State and Water Resources Commission. The final decree of the court shall order the clerk of the court to file cer-

tified copies of the decree with the county treasurer and the county assessor of each county in which any property located within or assessed by the district is located, and with the Secretary of State and the Water Resources Commission. [1973 c.415 §13]
